



Massachusetts Package Stores Association, Inc.

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Written Testimony of the Massachusetts Package Stores Association

Submitted to the Joint Committee on Environment, Natural Resources and Agriculture (JEN) for the Hearing Record on S461 (S887) - An Act expanding the sale of products by farmer breweries and pub brewers Tuesday, April 23, 2019

Dear Chairs Sen. Anne Gobi and Rep. William Smitty Pignatelli, and Members of the Joint Committee on Environment, Natural Resources and Agriculture,

Thank you for allowing the Massachusetts Package Stores Association (MPSA) to testify in opposition to S461(S887). – An Act expanding the sale of products by farmer breweries and pub brewers. Thank you also for the opportunity to educate the Committee about how S461 disrupts and usurps the regulatory framework that has governed and balanced the alcohol beverages industry for 80 years.

MPSA represents independent retailers of beer, wine and spirits throughout Massachusetts. MPSA ardently opposes S461. If enacted, S461 disrupts the balance within the three-tier system that regulates the alcoholic beverages industry. The impacts will be harmful because S461 carves out an exception to three-tier regulation that challenges the underpinning principals of M.G.L. c. 138.

S461 is troublesome because it creates an exception to three tier regulation that allows manufacturers of wine and malt beverages to sell directly to consumers across the state. It also allows manufacturers of wine and malt beverages to sell the products of other manufacturers. Simply put, the bill opens the door for manufacturers to become producer, wholesaler and retailer of alcohol beverages. Such an exception intentionally usurps the 3-tier system of alcohol beverage regulation in Massachusetts by blurring previously segregated tiers within the alcohol beverages industry. Experience has taught MPSA's members that exceptions to alcohol laws always get exploited. Others, such as the manufacturers of distilled spirits, will demand similar exceptions. If S461 is enacted, there will be legal challenges in both State and Federal Court.

How S461 is being branded to the legislature is deeply concerning. To begin, both the title of the bill and its summary are misleading. The title of the bill is "An Act expanding the sale of products by farmer breweries and pub brewers." The summary explicitly states that S461, "Amends GL 138:15F, by permitting municipalities to issue special licenses for the sale of malt beverages produced by farmer-brewers at indoor or outdoor agricultural events." The language in both the title and summary implies a narrow scope and impact, but the actual language within the bill tells a very different story.

S461 language creates a broad exception for manufacturers of both "wine and malt beverages" to sell direct to consumers. Included in the exception is explicit language allowing manufacturers of "wine and malt beverages" to sell the products of other manufacturers provided they place their own label on the bottle. This is a variation to the alcohol industry practice of private labeling. Whether intentional or not this bill misleads lawmakers.

M.G.L. c. 138 protects consumers from the ills of pre-Prohibition. Recall from history that "Tied House" was an abusive trade practice in the alcohol beverages industry that caused much anguish to families across Massachusetts. The vertical tied house system allowed for direct manufacturer to consumer sales of alcohol beverages. This system was abused and led to high numbers of addiction to alcohol.

To prevent the tied house ills that led to Prohibition, the three-tier system of Massachusetts was established after ratification of the 21st Amendment. The three-tier system intentionally segregates manufacturing, wholesale and retail within the alcohol beverages industry. Separation of tiers is intended to maintain a check against adulteration of product, overconsumption and underage drinking. Today, M.G.L. c. 138 serves as the statutory authority that upholds the beverage

The Massachusetts Package Stores Association (MPSA) is a non-profit trade organization representing the interests of the thousands of independently-owned beer, wine and spirits retailers across Massachusetts. The Board of Directors of MPSA are primarily comprised of owner/operators of package stores. Contact MPSA with any questions at (800) 322-1383, or email info@masspack.org. Visit the MPSA website at: www.masspack.org



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alcohol three-tier system in Massachusetts. The checks and balances within M.G.L. c. 138 are directly challenged by S461.

In recent years, disruption has been the driving force within the three-tier system of Massachusetts. Whether it is manufactures of wine and malt beverages lobbying for exceptions or interstate retailers seeking to ship into Massachusetts or Amazon expanding their direct sales to consumers, the regulatory system in Massachusetts is under attack. MPSA respectfully requests that the sensitive balance within alcohol beverages regulation be maintained by not enacting S461.

Thank you for reviewing our written testimony on this important matter. Please reach out to MPSA with any questions regarding the package stores community.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert A. Mellion".

Robert A. Mellion, Esq.
Executive Director | General Counsel

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