



Massachusetts Package Stores Association, Inc.

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Wednesday, June 3, 2020

Written Testimony of the Massachusetts Package Stores Association Submitted to the Senate

SD2884 - An Act to expand take-out/delivery options for local restaurants in response to COVID-19

Dear State Senator,

Thank you for your continued efforts in addressing the public safety and economic needs of Massachusetts citizens. During these unprecedented times industry and public officials have worked together in addressing many challenges. To this end, the beer, wine, and spirits stores across the state, which comprise the membership of the Massachusetts Package Stores Association (MPSA), have taken on greater burdens to offset and reduce losses and costs on others. Section 15 off premise retailers also actively supported our Section 12 on-premises partners. As an example, they directly assisted with the drafting of legislation in March that offered restaurants and breweries temporary off-premises takeout and delivery relief. The membership also supported passage of H4974, which was the Governor's relief bill.

Support for industry partners in their time of need was necessary. On-premises has been essentially shut down during the spring, and their inventory on hand could not be sold back to wholesalers. State law also prohibited stores from buying the inventory. This led to significant concern that a black market for alcohol beverages would develop where restaurants might be enticed by desperation to sell alcohol illegally. In the spirit of cooperation, the best option in March was to sell off this excess inventory via take-out and delivery to prevent a black market from arising. We were successful.

It is in this context that MPSA wishes to voice deep concern about the cocktails to go and the expanded take-out and delivery provisions within S2884. Please recognize that no action occurs in a vacuum. In the alcohol beverages industry, there was great disruption going on in Massachusetts before Covid-19. Out of state shippers of wine circumvent state law by leveraging loopholes, New Hampshire continues to offer steep discounts to Massachusetts residents, and distillers seek to retail off-premises. Then there is the Cumberland Farms ballot question. The whole industry is in turmoil.

The simple truth is that allowing restaurants to sell cocktails off premise and become semi-permanent off-premises retailers directly impacts the off-premises retail side of the industry. This is because the demand for alcohol is finite unless people drink more alcohol. An increase in alcohol consumption is exactly the public policy being promoted with S2884. Furthermore, the effort to expand the accommodation has been done without consulting the most affected party, which is off-premises retail. To the contrary, it has been done behind their backs. These bold efforts to gain a greater foothold into off premise retail of alcohol beverages are not new in Massachusetts. Over 80 bills were introduced this legislative session that chip away at off premises retail through the creation of additional accommodations to breweries, malt beverage producers and distillers. The industry is under tremendous stress. Passage of this bill is kerosene on fire.

Knowing that bills like S2884 are moving fast across the country, chain restaurants such as Olive Garden are taking advantage by launching their own private labels of wine and cocktails that they plan to home deliver. National chains are using you to establish a direct to consumer alcohol beverages marketplace. This is not hyperbole. You should also know that delivery to minors is on the rise in Massachusetts due to the entrance of restaurants and breweries into the off-premises side of retail. Many restaurants are abusing these speedily enacted provisions by not adequately carding IDs at the point of delivery. One way of doing this is using third-party delivery services. With only 20 inspectors, the ABCC is overwhelmed. Such practice is illegal for off-premises delivery, who must possess an ABCC permit and deliver it themselves with a permitted vehicle. Not the case for on-premises, which is why minors are getting new access to alcohol.

MPSA, also asks that you take into consideration before you vote on S2884 that an understanding had been reached in March, which is being disregarded by this fast track legislation. In the accord, retailers were given assurances that no

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



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prolonged extension of the take-out accommodation would be sought and that there would be no push for cocktails to go. Such assurances were re-affirmed several times. That is not the case, as evidenced by S2884, which creates new privileges for on-premises and extends the takeout and delivery of alcohol accommodation into the spring of 2021. Off premise retailers simply ask that the accord to allow take-out delivery during the current state of emergency be honored. That is a reasonable request.

In summary, MPSA supports reasonable relief for Section 12 licensees, but the relief cannot go so far as to jeopardize the livelihood of other businesses. It also cannot be at the expense of public safety and welfare. Allowing for cocktails to go and the takeout and delivery of alcohol beverages by on-premises licensees to go into 2021 is opening Pandora's box to making this privilege permanent. That will certainly be the next request by on-premises. It also creates a loophole that will be exploited by national chains at the expense of small and independent Massachusetts businesses.

Thank you for this opportunity to be heard. Please reach out with any questions or concerns.

Respectfully submitted,

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

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