

Client Alert – Proposed Increase to Alcohol Retail License Cap

By Adam Barnosky on June 28, 2022



Proposed Massachusetts Ballot Initiative Would Increase Retail Liquor License Cap

A proposed ballot initiative is currently pending with the state legislature and, if the requisite signatures are obtained by the July 6, 2022 deadline, would appear on the ballot this November.

The petition, titled “An Initiative Petition for a Law Relative to 21st Century Alcohol Retail Reform,” was filed by the Massachusetts Package Stores Association and seeks to change the longstanding state law which currently prohibits a company from holding more than nine (9) retail package store licenses throughout the Commonwealth of Massachusetts.

The proposed initiative would gradually increase the number of retail licenses (known as an “off-premises” license) which could be held by a company from nine (9) to eighteen (18) by 2031. The proposed cap and timetable is below:

CALENDAR YEAR	MAX. NUMBER OF RETAIL LICENSES
2022 (Current)	9
2023	12
2027	15
2031	18

While the total per company license cap would increase, the initiative prohibits a company from holding for than seven (7) “all alcohol” retail licenses, unless a company currently holds more than seven licenses. The cap would allow for a company to hold a combination of “all alcohol” and “wine and malt” beverage licenses, subject to the new ownership limits.

With multi-unit retailers, grocery stores and other businesses continuing to expand offerings – including alcohol – the proposed initiative creates potential to incentivize growth for many businesses throughout the state.

The relevant text of the initiative is below:

An Initiative Petition for a Law Relative to 21st Century Alcohol Retail Reform

SECTION 1. The second sentence of section 15 of chapter 138 of the General Laws is hereby amended by striking out, in each instance, the phrase “more than 9” and inserting in place thereof the following phrase: more than 12.

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SECTION 2. The second sentence of said section 15 of said chapter 138, as amended by section 1 of this Act, is hereby further amended by striking out, in each instance, the figure "12" and inserting in place thereof the following figure: 15.

SECTION 3. The second sentence of said section 15 of said chapter 138, as amended by section 2 of this Act, is hereby further amended by striking out, in each instance, the figure "15" and inserting in place thereof the following figure: 18.

SECTION 4. Section 15 of chapter 138 of the General Laws is hereby further amended by inserting, after the second sentence, the following new sentences:

No person, firm, corporation, association, or other combination of persons, directly or indirectly, or through any agent, employee, stockholder, officer or other person or any subsidiary whatsoever, shall be granted, in the aggregate, more than 7 licenses for the sale of all alcoholic beverages in the commonwealth, or participate in decisions regarding the purchasing of such beverages or the purchasing of insurance or accounting or bookkeeping services, or receive any percentage or fee derived from gross revenues in exchange for management assistance, or participate in any other action designed to effect common results of more than 7 such licensees; provided, however, any person, firm, corporation, association, or other combination of persons, directly or indirectly, or through any agent, employee, stockholder, officer or other person or any subsidiary whatsoever, who, as of December 31, 2022, has more than 7 licenses for the sale of all alcoholic beverages in the commonwealth, or who, as of December 31, 2022, participates in decisions regarding the purchasing of such beverages or the purchasing of insurance or accounting or bookkeeping services, or receives any percentage or fee derived from gross revenue in exchange for management assistance, or participates in any other action designed to effect common results of more than 7 such licensees, may continue to hold that number of all alcoholic beverages licenses and participate in any actions designed to effect the common results of that number of licensees. Each license for the sale of all alcoholic beverages shall be included as a license for purposes of determining the total number of licenses authorized under the second sentence of this section.

SECTION 5. Sections 1 and 4 of this Act shall take effect on January 1, 2023.

SECTION 6. Section 2 of this Act shall take effect on January 1, 2027.

SECTION 7. Section 3 of this Act shall take effect on January 1, 2031.

SECTION 8. Section 15 of chapter 138 of the General Laws, as so appearing, is hereby further amended by inserting after the final paragraph, the following new paragraph:

The in-store sale of alcoholic beverages by a licensee engaged in the sale of alcoholic beverages as so authorized under the provisions of this section shall be conducted through a face-to-face transaction between the customer and the licensee or between the customer and an authorized employee of the licensee who has attained the age of 18 years. In-store automated or self-checkout sales of alcoholic beverages by such licensees shall be prohibited

The full text of the petition, including amendments to types of identification acceptable for the retail purchase of alcohol, can be found here:

<https://www.mass.gov/doc/21-03-initiative-petition-for-a-law-relative-to-21st-century-alcohol-retail-reform/download>

Mass. General Law, Chapter 138 Section 15, in its current form, can be found here:
[General Law – Part I, Title XX, Chapter 138, Section 15 \(malegislature.gov\)](http://malegislature.gov)

Adam Barnosky is a shareholder and co-chairs the firm's **Hospitality Practice Group**. Adam represents various professionals and companies within the hospitality industry, including national and signature hotel brands, wholesalers, retailers, James Beard-nominated chefs, industry-recognized fast-casual companies, and premier restaurateurs. Adam can be reached at arb@riw.com, (617) 570-3519. Follow him on Twitter [@adambarnosky](https://twitter.com/adambarnosky)

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