

Breweries May Soon Be Able to Sell Beer at Farmers Markets

BY BOWDITCH & DEWEY • AUGUST 15, 2022

There are matching bills (the "Bills") in the Massachusetts House and Senate that would allow breweries to sell beer at farmers markets, with certain restrictions. The Bills would allow local licensing authorities to grant special permits to brewers to offer free two-ounce samples to prospective customers (with a maximum of five samples to each customer for a total of 10 ounces of samples to each customer). An example of a standard alcoholic drink is a 12-ounce can of Budweiser at 5% alcohol by volume (ABV). The alcohol content served at these farmers markets may vary as most craft beers contain between 4.5% and 12% ABV.

Sealed containers for 'to-go' sales (such as bottles or cans) would be permitted as well, with no limit as far as the number of sealed containers per customer allowed by the Bills. Package stores have been among the most vocal critics of these Bills. The concern from package stores is probably less against someone buying a small amount of beer, and more against people buying 'hauls' of beer by the caseload.

Licensing authorities shall consider certain criteria, such as the number of breweries at the farmers market, and whether the focus is truly on local products. The licensing authority has the ability to make rules for the breweries at the event (oversight, operation, inspection). Theoretically, the licensing authority may have the ability to limit the amount of 'to-go' beer each customer can purchase at these farmers markets.

On March 24, 2022, the House reported favorably when it referred the Bills (now accompanying each other in the legislative process) to the Committee on House Ways and Means (the "Committee"). For those not familiar with the Committee, it is responsible for funding bills. The Committee is still in conference regarding the Bills. According to a spokesperson for the Committee, there is no way of knowing how long the Bills will remain in the Committee. The legislative session ended on July 31, 2022; however, the Bills' status with the Committee keeps them 'alive' for purposes of this session. There are several scenarios that could occur before the new Session begins on January 1, 2023. If the Committee approves the Bills, they will be sent back to the Senate and House for further negotiations, and if they concurred, the Bills would go to the Speaker, and then to the Governor to potentially be signed into law. On the other hand, if the Committee does not report back before the end of the year, or if it sends the Bills back but the Senate

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and House cannot reach a decision, the Bills will have to be re-introduced in the next session starting January 1, 2023.

Stay tuned for further updates.

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