



AT THE BAR WITH BOWDITCH

A Legal Blog for the Craft Brewing Community

Alcohol to go? How breweries and restaurants are still serving.

BY BOWDITCH & DEWEY • MAY 18, 2020

Many businesses have suffered during the COVID-19 pandemic and the Governor's stay-at-home advisory, and brewers are no different. Although many have continued brewing during the shutdown, the inability to get the product to customers has presented an obstacle to successfully operating the business. However, with recent changes in the law aimed at supporting local brewers during these difficult times, there are now different options for ensuring that local beer sales continue, and pending legislation may provide brewers with even more avenues to increase sales. These developments merit optimism and reflect just how important brewers are, not just to the economy, but to our collective sanity while we weather this storm.

On April 3rd, Governor Baker signed into law an [emergency act](#) to address challenges posed by COVID-19. During the state of emergency, restaurants and vendors licensed to sell alcohol for on-site consumption can now sell beer and wine to go, as long as the order is accompanied by food. Because there is no minimum requirement as to the purchase of food, some restaurants have begun selling beer with something as small as a side order of fries. Additionally, although wine must be sold in its original container, there is no equivalent restriction for beer, meaning that sales can be made in either cans or growlers. This relaxed enforcement of alcohol distribution was much needed to support both restaurants and brewers alike and has enabled that revenue stream to survive despite the pandemic.

The legislature has also hinted at additional changes that would (literally) open up more markets to brewers. In [June of 2018](#), we reported on developments in the Massachusetts Senate regarding a proposed bill that would permit farmer-breweries (and distilleries) to participate in farmers' markets. Although that proposal was substituted by an [amended version](#) and then ultimately stalled at the committee stage, a new bill later emerged. The [current draft](#) has received similar favorable treatment in the legislature, which hopefully signals that this time it will become law. Given the [state's guidance](#) that farmers' markets can proceed as scheduled during the pandemic as long as appropriate social distancing measures are implemented, this could provide farmer-brewers with a further boost, even if their brick-and-mortar facilities remain closed to customers.

No one could have imagined the full extent of the difficulties that we as a society have faced during the virus outbreak,



but these changes to the law hopefully give brewers a reason to be optimistic about the future. This too shall pass, and brewers need to take advantage of every opportunity to continue business until it does.