New Law Authorizes Expedited Outdoor Dining Approvals and To-Go Cocktails for Massachusetts Restaurants

By Adam Barnosky on May 2, 2024



On April 30, 2024, Massachusetts Governor Maura Healey signed a new law that will expedite outdoor dining approvals at the local level and authorize licensed restaurants to serve cocktails "to go." The new law, titled "An Act Making Appropriations for the Fiscal Year 2024 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects," codifies certain pandemic-era authorizations related to outdoor dining and to-go cocktails, which expired on April 1, 2024, and will now be reinstated permanently in the following capacity:

Outdoor Dining

- **Exempts Outdoor Dining Regulations from Certain State Zoning Regulations:** Municipalities will be tasked with establishing the process for approving outdoor dining and such processes are exempted from certain zoning restrictions under state law. Under the new law, unless a municipality creates additional regulations to the contrary, outdoor dining approvals do not need to comply with abutter notice requirements and publication provisions previously required under M.G.L.c. 40A Sec.11, or any other provision of the Zoning Enabling Act (c. 40A).. Further, subject to local licensing, outdoor dining expansions or extensions can be implemented immediately upon filing notice with the city or town clerk, bypassing certain recording or certification requirements previously required under state law.
- **Removes the ABCC from Outdoor Dining Licensing Approval Process:** Previously, in addition to any land-use permits required for outdoor dining, restaurants, and bars were required to obtain license amendment approvals from both the local licensing authorities (LLA) and the Alcoholic Beverages Control Commission (ABCC). Under the new law, the LLA may approve changes to the description of licensed premises to accommodate outdoor alcohol service without subsequent ABCC approval. While the ABCC will retain enforcement authority over amended licenses, this new law will expedite the licensing process without the additional 30-90 days customarily required for ABCC approval.
- **Next Steps:** Restaurant owners seeking to expand outdoor table service should familiarize themselves with the amended regulations and engage with local authorities for approval. There will likely be a lag in the implementation of processes at the local level, so it may take time for each municipality to adopt and amend its current procedures. Additionally, existing license holders should ensure compliance with any modifications to their licensed premises.

To Go Cocktails

- **Sale Conditions:** Establishments licensed for on-premises alcohol sales may sell mixed drinks for off-premises consumption under certain conditions, including:

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  - Verification of legal drinking age (21 years or older).
  - Sale of mixed drinks in sealed containers and as part of a transaction including food purchase with a limitation of 64 ounces of mixed drinks per transaction.
  - Mixed drinks must be transported in the trunk or non-passenger area of a motor vehicle.
- **Eligible Establishments:** Licensed establishments for on-premises alcohol consumption, including those licensed under specific sections outlined in the amendment, are eligible to sell mixed drinks for off-premises consumption.
- **Transportation Permit:** Establishments delivering alcoholic beverages for off-premises consumption using their own vehicles must obtain a transportation permit for each vehicle. Third-party delivery services with permits for express transportation may also be utilized for alcohol delivery.
- **Next Steps:** Establishments should familiarize themselves with these new requirements, including any additional requirements implemented by local licensing authorities.

The full text of the law can be found here.

The Alcoholic Beverages Control Commission Advisory can be found here. (PDF)

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