

By Mr. O'Flaherty of Chelsea, petition of Eugene L. O'Flaherty relative to the sale of alcohol from dwellings. Government Regulations.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Nine.

AN ACT RELATIVE TO THE ILLEGAL SALE OF ALCOHOL FROM A DWELLING.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 43 of chapter 138 of the General Laws, as  
2 appearing in the 1994 Official Edition, is hereby amended by  
3 striking out the first sentence and inserting in place thereof the  
4 following two sentences:— A warrant may issue for the search of  
5 a dwelling house, upon complaint on oath that the complainant  
6 has evidence that alcoholic beverages have been sold therein or  
7 taken therefrom for the purpose of being sold by the occupant, or  
8 with his consent or permission, contrary to law, and are kept  
9 therein for sale contrary to law by the person complained against.  
10 Such complainant shall state the facts and circumstances which  
11 constiute such evidence, and such facts and circumstances shall be  
12 recited in the complaint.

1 SECTION 2. Said section 43 of said chapter 138, as so  
2 appearing, is hereby further amended by adding the following  
3 paragraph:—  
4 Nothing in this section shall be construed to abrogate, impair or  
5 limit the powers of search and seizure granted under other provi-  
6 sions of the General Laws or under the common law.

1 SECTION 3. Said chapter 138 is hereby further amended by  
2 inserting after section 45, as so appearing, the following  
3 section:—  
4 Section 45A. Whoever sells alcoholic beverages in or from a  
5 dwelling or exposes or keeps alcoholic beverages for sale in a

6 dwelling, in violation of section two, shall be punished by a fine  
7 of not less than one thousand dollars nor more than two thousand  
8 five hundred dollars. Whoever, after having been convicted of  
9 violating this section, commits a second or subsequent such viola-  
10 tion, shall be punished by a fine of not less than two thousand five  
11 hundred dollars nor more than five thousand dollars or by impris-  
12 onment for not more than one year, or by both such fine and  
13 imprisonment. Such fines shall not be waived unless investigation  
14 by the probation department reveals indigency or that payment of  
15 such fee would cause a grave and serious hardship to such indi-  
16 vidual and the court enters a written finding thereof.

1 SECTION 4. Section 46 of said chapter 138, as so appearing, is  
2 hereby further amended by striking out, in lines 3 and 4, the words  
3 “, without a search warrant duly committed to him,”.

1 SECTION 5. Said section 46 of said chapter 138, as so  
2 appearing, is hereby further amended by inserting after the word  
3 “dwelling,” in line 5, the following words:— , in violation of the  
4 provisions of section forty-three,.