

SENATE BILL 338

A1
SB 616/08 – EHE

9lr0936

By: **Senators Raskin, Astle, Forehand, Frosh, Garagiola, Glassman, Greenip, Harrington, Harris, Jacobs, Kelley, King, Kramer, Lenett, Madaleno, Muse, Pinsky, Pugh, and Zirkin**

Introduced and read first time: January 29, 2009

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages – Direct Wine Shipper’s License**

3 FOR the purpose of repealing provisions that provide for a direct wine seller’s permit;
4 establishing a direct wine shipper’s license to be issued by the Office of the
5 Comptroller to certain persons in or outside of the State; requiring a person to
6 be licensed before the person may engage in shipping wine directly to a resident
7 in the State; requiring a direct wine shipper to perform certain actions;
8 prohibiting a direct wine shipper from performing certain actions; providing for
9 the qualifications and requirements of license applicants; providing for the fee
10 and renewal of a license; specifying certain requirements and conditions to
11 receive a direct shipment of wine; authorizing the Office of the Comptroller to
12 adopt certain regulations; prohibiting a person without a license from shipping
13 wine directly to consumers in the State; providing a certain penalty; defining
14 certain terms; altering certain definitions; and generally relating to the
15 establishment of a direct wine shipper’s license.

16 BY repealing

17 Article 2B – Alcoholic Beverages

18 Section 7.5–101 through 7.5–110 and the title “Title 7.5. Direct Wine Seller’s
19 Permit”

20 Annotated Code of Maryland

21 (2005 Replacement Volume and 2008 Supplement)

22 BY repealing and reenacting, with amendments,

23 Article 2B – Alcoholic Beverages

24 Section 2–101(b)(1)(i)

25 Annotated Code of Maryland

26 (2005 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
 2 Article 2B – Alcoholic Beverages
 3 Section 7.5–101 through 7.5–110 to be under the new title “Title 7.5. Direct
 4 Wine Shipper’s License”
 5 Annotated Code of Maryland
 6 (2005 Replacement Volume and 2008 Supplement)

7 BY repealing and reenacting, without amendments,
 8 Article – Tax – General
 9 Section 5–101(a)
 10 Annotated Code of Maryland
 11 (2004 Replacement Volume and 2008 Supplement)

12 BY repealing and reenacting, with amendments,
 13 Article – Tax – General
 14 Section 5–101(f) and 5–201(d)
 15 Annotated Code of Maryland
 16 (2004 Replacement Volume and 2008 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 18 MARYLAND, That Section(s) 7.5–101 through 7.5–110 and the title “Title 7.5. Direct
 19 Wine Seller’s Permit” of Article 2B – Alcoholic Beverages of the Annotated Code of
 20 Maryland be repealed.

21 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 22 read as follows:

23 **Article 2B – Alcoholic Beverages**

24 2–101.

25 (b) (1) (i) The Office of the Comptroller shall collect a fee for the
 26 issuance or renewal of the following permits:

27 1. \$50 for a solicitor’s permit, an individual storage
 28 permit, a nonresident winery permit, or a commercial nonbeverage permit;

29 2. \$75 for a public storage permit, a public
 30 transportation permit, or an import and export permit;

31 3. \$100 for a public storage and transportation permit, a
 32 nonresident dealer permit, or a bulk transfer permit;

33 4. \$400 for a family beer and wine facility permit; and

34 5. [~~\$10~~] **\$100** for a direct wine [seller’s permit]

35 **SHIPPER’S LICENSE.**

1 **TITLE 7.5. DIRECT WINE SHIPPER'S LICENSE.**

2 **7.5-101.**

3 (A) **IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
4 **INDICATED.**

5 (B) **"DIRECT WINE SHIPPER" MEANS THE HOLDER OF A DIRECT WINE**
6 **SHIPPER'S LICENSE ISSUED UNDER THIS TITLE.**

7 (C) **"LICENSE" MEANS A DIRECT WINE SHIPPER'S LICENSE ISSUED BY**
8 **THE OFFICE OF THE COMPTROLLER.**

9 (D) **"WINE" INCLUDES BRANDY THAT IS DISTILLED FROM THE PULPY**
10 **RESIDUE OF THE WINE PRESS, INCLUDING THE SKINS, PIPS, AND STALKS OF**
11 **GRAPES.**

12 **7.5-102.**

13 **A PERSON SHALL BE LICENSED BY THE OFFICE OF THE COMPTROLLER AS**
14 **A DIRECT WINE SHIPPER BEFORE THE PERSON MAY ENGAGE IN SHIPPING WINE**
15 **DIRECTLY TO A RESIDENT IN THE STATE.**

16 **7.5-103.**

17 **TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL BE:**

18 (1) **A PERSON LICENSED OUTSIDE OF THE STATE TO ENGAGE IN**
19 **THE MANUFACTURE OF WINE;**

20 (2) **AN AUTHORIZED BRAND OWNER OF WINE, A UNITED STATES**
21 **IMPORTER OF WINE, OR A DESIGNATED MARYLAND AGENT OF A BRAND OWNER**
22 **OR UNITED STATES IMPORTER;**

23 (3) **A HOLDER OF A CLASS 3 MANUFACTURER'S LICENSE OR A**
24 **CLASS 4 MANUFACTURER'S LICENSE ISSUED UNDER THIS ARTICLE; OR**

25 (4) **A PERSON LICENSED BY THE STATE OR OUTSIDE THE STATE**
26 **TO ENGAGE IN THE RETAIL SALE OF WINE FOR CONSUMPTION OFF THE**
27 **PREMISES.**

28 **7.5-104.**

1 (A) AN APPLICANT FOR A LICENSE SHALL:

2 (1) SUBMIT TO THE OFFICE OF THE COMPTROLLER A
3 COMPLETED APPLICATION ON A FORM THAT THE OFFICE OF THE
4 COMPTROLLER PROVIDES;

5 (2) PROVIDE TO THE OFFICE OF THE COMPTROLLER A COPY OF
6 ITS CURRENT ALCOHOLIC BEVERAGES LICENSE; AND

7 (3) PAY A FEE OF \$100.

8 (B) THE OFFICE OF THE COMPTROLLER SHALL ISSUE A LICENSE TO
9 EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS TITLE FOR A
10 LICENSE.

11 **7.5-105.**

12 (A) A DIRECT WINE SHIPPER SHALL:

13 (1) ENSURE THAT ALL CONTAINERS OF WINE SHIPPED DIRECTLY
14 TO A RESIDENT IN THE STATE ARE CONSPICUOUSLY LABELED WITH THE WORDS
15 "CONTAINS ALCOHOL; SIGNATURE OF PERSON AT LEAST 21 YEARS OF AGE
16 REQUIRED FOR DELIVERY";

17 (2) REPORT TO THE OFFICE OF THE COMPTROLLER ANNUALLY
18 THE TOTAL OF WINE, BY TYPE, SHIPPED IN THE STATE THE PRECEDING
19 CALENDAR YEAR;

20 (3) PAY ANNUALLY TO THE OFFICE OF THE COMPTROLLER ALL
21 SALES TAXES AND EXCISE TAXES DUE ON SALES TO RESIDENTS OF THE STATE IN
22 THE PRECEDING CALENDAR YEAR, THE AMOUNT OF THE TAXES TO BE
23 CALCULATED AS IF THE SALE WERE MADE AT THE DELIVERY LOCATION;

24 (4) ALLOW THE OFFICE OF THE COMPTROLLER TO PERFORM AN
25 AUDIT OF THE DIRECT WINE SHIPPER'S RECORDS ON REQUEST; AND

26 (5) CONSENT TO THE JURISDICTION OF THE OFFICE OF THE
27 COMPTROLLER OR OTHER STATE UNIT AND THE STATE COURTS CONCERNING
28 ENFORCEMENT OF THIS SECTION AND ANY RELATED LAW.

29 (B) A DIRECT WINE SHIPPER MAY NOT:

30 (1) SHIP MORE THAN 24 9-LITER CASES OF WINE ANNUALLY TO
31 ANY ONE INDIVIDUAL; OR

1 **(2) SHIP WINE TO AN ADDRESS IN AN AREA IN WHICH THE BOARD**
2 **OF LICENSE COMMISSIONERS FOR THAT AREA MAY NOT ISSUE A LICENSE**
3 **AUTHORIZING THE SALE OF WINE.**

4 **7.5-106.**

5 **A DIRECT WINE SHIPPER MAY ANNUALLY RENEW ITS LICENSE IF THE**
6 **DIRECT WINE SHIPPER:**

7 **(1) IS OTHERWISE ENTITLED TO BE LICENSED;**

8 **(2) PROVIDES TO THE OFFICE OF THE COMPTROLLER A COPY OF**
9 **ITS CURRENT ALCOHOLIC BEVERAGES LICENSE; AND**

10 **(3) PAYS TO THE OFFICE OF THE COMPTROLLER A RENEWAL FEE**
11 **OF \$50.**

12 **7.5-107.**

13 **(A) TO RECEIVE A DIRECT SHIPMENT OF WINE, A RESIDENT OF THE**
14 **STATE MUST BE AT LEAST 21 YEARS OF AGE.**

15 **(B) A SHIPMENT OF WINE MAY BE ORDERED OR PURCHASED THROUGH**
16 **A COMPUTER NETWORK.**

17 **(C) A PERSON WHO RECEIVES A SHIPMENT OF WINE SHALL USE THE**
18 **SHIPMENT FOR PERSONAL CONSUMPTION ONLY AND MAY NOT RESELL IT.**

19 **7.5-108.**

20 **THE OFFICE OF THE COMPTROLLER MAY ADOPT REGULATIONS TO CARRY**
21 **OUT THIS TITLE.**

22 **7.5-109.**

23 **A PERSON WITHOUT A LICENSE MAY NOT SHIP WINE DIRECTLY TO**
24 **CONSUMERS IN THE STATE.**

25 **7.5-110.**

26 **A PERSON WHO VIOLATES THIS TITLE IS GUILTY OF A FELONY AND ON**
27 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 YEARS OR A**
28 **FINE NOT EXCEEDING \$1,000 OR BOTH.**

1 **Article - Tax - General**

2 5-101.

3 (a) In this title the following words have the meanings indicated.

4 (f) "Direct wine [seller]" **SHIPPER**" has the meaning stated in Article 2B, §
5 7.5-101 of the Code.

6 5-201.

7 (d) (1) A person who is a direct wine [seller] **SHIPPER** shall file with the
8 Office of the Comptroller an annual tax return.

9 (2) The annual tax return shall be due no later than October 15 of
10 each year covering the previous 12 calendar months ending September 30.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 July 1, 2009.