

SB0248/624033/1

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL 248
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Shipper’s Permit” and substitute “Shipment”; in lines 5, 11, 16, and 20 and 21, in each instance, strike “of the Comptroller”; in line 7, strike “be licensed” and substitute “obtain a certain permit”; in the same line, strike “or the person’s agent”; in line 9, after “a” insert “direct wine”; in line 14, strike “annually” and substitute “each year”; in the same line, after “consumer” insert “or delivery address”; in line 15, strike “make” and substitute “making”; in line 19, after “report;” insert “requiring a common carrier to submit certain information to the Comptroller in a certain manner at certain times; requiring a common carrier to verify certain information each year in a certain manner; requiring certain persons to maintain certain records for a certain period;”; in line 22, after “State;” insert “providing that each violation of certain provisions is a separate violation, subject to certain penalties; providing for the application of certain provisions concerning delivery of alcoholic beverages;”; and in line 24, after “definition;” insert “requiring the Comptroller to study certain matters and submit a report to certain committees on or before a certain date;”.

On page 2, in line 9, after “2-101(b)(1)(i)” insert “and (g)”; in the same line, after “9-102(a),” insert “12-301, 14-202,”; in line 14, strike “7.5-113” and substitute “7.5-114”; and after line 17, insert:

“BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 16-503
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)”.

(Over)

AMENDMENT NO. 2

On page 3, in line 10, strike “and”; in line 11, strike “\$100” and substitute “\$200”; in the same line, after “for” insert “ISSUANCE OR RENEWAL OF”; after line 13, insert:

“(g) (1) The permit authorizes the operation of a warehouse for the storage of alcoholic beverages for the accounts of other persons and for the transportation for the accounts of other persons of alcoholic beverages into, within, or out of this State.

(2) A permit may be issued for transportation or storage, or both.

(3) A license or permit holder need not have a transportation permit to deliver alcoholic beverages which under this article the licensee or permit holder is authorized to acquire, store, sell, or use.”;

in line 19, after “USE” insert “UNDER TITLE 7.5 OF THIS ARTICLE”; and after line 19, insert:

“(3) THE HOLDER OF A COMMON CARRIER PERMIT THAT DELIVERS WINE SOLELY UNDER TITLE 7.5 OF THIS ARTICLE MAY NOT BE REQUIRED TO OBTAIN A TRANSPORTATION PERMIT ISSUED UNDER SUBSECTION (G) OF THIS SECTION IN ADDITION TO THE COMMON CARRIER PERMIT.”;

in line 24, strike “HOLDS” and substitute “:

(I) HOLDS”;

in line 27, after “PROPERTY” insert “; AND

(II) HOLDS A COMMON CARRIER PERMIT ISSUED UNDER § 2-101(Y) OF THIS ARTICLE”.

AMENDMENT NO. 3

On page 4, in line 3, strike “WINE” and substitute “POMACE BRANDY”; in the same line, strike “INCLUDES” and substitute “MEANS”; after line 5, insert:

“(E) (1) “WINE” INCLUDES POMACE BRANDY.

“(2) “WINE” DOES NOT INCLUDE BEER, DISTILLED SPIRITS, OR ANY ALCOHOLIC BEVERAGE OTHER THAN WINE.”;

in line 7, after “A” insert “DIRECT WINE SHIPPER’S”; strike beginning with “OR” in line 8 down through “AGENT” in line 9; in line 15, after “WINE;” insert “OR”; strike in their entirety lines 16 through 18, inclusive; in line 19, strike “(3)” and substitute “(2)”; and strike beginning with the semicolon in line 20 down through “PREMISES” in line 23.

On pages 4 and 5, strike beginning with the colon in line 29 on page 4 down through “\$100” in line 8 on page 5 and substitute “A COPY OF THE APPLICANT’S CURRENT ALCOHOLIC BEVERAGES LICENSE; AND

“(2) PAY A FEE OF \$200 FOR INITIAL ISSUANCE OF THE DIRECT WINE SHIPPER’S PERMIT”.

AMENDMENT NO. 4

On page 5, in line 11, after “THE” insert “DIRECT WINE SHIPPER’S”; in line 13, after the second “WINE” insert “MANUFACTURED BY THE HOLDER”; in line 19, strike “THE DAY THE COMPTROLLER ISSUES THE PERMIT” and substitute “JULY 1”.

On page 6, in line 7, strike the comma; strike beginning with “AT” in line 8 down through “LOCATION” in line 9 and substitute “IN THE STATE”; after line 9, insert:

“(5) MAINTAIN FOR A PERIOD OF 3 YEARS COMPLETE AND ACCURATE RECORDS OF ALL INFORMATION NEEDED TO VERIFY COMPLIANCE WITH THIS TITLE;”;

in lines 10 and 12, strike “(5)” and “(6)”, respectively, and substitute “(6)” and “(7)”, respectively; in line 16, strike “24” and substitute “18”; in line 17, strike “ANY ONE CONSUMER” and substitute “A SINGLE DELIVERY ADDRESS”;

in line 21, strike “ANNUALLY”; in the same line, after “PERMIT” insert “EACH YEAR”; in line 28, strike “\$50” and substitute “\$200”.

On page 7, in line 5, after “ADOPTS” insert “UNDER THIS ARTICLE”; after line 14, insert:

“(B) THE TERM OF A COMMON CARRIER PERMIT IS 1 YEAR AND BEGINS ON JULY 1.”;

in line 15, strike “(B)” and substitute “(C)”; in line 18, after “CONSUMER” insert “OR ANOTHER INDIVIDUAL AT THE ADDRESS WHO IS AT LEAST 21 YEARS OLD”; in line 19, strike “PHOTOGRAPHIC” and substitute “GOVERNMENT-ISSUED PHOTOGRAPHIC”; in line 20, strike “CONSUMER” and substitute “SIGNING INDIVIDUAL”; in line 21, strike “(C)” and substitute “(D)”; in line 22, strike “CONSUMER” and substitute “INDIVIDUAL”; in the same line, strike “OLD” and substitute “OF AGE”; after line 23, insert:

“(E) AT THE TIME OF INITIAL APPLICATION FOR A COMMON CARRIER PERMIT AND ON REQUEST OF THE COMPTROLLER, A COMMON CARRIER SHALL SUBMIT TO THE COMPTROLLER INFORMATION CONCERNING THE TRAINING OF ITS DRIVERS IN VERIFYING THE AGE OF RECIPIENTS OF DIRECT WINE SHIPMENTS UNDER THIS TITLE.”;

in line 25, before “A” insert “**(A)**”; and in line 27, strike “(A)” and substitute “**(1)**”.

AMENDMENT NO. 5

On page 8, in line 1, strike “(B)” and substitute “**(2)**”; after line 2, insert:

“(B) A COMMON CARRIER SHALL MAINTAIN FOR A PERIOD OF 3 YEARS COMPLETE AND ACCURATE RECORDS OF ALL INFORMATION NEEDED TO VERIFY COMPLIANCE WITH THIS TITLE.”;

in line 7, strike “BUSINESS ENTITY” and substitute “**PERSON**”; after line 8, insert:

“7.5-114.

EACH VIOLATION OF THIS TITLE IS A SEPARATE VIOLATION.”;

in line 10, after “(a)” insert “**(1)**”; in line 14, strike “State, and no” and substitute: “**STATE.**

(2) No”;

in line 15, strike the brackets; in the same line, strike the third comma; in line 16, strike “article, and nothing herein shall” and substitute “**ARTICLE.**

(3) THIS SUBSECTION MAY NOT”;

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after line 18, insert:

“12-301.

(a) (1) A retail dealer may not employ any solicitor or salesman for the purpose of soliciting, outside of the licensed place of business, orders for the sale of any alcoholic beverages within this State.

(2) The sale of alcoholic beverages may not be consummated outside of the licensed place of business.

(3) These provisions do not prohibit the receiving of orders by mail, telephone or messenger and the filling of such orders by delivery and the payment for them at the place of delivery.

(b) Retail delivery to a purchaser of any alcoholic beverages is prohibited unless:

(1) The delivery is made from the retail licensed premises by the retail license holder or employee of the retail license holder authorized to sell and distribute alcoholic beverages by the local licensing authority in the jurisdiction where the delivery is made; and

(2) The retail license holder obtains a letter of authorization from the local licensing authority to make deliveries and complies with any regulations promulgated by the local licensing authority pertaining to those deliveries.

(c) (1) This subsection applies only in Howard County.

(2) An alcoholic beverages licensee may not make a retail delivery of alcoholic beverages unless the purchaser:

(i) Is physically present on the licensed premises when the purchaser orders the alcoholic beverages; and

(ii) Makes payment for the purchase at the time of the order.

(d) (1) This subsection applies only in Montgomery County.

(2) An alcoholic beverages licensee may not make an off-site retail delivery of alcoholic beverages unless:

(i) The deliverer is at least:

1. 21 years old; or

2. 18 years old and is accompanied by a supervisor who is at least 21 years old; and

(ii) The person taking possession of the delivery provides the deliverer with written certification supported by documentary proof that the person is of legal age to purchase alcoholic beverages. Certification shall be in the form set forth in § 12-109(1) of this article.

(3) (i) Each certification executed under this subsection shall be retained by the licensee for at least 1 year.

(ii) The certifications shall be available for examination during regular business hours by an authorized representative of the Board of License Commissioners.

(4) The Board of License Commissioners shall adopt regulations to implement this subsection.

(e) (1) This subsection applies only in Garrett County.

(2) The Board of License Commissioners may issue a delivery option that entitles an alcoholic beverages licensee or an authorized employee of the licensee to make an off-site retail delivery of alcoholic beverages if:

(i) The deliverer is at least 21 years old and certified by an approved alcohol awareness program;

(ii) The deliverer and purchaser endorse a delivery form that the Board of License Commissioners approves certifying that:

1. The person who receives the delivery claims to be at least 21 years old, and the claim is supported by documentary proof;

2. The person who receives the delivery knows that it is a criminal offense for alcoholic beverages to be furnished to a person under the age of 21 years; and

3. The deliverer examined the purchaser's identification.

(3) Each delivery form endorsed under paragraph (2)(ii) of this subsection shall be submitted to the Board of License Commissioners on or before the 10th day of the following month.

(4) (i) The annual fee for a delivery option is \$150.

(ii) In addition to an annual fee, the Board of License Commissioners shall charge an issuing fee of \$150.

(5) The Board of License Commissioners shall adopt regulations to carry out this subsection.

(F) THIS SECTION DOES NOT APPLY TO:

(1) THE DELIVERY OF WINE FROM A DIRECT WINE SHIPPER TO A CONSUMER USING A COMMON CARRIER IN ACCORDANCE WITH TITLE 7.5 OF THIS ARTICLE; OR

(2) THE HOLDER OF A COMMON CARRIER PERMIT IN THE COURSE OF DELIVERING DIRECTLY SHIPPED WINE IN ACCORDANCE WITH TITLE 7.5 OF THIS ARTICLE.

14-202.

(A) Every common carrier, by rail, air, water or highway, transporting alcoholic beverages, either in interstate or intrastate commerce, to points within the State of Maryland, and every person transporting alcoholic beverages by [whatsoever manner] ANY MEANS within the State of Maryland, shall at any time and from time to time, upon written request of the Comptroller, report under oath on forms prescribed by the Comptroller, all such consignments or deliveries of alcoholic beverages, for such period as the Comptroller may specify.

(B) If required by the Comptroller, [such] THE reports shall show [the]:

(1) THE name and address of the person to whom the deliveries of alcoholic beverages have actually and in fact been made[, the]:

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(2) THE name and address of the original consignee, if alcoholic beverages have been delivered to any other PERSON than the originally named consignee[, the];

(3) THE point of origin, the point of delivery, the date of delivery and the number and initials of each car, if shipped by rail, the name of the boat, barge or vessel, if shipped by water, the license number of each truck, if shipped by motor truck, or if delivered by other means, the manner in which [such] THE delivery was made[, the];

(4) THE kind of alcoholic beverages and the number of gallons [thereof] OF EACH contained in any such shipment or shipments; and [such]

(5) ANY other additional information relative to shipments [as] THAT the Comptroller may require.

(C) Nothing [herein] IN THIS SECTION [shall] MAY be construed to authorize [the];

(1) THE consignment of alcoholic beverages from any point outside of the State to points within the State of Maryland, to any person except [the];

(I) THE holder of a permit or manufacturer's or wholesaler's license, duly issued under [the provisions of] this article; or [the]

(II) A CONSUMER UNDER TITLE 7.5 OF THIS ARTICLE; OR

(2) THE consignment of alcoholic beverages from any point within this State to a point outside the State, to any person not authorized to receive the same under the law of the point of destination.”.

AMENDMENT NO. 6

On page 9, after line 2, insert:

“16-503.

Any person violating the provisions of this article for which no penalty, other than the suspension or revocation of a license or permit, is provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than one thousand dollars (\$1,000.00) or to imprisonment for not more than two years in the House of Correction, or jail, or both fined and imprisoned.”.

On page 10, in line 9, strike “\$250” and substitute “**\$1,000**”; in line 12, strike “OR WHOLESALER”; in line 14, strike “NOT LATER THAN THE THIRD ANNIVERSARY OF ISSUING A” and substitute “**AT ANY TIME STARTING 3 YEARS AFTER THE COMPTROLLER FIRST ISSUES A DIRECT WINE SHIPPER’S**”;

after line 18, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Comptroller shall study the effects of the implementation of this Act, including:

(1) the numbers of holders of direct wine shipper’s permits and common carrier permits issued;

(2) the volume of wine shipped to Maryland consumers;

(3) the revenues and costs to the State associated with direct wine shipment; and

(Over)

(4) the availability of certain imported varieties of wine to Maryland consumers.

(b) On or before December 31, 2012, the Comptroller shall submit a report on its findings under this section, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee.”;

and in lines 19 and 25, strike “3.” and “4.”, respectively, and substitute “4.” and “5.”, respectively.