

# HOUSE BILL 978

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3lr2438

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By: **Delegate Barkley**

Introduced and read first time: February 8, 2013

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages – Winery Off-Site Permit and Wine Festival Permit**

3 FOR the purpose of requiring the Office of the Comptroller to collect a fee for a winery  
4 off-site permit and a wine festival permit; repealing provisions that provide for  
5 a winery special event permit and a related fee; repealing provisions that  
6 provide for a farmer's market permit; establishing a winery off-site permit to be  
7 issued by the Office of the Comptroller; authorizing the Office of the  
8 Comptroller to issue a winery off-site permit to certain persons who meet  
9 certain requirements; authorizing a winery off-site permit holder to provide and  
10 sell wine for certain purposes under certain circumstances; requiring a winery  
11 off-site permit holder to have a certain agent present during a certain event;  
12 specifying certain events in which a winery off-site permit may be used;  
13 specifying the term of a winery off-site permit; requiring an applicant for a  
14 winery off-site permit to submit a certain application form developed by the  
15 Office of the Comptroller and pay a certain fee to obtain a permit; requiring a  
16 winery off-site permit holder to notify the Office of the Comptroller within a  
17 certain period of time of its intention to attend an off-site event; specifying a  
18 certain winery off-site permit fee; establishing a wine festival permit to be  
19 issued by the Office of the Comptroller; authorizing the Office of the  
20 Comptroller to issue a wine festival permit to certain persons who meet certain  
21 requirements, provided that the wine festival will occur over a certain period of  
22 time; authorizing a wine festival permit holder to purchase wine at wholesale to  
23 provide and sell wine for certain purposes under certain circumstances;  
24 requiring a wine festival permit holder to provide space at the wine festival for  
25 holders of winery off-site permits; authorizing a winery off-site permit holder to  
26 provide and sell wine in the same manner as a wine festival permit holder,  
27 under certain circumstances; requiring a wine festival permit holder to have  
28 certain agents present during a certain event; requiring a certain holder of a  
29 winery off-site permit to have a certain agent present during a certain event;  
30 requiring an applicant for a wine festival permit to submit a certain application  
31 form developed by the Office of the Comptroller within a certain period of time

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 before the proposed event and pay a certain fee to obtain a permit; specifying  
 2 the contents of an application for a wine festival permit; requiring a wine  
 3 festival permit holder to provide the Office of the Comptroller with a list of  
 4 winery off-site permit holders that will attend a certain wine festival within a  
 5 certain period of time before the event; making conforming changes; and  
 6 generally relating to winery off-site permits and wine festival permits.

7 BY repealing and reenacting, with amendments,  
 8 Article 2B – Alcoholic Beverages  
 9 Section 2–101(b)(1), (v), (w), and (y) and 7.5–101(b)  
 10 Annotated Code of Maryland  
 11 (2011 Replacement Volume and 2012 Supplement)

12 BY repealing  
 13 Article 2B – Alcoholic Beverages  
 14 Section 2–101(b)(11), (u), and (x)  
 15 Annotated Code of Maryland  
 16 (2011 Replacement Volume and 2012 Supplement)

17 BY adding to  
 18 Article 2B – Alcoholic Beverages  
 19 Section 2–102 and 2–103  
 20 Annotated Code of Maryland  
 21 (2011 Replacement Volume and 2012 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article 2B – Alcoholic Beverages**

25 2–101.

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

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

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

32 3. \$200 for a public storage and transportation permit, a  
 33 nonresident dealer’s permit, a resident dealer’s permit, or a bulk transfer permit;

34 4. \$400 for a family beer and wine facility permit;



1 (4) A winery special event permit shall authorize the holder to:

2 (i) Provide samples not to exceed 1 fluid ounce per brand to  
3 consumers;

4 (ii) Sell not more than four 750 ml bottles of wine to a consumer  
5 at any given event or festival for off-premises consumption; and

6 (iii) Sell by the glass wine produced by the licensee to persons  
7 participating in any event or festival and for on-premises consumption.

8 (5) The winery special event permit application shall be filed with the  
9 Office of the Comptroller not less than 15 days prior to any event.

10 (6) A Class 4 Maryland limited winery in Calvert County may be  
11 issued a winery special event permit for unlimited use for one night each week from  
12 June through November at the North Beach Friday Night Farmers' Market.

13 (7) (i) In addition to the winery special event permits that may be  
14 issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited  
15 winery may be issued not more than 12 winery special event permits for use at  
16 farmers' markets in Prince George's County that are listed on the Farmers' Market  
17 Directory of the Maryland Department of Agriculture.

18 (ii) If a winery special event permit is issued under this  
19 paragraph:

20 1. The holder of the permit may not sell wine by the  
21 glass; and

22 2. The farmers' market administrator or the  
23 administrator's designee and the holder of the permit or the holder's designee shall be:

24 A. Certified by an alcohol awareness program approved  
25 by the Comptroller; and

26 B. Present during the hours when wine may be sold.

27 (8) (i) In addition to the winery special event permits that may be  
28 issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited  
29 winery may be issued not more than 12 winery special event permits for use at  
30 farmers' markets in Montgomery County that are listed on the Farmers' Market  
31 Directory of the Maryland Department of Agriculture.

32 (ii) If a winery special event permit is issued under this  
33 paragraph:

1                                   1.     The holder of the permit may not sell wine by the  
2 glass; and

3                                   2.     The farmers' market administrator or the  
4 administrator's designee and the holder of the permit or the holder's designee shall be:

5                                   A.     Certified by an alcohol awareness program approved  
6 by the Comptroller; and

7                                   B.     Present during the hours when wine may be sold.

8                                   (9)    (i)     In addition to the winery special event permits that may be  
9 issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited  
10 winery may be issued not more than 12 winery special event permits for use at  
11 farmers' markets in Frederick County that are listed on the Farmers' Market  
12 Directory of the Maryland Department of Agriculture.

13                                   (ii)    If a winery special event permit is issued under this  
14 paragraph:

15                                   1.     The holder of the permit may not sell wine by the  
16 glass; and

17                                   2.     The farmers' market administrator or the  
18 administrator's designee and the holder of the permit or the holder's designee shall be:

19                                   A.     Certified by an alcohol awareness program approved  
20 by the Comptroller; and

21                                   B.     Present during the hours when wine may be sold.

22                                   (10)  (i)    1.     In addition to the winery special event permits that  
23 may be issued under paragraph (1)(i) and (iii) of this subsection and subject to  
24 subparagraph 2 of this subparagraph, a Class 4 Maryland limited winery may be  
25 issued not more than 12 winery special event permits for use at farmers' markets in  
26 Baltimore County that are listed on the Farmers' Market Directory of the Maryland  
27 Department of Agriculture.

28                                   2.     A Class 4 Maryland limited winery may use not more  
29 than six winery special event permits at the same farmers' market in Baltimore  
30 County in a year.

31                                   (ii)    If a winery special event permit is issued under this  
32 paragraph:

1                   1.     The holder of the permit may not sell wine by the  
2 glass; and

3                   2.     The farmers' market administrator or the  
4 administrator's designee and the holder of the permit or the holder's designee shall be:

5                   A.     Certified by an alcohol awareness program approved  
6 by the Comptroller; and

7                   B.     Present during the hours when wine may be sold.

8                   (11) (i)    In addition to the winery special event permits that may be  
9 issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited  
10 winery may be issued not more than 12 winery special event permits for use at  
11 farmers' markets in Carroll County that are listed on the Farmers' Market Directory  
12 of the Maryland Department of Agriculture.

13                   (ii)    If a winery special event permit is issued under this  
14 paragraph:

15                   1.     The holder of the permit may not sell wine by the  
16 glass; and

17                   2.     The farmers' market administrator or the  
18 administrator's designee and the holder of the permit or the holder's designee shall be:

19                   A.     Certified by an alcohol awareness program approved  
20 by the Comptroller; and

21                   B.     Present during the hours when wine may be sold.

22                   (12)   In addition to the winery special event permits that may be issued  
23 under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery  
24 may be issued a winery special event permit for unlimited use for 1 day each week at a  
25 farmers' market in St. Mary's County that is listed on the Farmers' Market Directory  
26 of the Maryland Department of Agriculture.

27                   (13)   In addition to the winery special event permits that may be issued  
28 under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery  
29 may be issued a winery special event permit for unlimited use for 1 day each week at a  
30 farmers' market in Dorchester County that is listed on the Farmers' Market Directory  
31 of the Maryland Department of Agriculture.

32                   (14)   In addition to the winery special event permits that may be issued  
33 under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery  
34 may be issued a winery special event permit for unlimited use for 1 day each week at a

1 farmers' market in Charles County that is listed on the Farmers' Market Directory of  
2 the Maryland Department of Agriculture.]

3 ~~[(v)]~~ (U) (1) The Office of the Comptroller may issue a nonresident  
4 winery permit to a person that:

5 (i) Is licensed outside of the State to engage in the manufacture  
6 of wine;

7 (ii) Produces not more than 27,500 gallons of its own wine  
8 annually; and

9 (iii) Does not hold a nonresident dealer's permit.

10 (2) A holder of a nonresident winery permit may sell and deliver its  
11 own wine from a location outside of the State to a retail licensee or permit holder in  
12 the State authorized to acquire the wine.

13 (3) A nonresident winery permit holder shall comply with all of the  
14 requirements of this article, the Tax – General Article, and the regulations of the  
15 Office of the Comptroller that apply to a holder of a Class 6 limited wine wholesaler's  
16 license.

17 ~~[(w)]~~ (V) (1) Subject to paragraph (2) of this subsection, the Comptroller  
18 may issue a resident dealer's permit to:

19 (i) An importer of beer, wine, or distilled spirits produced  
20 outside the United States who purchases directly from the brand owner or from a sales  
21 agent of a brewer, distiller, rectifier, bottler, manufacturer, vintner, or winery, who is  
22 authorized by the brand owner to sell in the State, and who has provided proof of this  
23 sales agency relationship to the Comptroller; or

24 (ii) An American sales agent of an importer under  
25 subparagraph (i) of this paragraph, providing proof of that agency is presented to the  
26 Comptroller.

27 (2) To be issued a resident dealer's permit, an individual applicant, an  
28 applicant qualifying as a resident applicant for a corporation, or each applicant for a  
29 partnership shall have been a resident of the State for at least 2 years immediately  
30 before applying for the permit.

31 (3) A resident dealer's permit may not be issued to a person who:

32 (i) Holds a wholesaler or retailer license of any class issued  
33 under this article;

1 (ii) Has an interest in a wholesaler licensed under this article,  
2 other than a disclosed legal, equity, or security interest of a malt beverage wholesaler;  
3 or

4 (iii) Has an interest in a retailer licensed under this article.

5 (4) A resident dealer's permit authorizes the holder to sell alcoholic  
6 beverages to a wholesaler licensed under this article in the State or to a person outside  
7 of the State who the Comptroller authorizes to acquire the alcoholic beverages.

8 (5) A holder of a resident dealer's permit may not own or operate a  
9 warehouse in the State.

10 [(x) (1) In this subsection, "permit" means a farmer's market permit.

11 (2) There is a farmer's market permit.

12 (3) The Comptroller may issue the permit to a holder of a license:

13 (i) Other than a Class 4 limited winery license, that allows the  
14 holder to sell alcoholic beverages to the public for consumption off the licensed  
15 premises; and

16 (ii) That was issued by the local licensing board of the  
17 jurisdiction in which the farmer's market will be held.

18 (4) The holder of a permit shall notify the local licensing board of the  
19 jurisdiction in which the farmer's market will be held that the permit has been issued.

20 (5) (i) A permit may be used only:

21 1. At a farmer's market that is listed in the farmer's  
22 market directory of the Maryland Department of Agriculture;

23 2. At the farmer's market named in the permit; and

24 3. During the hours of operation of the farmer's market  
25 for which it is obtained.

26 (ii) The Comptroller may issue not more than one permit for use  
27 at each farmer's market.

28 (6) A permit authorizes the holder to:

29 (i) Occupy stall space at a farmer's market; and

30 (ii) Subject to paragraph (7) of this subsection:



1                   1.     Offer and sell sealed containers of wine to consumers  
2 for consumption off the licensed premises of the farmer's market; and

3                   2.     Provide at no charge samples of wine not to exceed 1  
4 fluid ounce per brand to consumers for consumption on the licensed premises of the  
5 farmer's market.

6                   (7)    All wine offered for sale or samplings by the permit holder shall be  
7 the product of a Class 4 limited winery.]

8            [(y)] (w)   (1)    The Office of the Comptroller may issue a common carrier  
9 permit to a person who meets the definition of a "common carrier" under § 7.5-101 of  
10 this article.

11                   (2)    The holder of a common carrier permit may deliver wine from a  
12 location inside or outside the State to a consumer in the State for the consumer's  
13 personal use under Title 7.5 of this article.

14                   (3)    The holder of a common carrier permit that delivers wine solely  
15 under Title 7.5 of this article may not be required to obtain a transportation permit  
16 issued under subsection (g) of this section in addition to the common carrier permit.

17    **2-102.**

18            **(A)    THERE IS A WINERY OFF-SITE PERMIT.**

19            **(B)    THE OFFICE OF THE COMPTROLLER MAY ISSUE THE PERMIT TO A**  
20 **CLASS 4 LIMITED WINERY THAT MEETS THE REQUIREMENTS OF THIS SECTION.**

21            **(C)    DURING AN EVENT LISTED IN SUBSECTION (E) OF THIS SECTION,**  
22 **THE PERMIT HOLDER MAY:**

23                   **(1)    PROVIDE TO A CONSUMER A SAMPLE THAT HAS BEEN**  
24 **PRODUCED BY THE PERMIT HOLDER AND THAT MAY NOT EXCEED 1 FLUID**  
25 **OUNCE FOR EACH BRAND;**

26                   **(2)    SELL TO A CONSUMER WINE IN SEALED CONTAINERS THAT**  
27 **HAS BEEN PRODUCED BY THE PERMIT HOLDER FOR OFF-PREMISES**  
28 **CONSUMPTION; AND**

29                   **(3)    EXCEPT FOR FARMERS' MARKETS LISTED IN SUBSECTION (E)**  
30 **OF THIS SECTION, SELL TO A CONSUMER WINE BY THE GLASS THAT IS**  
31 **PRODUCED BY THE PERMIT HOLDER FOR ON-PREMISES CONSUMPTION.**

1           **(D) WHILE SELLING WINE OR PROVIDING SAMPLES AT AN EVENT**  
2 **LISTED IN SUBSECTION (E) OF THIS SECTION, A PERMIT HOLDER SHALL HAVE**  
3 **AN AGENT PRESENT WHO IS CERTIFIED BY AN APPROVED ALCOHOL AWARENESS**  
4 **PROGRAM.**

5           **(E) THE PERMIT MAY BE USED ONLY:**

6                   **(1) DURING THE MONTGOMERY COUNTY AGRICULTURAL FAIR;**

7                   **(2) 1 NIGHT EACH WEEK FROM JUNE THROUGH NOVEMBER AT**  
8 **THE NORTH BEACH FRIDAY NIGHT FARMERS' MARKET;**

9                   **(3) AT AN EVENT THAT HAS AS ITS MAJOR PURPOSE AN ACTIVITY:**

10                   **(I) THAT IS OTHER THAN THE SALE AND PROMOTION OF**  
11 **ALCOHOLIC BEVERAGES; AND**

12                   **(II) FOR WHICH THE PARTICIPATION OF A WINERY IS A**  
13 **SUBORDINATE ACTIVITY;**

14                   **(4) AT FARMERS' MARKETS THAT ARE:**

15                   **(I) LISTED ON THE FARMERS' MARKET DIRECTORY OF**  
16 **THE MARYLAND DEPARTMENT OF AGRICULTURE; AND**

17                   **(II) LOCATED IN BALTIMORE COUNTY, CARROLL COUNTY,**  
18 **FREDERICK COUNTY, MONTGOMERY COUNTY, OR PRINCE GEORGE'S COUNTY;**  
19 **AND**

20                   **(5) AT A WINE FESTIVAL THAT:**

21                   **(I) HAS AS ITS PRIMARY PURPOSE THE PROMOTION OF**  
22 **MARYLAND WINE; AND**

23                   **(II) IS AUTHORIZED BY THE OFFICE OF THE COMPTROLLER**  
24 **UNDER § 2-103 OF THIS SUBTITLE.**

25           **(F) THE TERM OF A WINERY OFF-SITE PERMIT IS 1 YEAR.**

26           **(G) AN APPLICANT SHALL:**

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

4           (2) PAY A FEE OF \$100 FOR THE WINERY OFF-SITE PERMIT.

5           (H) (1) NO LATER THAN THE 20TH DAY OF THE MONTH PRECEDING  
6 THE OFF-SITE EVENT, THE PERMIT HOLDER SHALL NOTIFY THE OFFICE OF THE  
7 COMPTROLLER OF ITS INTENTION TO ATTEND AN OFF-SITE EVENT.

8           (2) THE NOTICE SHALL BE ON A FORM THAT THE OFFICE OF THE  
9 COMPTROLLER PROVIDES.

10 **2-103.**

11           (A) THERE IS A WINE FESTIVAL PERMIT.

12           (B) (1) AN APPLICANT FOR A WINE FESTIVAL PERMIT MAY ONLY BE A  
13 NONPROFIT ORGANIZATION.

14           (2) THE OFFICE OF THE COMPTROLLER MAY ISSUE THE PERMIT  
15 TO A NONPROFIT ORGANIZATION THAT MEETS THE REQUIREMENTS OF THIS  
16 SECTION.

17           (3) A PERMIT AUTHORIZES THE PERMIT HOLDER TO CONDUCT A  
18 WINE FESTIVAL FOR AT LEAST 1 DAY AND NOT MORE THAN 3 CONSECUTIVE  
19 DAYS.

20           (C) (1) THE PERMIT HOLDER MAY PURCHASE WINE AT WHOLESALE  
21 TO:

22                   (I) PROVIDE TO A CONSUMER A SAMPLE THAT MAY NOT  
23 EXCEED 1 FLUID OUNCE FOR EACH BRAND;

24                   (II) SELL TO A CONSUMER WINE IN A SEALED CONTAINER  
25 FOR OFF-PREMISES CONSUMPTION; AND

26                   (III) SELL TO A CONSUMER WINE IN AN OPEN CONTAINER OR  
27 BY THE GLASS FOR ON-PREMISES CONSUMPTION.

28           (2) THE PERMIT HOLDER SHALL PROVIDE SPACE AT A WINE  
29 FESTIVAL FOR HOLDERS OF WINERY OFF-SITE PERMITS.

1           **(3) A HOLDER OF A WINERY OFF-SITE PERMIT THAT ATTENDS A**  
2 **WINE FESTIVAL MAY PROVIDE WINE TO A CONSUMER IN THE SAME MANNER AS**  
3 **THE HOLDER OF THE WINE FESTIVAL PERMIT.**

4           **(4) THE PERMIT HOLDER MAY PROVIDE OR SELL AT THE WINE**  
5 **FESTIVAL ONLY ALCOHOLIC BEVERAGES PROVIDED BY THE PERMIT HOLDER OR**  
6 **A HOLDER OF A WINERY OFF-SITE PERMIT THAT IS IN ATTENDANCE.**

7           **(D) (1) AT ALL TIMES DURING THE WINE FESTIVAL, THE PERMIT**  
8 **HOLDER SHALL HAVE PRESENT AT LEAST TWO AGENTS WHO ARE CERTIFIED BY**  
9 **AN APPROVED ALCOHOL AWARENESS PROGRAM.**

10           **(2) A HOLDER OF A WINERY OFF-SITE PERMIT THAT ATTENDS A**  
11 **WINE FESTIVAL SHALL HAVE PRESENT AN ADDITIONAL AGENT WHO IS**  
12 **CERTIFIED BY AN APPROVED ALCOHOL AWARENESS PROGRAM AS REQUIRED**  
13 **UNDER § 2-102(D) OF THIS SUBTITLE.**

14           **(E) AN APPLICANT FOR A WINE FESTIVAL PERMIT SHALL:**

15           **(1) NO LESS THAN 30 DAYS BEFORE THE PROPOSED EVENT,**  
16 **SUBMIT TO THE OFFICE OF THE COMPTROLLER A COMPLETED APPLICATION ON**  
17 **A FORM THAT THE OFFICE OF THE COMPTROLLER PROVIDES THAT:**

18                   **(I) STATES THAT THE PRIMARY PURPOSE OF THE WINE**  
19 **FESTIVAL IS TO PROMOTE MARYLAND WINE;**

20                   **(II) PROVIDES DETAILS OF THE WINE FESTIVAL, INCLUDING**  
21 **THE LOCATION, DATES, AND TIMES OF OPERATION; AND**

22                   **(III) INCLUDES APPROPRIATE EVIDENCE THAT THE OWNER**  
23 **OF THE PROPERTY IN WHICH THE WINE FESTIVAL MAY BE HELD HAS GIVEN**  
24 **PERMISSION TO THE APPLICANT TO HAVE THE WINE FESTIVAL ON ITS**  
25 **PREMISES; AND**

26           **(2) PAY A FEE OF \$100 FOR THE WINE FESTIVAL PERMIT.**

27           **(F) NO LESS THAN 15 DAYS BEFORE THE WINE FESTIVAL, THE PERMIT**  
28 **HOLDER SHALL PROVIDE THE OFFICE OF THE COMPTROLLER WITH A LIST OF**  
29 **WINERY OFF-SITE PERMIT HOLDERS THAT WILL ATTEND.**

30 7.5-101.

31           **(b) (1) "Common carrier" means a business entity that:**

1                   (i)     Holds itself out as being available to the public to transport  
2 in interstate or foreign commerce for compensation any class of passenger or property;  
3 and

4                   (ii)    Holds a common carrier permit issued under § **[2-101(y)]**  
5 **2-101(w)** of this article.

6                   (2)    “Common carrier” does not include a business entity that  
7 transports only property it owns or that is consigned to it.

8                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 July 1, 2013.