

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 223 (Senator Conway)

Education, Health, and Environmental Affairs

Economic Matters

Alcoholic Beverages - Class 7 Limited Beer Wholesaler's License

This bill creates a Class 7 limited beer wholesaler's license that authorizes the license holder to sell, deliver, and distribute up to 3,000 barrels of its own beer produced at the holder's premises to a retail license holder or permit holder in the State annually, under specified circumstances. A Class 7 limited beer wholesaler's license may only be issued to a Class 5 manufacturer's (brewery) license holder and a Class 7 micro-brewery license holder who produces not more than 22,500 barrels of beer annually. The bill establishes a \$50 fee for a Class 7 limited beer wholesaler's license.

The bill also authorizes the Comptroller to issue a nonresident brewery permit to a specified person licensed outside the State to manufacture beer. The nonresident brewery permit authorizes a person to sell and deliver up to 3,000 barrels of its own beer in the State annually. The fee for a nonresident brewery permit is \$50.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: General fund revenues increase by \$50 for each Class 7 limited beer wholesaler's license and nonresident brewery permit that is issued, beginning in FY 2014. In addition, sales tax revenues and alcoholic beverages tax revenues increase beginning in FY 2014 for beer sold in the State by nonresident brewery permit holders. Expenditures are not affected.

Local Effect: None.

Small Business Effect: Potential meaningful. Class 5 manufacturer's (brewery) license holder and a Class 7 micro-brewery license holder may realize additional avenues in which to sell more beer.

Analysis

Current Law: Class 5 manufacturer's (brewery) licenses are issued by the Comptroller's Office. A Class 5 manufacturer's licensee is authorized to (1) establish and operate a plant in Maryland for brewing and bottling malt beverages at the location described in the license; (2) import beer from holders of nonresident dealer's permits; and (3) sell and deliver beer to any wholesale licensee in the State, or person outside of this State, authorized to acquire it.

A licensee is authorized to serve to a person of legal drinking age who participates in a guided tour of the facility or attends a scheduled promotional event or other organized activity at the licensed premises, no more than six samples of beer brewed at the licensed premises, with each sample consisting of no more than 3 ounces from a single style of beer. A licensee may also sell up to 288 ounces, per person, of beer brewed at the brewery for off-premises consumption to anyone who participates in a guided tour of the brewery or attends a scheduled promotional event or other organized activity at the licensed premises, provided the person is of legal drinking age.

The Comptroller's Office may issue a special brewery promotional event permit to a holder of a Class 5 manufacturer's license. The permit authorizes the holder to conduct on the premises of the brewery a promotional event at which the holder may (1) provide samples of no more than three fluid ounces per brand to consumers and (2) sell beer produced by the holder to persons who participate in the event. The beer at the event must be sold by the glass and for consumption on the premises only. A licensee may not be issued more than 12 permits in a calendar year and a single promotional event may not exceed three consecutive days.

Class 7 micro-brewery (on- and off-sale) licenses are issued by the Comptroller's Office for use in 20 jurisdictions – Allegany, Anne Arundel, Baltimore, Calvert, Carroll, Charles, Dorchester, Frederick, Garrett, Harford, Howard, Kent, Montgomery, Prince George's, Talbot, Washington, Wicomico, and Worcester counties; Baltimore City; and the City of Annapolis. In general, the license is issued only to a holder of a Class B beer, wine, and liquor (on-sale) license that is issued for use on the premises of a restaurant with exceptions for the Town of Berlin in Worcester County and Kent, Montgomery, Prince George's, and Washington counties.

License holders may sell up to 4,000 barrels of beer to customers for consumption on the premises and may collectively brew, bottle, or contract for up to 22,500 barrels of malt beverages each calendar year.

Background: There are currently 12 Class 5 manufacturer's licenses issued in the State. There are currently 19 Class 7 micro-brewery licenses issued in the State. There are 2,754 Class B beer, wine, and liquor license holders and 658 Class D beer, wine, and liquor license holders in the State. In addition, there are: 47 beer, wine, and liquor wholesale licenses; 20 wine and liquor wholesale licenses; 8 beer and wine wholesale licenses; 13 beer wholesale licenses; 23 wine wholesale licenses; and, 56 limited wine wholesale licenses issued in the State.

According to the Comptroller's *Alcohol & Tobacco Tax Report* for Fiscal 2012, Maryland brewers sold 3.9 million gallons of beer in fiscal 2012. Of this amount, 32.4% was sold to wholesalers, 8.6% was sold at the brewery, 58.2% was sold out of state, 0.3% was consumed on premises, and 0.4% was returned to the brewery.

The State sales tax rate on alcoholic beverages is 9.0% and the alcoholic beverages tax on beer is \$0.09 per gallon.

State Fiscal Effect: General fund revenues increase by \$50 for each Class 7 limited beer wholesaler's license and nonresident brewery permit that is issued, beginning in fiscal 2014. As a point of reference, if all 12 Class 5 manufacturer's licensees and all 19 Class 7 micro-brewery licensees apply for a Class 7 limited beer wholesaler's license general fund revenues will increase by \$1,550. The number of out-of-state breweries that may apply for a nonresident brewery permit cannot be reliably estimated.

In addition, sales and use tax revenues and alcoholic beverages tax revenues will increase for each barrel of beer that is sold in the State by the holder of a nonresident brewery permit holder. The bill authorizes the holder of a permit to sell up to 3,000 barrels of its own beer in the State. The alcoholic beverages tax on a barrel of beer is \$2.79. The amount of any sales tax increase depends on the cost of the beer sold.

Additional Information

Prior Introductions: None.

Cross File: HB 231 (Delegate Schulz, *et al.*) - Economic Matters.

Information Source(s): Comptroller's Office, Department of Legislative Services

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