

SENATE BILL 546

A1, A2

4r2843
CF HB 208

By: **Senator Reilly**

Introduced and read first time: January 29, 2014

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages – Refillable Containers – Permits and Labels**

3 FOR the purpose of providing that the holders of certain alcoholic beverages
4 manufacturing and retail licenses and refillable container permits may refill
5 certain containers that are branded by a certain holder of a refillable container
6 permit; renaming certain refillable container licenses to be refillable container
7 permits; making other clarifying and stylistic changes; and generally relating to
8 alcoholic beverages and refillable containers.

9 BY repealing and reenacting, with amendments,
10 Article 2B – Alcoholic Beverages
11 Section 2–206(d)(3) and (5), 5–201(q)(5) and (7), 5–401(q)(2)(iv) and (vi),
12 6–201(d)(1)(v)2., 7–101(l)(8), (p–1)(11)(vi), and (w)(3), 8–202(l), 8–202.2(d)
13 and (h), 8–203(e), 8–210, 8–212(c)(4) and (5), 9–204.1(f)(8), and 12–113
14 Annotated Code of Maryland
15 (2011 Replacement Volume and 2013 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article 2B – Alcoholic Beverages
18 Section 5–201(q)(1), 5–401(q)(1), 6–201(d)(1)(i), 7–101(l)(1), (p–1)(1), and (w)(1),
19 8–202(a), 8–202.2(a), 8–203(a), 8–212(a), and 9–204.1(b) and (f)(1)
20 Annotated Code of Maryland
21 (2011 Replacement Volume and 2013 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article 2B – Alcoholic Beverages
24 Section 7–101(p–1)(11)(iii)
25 Annotated Code of Maryland
26 (2011 Replacement Volume and 2013 Supplement)
27 (As enacted by Chapter 117 of the Acts of the General Assembly of 2013)

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 8–212(c)(5)
4 Annotated Code of Maryland
5 (2011 Replacement Volume and 2013 Supplement)

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

8 **Article 2B – Alcoholic Beverages**

9 2–206.

10 (d) (3) To be used as a refillable container under paragraph (2) of this
11 subsection, a container shall:

12 (i) Be sealable;

13 (ii) Be branded with an identifying mark of the [license]
14 PERMIT holder **WHO SELLS THE CONTAINER**;

15 (iii) Bear the federal health warning statement required for
16 containers of alcoholic beverages under 27 C.F.R. 16.21;

17 (iv) Display instructions for cleaning the container; and

18 (v) Bear a label stating that:

19 1. Cleaning the container is the responsibility of the
20 consumer; and

21 2. Contents of the container are perishable and should
22 be refrigerated immediately and consumed within 48 hours after purchase.

23 (5) A holder of a refillable container permit may refill only a refillable
24 container that was branded by [the] **A REFILLABLE CONTAINER** permit holder.

25 5–201.

26 (q) (1) This subsection applies only in Montgomery County.

27 (5) To be used as a refillable container under paragraph (4) of this
28 subsection, a container shall:

29 (i) Be sealable;

1 (ii) Be branded with an identifying mark of the [license]
2 **PERMIT holder WHO SELLS THE CONTAINER;**

3 (iii) Bear the federal health warning statement required for
4 containers of alcoholic beverages under 27 C.F.R. 16.21;

5 (iv) Display instructions for cleaning the container; and

6 (v) Bear a label stating that:

7 1. Cleaning the container is the responsibility of the
8 consumer; and

9 2. Contents of the container are perishable and should
10 be refrigerated immediately and consumed within 48 hours after purchase.

11 (7) A holder of a refillable container permit may refill only a refillable
12 container that was branded by [the] **A REFILLABLE CONTAINER** permit holder.

13 5-401.

14 (q) (1) This subsection applies only in Montgomery County.

15 (2) (iv) To be used as a refillable container under subparagraph (iii)
16 of this paragraph, a container shall:

17 1. Be sealable;

18 2. Be branded with an identifying mark of the [license]
19 **PERMIT holder WHO SELLS THE CONTAINER;**

20 3. Bear the federal health warning statement required
21 for containers of alcoholic beverages under 27 C.F.R. 16.21;

22 4. Display instructions for cleaning the container; and

23 5. Bear a label stating that:

24 A. Cleaning the container is the responsibility of the
25 consumer; and

26 B. Contents of the container are perishable and should
27 be refrigerated immediately and consumed within 48 hours after purchase.

1 (vi) A holder of a refillable container permit may refill only a
 2 refillable container that was branded by [the] **A REFILLABLE CONTAINER** permit
 3 holder.

4 6–201.

5 (d) (1) (i) This subsection applies only in Baltimore City.

6 (v) 2. A license specified under subparagraph 1 of this
 7 subparagraph may include an off-sale privilege for sales of refillable containers under
 8 a refillable container [license] **PERMIT** issued in accordance with § 8–203(e) of this
 9 article.

10 7–101.

11 (l) (1) This subsection applies only in Cecil County.

12 (8) (i) There is a refillable container [license] **PERMIT**.

13 (ii) The Board may issue a refillable container [license] **PERMIT**
 14 to a holder of a Class A or Class B alcoholic beverages license.

15 (iii) Subject to subparagraph (iv) of this paragraph, a refillable
 16 container [license] **PERMIT** entitles the holder to sell draft beer for consumption off
 17 the licensed premises in a refillable container with a capacity of not less than 32
 18 ounces and not more than 128 ounces.

19 (iv) To be used as a refillable container under subparagraph (iii)
 20 of this paragraph, a container shall:

21 1. Be sealable;

22 2. Be branded with an identifying mark of the [license]
 23 **PERMIT** holder **WHO SELLS THE CONTAINER**;

24 3. Bear the federal health warning statement required
 25 for containers of alcoholic beverages under 27 C.F.R. 16.21;

26 4. Display instructions for cleaning the container; and

27 5. Bear a label stating that:

28 A. Cleaning the container is the responsibility of the
 29 consumer; and

1 B. The contents of the container are perishable and
2 should be refrigerated immediately and consumed within 48 hours after purchase.

3 (v) Before the Board issues a refillable container [license]
4 **PERMIT** to an applicant, the applicant shall:

5 1. Complete the form that the Board provides; and

6 2. Pay an annual [license] **PERMIT** fee of \$50.

7 (vi) The term of a refillable container [license] **PERMIT** issued to
8 a successful applicant is the same as that of the license that the applicant holds.

9 (vii) Receipts collected under a refillable container [license]
10 **PERMIT** are to be included in the calculation of average daily receipts from the sale of
11 alcoholic beverages under § 11-508(b)(3) of this article.

12 (viii) The hours of sale for a refillable container [license] **PERMIT**
13 begin and end at the same time as those for the license already held by the person to
14 [which] **WHOM** the refillable container [license] **PERMIT** is issued.

15 (ix) A [license] holder **OF A REFILLABLE CONTAINER PERMIT**
16 may refill only a refillable container that bears the identifying mark of [the license] A
17 **REFILLABLE CONTAINER PERMIT** holder.

18 (x) The Board shall adopt regulations to carry out this
19 paragraph.

20 (p-1) (1) This subsection applies only in Howard County.

21 (11) (iii) To be used as a refillable container under subparagraph (ii)
22 of this paragraph, a container shall:

23 1. Be sealable;

24 2. Be branded with an identifying mark of the [license]
25 **PERMIT** holder **WHO SELLS THE CONTAINER**;

26 3. Bear the federal health warning statement required
27 for containers of alcoholic beverages under 27 C.F.R. 16.21;

28 4. Display instructions for cleaning the container; and

29 5. Bear a label stating:

1 A. That cleaning the container is the responsibility of the
2 consumer; and

3 B. If the container contains beer, that the contents are
4 perishable and should be refrigerated immediately and consumed within 48 hours
5 after purchase.

6 (vi) A holder of a refillable container permit may refill only a
7 refillable container that was branded by [the] **A REFILLABLE CONTAINER** permit
8 holder.

9 (w) (1) This subsection applies only in Wicomico County.

10 (3) (i) The Board of License Commissioners may issue a refillable
11 container [license] **PERMIT** to a holder of any class of alcoholic beverages license
12 issued by the Board except a Class C license, Class D license, Class B–Conference
13 Center license, or Class B–Stadium license.

14 (ii) Subject to subparagraph (iii) of this paragraph, a refillable
15 container [license] **PERMIT** entitles the holder to sell draft beer for consumption off
16 the licensed premises in a refillable container with a capacity of not less than 32
17 ounces and not more than 128 ounces.

18 (iii) To be used as a refillable container under subparagraph (ii)
19 of this paragraph, a container shall:

20 1. Be sealable;

21 2. Be branded with an identifying mark of the [license]
22 **PERMIT** holder **WHO SELLS THE CONTAINER**;

23 3. Bear the federal health warning statement required
24 for containers of alcoholic beverages under 27 C.F.R. 16.21;

25 4. Display instructions for cleaning the container; and

26 5. Bear a label stating that:

27 A. Cleaning the container is the responsibility of the
28 consumer; and

29 B. The contents of the container are perishable and
30 should be refrigerated immediately and consumed within 48 hours after purchase.

31 (iv) Before the Board issues a refillable container [license]
32 **PERMIT** to an applicant:

- 1 1. The applicant shall:
- 2 A. Complete the form that the Board provides; and
- 3 B. Pay an annual [license] PERMIT fee of \$500; and
- 4 2. An applicant who holds a license without an off-sale
- 5 privilege shall meet the same advertising, posting of notice, and public hearing
- 6 requirements as those for the license that the applicant holds.
- 7 (v) The term of the refillable container [license] PERMIT issued
- 8 to a successful applicant is the same as that of the license that the applicant holds.
- 9 (vi) Receipts collected under a refillable container [license]
- 10 PERMIT are to be included in the calculation of average daily receipts from the sale of
- 11 alcoholic beverages under a Class B restaurant license, Class B hotel license, and
- 12 Class B golf course license.
- 13 (vii) The hours of sale for a refillable container [license] PERMIT:
- 14 1. Begin at the same time as those for the license
- 15 already held by the person to whom the refillable container [license] PERMIT is
- 16 issued; and
- 17 2. End at midnight.
- 18 (viii) A [license] holder **OF A REFILLABLE CONTAINER PERMIT**
- 19 may refill only a refillable container that was branded by [the license] **A REFILLABLE**
- 20 **CONTAINER PERMIT** holder.
- 21 8-202.
- 22 (a) This section applies only in Anne Arundel County.
- 23 (1) (1) There is a refillable container [license] PERMIT.
- 24 (2) The Board may issue a refillable container [license] PERMIT to a
- 25 holder of a Class A license, a Class B license, or a Class D license.
- 26 (3) Subject to paragraph (4) of this subsection, a refillable container
- 27 [license] PERMIT entitles the [license] holder to sell draft beer for consumption off the
- 28 licensed premises in a refillable container with a capacity of not less than 32 ounces
- 29 and not more than 128 ounces.

1 (4) To be used as a refillable container under paragraph (3) of this
2 subsection, a container shall:

3 (i) Be sealable;

4 (ii) Be branded with an identifying mark of [a license] **THE**
5 **PERMIT** holder **WHO SELLS THE CONTAINER**;

6 (iii) Bear the federal health warning statement required for
7 containers of alcoholic beverages under 27 C.F.R. 16.21;

8 (iv) Display instructions for cleaning the container; and

9 (v) Bear a label stating that:

10 1. Cleaning the container is the responsibility of the
11 consumer; and

12 2. The contents of the container are perishable and
13 should be refrigerated immediately and consumed within 48 hours after purchase.

14 (5) Before the Board issues a refillable container [license] **PERMIT**:

15 (i) The applicant shall:

16 1. Complete the form that the Board provides; and

17 2. Pay an annual [license] **PERMIT** fee of:

18 A. \$500 for an applicant whose alcoholic beverages
19 license does not have an off-sale privilege; or

20 B. \$50 for an applicant whose alcoholic beverages license
21 has an off-sale privilege; and

22 (ii) An applicant who holds a license without an off-sale
23 privilege shall meet the same advertising, posting of notice, and public hearing
24 requirements as those for the license that the applicant holds.

25 (6) The term of a refillable container [license] **PERMIT** issued to a
26 successful applicant is the same as that of the license that the applicant holds.

27 (7) The hours of sale for a refillable container [license] **PERMIT**:

28 (i) Begin at the same time as those for the license already held
29 by the person to whom the refillable container [license] **PERMIT** is issued; and

1 (ii) End at midnight.

2 (8) A [license] holder **OF A RENEWABLE CONTAINER PERMIT** may
3 refill only a refillable container that was branded by a [license] **REFILLABLE**
4 **CONTAINER PERMIT** holder.

5 (9) The Board shall adopt regulations to carry out this subsection.

6 8-202.2.

7 (a) This section applies only in the City of Annapolis.

8 (d) (1) Subject to paragraph (2) of this subsection, a refillable container
9 [license] **PERMIT** entitles the [license] **PERMIT** holder to sell draft beer for
10 consumption off the licensed premises in a refillable container with a capacity of not
11 less than 32 ounces and not more than 128 ounces.

12 (2) To be used as a refillable container under paragraph (1) of this
13 subsection, a container shall:

14 (i) Be sealable;

15 (ii) Be branded with an identifying mark of [a license] **THE**
16 **PERMIT** holder **WHO SELLS THE CONTAINER**;

17 (iii) Bear the federal health warning statement required for
18 containers of alcoholic beverages under 27 C.F.R. 16.21;

19 (iv) Display instructions for cleaning the container; and

20 (v) Bear a label stating that:

21 1. Cleaning the container is the responsibility of the
22 consumer; and

23 2. The contents of the container are perishable and
24 should be refrigerated immediately and consumed within 48 hours after purchase.

25 (h) A [license] holder **OF A REFILLABLE CONTAINER PERMIT** may refill
26 only a refillable container that was branded by a [license] **REFILLABLE CONTAINER**
27 **PERMIT** holder.

28 8-203.

29 (a) The provisions of this section only apply in Baltimore City.

1 (e) (1) There is a refillable container [license] **PERMIT**.

2 (2) The Board may issue a refillable container [license] **PERMIT** to a
3 holder of any class of alcoholic beverages license issued by the Board except a Class C
4 license [and] **OR** a Class M–G license.

5 (3) Subject to paragraph (4) of this subsection, a refillable container
6 [license] **PERMIT** entitles the holder to sell draft beer for consumption off the licensed
7 premises in a refillable container with a capacity of not less than 32 ounces and not
8 more than 128 ounces.

9 (4) To be used as a refillable container under paragraph (3) of this
10 subsection, a container shall:

11 (i) Be sealable;

12 (ii) Be branded with an identifying mark of the [license]
13 **PERMIT** holder **WHO SELLS THE CONTAINER**;

14 (iii) Bear the federal health warning statement required for
15 containers of alcoholic beverages under 27 C.F.R. 16.21;

16 (iv) Display instructions for cleaning the container; and

17 (v) Bear a label stating that:

18 1. Cleaning the container is the responsibility of the
19 consumer; and

20 2. The contents of the container are perishable and
21 should be refrigerated immediately and consumed within 48 hours after purchase.

22 (5) Before the Board issues a refillable container [license] **PERMIT** to
23 an applicant:

24 (i) The applicant shall:

25 1. Complete the form that the Board provides; and

26 2. Pay an annual [license] **PERMIT** fee of:

27 A. \$500 for an applicant whose alcoholic beverages
28 license does not have an off–sale privilege; or

1 B. \$50 for an applicant whose alcoholic beverages license
2 has an off-sale privilege; and

3 (ii) An applicant who holds a license without an off-sale
4 privilege shall meet the same advertising, posting of notice, and public hearing
5 requirements as those for the license that the applicant holds.

6 (6) The term of a refillable container [license] **PERMIT** issued to a
7 successful applicant is the same as that of the license that the applicant holds.

8 (7) Receipts collected under a refillable container [license] **PERMIT**
9 are to be included in the calculation of average daily receipts from the sale of alcoholic
10 beverages under § 1-102(a)(22)(i)3 of this article.

11 (8) The hours of sale for a refillable container [license] **PERMIT**:

12 (i) Begin at the same time as those for the license already held
13 by the person to whom the refillable container [license] **PERMIT** is issued; and

14 (ii) End at midnight.

15 (9) A [license] holder **OF A REFILLABLE CONTAINER PERMIT** may
16 refill only a refillable container that was branded by [the license] **A REFILLABLE**
17 **CONTAINER PERMIT** holder.

18 (10) The Board shall adopt regulations to carry out this subsection.

19 8-210.

20 (a) In this section, "Board" means the Board of License Commissioners of
21 Dorchester County.

22 (b) This section applies only in Dorchester County.

23 (c) There is a refillable container [license] **PERMIT**.

24 (d) The Board may issue a refillable container [license] **PERMIT** to a holder
25 of an alcoholic beverages license that is a:

26 (1) Class B beer license;

27 (2) Class B beer and light wine license;

28 (3) Class B beer, wine and liquor license;

29 (4) Class D beer license;

1 (5) Class D beer and light wine license; or

2 (6) Class D beer, wine and liquor license.

3 (e) Subject to subsection (f) of this section, a refillable container [license]
4 **PERMIT** entitles the holder to sell draft beer for consumption off the premises in a
5 refillable container with a capacity of not less than 32 ounces and not more than 128
6 ounces.

7 (f) In areas of the licensed premises that are accessible to the public, a
8 holder of a refillable container [license] **PERMIT** may not display or provide shelving
9 for beer for consumption off the premises.

10 (g) To be used as a refillable container, a container shall:

11 (1) Be sealable;

12 (2) Be branded with an identifying mark of the [license] **PERMIT**
13 holder **WHO SELLS THE CONTAINER**;

14 (3) Bear the federal health warning statement required for containers
15 of alcoholic beverages under 27 C.F.R. 16.21;

16 (4) Display instructions for cleaning the container; and

17 (5) Bear a label stating that:

18 (i) Cleaning the container is the responsibility of the consumer;
19 and

20 (ii) The contents of the container are perishable and should be
21 refrigerated immediately and consumed within 48 hours after purchase.

22 (h) Before the Board issues a refillable container [license] **PERMIT**, the
23 applicant shall:

24 (1) Complete the form that the Board provides; and

25 (2) Pay an annual [license] **PERMIT** fee of:

26 (i) \$500 for an applicant whose alcoholic beverages license does
27 not have an off-sale privilege; or

28 (ii) \$50 for an applicant whose alcoholic beverages license has
29 an off-sale privilege.

1 (i) An applicant for a refillable container [license] **PERMIT** that holds an
2 alcoholic beverage license without an off-sale privilege shall meet the same
3 advertising, posting of notice, and public hearing requirements as those for the
4 alcoholic beverages license that the applicant holds.

5 (j) The term of a refillable container [license] **PERMIT** issued to a successful
6 applicant is the same as that of the alcoholic beverages license that the applicant
7 holds.

8 (k) The hours of sale for a refillable container [license] **PERMIT**:

9 (1) Begin at the same time as those for the alcoholic beverages license
10 already held by the person to whom the refillable container license is issued; and

11 (2) End at midnight.

12 (l) [The] **A** holder of a refillable container [license] **PERMIT** may refill only
13 a refillable container that was branded by [the license] **A REFILLABLE CONTAINER**
14 **PERMIT** holder.

15 (m) The Board may adopt regulations to carry out this section, including
16 limiting the number of refillable container [licenses] **PERMITS** that may be issued in
17 the County.

18 8-212.

19 (a) This section applies only in Garrett County.

20 (c) (4) To be used as a refillable container, a container shall:

21 (i) Be sealable;

22 (ii) Be branded with an identifying mark of the [license]
23 **PERMIT** holder **WHO SELLS THE CONTAINER**;

24 (iii) Bear the federal health warning statement required for
25 containers of alcoholic beverages under 21 C.F.R. 16.21;

26 (iv) Display instructions for cleaning the container; and

27 (v) Bear a label stating that:

28 1. Cleaning the container is the responsibility of the
29 consumer; and

1 2. The contents of the container are perishable and
2 should be refrigerated immediately and consumed within 48 hours after purchase.

3 **(5) A HOLDER OF A REFILLABLE CONTAINER PERMIT MAY REFILL**
4 **ONLY A REFILLABLE CONTAINER THAT WAS BRANDED BY A REFILLABLE**
5 **CONTAINER PERMIT HOLDER.**

6 **[(5)] (6)** The Board of License Commissioners may adopt regulations
7 to carry out this subsection.

8 9–204.1.

9 (b) This section applies only in Baltimore City.

10 (f) (1) This subsection applies only in the 46th alcoholic beverages
11 district.

12 (8) Notwithstanding paragraph (2)(ii) through (iv) of this subsection, a
13 license specified under this subsection, including a license that allows no sales for
14 off–premises consumption, may include an off–sale privilege for sales of refillable
15 containers under a refillable container **[license] PERMIT** issued in accordance with §
16 8–203(e) of this article.

17 12–113.

18 (a) For the prevention and detection of fraud by manufacturers,
19 **[wholesalers] WHOLESALERS**, and retail dealers, the Comptroller and/or the local
20 liquor licensing boards shall be empowered to prescribe for use, and to authorize any
21 of their deputies or inspectors to make use of **[such]** hydrometers, saccharometers,
22 weighing and gauging instruments or other means, records or devices for ascertaining
23 the quantity and/or quality of alcohol in any alcoholic beverage **[as] THAT** they **[may**
24 **deem] CONSIDER** necessary, and they may **[prescribe] ADOPT** rules and regulations
25 to secure a uniform and correct system of inspection, **[marking] MARKING**, and
26 gauging of **[all such] THOSE** beverages.

27 (b) **[No] A** retail dealer or **AN** agent or employee of **[such] A** retail dealer
28 **[shall] MAY NOT** tamper with, by the addition to, or the change in any manner
29 **[whatsoever of] the** quantity or quality**[, of] OF**, the contents of any container of
30 alcoholic beverages after **[such] THE** container of alcoholic beverages has been sealed
31 in accordance with the laws of the United States and/or the laws of the State of
32 Maryland, and while the contents remain in the original container.

33 (c) Except as **[provided in §§ 7–101(w)(3) and 8–203(e) of] SPECIFICALLY**
34 **AUTHORIZED BY** this article **WITH RESPECT TO REFILLABLE BEER AND WINE**
35 **CONTAINERS, [no] A** retail dealer, or **AN** agent or employee of **[such] A** retail dealer

1 [shall] **MAY NOT** refill any container of alcoholic beverages with any substance
2 [whatsoever] after [such] **THE** container has once been emptied of its original
3 contents.

4 (d) (1) [No] **A** retail dealer [shall] **MAY NOT** keep or possess any
5 container or containers of alcoholic beverages that have been tampered with in
6 violation of subsection (b) of this [section and no] **SECTION**.

7 (2) **A** retail dealer [shall] **MAY NOT** keep or possess any container or
8 containers of alcoholic beverages that have been refilled in violation of subsection (c) of
9 this section.

10 (E) [Any] **A** person [violating] **WHO VIOLATES** any [of the provisions]
11 **PROVISION** of this section [shall be deemed] **IS** guilty of a misdemeanor and [upon]
12 **ON** conviction [thereof shall be] **IS** subject to a fine [of] not [more than one thousand
13 dollars (\$1,000.00)] **EXCEEDING \$1,000** or [to] imprisonment [for not more than two]
14 **NOT EXCEEDING 2** years [in the house of correction or jail,] or both [fined and
15 imprisoned in the discretion of the court].

16 **SECTION 2. AND BE IT FURTHER ENACTED**, That this Act shall take effect
17 July 1, 2014.