HOUSE BILL 208

A1, A2 4lr0675

By: **Delegates Barkley, Schulz, Olszewski, Jameson, Krebs, Aumann, Barnes, Braveboy, Davis, Elliott, Gilchrist, Glenn, Guzzone, Haddaway–Riccio, Hucker, Impallaria, Kramer, Love, McHale, W. Miller, Minnick, Mitchell, Ready, S. Robinson, Rudolph, Stifler, Stocksdale, and Vaughn**

Introduced and read first time: January 16, 2014
Assigned to: Economic Matters

A BILL ENTITLED

AN ACT concerning

Alcoholic Beverages – Refillable Containers – Permits and Labels

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

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

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

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 7–101(p–1)(11)(iii)
Annotated Code of Maryland

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

(2011 Replacement Volume and 2013 Supplement)
(As enacted by Chapter 117 of the Acts of the General Assembly of 2013)

BY adding to
Article 2B – Alcoholic Beverages
Section 8–212(c)(5)
Annotated Code of Maryland
(2011 Replacement Volume and 2013 Supplement)

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

Article 2B – Alcoholic Beverages

2–206.

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

(i) Be sealable;

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

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

(iv) Display instructions for cleaning the container; and

(v) Bear a label stating that:

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

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

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

5–201.

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

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

(i) Be sealable;

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

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

(iv) Display instructions for cleaning the container; and

(v) Bear a label stating that:

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

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

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

5–401.

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

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

1. Be sealable;

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

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

4. Display instructions for cleaning the container; and

5. Bear a label stating that:

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

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

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

6–201.

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

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

7–101.

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

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

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

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

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

1. Be sealable;

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

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

4. Display instructions for cleaning the container; and

5. Bear a label stating that:

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

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

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

1. Complete the form that the Board provides; and

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

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

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

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

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

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

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

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

1. Be sealable;

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

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

4. Display instructions for cleaning the container; and

5. Bear a label stating:

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

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

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

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

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

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

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

1. Be sealable;

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

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

4. Display instructions for cleaning the container; and

5. Bear a label stating that:

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

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

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

1. The applicant shall:

A. Complete the form that the Board provides; and

B. Pay an annual **[**license**]** **PERMIT** fee of $500; and

2. An applicant who holds a license without an off–sale privilege shall meet the same advertising, posting of notice, and public hearing requirements as those for the license that the applicant holds.

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

(vi) Receipts collected under a refillable container **[**license**]** **PERMIT** are to be included in the calculation of average daily receipts from the sale of alcoholic beverages under a Class B restaurant license, Class B hotel license, and Class B golf course license.

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

1. Begin at the same time as those for the license already held by the person to whom the refillable container **[**license**]** **PERMIT** is issued; and

2. End at midnight.

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

8–202.

(a) This section applies only in Anne Arundel County.

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

(2) The Board may issue a refillable container **[**license**]** **PERMIT** to a holder of a Class A license, a Class B license, or a Class D license.

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

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

(i) Be sealable;

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

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

(iv) Display instructions for cleaning the container; and

(v) Bear a label stating that:

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

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

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

(i) The applicant shall:

1. Complete the form that the Board provides; and

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

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

B. $50 for an applicant whose alcoholic beverages license has an off–sale privilege; and

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

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

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

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

(ii) End at midnight.

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

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

8–202.2.

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

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

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

(i) Be sealable;

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

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

(iv) Display instructions for cleaning the container; and

(v) Bear a label stating that:

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

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

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

8–203.

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

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

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

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

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

(i) Be sealable;

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

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

(iv) Display instructions for cleaning the container; and

(v) Bear a label stating that:

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

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

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

(i) The applicant shall:

1. Complete the form that the Board provides; and

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

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

B. $50 for an applicant whose alcoholic beverages license has an off–sale privilege; and

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

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

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

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

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

(ii) End at midnight.

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

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

8–210.

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

(b) This section applies only in Dorchester County.

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

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

(1) Class B beer license;

(2) Class B beer and light wine license;

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

(4) Class D beer license;

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

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

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

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

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

(1) Be sealable;

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

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

(4) Display instructions for cleaning the container; and

(5) Bear a label stating that:

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

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

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

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

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

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

(ii) $50 for an applicant whose alcoholic beverages license has an off–sale privilege.

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

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

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

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

(2) End at midnight.

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

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

8–212.

(a) This section applies only in Garrett County.

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

(i) Be sealable;

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

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

(iv) Display instructions for cleaning the container; and

(v) Bear a label stating that:

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

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

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

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

9–204.1.

(b) This section applies only in Baltimore City.

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

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

12–113.

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

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

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

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

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

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

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

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