

# HOUSE BILL 92

A2

5lr0416

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By: **Montgomery County Delegation**

Introduced and read first time: January 23, 2015

Assigned to: Economic Matters

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Committee Report: Favorable

House action: Adopted

Read second time: March 3, 2015

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Montgomery County – Alcoholic Beverages – Wine Auction Permits**

3 **MC 9–15**

4 FOR the purpose of repealing a prohibition against the issuance of a wine auction permit  
5 in Montgomery County; authorizing a holder of a wine auction permit to receive and  
6 sell wine obtained from certain sources; and generally relating to wine auction  
7 permits in Montgomery County.

8 BY repealing and reenacting, with amendments,  
9 Article 2B – Alcoholic Beverages  
10 Section 2–101(o) and 15–204  
11 Annotated Code of Maryland  
12 (2011 Replacement Volume and 2014 Supplement)

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

15 **Article 2B – Alcoholic Beverages**

16 2–101.

17 (o) (1) In this subsection the following words have the meanings indicated.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (i) "Charitable organization" means an organization that is a  
2 benevolent, educational, philanthropic, humane, patriotic, religious, or eleemosynary  
3 organization that solicits or obtains contributions solicited from the public for charitable or  
4 benevolent purposes, and that is registered with the Secretary of State as required by law.

5 (ii) "Charitable organization" includes a chapter, branch, area office,  
6 or similar affiliate which has its principal place of business outside the State.

7 (iii) "Charitable organization" does not include a political party,  
8 political committee, political club, an agency of the State government or political  
9 subdivision, a fraternal organization, fire fighters, rescue or ambulance squads, or police or  
10 other law enforcement organization.

11 (2) [A wine auction permit, provided for under this subsection, may not be  
12 issued for use within Montgomery County.

13 (3) The Office of the Comptroller may issue a 1-day wine auction permit to  
14 a charitable organization.

15 [(4) (3) The permit authorizes the holder to sell wine at public or private  
16 auction to any consumer through the solicitation and acceptance of bids.

17 [(5) (4) The permit may be granted for:

18 (i) An unlicensed premises;

19 (ii) A Class B or C licensed premises; or

20 (iii) In Baltimore City, a Class B-D-7 licensed premises.

21 [(6) (5) The permit fee is \$10.

22 [(7) (6) (i) The permit authorizes the holder to conduct 1 auction of  
23 wine during a calendar year.

24 (ii) Only 1 permit shall be issued to each charity during a calendar  
25 year.

26 [(8) (7) (i) A permit holder may receive wine for the auction from:

27 1. A wholesaler licensed under this article;

28 2. A Class 3 or Class 4 winery licensed under this article;

29 3. A retail dealer licensed under this article;

1 4. A private individual residing in the State; or

2 5. A business entity that is located in the State and not  
3 licensed under this article.

4 (ii) A permit holder may receive commercially-produced wine that is  
5 not authorized for distribution and sale in the State from:

6 1. A nonresident private individual; or

7 2. A business entity that is located outside of this State.

8 **[(9)] (8)** (i) Wine that is received from the following sources is subject  
9 to Maryland tax as provided under § 5-102 of the Tax – General Article:

10 1. Wholesalers licensed under this article;

11 2. Class 3 and 4 wineries licensed under this article; and

12 3. Any other source outside of this State.

13 (ii) Wine that is received from the following sources is presumed to  
14 have been tax-paid:

15 1. Retail dealers licensed under this article;

16 2. Private individuals residing in this State; and

17 3. Business entities that are located in this State and not  
18 licensed under this article.

19 **[(10)] (9)** (i) Within 30 days from the close of the auction, the permit  
20 holder shall file a report and pay all taxes that are due and owing on the wine that is  
21 received for the auction.

22 (ii) The report shall be filed with the Office of the Comptroller and  
23 shall include the total number of gallons of wine that was received for the auction and the  
24 sources from which it was received.

25 (iii) The Office of the Comptroller shall provide the forms for the  
26 report.

27 **[(11)] (10)** The Office of the Comptroller may require that, within 7 days  
28 from the date of the auction, the permit holder prepay a satisfactory sum to cover the  
29 anticipated wine tax that is due and owing.

1            ~~[(12)]~~ **(11)** (i) Wines that have been purchased at auction shall be  
2 delivered to the purchaser at the event or from a licensed warehouse or retail premises or  
3 other premises that is approved by the Office of the Comptroller.

4            (ii) All wines delivered are subject to the applicable State sales taxes.

5            ~~[(13)]~~ **(12)** Notwithstanding any other provision of this article, any person  
6 authorized to sell wine at retail may purchase any wine offered at a wine auction, provided  
7 for under this section, in an amount not exceeding 5 gallons (18 liters) and may resell it in  
8 accordance with the terms of their license.

9            ~~[(14)]~~ **(13)** The Office of the Comptroller may adopt regulations to  
10 implement the provisions of this subsection.

11 15–204.

12            (a) Subject to § 16–407.1 of this article and except as otherwise provided in this  
13 section, the liquor control board in each county shall have an absolute monopoly of the sale  
14 and distribution of the particular alcoholic beverages which elsewhere in this subtitle it is  
15 empowered to sell.

16            (b) (1) Provided, that in Montgomery County no person, firm, or corporation  
17 shall keep for sale any alcoholic beverage not purchased from the Department of Liquor  
18 Control for Montgomery County, provided, however, that nothing in this subsection shall  
19 apply to a holder of a Class F license or a holder of a Class 1 beer, wine and liquor, Class 2  
20 wine and liquor, Class 3 beer and wine, Class 4 beer, or Class 5 wine wholesaler's license,  
21 who may not sell or deliver any alcoholic beverage in Montgomery County for resale except  
22 to a county liquor dispensary.

23            (2) Notwithstanding paragraph (1) of this subsection:

24            (i) 1. A holder of a Class 6 limited wine wholesaler's license or  
25 of a nonresident winery permit may sell or deliver wine directly to a county liquor  
26 dispensary, restaurant, or other retail dealer in Montgomery County; and

27            2. A county liquor dispensary, restaurant, or other retail  
28 dealer in Montgomery County may purchase wine directly from a holder of a Class 6 limited  
29 wine wholesaler's license or of a nonresident winery permit;

30            (ii) 1. A holder of a Class 7 limited beer wholesaler's license or of  
31 a nonresident brewery permit may sell or deliver its own beer to a county liquor dispensary,  
32 a restaurant, or any other retail dealer in Montgomery County; and

33            2. A county liquor dispensary, a restaurant, or any other  
34 retail dealer in Montgomery County may purchase beer directly from a holder of a Class 7  
35 limited beer wholesaler's license or a nonresident brewery permit; ~~[and]~~

1 (iii) A holder of a direct wine shipper's permit may ship wine directly  
2 to a consumer in Montgomery County; AND

3 (IV) A HOLDER OF A WINE AUCTION PERMIT IN MONTGOMERY  
4 COUNTY MAY RECEIVE AND SELL WINE OBTAINED FROM ANY SOURCE LISTED UNDER  
5 § 2-101(O) OF THIS ARTICLE.

6 (c) This section does not apply to the sale and distribution of light wine in  
7 Somerset County.

8 (d) In Wicomico County, the county dispensaries shall make wholesale sales of all  
9 liquors at a markup of not more than 15 percent above the operating cost to the dispensary  
10 to any licensee of a Class A, B, or C beer, wine and liquor license.

11 (e) (1) In this subsection, "Department" means the Worcester County  
12 Department of Liquor Control.

13 (2) This subsection applies only in Worcester County.

14 (3) (i) Beginning on July 1, 2014, a licensee in the county may elect to  
15 purchase wine or liquor from a licensed wholesaler by providing written notice of the  
16 licensee's intent to the Department at least 60 days before the date the purchasing activity  
17 is to start.

18 (ii) The notice shall contain:

- 19 1. The name of the licensee;
- 20 2. The name and address of the licensed premises; and
- 21 3. The date that the notice was sent to the Department.

22 (4) A licensee that meets the requirements of this subsection may purchase  
23 wine or liquor from a licensed wholesaler in addition to or instead of the Department.

24 (5) (i) The Department shall issue a letter of confirmation to a licensee  
25 that meets the requirements of this subsection.

26 (ii) The licensee shall display the letter conspicuously on the licensed  
27 premises.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
29 1, 2015.