

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 526
Economic Matters

(Delegate Barkley)
Education, Health, and Environmental Affairs

Alcoholic Beverages - Brewing Company Off-Site Permit and Nonprofit Beer
Festival Permit

This bill establishes a nonprofit beer festival permit. A local licensing board may issue a nonprofit beer festival permit to nonprofit organizations that meet specified requirements. The bill establishes an application process for permit holders and requires permit holders to provide specified information to the local licensing board. The permit fee is \$100. Additionally, the bill alters the brewing company off-site permit and establishes “limited permit holders” authorized to participate in specified events.

The bill takes effect June 1, 2015.

Fiscal Summary

State Effect: Minimal increase in general fund revenues from brewing company off-site permit fees and taxes on alcoholic beverages. The amount of the increase depends on the number of permits issued and the amount of beer sold, which cannot be reliably estimated, but is not anticipated to be significant. The Comptroller’s Office can implement the bill with existing resources.

Local Effect: Local revenues increase by \$100 for each nonprofit beer festival permit issued by the local licensing board. Local jurisdictions can monitor permits with existing resources.

Small Business Effect: Potential meaningful impact for specified Class 5 brewery licensees, Class 7 micro-brewery licensees that produce at least 3,000 barrels a year, and brewing company off-site permit holders who may benefit from the ability to sell beer at events authorized by the nonprofit beer festival permit and brewing company off-site permit.

Analysis

Bill Summary: A nonprofit beer festival permit authorizes the permit holder to conduct a nonprofit beer festival for one to three consecutive days. The permit holder may purchase beer at wholesale to provide to a consumer a sample not to exceed one fluid ounce for each brand and to sell to a consumer for on- and off-premises consumption. The permit holder must provide space at a nonprofit beer festival for brewing company off-site permit holders. The brewing company off-site permit holder may provide beer to a consumer in the same manner as a nonprofit beer festival permit holder. The nonprofit beer festival permit holder may provide or sell only beer provided by the permit holder or a brewing company off-site permit holder. Two agents, one of whom may be the permit holder, who are certified by an approved alcohol awareness program, must be present at all times during the nonprofit beer festival.

The Comptroller may issue a brewing company off-site permit to a Class 5 brewery, a Class 7 micro-brewery, or a Class 8 farm brewery.

The bill defines “limited permit holder” as a person who holds a brewing company off-site permit and also holds a manufacturer’s license for a Class 5 brewery or Class 7 micro-brewery that produces less than 3,000 barrels a year or any Class 8 farm brewery. In addition to nonprofit beer festivals that are authorized by the Comptroller and have as their primary purpose the promotion of Maryland beer, limited permit holders may attend specified farmers’ markets, fairs, and events, offering samples and selling specified quantities of beer to consumers subject to specified requirements as established under current law for brewing company off-site permit holders.

A Class 5 brewery or a Class 7 micro-brewery that produces at least 3,000 barrels a year may only use the brewing company off-site permit at a nonprofit beer festival that is authorized by a local licensing board and has as its primary purpose the promotion of Maryland beer.

Current Law:

Brewing Company Off-site Permit

The Comptroller may issue a brewing company off-site permit to a Class 7 micro-brewery that produces less than 3,000 barrels per year or a Class 8 farm brewery subject to specified requirements. The annual permit fee is \$100, and the term of a brewing company off-site permit is one year.

The permit may be used only (1) during the Montgomery County Agricultural Fair; (2) during the Maryland State Agricultural Fair; (3) during the Frederick County

Agricultural Fair; (4) one night each week from June through November at the North Beach Friday Night Farmers' Market; (5) for up to seven events, at an event that has as its major purpose an activity that is other than the sale and promotion of alcoholic beverages and for which the participation of a brewing company is a subordinate activity; (6) at other farmers' markets that are listed on the Farmers' Market Directory of the Maryland Department of Agriculture; and (7) at a beer festival that is authorized by the Comptroller and has as its primary purpose the promotion of Maryland beer.

During an authorized event, a permit holder may (1) provide to a consumer a sample that has been produced by the permit holder and that may not exceed one fluid ounce for each brand; (2) sell to a consumer up to 288 ounces of beer that has been produced by the permit holder for off-premises consumption; and (3) except for specified farmers' markets, sell to a consumer up to 288 ounces of beer that is produced by the permit holder for on- and off-premises consumption. While selling beer or providing samples at a specified farmers' market, a permit holder must have an agent present who is certified by an approved alcohol awareness program.

Class 5 Brewery License

A Class 5 brewery 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 three ounces from a single style of beer. A licensee may also sell up to 228 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.

Background: Numerous beer and wine festivals are held annually throughout the State. The events are seen as advertising and publicity opportunities for the businesses that participate in the festivals.

There are currently 19 Class 5 (brewery) manufacturer's licenses issued in the State, and 3 brewery off-site permits have been issued so far in fiscal 2015.

State Fiscal Effect: Assuming a one-month implementation delay, general fund revenues increase minimally from additional brewing company off-site permit fees, the sales tax on alcoholic beverages, and the alcoholic beverages tax. The amount of the increase depends on the number of permits issued and the amount of beer sold. Although any increase cannot be reliably estimated at this time, it is not anticipated to be significant.

The annual fee for a brewing company off-site permit is \$100. The sales tax on alcoholic beverages is 9%, and the alcoholic beverages tax on beer is \$0.09 per gallon. Revenues from these taxes and permit fees are deposited into the general fund. The Comptroller's Office can implement the bill with existing resources.

Local Fiscal Effect: Assuming a one-month implementation delay, local revenues increase by \$100 from each nonprofit beer festival permit issued beginning in fiscal 2016. Although the number of permits that may be issued as a result of the bill is unknown, any permit fee revenue is likely to be minimal.

Additional Information

Prior Introductions: None.

Cross File: SB 673 (Senator Young) - Education, Health, and Environmental Affairs.

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

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