

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE

House Bill 1039 (Wicomico County Delegation)
 Economic Matters Education, Health, and Environmental Affairs

Wicomico County - Alcoholic Beverages - Micro-Breweries - Annual Production Limit

This bill increases the annual production limit for Class 7 micro-breweries in Wicomico County from 22,500 barrels to 45,000 barrels of malt beverages.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: General fund revenues from alcoholic beverages taxes and sales taxes may increase minimally beginning in FY 2016, to the extent that a micro-brewery in Wicomico County increases production in excess of the 22,500 barrels of malt beverages allowed under current law. Licensing revenue may be affected to the extent that a Class 5 brewery in Wicomico County obtains a Class 7 micro-brewery license instead. General fund expenditures increase by \$48,000 in FY 2016 only for the Comptroller for one-time programming expenses.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
GF Revenue	-	-	-	-	-
GF Expenditure	\$48,000	\$0	\$0	\$0	\$0
Net Effect	(\$48,000)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal overall, but potential meaningful impact for a micro-brewery in Wicomico County that benefits from additional avenues by which to produce and sell more beer.

Analysis

Current Law: Class 7 micro-brewery (on- and off-sale) licenses are issued by the Comptroller's Office for use in 24 jurisdictions – Allegany, Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Charles, Dorchester, Frederick, Garrett, Harford, Howard, Kent, Montgomery, Prince George's, Queen Anne's, St. Mary's, Somerset, 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 specified exceptions. The annual license fee is \$500.

Class 7 micro-brewery licensees 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. License holders in the 24 jurisdictions also have an off-sale privilege to sell beer brewed under the license to customers for consumption off the licensed premises in refillable containers that are sealed by the licensee at the time of each refill.

A Class 7 micro-brewery license holder may not own, operate, or be affiliated with any other beer manufacturer except for specified Class 2 rectifying licensees. Additionally, a Class 7 micro-brewery license holder may not be granted a wholesale alcoholic beverages license, except for a Class 7 limited beer wholesaler's license.

Background: There are currently 27 Class 7 micro-brewery licenses issued in the State, of which 1 Class 7 micro-brewery license is issued in Wicomico County. The Class 7 micro-brewery license in Wicomico County brewed approximately 12,000 barrels of beer in 2014. It projects brewing 19,000 barrels of beer in 2015 and reaching the 22,500 limit under current law in 2016.

A Class 5 brewery license is another type of manufacturer's license. A licensee may 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; otherwise, there is no limit on the number of barrels that may be sold for off-premises consumption.

According to the Comptroller's *Alcohol & Tobacco Tax Report for Fiscal 2014*, Maryland brewers sold 5.0 million gallons of beer in fiscal 2014. Of this amount, 37.4% was sold to wholesalers, 7.0% was sold at the brewery, 54.6% was sold out of state, 0.6% was consumed on premises, and 0.4% was returned to the brewery.

The State sales tax rate on alcoholic beverages is 9%, and the alcoholic beverages tax on beer is \$0.09 per gallon.

State Revenues: General fund revenues from alcoholic beverages taxes and sales taxes may increase beginning in fiscal 2016, to the extent that a micro-brewery in Wicomico County increases production of malt beverages in excess of the 22,500 barrels allowed under current law. The amount of the revenue increase depends on the amount of malt beverages that are brewed and sold in excess of what is currently allowed, which cannot be reliably estimated at this time.

Each barrel of beer that is brewed and sold is subject to both the alcoholic beverages tax and the sales tax. As noted, the alcoholic beverages tax on beer is \$0.09 per gallon. There are 31 gallons in each barrel of beer, so for each barrel that is brewed in excess of what is currently allowed, alcoholic beverages tax revenues increases by \$2.79. As a point of reference, if the current Class 7 micro-brewery license holder in Wicomico County brews an additional 20,000 barrels of beer, alcoholic beverages tax revenues increase by \$55,800. It is assumed that a micro-brewery does not produce more beer than it can sell.

State sales tax revenues also increase for each additional barrel of malt beverages that is brewed. The amount of the increase cannot be reliably estimated and depends on the sale price of each barrel of malt beverages that is brewed.

The bill may allow a Class 5 (brewery) manufacturer's licensee to obtain a Class 7 micro-brewery license in Wicomico County, provided it currently brews less than 45,000 barrels of beer. The current license fee is \$1,500 for a Class 5 brewery license and \$500 for a Class 7 micro-brewery license, so general fund revenues decrease by \$1,000 for each Class 5 brewery licensee that becomes a Class 7 micro-brewery licensee. There is one Class 5 (brewery) manufacturer's license issued in Wicomico County.

State Expenditures: The Comptroller's Office reports that having a production limit in one county that differs from the rest of the State causes the Comptroller's Office to incur a one-time expenditure increase of \$48,000 in fiscal 2016 to change brewery reporting forms and licensing forms for Wicomico County.

Additional Information

Prior Introductions: SB 755 of 2013, a similar bill which proposed to increase the annual production limit to 60,000 for Class 7 micro-breweries in the State, received an unfavorable report by the Senate Education, Health, and Environmental Affairs Committee. Its cross file, HB 704, received a hearing in the House Economic Matters Committee, but no further action was taken.

Cross File: None.

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

Fiscal Note History: First Reader - February 19, 2015
min/lgc

Analysis by: Heather N. Ruby

Direct Inquiries to:
(410) 946-5510
(301) 970-5510