

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1033 (Montgomery County Delegation)
Economic Matters

**Montgomery County - Purchases From the Department of Liquor Control -
Exception for Wholesalers**
MC 7-16

This bill authorizes the governing body of Montgomery County to enable (1) a licensed wholesaler to sell and distribute beer and wine products that are not purchased from the Montgomery County Department of Liquor Control (DLC) and (2) DLC to classify which beer and wine products may be sold and distributed in the county by a private licensed wholesaler. If a wholesaler is authorized, DLC must establish a surcharge, paid by the wholesaler to DLC, which meets specified requirements.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: The bill does not directly affect State operations or finances.

Local Effect: The bill does not materially affect Montgomery County finances. Any decrease in revenues is likely offset by a corresponding decrease in expenditures and the required surcharge.

Small Business Effect: Potential meaningful. Beginning in FY 2017, small business licensees may be able to obtain specific brands and types of alcoholic beverages that were not previously obtainable.

Analysis

Bill Summary: The surcharge established must be:

- based on the volume of alcohol sold by the wholesaler;
- set at a level that is sufficient to replace DLC's estimated revenue loss by allowing a private licensed Maryland wholesaler to sell and distribute authorized beer and wine products in the county;
- structured in a way that does not impact prices in other jurisdictions in the State; and
- established by order of the county executive.

Current Law: In Montgomery County, the liquor control board is authorized to sell any kind of alcoholic beverage, and the county may sell alcoholic beverages through the use of a county liquor dispensary. Furthermore, in Montgomery County, no person, firm, or corporation may keep for sale any alcoholic beverage not purchased from DLC. Unless otherwise specified by law, no retailer may sell or deliver any alcoholic beverage in Montgomery County for resale except to a county liquor dispensary. Holders of a Class 6 limited wine wholesaler's license or a nonresident winery permit may sell or deliver wine directly to a restaurant, county liquor dispensary, or other retail dealer in Montgomery County, and the holder of a direct wine shipper's permit may ship wine directly to consumers in Montgomery County.

Background: In general, most Maryland jurisdictions permit the sale of alcoholic beverages through a three-tier system in which retail alcoholic beverages licensees (first tier) purchase alcoholic beverages from licensed Maryland wholesalers (second tier) who purchase alcoholic beverages from licensed manufacturers and import companies (third tier).

In some counties, including Montgomery County, the counties operate dispensary systems that act as the second-tier wholesalers for retail alcoholic beverages licensees in their respective jurisdictions. As shown in **Exhibit 1**, in fiscal 2014, Montgomery County DLC alcoholic beverages sales (including retail and warehouse) totaled \$266.6 million, of which \$26.4 million (approximately 10% of total sales) was transferred to the Montgomery County general fund. Warehouse sales totaled \$139.4 million in that same year.

Exhibit 1
DLC Sales and Transfers to the Montgomery County General Fund
Fiscal 2010-2014
(\$ in Millions)

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>
Total Retail Sales	\$106.2	\$113.7	\$120.0	\$122.4	\$127.2
Warehouse Sales of Beer	71.9	75.6	77.6	77.5	81.4
Warehouse Sales of Wine/Liquor	49.2	51.5	52.8	57.0	58.0
Total Warehouse Sales	121.2	127.1	130.4	134.4	139.4
Total Sales	227.4	240.8	250.4	256.8	266.6
General Fund Transfers	\$29.0	\$26.2	\$28.5	\$25.7	\$26.4

Source: *Montgomery County Department of Liquor Control Annual Report*, fiscal 2014; *Montgomery County Comprehensive Annual Financial Report*, fiscal 2014

Montgomery County advises that, under the bill, it will only approve the sale and distribution of beer and wine products that it normally supplies through special orders. In fiscal 2014, the county had special order beer and wine sales of \$26.7 million, of which \$6.7 million was profit.

Local Fiscal Effect: To the extent that wholesalers begin to sell and distribute directly to retailers and restaurants, Montgomery County revenues and expenditures decrease correspondingly as a result of no longer being required to purchase, stock, store, sell, and deliver as many alcoholic beverages throughout the county. Although the bill specifies that DLC must set a wholesaler surcharge at a level sufficient to replace its estimated revenue loss by allowing wholesalers to sell and distribute beer and wine products in the county, this analysis assumes that (1) the surcharge must replace *net* revenues rather than *total* revenues and (2) DLC takes any decrease in expenditures into consideration when setting the surcharge.

If the bill's required surcharge must replace *total* revenues or does not consider any decrease in expenditures, county revenues increase. However, the surcharge may deter wholesalers from directly selling and distributing alcoholic beverages in the county. Depending on the level at which the surcharge is set, it may be more costly for a wholesaler to sell and distribute directly to retailers and restaurants than it would be to only sell to DLC. In this situation, it is likely that wholesalers would not enter the market in Montgomery County, resulting in no change to the current system.

Montgomery County advises that any revenue loss resulting from the bill will be from its special orders of beer and wine because they are the only types of alcoholic beverages that will be approved under the bill. In fiscal 2014, the county had special order beer and wine sales of \$26.7 million, of which \$6.7 million was profit. *For illustrative purposes*, assuming that the surcharge is established to replace net revenues, Montgomery County revenues decrease by \$6.7 million and then increase by the same amount due to the required surcharge, resulting in no net effect on Montgomery County's revenues. To the extent Montgomery County takes any savings due to lowered expenditures into consideration when setting the surcharge, its revenue loss and corresponding revenue gain from the surcharge may be less.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Department of Legislative Services

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