

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 724

(The President)(By Request - Department of Legislative
Services - Code Revision)

Education, Health, and Environmental Affairs

Economic Matters

Alcoholic Beverages Article

This code revision bill revises, restates, and recodifies the laws of the State that relate to alcoholic beverages. The new Alcoholic Beverages Article as a whole governs the laws relating to alcoholic beverages, such as State and locally issued permits and licenses, general beer regulation, forfeitures, enforcement, prohibited acts, and penalties. The article is composed of two divisions. Division I of the article contains general provisions that affect multiple jurisdictions (“jurisdiction” in this article means the City of Annapolis, Baltimore City, or one of the State’s 23 counties). Division II of the article contains provisions unique to individual jurisdictions and comprises 25 titles, with each title devoted to a single jurisdiction. The bill repeals in its entirety Article 2B.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: None. The bill’s provisions are intended as nonsubstantive revisions, restatements, recodifications, and transfers of existing provisions, and there is no fiscal impact.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The divisions, titles, and subtitles of the Alcoholic Beverages Article are as follows:

Division I. General Provisions Affecting Multiple Jurisdictions.

Title 1. Definitions; General Provisions.

- Subtitle 1. Definitions.
- Subtitle 2. Statement of Policy; Construction of Article.
- Subtitle 3. Powers and Duties of Comptroller.
- Subtitle 4. General Licensing Regulation.

Title 2. State Issued Permits And Licenses.

- Subtitle 1. State Permits.
- Subtitle 2. Manufacturer's Licenses.
- Subtitle 3. Wholesaler's Licenses.
- Subtitle 4. Water Vessel, Railroad, and Aircraft Licenses.
- Subtitle 5. State Caterer's Licenses.

Title 3. State Licensing.

- Subtitle 1. Applications for State Licenses.
- Subtitle 2. Issuance or Denial of State Licenses.
- Subtitle 3. Transfer of State Licenses; Substitution of Names on License.
- Subtitle 4. Renewal of State Licenses.
- Subtitle 5. Conduct of State License Holders.
- Subtitle 6. Revocation and Suspension of State Licenses and Permits.
- Subtitle 7. Expiration of State Licenses.
- Subtitle 8. Death of License Holder.
- Subtitle 9. Judicial Review.

Title 4. Local Licensing.

- Subtitle 1. Applications for Local Licenses.
- Subtitle 2. Issuance or Denial of Local Licenses.
- Subtitle 3. Transfer of Local Licenses; Substitution of Names on License.
- Subtitle 4. Renewal of Local Licenses.
- Subtitle 5. Conduct of Local License Holders.
- Subtitle 6. Revocation and Suspension of Local Licenses.

- Subtitle 7. Expiration of Local Licenses.
- Subtitle 8. Death of License Holder.
- Subtitle 9. Judicial Review.
- Subtitle 10. Licenses for Specific Types of Organizations and Venues.
- Subtitle 11. Additional License Privileges.
- Subtitle 12. Temporary Licenses.

Title 5. General Beer Regulation.

- Subtitle 1. Beer Franchise Fair Dealing Act.
- Subtitle 2. Successor Manufacturers.
- Subtitle 3. Other Beer Regulation.

Title 6. Forfeitures; Enforcement; Prohibited Acts; Penalties.

- Subtitle 1. Forfeitures.
- Subtitle 2. Enforcement.
- Subtitle 3. Prohibited Acts.
- Subtitle 4. Penalties.

Title 7. Reserved.

Title 8. Reserved.

Division II. Provisions Affecting Individual Jurisdictions.

Division II of this article is divided into 25 titles, starting with “Title 9. Allegany County” and proceeds alphabetically through the City of Annapolis, Baltimore City, and all of the counties, ending with “Title 33. Worcester County.” Each title is organized in the following way:

- Subtitle 1. Definitions; General Provisions.
- Subtitle 2. Board of License Commissioners.
- Subtitle 3. Liquor Control.
- Subtitle 4. Manufacturer’s Licenses.
- Subtitle 5. Wholesaler’s Licenses.
- Subtitle 6. Beer Licenses.
- Subtitle 7. Light Wine Licenses.
- Subtitle 8. Beer and Light Wine Licenses.
- Subtitle 9. Beer, Wine, and Liquor Licenses.
- Subtitle 10. Licenses for Specific Types of Organizations and Venues.
- Subtitle 11. Additional License Privileges.

- Subtitle 12. Caterer's Licenses.
- Subtitle 13. Temporary Licenses.
 - Part I. In General.
 - Part II. Festival, Sampling, and Tasting Licenses.
 - Part III. Per Diem, Multiple Day, and Multiple Event Licenses.
- Subtitle 14. Applications for Licenses.
- Subtitle 15. Issuance or Denial of Licenses.
- Subtitle 16. Licensing Conditions; Multiple Licensing Plans.
 - Part I. Licensing Conditions.
 - Part II. Multiple Licensing Plans.
- Subtitle 17. Transfer of Licenses; Substitution of Names on License.
- Subtitle 18. Renewal of Licenses.
- Subtitle 19. Conduct of License Holders.
- Subtitle 20. Hours and Days for Consumption and Sale.
- Subtitle 21. Revocation and Suspension of Licenses.
- Subtitle 22. Expiration of Licenses.
- Subtitle 23. Death of License Holder.
- Subtitle 24. Judicial Review.
- Subtitle 25. Unlicensed Establishments.
- Subtitle 26. Enforcement.
- Subtitle 27. Prohibited Acts.
- Subtitle 28. Penalties.

Obsolete Material

The bill deletes several obsolete provisions. Among them are former Art. 2B, § 12-103, which instituted a system in which the Comptroller set the maximum discounts allowable by a licensed manufacturer or wholesaler, or nonresident winery permit holder, in the sale and distribution of wine and liquor. This system required those license holders and permit holders to file schedules of prices and proposed price changes with the Comptroller. The price filing requirement was needed for the Comptroller to maintain a post-and-hold system that prescribed how and when liquor wholesalers may change their prices by requiring wholesalers to file a schedule of prices with the Comptroller by a fixed date every month. However, in 2009, the United States Court of Appeals for the Fourth Circuit in *TFWS, Inc. v. Franchot*, 572 F. 3d 186 (4th Cir. 2009) held the post-and-hold system and its accompanying volume discount ban to be hybrid restraints on trade and *per se* violations of the Sherman Act. Consequently, the Comptroller has abandoned both practices.

In other cases, if appropriate, the bill changes terminology to conform to current usage, such as changing the former reference to the Federal Bureau of Alcohol, Tobacco and Firearms to the bureau's current name, the Alcohol and Tobacco Tax and Trade Bureau of the U.S. Department of the Treasury. Similarly, the former Field Enforcement Bureau

under the Comptroller was changed to the current Field Enforcement Division in the Office of the Comptroller.

Special Sections

The bill contains a number of standard uncodified sections common to code revision projects, primarily designed to protect the status of the revision as a bulk, nonsubstantive restatement of former law.

Background: The Alcoholic Beverages Article is the thirty-sixth and final product of the Annotated Code of Maryland code revision project conducted by the legal staff of the Office of Policy Analysis of the Department of Legislative Services. The first revised articles were enacted at the First Extraordinary Session of 1973, and, as of the date of the introduction in the General Assembly of the Alcoholic Beverages Article, the entire Maryland Code has been revised. The other 35 revised articles are: Agriculture, Business Occupations and Professions, Business Regulation, Commercial Law, Corporations and Associations, Correctional Services, Courts and Judicial Proceedings, Criminal Law, Criminal Procedure, Economic Development, Education, Election Law, Environment (formerly Health-Environmental), Estates and Trusts, Family Law, Financial Institutions, General Provisions, Health-General, Health Occupations, Housing and Community Development, Human Services, Insurance, Labor and Employment, Land Use, Local Government, Natural Resources, Public Safety, Public Utilities (formerly Public Utility Companies), Real Property, State Finance and Procurement, State Government, State Personnel and Pensions, Tax-General, Tax-Property, and Transportation.

Each revised article is a formal bulk revision under the guidelines set in 1970, which include improvement of organization, elimination of obsolete or unconstitutional provisions, resolution of inconsistencies and conflicts in the law, correction of unintended gaps or omissions in the law, deletion of repetitive or otherwise superfluous language, and general improvement of language and expression.

Additional Comments: Every effort is made to ensure that a proposed revision conforms as nearly as possible to the intent of the General Assembly, and all these revisions are highlighted in the revisor's notes. In other instances, the staff and the Alcoholic Beverages Article Review Committee have used revisor's notes to call to the attention of the General Assembly policy issues that are beyond the purview of the revision process.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2016
min/hlb

Analysis by: Heather N. Ruby

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