Article - Alcoholic Beverages

§2–101.

(a) The Office of the Comptroller shall provide application forms for the permits listed in this section and applicants shall make application to the Office of the Comptroller. The procedure in issuing permits, the purchase of alcoholic beverages, and the exercise of the privileges granted under the various permits shall be subject to regulations promulgated by the Office of the Comptroller. The Office of the Comptroller may cancel, restrict, suspend, or revoke any permit.

(b) (1) (i) The Office of the Comptroller shall collect a fee for the issuance or renewal of the following permits:

1. $50 for a solicitor's permit, an individual storage permit, a nonresident winery permit, or a commercial nonbeverage permit;

2. $75 for a public storage permit, a public transportation permit, or an import and export permit;

3. $200 for a public storage and transportation permit, a nonresident dealer's permit, a resident dealer's permit, or a bulk transfer permit;

4. $400 for a family beer and wine facility permit;

5. $200 for issuance or renewal of a direct wine shipper's permit;

6. $100 for a common carrier permit;

7. $100 for a winery off–site permit;

8. $100 for a wine festival permit; and

9. $100 for a brewing company off–site permit.

(ii) The Office of the Comptroller shall issue a nonbeverage permit without the payment of any fee for an eleemosynary or a fuel–alcohol permittee.

(2) (i) The permits issued pursuant to this section expire on October 31 following the date of their issue unless otherwise provided.

(ii) All nonbeverage permits do not expire until canceled or revoked.

(3) The fee for a change of domicile permit is $5, and when issued shall cover only a specific transaction.

(4) The fee for an individual transportation permit is $10.

(5) A bulk transfer permit shall cover only a specific transaction and shall expire 10 days from the date of its issue. If the time restriction of this permit would be an undue burden, the Office of the Comptroller may grant a reasonable extension of time.

(6) (i) The Office of the Comptroller shall prescribe a means of identification for each vehicle authorized under an individual transportation permit or a transportation or public storage and transportation permit. The identification shall be kept in or on the vehicle at all times when alcoholic beverages are being transported.

(ii) The fee for the identification is $10 for each vehicle.

(7) The fee for a national family beer and wine exhibition permit is $50.

(8) The fee for the nonresident storage permit is $500.

(9) (i) The fee for an alcohol awareness program instructor's permit is $5.

(ii) The fee for an alcohol awareness program permit is $15.

(10) The fee for a private bulk sale permit is $25 and shall cover the sale of a specific inventory of alcoholic beverages. The permit shall expire 60 days from the date of issuance. An individual or entity may be issued not more than two private bulk sale permits in any calendar year.

(c) (1) The holder of a nonbeverage permit may purchase alcohol and alcoholic beverages for use in compounding or manufacturing flavoring extracts; medicinal, antiseptic or toilet preparations, or for other similar purposes; for scientific or laboratory purposes; or flavoring food products; or for sale by druggists or apothecaries upon the written prescription of a qualified physician.

(2) The holder of a nonbeverage permit may not use, sell or deliver alcoholic beverages for beverage purposes or use, sell or deliver any product produced with alcoholic beverages which is fit for beverage purposes.

(d) The holder of a change of domicile permit may transport into this State the holder's private stock of alcoholic beverages, for personal consumption only, when the permit holder is changing his domicile into this State, provided the taxes levied by § 5–102 of the Tax – General Article have been paid to the Office of the Comptroller.

(e) The holder of a permit may transport the holder's private stock of alcoholic beverages from or en route through this State without the payment of the excise taxes levied under § 5–102 of the Tax – General Article, provided that the alcoholic beverages are not for use or delivery within this State.

(f) A person whose license has expired or otherwise has been discontinued,

within 60 days subsequent to the last day the license was effective, may apply to the Comptroller for a permit to authorize transfer with or without consideration whether by sale, gift, inheritance, assignment or otherwise of the stock of alcoholic beverages on hand as of that day. The permit authorizes the transfer only to a license holder, which shall be consummated within the period covered by the permit.

(g) (1) The permit authorizes the operation of a warehouse for the storage of alcoholic beverages for the accounts of other persons and for the transportation for the accounts of other persons of alcoholic beverages into, within, or out of this State.

(2) A permit may be issued for transportation or storage, or both.

(3) A license or permit holder need not have a transportation permit to deliver alcoholic beverages which under this article the licensee or permit holder is authorized to acquire, store, sell, or use.

(h) (1) The holder of an individual storage permit may establish a warehouse for the storage of alcoholic beverages in which title to the stored alcoholic beverages is vested in the permit holder.

(2) In Anne Arundel County all retailers shall have written approval from the Board of License Commissioners for the county before making application with the Office of the Comptroller for the permit.

(i) (1) A nonresident dealer's permit, for the purpose of selling beer, wine, or distilled spirits to Maryland licensees authorized to receive those beverages, may be issued only to:

(i) A brewer, distiller, rectifier, bottler, manufacturer, vintner, or winery;

(ii) A sales agent of one of those under subparagraph (i) of this paragraph, provided proof of that agency is presented to the Office of the Comptroller;

(iii) An importer of beer, wine, or distilled beverages produced outside the United States who purchases directly from the brand owner or from a sales agent of a brewer, distiller, rectifier, bottler, manufacturer, vintner, or winery, who is authorized by the brand owner to sell in Maryland, and who has provided proof of this sales agency relationship to the Office of the Comptroller; or

(iv) An American sales agent of an importer under subparagraph (iii) of this paragraph, provided proof of that agency is presented to the Office of the Comptroller.

(2) A nonresident dealer's permit may not be issued to a person who:

(i) Holds a wholesaler or retailer license of any class issued under this article;

(ii) Has an interest in a wholesaler licensed under this article; or

(iii) Has an interest in a retailer licensed under this article.

(3) A holder of a nonresident dealer's permit may sell, consign, or deliver, from a location outside Maryland, to persons in Maryland who are authorized to receive them, only those beers, wines, or distilled spirits which it distills, rectifies, bottles, manufactures, produces, imports from outside the United States, or represents as the designated sales agent. The brewer, distiller, rectifier, bottler, manufacturer, vintner, winery, importer and their designated agent may not discriminate directly or indirectly in price between Maryland licensees.

(4) Notwithstanding any other provision of this section, any brand of beer presently being sold, consigned, or delivered in Maryland by the holder of a nonresident dealer's permit from a location outside Maryland to persons in Maryland who are authorized to receive it under this article may continue to be sold, consigned, or delivered until such time as the brewer, the importer, or designated sales agent of the brewer or the importer of that brand of beer preempts the sales territory by appointing a franchisee as provided in §§ 17–101 through 17–107, inclusive, the Beer Franchise Fair Dealing Act, of this article.

(5) Notwithstanding any other provision of this section, a nonresident dealer's permit is not required to make direct sales and shipments to a wholesaler within this State from a location outside the continental limits and possessions of the United States.

(6) Notwithstanding any other provision of this section, in Montgomery County the alcohol beverage purchasing power shall be as described in §§ 15–204(b) and 15–205(k) of this article.

(j) The holder of a permit may import into this State alcoholic beverages for storage in public warehouses, for subsequent shipment outside this State and not for sale, consignment or delivery to any person within this State.

(k) A solicitor's permit may be issued in the discretion of the Office of the Comptroller and, if issued, shall grant a resident or nonresident holder the privilege of promoting, selling, or offering for sale, beer, wines or distilled spirits to manufacturers, wholesalers or retailers in this State. A permit holder may not contact consumers, and if the person holding the permit is employed by a nonresident dealer or resident dealer, the person holding the permit is not permitted to sell, promote or offer for sale alcoholic beverages to retail dealers, except for the account of a Maryland wholesaler or manufacturer who is a distributor for the products of the employer of the nonresident person or resident person holding such a permit.

(l) The holder of a permit may establish a distilled spirits plant solely for the purpose of manufacturing, processing, storing, using, or distributing distilled spirits to be used exclusively for fuel purposes and not for beverage purposes.

(m) (1) A national family beer and wine exhibition permit may be issued at the discretion of the Office of the Comptroller to a bona fide national family wine association, national family beer association, or national family beer and wine association.

(2) The permit holder may conduct a national family beer and wine exhibition and competition.

(3) The permit holder may receive for use, exhibition, and tastings at a national family beer and wine exhibit:

(i) Tax free family–produced beer and wine;

(ii) Tax paid commercially–produced beers and wines from licensed nonresident dealers or manufacturers through licensed Maryland wholesalers or wines through licensed Class 4 wineries; and

(iii) Commercially–produced beer and wine from non–Maryland licensed manufacturers or suppliers subject to the tax imposed in § 5–102 of the Tax – General Article.

(4) A nonresident dealer's permit is not required of a non–Maryland licensed supplier for shipment of beer and wine to a national family beer and wine exhibition permittee.

(5) The permit holder may not sell but may exhibit, judge, and taste beer and wine acquired pursuant to this section at the place designated in the application for a period not exceeding 5 days.

(6) Manufacturers, nonresident dealers, suppliers, and wholesalers or their representatives may act as judges or participate at a national family beer and wine exhibition.

(7) The permit may be granted for:

(i) An unlicensed premises;

(ii) A Class B or Class C alcoholic beverages licensed premises; or

(iii) A Baltimore City Class B–D–7 alcoholic beverages licensed premises.

(8) The permit authorizes the possession and consumption of beer and wine on the named premises with the permission of the licensee as provided in this section, notwithstanding contrary provisions of § 12–107 of this article.

(9) (i) The permit holder shall file a report on forms provided by the Office of the Comptroller of the number of gallons of commercially–produced beer and

wine received from nonlicensed suppliers, and pay the tax provided by § 5–102 of the Tax – General Article within 30 days following the close of the exhibition.

(ii) Instead of a bond, the Office of the Comptroller may require prepayment of a satisfactory sum to cover the anticipated tax.

(n) A license or permit holder may not accept or deliver alcoholic beverages except as provided in this article and the Tax – General Article.

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

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

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

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

(2) The Office of the Comptroller may issue a 1–day wine auction permit to a charitable organization.

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

(4) The permit may be granted for:

(i) An unlicensed premises;

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

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

(5) The permit fee is $10.

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

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

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

1. A wholesaler licensed under this article;

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

3. A retail dealer licensed under this article;

4. A private individual residing in the State; or

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

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

1. A nonresident private individual; or

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

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

1. Wholesalers licensed under this article;

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

3. Any other source outside of this State.

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

1. Retail dealers licensed under this article;

2. Private individuals residing in this State; and

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

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

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

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

(10) The Office of the Comptroller may require that, within 7 days from the

date of the auction, the permit holder prepay a satisfactory sum to cover the anticipated wine tax that is due and owing.

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

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

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

(13) The Office of the Comptroller may adopt regulations to implement the provisions of this subsection.

(p) (1) The Office of the Comptroller may issue a nonresident storage permit to a holder of a nonresident dealer permit.

(2) The permit holder may store alcoholic beverages in a licensed public storage warehouse in this State for subsequent shipment to:

(i) Maryland licensed wholesalers;

(ii) Maryland licensed manufacturers; or

(iii) Persons outside of this State.

(3) A nonresident storage permit holder may not ship any alcoholic beverages as provided under this section unless:

(i) The invoice for the shipment originates from the out–of–state permit address of the nonresident dealer; and

(ii) The holder ships the alcoholic beverages from the public storage warehouse in Maryland to the purchaser concurrently with the invoice being sent to the purchaser.

(4) The permit holder shall file a monthly storage and shipping activities report with the Office of the Comptroller on forms and in the manner prescribed by the Office of the Comptroller.

(q) An alcohol awareness program permit shall authorize the holder to conduct an alcohol awareness program which has been certified by the Comptroller under § 13–101 of this article.

(r) An alcohol awareness instructor's permit shall authorize the holder to

conduct alcohol awareness training as an employee or agent of an alcohol awareness program permit holder.

(s) (1) In this subsection, "permit" means a family beer and wine facility permit.

(2) A permit authorizes the holder to establish a facility for the production of family beer or wine by nonlicensed State consumers who are of legal drinking age.

(3) The permit holder may provide equipment, raw materials, and instructions to the consumer. Except for beer or wine produced for testing equipment or recipes and samples described in paragraph (5) of this subsection, the permit holder may not engage in the actual production or manufacture of beer or wine.

(4) All family beer and wine produced at a family beer and wine facility shall be removed from the premises by the consumer. It may only be used for home consumption and the personal use of the consumer.

(5) (i) The permit includes a sampling privilege.

(ii) Patrons may have a maximum of five samples and the samples may not exceed 2 ounces per sample.

(iii) Samples may only be consumed on the premises by a person who has a nonrefundable contract to brew or ferment at that facility.

(6) The Office of the Comptroller may restrict a family beer and wine facility permit to the production of either family produced beer or family produced wine.

(7) The holder of a permit may not simultaneously hold any other license issued pursuant to this article.

(8) The Office of the Comptroller may promulgate regulations regarding limits on the quantities produced, requirements for record keeping, and any other activities that relate to the operation of a family beer and wine facility.

(t) (1) A private bulk sale permit authorizes the holder to sell the holder's private alcoholic beverages inventory to an individual or entity in accordance with this subsection.

(2) In order to qualify for a private bulk sale permit, an applicant must:

(i) Be an individual at least 21 years of age or older;

(ii) Be a current Maryland resident;

(iii) File an inventory with the Comptroller of all alcoholic beverages

to be sold; and

(iv) Certify that all alcoholic beverages to be sold:

1. Have been legally acquired and transported into Maryland in accordance with this article; and

2. Are owned by the permit holder at the time of application.

(3) Sales under a private bulk sale permit shall be made by:

(i) The permit holder; or

(ii) An unlicensed agent or auction company acting on behalf of the permit holder.

(4) Sales transactions may take place on:

(i) A premises not licensed under the provisions of this article; or

(ii) A private room of an on–premise retail licensee.

(5) Sales may only be made under this permit to one or more of the following:

(i) A Maryland resident who is at least 21 years of age;

(ii) A Maryland alcoholic beverages retailer who holds the proper class of license; or

(iii) An individual or entity located outside of this State if the individual or entity is authorized to ship alcoholic beverages purchased under the permit to their home state or state of ultimate destination.

(6) The Comptroller may promulgate regulations regarding record keeping, reporting requirements, and any other activities related to a private bulk sale permit.

(u) (1) The Office of the Comptroller may issue a nonresident winery permit to a person that:

(i) Is licensed outside of the State to engage in the manufacture of wine;

(ii) Produces not more than 27,500 gallons of its own wine annually; and

(iii) Does not hold a nonresident dealer's permit.

(2) A holder of a nonresident winery permit may sell and deliver its own wine from a location outside of the State to a retail licensee or permit holder in the State authorized to acquire the wine.

(3) A nonresident winery permit holder shall comply with all of the requirements of this article, the Tax – General Article, and the regulations of the Office of the Comptroller that apply to a holder of a Class 6 limited wine wholesaler's license.

(v) (1) Subject to paragraph (2) of this subsection, the Comptroller may issue a resident dealer's permit to:

(i) An importer of beer, wine, or distilled spirits produced outside the United States who purchases directly from the brand owner or from a sales agent of a brewer, distiller, rectifier, bottler, manufacturer, vintner, or winery, who is authorized by the brand owner to sell in the State, and who has provided proof of this sales agency relationship to the Comptroller; or

(ii) An American sales agent of an importer under subparagraph (i) of this paragraph, providing proof of that agency is presented to the Comptroller.

(2) To be issued a resident dealer's permit, an individual applicant, an applicant qualifying as a resident applicant for a corporation, or each applicant for a partnership shall have been a resident of the State for at least 2 years immediately before applying for the permit.

(3) A resident dealer's permit may not be issued to a person who:

(i) Holds a wholesaler or retailer license of any class issued under this article;

(ii) Has an interest in a wholesaler licensed under this article; or

(iii) Has an interest in a retailer licensed under this article.

(4) A resident dealer's permit authorizes the holder to sell alcoholic beverages to a wholesaler licensed under this article in the State or to a person outside of the State who the Comptroller authorizes to acquire the alcoholic beverages.

(5) A holder of a resident dealer's permit may not own or operate a warehouse in the State.

(w) (1) The Office of the Comptroller may issue a common carrier permit to a person who meets the definition of a "common carrier" under § 7.5–101 of this article.

(2) The holder of a common carrier permit may deliver wine from a location inside or outside the State to a consumer in the State for the consumer's personal use under Title 7.5 of this article.

(3) The holder of a common carrier permit that delivers wine solely under Title 7.5 of this article may not be required to obtain a transportation permit issued under subsection (g) of this section in addition to the common carrier permit.

(x) (1) The Office of the Comptroller may issue a nonresident brewery permit to a person that:

(i) Is licensed outside the State to engage in the manufacture of beer;

(ii) Produces in the aggregate from all of its locations not more than 22,500 barrels of beer annually; and

(iii) Does not hold a nonresident dealer's permit.

(2) A holder of a nonresident brewery permit may sell and deliver not more than 3,000 barrels of its own beer annually from a location outside the State to a retail license holder or permit holder in the State authorized to acquire the beer.

(3) A nonresident brewery permit holder shall comply with all the requirements of this article, the Tax – General Article, and the regulations of the Office of the Comptroller that apply to a holder of a Class 7 limited beer wholesaler's license.

(4) The annual fee for a nonresident brewery permit is $50.

(y) (1) In this subsection, "permit" means a farmers' market permit.

(2) There is a farmers' market permit.

(3) The Office of the Comptroller may issue the permit to a holder of a license:

(i) Other than a Class 4 limited winery license, that allows the holder to sell alcoholic beverages to the public for consumption off the licensed premises; and

(ii) That was issued by the local licensing board of the jurisdiction in which the farmers' market will be held.

(4) The holder of a permit shall notify the local licensing board of the jurisdiction in which the farmers' market will be held that the permit has been issued.

(5) (i) A permit may be used only:

1. At a farmers' market that is listed in the farmers' market directory of the Maryland Department of Agriculture;

2. At the farmers' market named in the permit; and

3. During the hours of operation of the farmers' market for which it is obtained.

(ii) The Office of the Comptroller may issue not more than one permit for use at each farmers' market.

(6) A permit authorizes the holder to:

(i) Occupy stall space at a farmers' market; and

(ii) Subject to paragraph (7) of this subsection:

1. Offer and sell sealed containers of wine to consumers for consumption off the licensed premises of the farmers' market; and

2. Provide at no charge samples of wine not to exceed 1 fluid ounce per brand to consumers for consumption on the licensed premises of the farmers' market.

(7) All wine offered for sale or samplings by the permit holder shall be the product of a Class 4 limited winery.