

HOUSE BILL 1283

A1

(7lr2206)

ENROLLED BILL

— Economic Matters/ Education, Health, and Environmental Affairs —

Introduced by ~~Delegate Branch~~ Delegates Branch, Brooks, Barkley, Adams, Arentz, Aumann, Clippinger, Fennell, S. Howard, Lisanti, W. Miller, and Waldstreicher

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Alcoholic Beverages – Class 5 Brewery License**

3 FOR the purpose of ~~repealing~~ altering a certain provision of law authorizing a holder of a
4 Class 5 brewery license to serve certain samples of beer ~~brewed at the brewery~~ to
5 certain individuals at no charge; authorizing a license holder to brew and bottle beer
6 at a location other than the Class 5 brewery under certain circumstances; authorizing
7 a certain type of Class 5 brewery to sell beer for on-premises consumption under
8 certain circumstances; specifying that beer sold by a holder of a Class 5 brewery
9 license at retail to a certain individual for off-premises consumption must be in a
10 container other than a keg; ~~repealing~~ altering certain provisions of law ~~requiring to~~
11 authorize rather than require a local licensing board to grant an on-site consumption
12 permit to a certain applicant ~~and to take certain related actions; repealing a certain~~
13 ~~provision of law authorizing a local licensing board to charge a certain fee;~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



~~authorizing a local licensing board to issue in a certain manner a Class D beer license for on-premises consumption to a holder of a Class 5 brewery license; establishing certain requirements for the beer that the holder of a Class 5 brewery license serves for on-premises consumption; altering the maximum amount of beer that the license holder may sell for on-premises consumption each year; authorizing the license holder to file a request to sell up to a certain additional amount of beer in a single year under certain circumstances; requiring that beer sold in excess of a certain amount be purchased from a licensed wholesaler; providing that a certain Class D beer license entitles the holder to sell beer brewed at the brewery under a certain trade name to a certain individual for on-premises consumption under certain circumstances; requiring a holder of a Class D beer certain permit or license or a certain employee to comply with certain alcohol awareness training requirements; requiring a holder of a Class D beer certain permit or license to abide by certain trade practice restrictions; repealing a certain provision of law authorizing a holder of a brewery promotional event permit to provide certain samples to consumers; authorizing the holder of certain licenses and permits to exercise the certain privileges of the licenses and permits only during certain hours on certain days; defining a certain term; requiring the Comptroller to report certain information to certain committees each year; authorizing the Comptroller to include certain information in a certain report; requiring certain license holders to report certain information for certain purposes; making conforming and clarifying changes; providing for the termination of certain provisions of this Act; and generally relating to Class 5 brewery licenses.~~

BY repealing and reenacting, with amendments,
 Article – Alcoholic Beverages
 Section 2–207
 Annotated Code of Maryland
 (2016 Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – Alcoholic Beverages

2–207.

(A) IN THIS SECTION, “AFFILIATE” MEANS A PERSON THAT DIRECTLY OR INDIRECTLY THROUGH ONE OR MORE INTERMEDIARIES CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH A HOLDER OF A CLASS 5 BREWERY LICENSE.

~~(a)~~ **(B)** There is a Class 5 brewery license.

~~(b)~~ **(C)** A license holder may:

1 (1) establish and operate a plant for brewing and bottling malt beverages
2 at the location described in the license;

3 (2) import beer from a holder of a nonresident dealer's permit;

4 **(3) CONTRACT TO BREW AND BOTTLE BEER WITH AND ON BEHALF OF**
5 **THE HOLDER OF A CLASS 2 RECTIFYING LICENSE, CLASS 5 BREWERY LICENSE,**
6 **CLASS 7 MICRO-BREWERY LICENSE, CLASS 8 FARM BREWERY LICENSE, OR A**
7 **NONRESIDENT DEALER'S PERMIT;**

8 ~~(3)~~ **(4)** sell and deliver beer to:

9 (i) a holder of a wholesaler's license that is authorized to acquire
10 beer; or

11 (ii) a person outside of the State that is authorized to acquire beer;

12 ~~(4)~~ **(5)** ~~serve,~~ **SUBJECT TO SUBSECTION (I) OF THIS SECTION,**
13 **SERVE,** at no charge, ~~not more than six~~ samples of beer ~~FERMENTED AND~~ brewed
14 ~~ENTIRELY at the brewery, with each sample consisting of~~ **A TOTAL OF** not more than ~~3~~ **18**
15 ~~ounces from a single style~~ of beer **PER DAY VISIT,** to an individual who:

16 (i) has attained the legal drinking age; and

17 (ii) is participating in a guided tour of the brewery or attends a
18 scheduled promotional event or other organized activity at the brewery;

19 ~~(5)~~ **(6)** subject to ~~subsection (c) of this section,~~ sell beer ~~FERMENTED~~
20 ~~AND brewed ENTIRELY at the brewery~~ **SUBSECTIONS (D) AND (I) OF THIS SECTION,**
21 **SELL BEER** for off-premises consumption at retail **IN A CONTAINER OTHER THAN A KEG**
22 to an individual participating in a guided tour of the brewery or attending a scheduled
23 promotional event or other organized activity at the brewery; and

24 ~~(6)~~ **(7)** ~~(5)~~ subject to subsection ~~(e)~~ **(F)** of this section, sell beer
25 ~~FERMENTED AND brewed ENTIRELY~~ at the location described in the license for
26 on-premises consumption.

27 ~~(e)~~ **(D)** An individual may purchase beer under subsection ~~(4)(5)~~ **(C)(6)**
28 ~~(B)(4)~~ of this section if the individual:

29 (1) purchases not more than 288 ounces of beer **PER DAY VISIT;** and

30 (2) has attained the legal drinking age.

31 ~~(d)~~ **(E)** The annual license fee is \$1,500.

1 ~~(e)~~ **(F)** (1) A local licensing board ~~[shall~~ **MAY** grant an on-site consumption
2 permit] ~~MAY ISSUE, IN ACCORDANCE WITH TITLE 4 OF THIS ARTICLE, A CLASS D~~
3 ~~BEER LICENSE FOR ON-PREMISES CONSUMPTION~~ to an applicant that holds a Class 5
4 brewery license ~~[and, subject to paragraph ~~(2)~~ **(6)** of this subsection, a Class D beer license].~~

5 ~~(2)~~ ~~(i)~~ ~~[An on-site consumption permit] **A OR A CLASS D BEER**~~
6 ~~LICENSE OR AN EQUIVALENT LICENSE UNDER PARAGRAPH ~~(3)~~ **(3)** OF THIS SUBSECTION~~
7 entitles the holder to sell beer ~~FERMENTED AND~~ brewed ~~ENTIRELY~~ at the brewery ~~UNDER~~
8 ~~THE TRADE NAME OF THE LICENSE HOLDER~~ for on-premises consumption to an
9 individual who has attained the legal drinking age.

10 **(2) SUBJECT TO THE MAXIMUM VOLUME LIMIT UNDER PARAGRAPH (4)**
11 **OF THIS SUBSECTION, A CLASS D BEER LICENSE OR AN EQUIVALENT LICENSE UNDER**
12 **PARAGRAPH (6) OF THIS SUBSECTION ENTITLES THE HOLDER TO SELL TO AN**
13 **INDIVIDUAL WHO HAS ATTAINED THE LEGAL DRINKING AGE, FOR ON-PREMISES**
14 **CONSUMPTION AT THE BREWERY:**

15 **(I) BEER:**

16 **1. OF WHICH THE HOLDER OF THE CLASS 5 LICENSE IS**
17 **THE BRAND OWNER; AND**

18 **2. THAT IS FERMENTED AND BREWED ENTIRELY AT THE**
19 **BREWERY OF THE LICENSE HOLDER;**

20 **(II) BEER THAT IS FERMENTED AND BREWED ENTIRELY AT THE**
21 **BREWERY UNDER CONTRACT WITH A BRAND OWNER WHO DOES NOT POSSESS A**
22 **CLASS 5 LICENSE; AND**

23 **(III) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, BEER**
24 **BREWED AT A LOCATION OTHER THAN THE CLASS 5 BREWERY IF:**

25 **1. THE BRAND OWNER OF THE BEER IS THE HOLDER OF**
26 **THE CLASS 5 LICENSE OR AN AFFILIATE OF THE HOLDER OF THE CLASS 5 LICENSE;**

27 **2. THE NUMBER OF BARRELS OF THE BEER SOLD FOR**
28 **ON-PREMISES CONSUMPTION UNDER THE CLASS D BEER LICENSE OR AN**
29 **EQUIVALENT LICENSE OR AN ON-SITE CONSUMPTION PERMIT IN A CALENDAR YEAR**
30 **DOES NOT EXCEED THE GREATER OF:**

31 **A. 25% OF THE TOTAL NUMBER OF BARRELS OF BEER**
32 **SOLD FOR ON-PREMISES CONSUMPTION UNDER THE CLASS D LICENSE OR AN**

1 EQUIVALENT LICENSE OR AN ON-SITE CONSUMPTION PERMIT IN THAT CALENDAR
 2 YEAR; OR

3 B. 1.2% OF TOTAL FINISHED PRODUCTION UNDER THE
 4 CLASS 5 BREWERY LICENSE; AND

5 3. A. THE LICENSE HOLDER CONTRACTS WITH OR ON
 6 BEHALF OF A HOLDER OF A MANUFACTURER'S LICENSE OR NONRESIDENT DEALER'S
 7 PERMIT; OR

8 B. THE BEER IS MANUFACTURED BY AN AFFILIATE OF
 9 THE LICENSE HOLDER.

10 (3) (I) THIS PARAGRAPH APPLIES TO A CLASS 5 BREWERY WITH
 11 MORE THAN 1,000,000 BARRELS OF FINISHED PRODUCTION ANNUALLY, ALONE OR
 12 IN COMBINATION WITH ITS AFFILIATES.

13 (II) BEER THAT IS DELIVERED TO THE CLASS 5 BREWERY IN
 14 FINISHED FORM MAY BE SOLD FOR ON-PREMISES CONSUMPTION UNDER
 15 SUBPARAGRAPH (III)2 OF THIS PARAGRAPH ONLY IF IT IS PURCHASED FROM A
 16 LICENSED WHOLESALER.

17 ~~(ii) (4)~~ The EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF
 18 ~~THIS PARAGRAPH~~ PARAGRAPH (5) OF THIS SUBSECTION, THE total amount of beer sold
 19 each year for on-premises consumption under this paragraph may not exceed ~~500~~ 2,000
 20 barrels.

21 ~~(III) 1. (5)~~ (I) IF, IN A SINGLE YEAR, THE LICENSE
 22 HOLDER REACHES 80% OF THE VOLUME AUTHORIZED TO BE SOLD FOR
 23 ON-PREMISES CONSUMPTION UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH,
 24 THE LICENSE HOLDER MAY FILE A REQUEST WITH THE COMPTROLLER FOR
 25 PERMISSION TO SELL UP TO AN ADDITIONAL 1,000 BARRELS FOR ON-PREMISES
 26 CONSUMPTION IN THAT YEAR.

27 ~~2. (II)~~ THE MAXIMUM VOLUME THAT A LICENSE
 28 HOLDER MAY SELL FOR ON-PREMISES CONSUMPTION IN A SINGLE YEAR IS 3,000
 29 BARRELS.

30 ~~3. (III)~~ ANY BEER THAT THE LICENSE HOLDER SELLS
 31 FOR ON-PREMISES CONSUMPTION IN EXCESS OF THE 2,000-BARREL LIMIT UNDER
 32 ~~SUBPARAGRAPH (II) OF THIS PARAGRAPH~~ PARAGRAPH (4) OF THIS SUBSECTION
 33 SHALL BE PURCHASED FROM A LICENSED WHOLESALER.

1 ~~(3)~~ **(6)** ~~¶~~ Before a local licensing board that does not issue a Class D beer
2 license may grant an on-site consumption permit, the local licensing board shall:

3 (i) establish an equivalent license; and

4 (ii) require the applicant to obtain that equivalent license.

5 ~~(4)~~ **(7)** A local licensing board may:

6 ~~(i)~~ charge a fee for granting an on-site consumption permit; ~~and~~.

7 ~~(ii) require that the holder of the permit~~ **A HOLDER OF A CLASS D**
8 **BEER LICENSE** ~~or an employee designated by the holder SHALL comply with the alcohol~~
9 ~~awareness training requirements under § 4-505 of this article.~~

10 ~~(4)~~ ~~(5)~~ **(8)** A LOCAL LICENSING BOARD SHALL REQUIRE THE HOLDER
11 OF AN ON-SITE CONSUMPTION PERMIT OR A CLASS D BEER LICENSE SHALL OR AN
12 EQUIVALENT LICENSE UNDER PARAGRAPH ~~(3)~~ **(6)** OF THIS SUBSECTION TO:

13 **(I) COMPLY WITH THE ALCOHOL AWARENESS REQUIREMENTS**
14 **UNDER § 4-505 OF THIS ARTICLE; AND**

15 **(II) ABIDE BY ALL APPLICABLE TRADE PRACTICE**
16 **RESTRICTIONS.**

17 ~~(4)~~ **(G)** (1) The Comptroller may issue a brewery promotional event permit
18 to a holder of a Class 5 brewery license.

19 (2) ~~The~~ **SUBJECT TO SUBSECTION (1) OF THIS SECTION, THE** permit
20 authorizes the holder to conduct on the premises of the brewery a promotional event at
21 which the holder may ~~¶~~ **WITH RESPECT TO INDIVIDUALS WHO HAVE ATTAINED THE**
22 **LEGAL DRINKING AGE:**

23 (i) provide samples **CONSISTING OF A TOTAL** of not more than ~~3~~
24 **18** fluid ounces ~~per brand to consumers~~ **A CONSUMER;** and

25 (ii) ~~¶~~ sell beer ~~produced by the holder~~ to individuals who participate in
26 the event.

27 (3) ~~The~~ **SUBJECT TO SUBSECTION (1) OF THIS SECTION, THE** beer at the
28 event shall be:

29 ~~(1)~~ **FERMENTED AND BREWED ENTIRELY AT THE BREWERY;**
30 **AND**

1 ~~(H)~~ sold by the glass for on-premises consumption only.

2 (4) To obtain a permit, an applicant, at least 15 days before the event, shall
3 file with the Comptroller an application that the Comptroller provides.

4 (5) A holder of a Class 5 brewery license may not be issued more than 12
5 permits in a calendar year.

6 (6) A single promotional event may not exceed 3 consecutive days.

7 (7) The permit fee is \$25 per event.

8 ~~(G) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A HOLDER OF~~
9 ~~A CLASS 5 BREWERY LICENSE MAY EXERCISE THE PRIVILEGES OF THE LICENSE~~
10 ~~FROM 10 A.M. TO 6 P.M. ON MONDAY THROUGH SUNDAY.~~

11 ~~(2) A NOTWITHSTANDING ANY PROVISION AUTHORIZING LATER~~
12 ~~SALES IN THE JURISDICTION, A HOLDER OF A CLASS 5 BREWERY LICENSE AND AN~~
13 ~~ON-SITE CONSUMPTION PERMIT OR A CLASS D BEER LICENSE OR AN EQUIVALENT~~
14 ~~LICENSE FOR ON-PREMISES CONSUMPTION MAY ONLY EXERCISE THE SALES AND~~
15 ~~SERVING PRIVILEGES OF THE PERMIT AND LICENSES THE CLASS D OR EQUIVALENT~~
16 ~~LICENSE;~~

17 ~~(I) FROM 10 A.M. TO 7 9 P.M. ON SUNDAY THROUGH THURSDAY;~~
18 ~~AND~~

19 ~~(H) FROM 10 A.M. TO 9 10 P.M. ON FRIDAY AND SATURDAY.~~

20 ~~(2) THIS SUBSECTION DOES NOT APPLY TO A PROMOTIONAL EVENT~~
21 ~~CONDUCTED UNDER SUBSECTION (F) OF THIS SECTION.~~

22 ~~(H) ALL BEER OFFERED, SERVED, OR SOLD TO A CONSUMER UNDER~~
23 ~~SUBSECTION (B)(4), (5), OR (6), OR (C), (E), OR (F) OF THIS SECTION SHALL BE~~
24 ~~FERMENTED AND BREWED:~~

25 ~~(1) ENTIRELY AT THE BREWERY; AND~~

26 ~~(2) UNDER THE TRADE NAME OF THE LICENSE HOLDER.~~

27 ~~(H) (1) THIS SUBSECTION DOES NOT APPLY TO:~~

28 ~~(I) THE HOLDER OF A CLASS 5 BREWERY LICENSE THAT HELD~~
29 ~~AN ON-SITE CONSUMPTION PERMIT AND A CLASS D LICENSE OR AN EQUIVALENT~~
30 ~~LICENSE ON OR BEFORE APRIL 1, 2017;~~

1 (II) AN INDIVIDUAL WHO HELD A MINORITY INTEREST IN AN
2 ON-SITE CONSUMPTION PERMIT AND A CLASS D LICENSE OR AN EQUIVALENT
3 LICENSE ON OR BEFORE APRIL 1, 2017, AND THEN OBTAINS BY TRANSFER A
4 MAJORITY INTEREST IN THE SAME LICENSE OR PERMIT;

5 (III) A LOCATION IN THE STATE FOR WHICH A COMPLETED
6 BREWER'S NOTICE FORM WAS FILED WITH THE U. S. DEPARTMENT OF TREASURY ON
7 OR BEFORE APRIL 1, 2017;

8 (IV) A PROMOTIONAL EVENT CONDUCTED UNDER SUBSECTION
9 (G) OF THIS SECTION; AND

10 (V) A GUIDED TOUR DURING WHICH:

11 1. SAMPLES OF BEER ARE SERVED UNDER SUBSECTION
12 (C)(5) OF THIS SECTION; OR

13 2. BEER IS SOLD FOR OFF-PREMISES CONSUMPTION
14 UNDER SUBSECTION (C)(6) OF THIS SECTION.

15 (2) THIS SUBSECTION APPLIES TO:

16 (I) A HOLDER OF A CLASS 5 BREWERY LICENSE WHO:

17 1. AFTER APRIL 1, 2017, OBTAINS AN ON-SITE
18 CONSUMPTION PERMIT AND A CLASS D BEER LICENSE OR EQUIVALENT LICENSE FOR
19 ON-PREMISES CONSUMPTION; OR

20 2. NOT HOLDING A MINORITY INTEREST IN AN ON-SITE
21 CONSUMPTION PERMIT AND A CLASS D LICENSE OR AN EQUIVALENT LICENSE ON OR
22 BEFORE APRIL 1, 2017, OBTAINS A MAJORITY INTEREST BY TRANSFER IN AN ON-SITE
23 CONSUMPTION PERMIT AND A CLASS D LICENSE OR AN EQUIVALENT LICENSE; AND

24 (II) NOTWITHSTANDING SUBSECTION (H)(1)(III) OF THIS
25 SECTION, A MANUFACTURER OF BEER WITH MORE THAN 1,000,000 BARRELS OF
26 FINISHED PRODUCTION ANNUALLY ALONE OR IN COMBINATION WITH ITS
27 AFFILIATES.

28 (3) NOTWITHSTANDING ANY PROVISION IN DIVISION II OF THIS
29 ARTICLE, THE SALES AND SERVING PRIVILEGES OF AN ON-SITE CONSUMPTION
30 PERMIT AND A CLASS D LICENSE OR AN EQUIVALENT LICENSE MAY BE EXERCISED
31 ONLY FROM 10 A.M. TO 10 P.M. MONDAY THROUGH SUNDAY.

1 (I) ALL BEER OFFERED, SERVED, OR SOLD TO A CONSUMER UNDER
 2 SUBSECTIONS (C)(5) OR (6) OR (G) OF THIS SECTION SHALL BE:

3 (1) FERMENTED AND BREWED ENTIRELY AT THE CLASS 5 BREWERY;
 4 OR

5 (2) BEER OF WHICH THE LICENSE HOLDER OR AN AFFILIATE OF THE
 6 LICENSE HOLDER IS THE BRAND OWNER.

7 ~~[(g)]~~ ~~(H)~~ ~~(I)~~ (J) (1) (i) The Comptroller may issue a refillable container
 8 permit for draft beer under § 4-1104 or Subtitle 11 of the various titles in Division II of this
 9 article to a holder of a Class 5 brewery license:

10 1. on completion of an application form that the Comptroller
 11 provides; and

12 2. at no cost to the holder of the Class 5 brewery license.

13 (ii) A refillable container permit may be renewed each year
 14 concurrently with the renewal of the Class 5 brewery license.

15 (2) The hours of sale for a refillable container permit issued under this
 16 subsection are the same as the hours when a guided tour, a promotional event, or other
 17 organized activity at the licensed premises authorized under subsection (b) of this section
 18 may be conducted.

19 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 20 as follows:

21 Article – Alcoholic Beverages

22 2-207.

23 ~~(H)~~ ~~(I)~~ (K) (1) ON OR BEFORE OCTOBER 1 EACH YEAR, THE
 24 COMPTROLLER SHALL REPORT TO THE SENATE EDUCATION, HEALTH, AND
 25 ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ECONOMIC MATTERS
 26 COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
 27 ARTICLE, ON THE FOLLOWING, IDENTIFIED BY JURISDICTION AND CLASS 5 LICENSE
 28 HOLDER:

29 (I) THE TOTAL BEER PRODUCTION OF THE LICENSE HOLDER IN
 30 THE PRECEDING FISCAL YEAR;

1 (II) THE TOTAL SALES OF THE LICENSE HOLDER FOR ON-SITE
 2 CONSUMPTION UNDER AN ON-SITE CONSUMPTION PERMIT, A CLASS D BEER
 3 LICENSE, OR AN EQUIVALENT LICENSE IN THE PRECEDING FISCAL YEAR;

4 (III) WHETHER THE LICENSE HOLDER HAS REQUESTED
 5 PERMISSION TO SELL ADDITIONAL BEER UNDER SUBSECTION ~~(E)(2)(III)~~ (F)(5)(I) OF
 6 THIS SECTION, AND WHETHER THE COMPTROLLER GRANTED THAT PERMISSION,
 7 FOR THE PRECEDING FISCAL YEAR; AND

8 (IV) THE TOTAL SALES OF THE LICENSE HOLDER OF ADDITIONAL
 9 BEER UNDER SUBSECTION ~~(E)(2)(III)~~ (F)(5)(I) OF THIS SECTION IN THE PRECEDING
 10 FISCAL YEAR.

11 (2) EACH HOLDER OF A CLASS B 5 LICENSE SHALL REPORT TO THE
 12 COMPTROLLER THE INFORMATION NEEDED TO PREPARE THE ANNUAL REPORT
 13 UNDER THIS SUBSECTION.

14 (3) THE COMPTROLLER MAY INCLUDE THE INFORMATION REPORTED
 15 UNDER THIS SUBSECTION IN THE ANNUAL REPORT SUBMITTED UNDER § 1-306 OF
 16 THIS ARTICLE.

17 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 18 July 1, 2017. Section 2 of this Act shall remain effective for a period of 5 years and, at the
 19 end of June 30, 2022, with no further action required by the General Assembly, Section 2
 20 of this Act shall be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.