

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1420 (Delegate Barkley, *et al.*)
 Economic Matters

Alcoholic Beverages - Modern Brewery License

This bill establishes a Class 10 modern brewery license in the State and authorizes the license to be issued for use in any jurisdiction. The annual license fee is (1) \$200 if the licensed premises is a farm or if the license holder produces no more than 5,000 barrels of beer annually; (2) \$500 if the license holder produces between 5,000 and 20,000 barrels of beer annually; and (3) \$1,500 if the license holder produces more than 20,000 barrels of beer annually. The bill also authorizes a Class 8 farm brewery license holder to obtain a Class 7 limited beer wholesaler’s license.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: General fund expenditures for the Comptroller’s Office increase by \$104,100 in FY 2018 for a field enforcement investigator to issue and monitor the licenses and for one-time programming costs. These costs are partially offset by an increase in general fund revenues from (1) Class 8 farm breweries that obtain a wholesaler’s license; (2) brewery promotional event permits issued by the Comptroller; and (3) existing breweries that apply for and obtain Class 10 modern brewery licenses in addition to their existing licenses.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
GF Revenue	-	-	-	-	-
GF Expenditure	\$104,100	\$63,100	\$66,100	\$69,300	\$72,700
Net Effect	(-)	(-)	(-)	(-)	(-)

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

Local Effect: The bill does not directly affect local governmental operations or finances.

Small Business Effect: Potential meaningful positive impact for a small business that obtains the new brewery license established by the bill.

Analysis

Bill Summary: A holder of a current Class 5 brewery, Class 6 pub-brewery, Class 7 micro-brewery, or Class 8 farm brewery license may (1) keep the current license; (2) obtain a Class 10 modern brewery license in addition to the current license; or (3) exchange the current license for a Class 10 modern brewery license. If an exchange takes place, the license holder is entitled to a fee credit equal to the fee paid for the license being exchanged.

A Class 10 modern brewery license holder may also be issued a Class 7 limited beer wholesaler's license, as well as one or more licenses by a local licensing board. However, if more than two Class B or Class D licenses are obtained, the licensee may no longer hold a Class 7 wholesaler's license. A license holder that obtains a Class B license may not produce more than 45,000 barrels of beer annually. A license holder may also obtain (1) additional manufacturer's licenses under a different name and in a specified manner, and (2) a brewing company off-site permit.

A Class 10 modern brewery license holder may:

- establish and operate a brewery for brewing, blending, and packaging beer at the location described in the license and import beer from a holder of a nonresident dealer's permit; if the license is issued for use on a farm, the license holder must use at least one ingredient grown on the farm to brew the beer;
- brew, blend, and package beer at a licensed brewery or at a location for which an individual storage permit has been issued, if specified conditions are met;
- store its own beer and the products of other manufacturer's in a specified manner;
- sell and deliver beer to authorized entities;
- serve, for on-premises consumption and in a specified manner, samples of beer brewed by the license holder;
- sell, for off-premises consumption and in a specified manner, beer brewed by the license holder;
- annually sell for on-premises consumption (1) up to 4,000 barrels of beer brewed by the license holder and (2) more than 4,000 barrels brewed by the license holder, if that amount is purchased from a licensed wholesaler;
- sell or serve specified types of food, although a caterer is not limited in the types of food it may serve on the licensed premises; however, a license holder or entity in which the license holder has a financial interest may not act as a caterer; and

- contract with or on behalf of a holder of a manufacturer's license or nonresident dealer's permit to brew and package beer that (1) may be sold by the license holder; (2) must be counted against the license holder's barrelage limitations; and (3) must be taxed.

Unless otherwise determined by a license issued by a local licensing board, the hours of sale for beer sold for on-premises consumption are (1) 10 a.m. to 10 p.m. on Sunday through Thursday and (2) 10 a.m. to midnight on Friday and Saturday.

If a licensed premises is a farm, the license holder may sponsor a multibrewery activity that includes the products of other breweries in the State and provides for the sale of beer by the glass for on-premises consumption. The activity may be held from 10 a.m. to 10 p.m. and may not exceed three consecutive days.

The Comptroller may issue a brewery promotional event permit to a license holder. The permit authorizes a promotional event to provide samples and sell beer produced by the license holder to persons who participate in the event, though beer must be sold for on-premises consumption. The event may be held from 10 a.m. to midnight and may not exceed three consecutive days. A license holder may be issued up to 24 permits per year and the permit fee is \$25 per event.

A Class 10 modern brewery that held a Class 5 brewery license may obtain a class 7 limited beer wholesaler's license if the brewery was selling its own beer at wholesale in the State on or before January 1, 2013.

Current Law:

Alcoholic Beverages Manufacturer Licenses

There are currently nine classes of alcoholic beverages manufacturer license in the State, including four that authorize the brewing of beer. Each manufacturer license also has different requirements for sampling, tastings, and the amount of beer that may be brewed for on-premises consumption.

- A Class 5 brewery license authorizes an entity to brew and sell any amount of beer. The annual license fee is \$1,500.
- A Class 6 pub-brewery license authorizes an entity to brew up to 2,000 barrels of beer each year. The annual license fee is \$500.
- A Class 7 micro-brewery license authorizes an entity to brew up to 22,500 barrels of beer each year. The annual license fee is \$500.

- A Class 8 farm brewery license authorizes an entity to brew up to 15,000 barrels of beer each year. The annual license fee is \$200.

A Class 5, Class 7, or Class 8 manufacturer may obtain a brewing company off-site permit that authorizes the brewery to serve and sell its product at specified fairs, markets, and special events in the State. A permit is valid for one year, and the fee is \$100. A Class 5, Class 7, or Class 8 manufacturer may also obtain a Class 7 limited beer wholesaler's license as specified.

A Class 1, Class 2, Class 3, Class 4, Class 5, or Class 8 manufacturer may obtain additional manufacturer licenses of the same class, under a different name, to manufacture alcoholic beverages at the same or a different location.

Retail Sale and Distribution of Alcoholic Beverages

In general, most Maryland jurisdictions authorize the sale of alcoholic beverages through a three-tier system in which retail alcoholic beverages licensees purchase alcoholic beverages from licensed Maryland wholesalers who purchase alcoholic beverages from licensed manufacturers and import companies.

The boards of license commissioners in each county, Baltimore City, and the City of Annapolis are responsible for issuing retail level alcoholic beverage licenses and generally administering the Alcoholic Beverages Article in their respective jurisdictions. Local licensing boards issue a large variety of licenses and permits.

Background: The following manufacturer licenses are currently issued in the State: (1) 30 Class 5 brewery licenses; (2) 29 Class 7 micro-brewery licenses; and (3) 12 Class 8 farm brewery licenses.

The following wholesale and retail licenses were issued in the State in fiscal 2016: (1) 228 wholesaler licenses (of this total, 124 authorized the sale of beer); (2) 3,572 Class B licenses; and (3) 986 Class D licenses.

State Revenues: General fund revenues increase to the extent that existing breweries apply for and obtain a Class 10 modern brewery license in addition to their existing licenses; however, any such impact cannot be reliably estimated at this time.

Even though the bill authorizes an existing license holder to exchange a Class 5, Class 7, or Class 8 license for a Class 10 license and requires the Comptroller's Office to credit the license holder for the exchange, any such occurrence is unlikely to materially affect State

revenues because the fees established under the bill closely correspond to the existing license fees. For example, a Class 5 brewery license fee is \$1,500 to produce any amount of beer, and the fee for a Class 10 brewery license is also \$1,500 if the license holder produces more than 20,000 barrels annually. Most likely, each existing Class 5 brewery is producing more than this amount. Therefore, the license holder would pay the same fee if the Class 5 license is exchanged for a Class 10 license.

State Expenditures: General fund expenditures increase by \$104,119 in fiscal 2018, which accounts for the bill’s July 1, 2017 effective date. This estimate reflects the cost of hiring one field enforcement officer within the Comptroller’s Office to issue and monitor the new licenses. It includes a one-time expenditure increase of \$38,000 in fiscal 2018 to create new license forms and make reporting changes. It also includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$60,854
IT Expenses	38,000
Operating Expenses	<u>5,265</u>
Total FY 2018 State Expenditures	\$104,119

Future year expenditures reflect a full salary with annual increases and employee turnover, as well as annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller’s Office; Department of Legislative Services

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