

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 1283
Economic Matters

(Delegate Branch, *et al.*)
Education, Health, and Environmental Affairs

Alcoholic Beverages - Class 5 Brewery License

This bill makes numerous changes to on-site sampling and sale of beer by a Class 5 brewery in the State. The bill requires the Comptroller to report to specified committees of the General Assembly by October 1 each year concerning the on-site sampling and sale of beer by a Class 5 brewery. The bill also requires breweries to report to the Comptroller the information needed to prepare this annual report.

The bill takes effect July 1, 2017. Provisions of the bill pertaining to the annual report prepared by the Comptroller's Office terminate June 30, 2022.

Fiscal Summary

State Effect: The Comptroller's Office can handle the bill's requirements using existing budgeted resources. Revenues are not expected to be materially affected.

Local Effect: Local licensing boards can handle the bill's expanded responsibilities related to on-premises sampling and sale of beer for Class 5 breweries using existing resources. Revenues are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill makes the following changes to the sampling and sale of beer by a Class 5 brewery:

- A Class 5 brewery is authorized to contract to brew and bottle beer with and on behalf of another Class 5 brewery or holder of a Class 2 rectifying license, a Class 7 micro-brewery license, a Class 8 farm brewery license, or a nonresident dealer's permit. Contract beer that is sold for on-premises consumption at a Class 5 brewery may not exceed the greater of 25% of the total number of barrels of beer sold annually for on-premises consumption or 1.2% of total finished production under the Class 5 brewery license.
- A brewery may serve, at no charge, samples of beer consisting of a total of not more than 18 ounces of beer per visit. This limit also applies to samples at a brewery promotional event.
- A local licensing board may grant an on-site consumption permit to a brewery that holds a Class D beer license, but is not required to do so.
- In addition to the on-site consumption permit, a Class D beer license, or an equivalent license in jurisdictions that do not have a Class D beer license, also allow a brewery to sell beer for on-site consumption. Beer sold for on-site consumption must generally be brewed at the brewery; however, beer that is brewed at another location may be sold if specified conditions are met.
- A brewery may sell 2,000 barrels of its beer each year for on-premises consumption, instead of only 500 barrels. A license holder may also apply to the Comptroller to request permission to sell up to 1,000 additional barrels under specified circumstances.
- If a brewery produces more than 1.0 million barrels annually, alone or in combination with its affiliates, any beer that is delivered to the brewery in finished form may be sold for on-premises consumption only if it is purchased from a licensed wholesaler.
- A local licensing board must require each permit or license holder to comply with existing alcohol awareness training requirements and abide by all applicable trade practice restrictions.

The bill also limits the hours during which the sales and serving privileges of an on-site consumption permit may be exercised for specified Class 5 breweries to 10 a.m. until 10 p.m., Monday through Sunday. However, specified Class 5 breweries who obtained licenses on or before April 1, 2017, are exempt from the bill's stated hours of sale and continue to operate under the hours established in each local jurisdiction.

The Comptroller's annual report to the Senate Education, Health, and Environmental Affairs and House Economic Matters committees must include the following information about each Class 5 license holder for the preceding fiscal year: (1) total beer production; (2) total beer sales for on-site consumption; (3) whether the license holder has requested permission to sell additional beer, and whether the Comptroller granted permission to do

so; and (4) total sales of additional beer, as applicable. The Comptroller's Office may also include this required information in its Alcohol and Tobacco Tax Annual Report.

Current Law: A Class 5 brewery licensee is authorized to (1) establish and operate a plant in Maryland for brewing and bottling malt beverages at the location described in the license; (2) import beer from a holder of a nonresident dealer's permit; and (3) sell and deliver beer to any wholesale licensee in the State, or person outside of this State that is authorized to acquire it. A licensee is authorized to serve, at no charge, to a person of legal drinking age who participates in a guided tour of the facility or attends a scheduled promotional event or other organized activity at the licensed premises, no more than six samples of beer brewed at the licensed premises, with each sample consisting of no more than 3 ounces from a single style of beer. A licensee may also sell up to 288 ounces, per person, of beer brewed at the brewery for off-premises consumption to anyone who participates in a guided tour of the brewery or attends a scheduled promotional event or other organized activity at the licensed premises, provided the person is of legal drinking age.

Local licensing boards in the State must issue on-site consumption permits to applicants that hold a Class 5 brewery license and a Class D beer license. A local licensing board that does not issue a Class D beer license must establish an equivalent license and require the applicant to obtain that license before issuing a permit for on-site consumption. Beer sales for on-premises consumption may not exceed 500 barrels. A local licensing board may charge a fee for the on-site consumption permit.

Generally, for a premises that is licensed to sell alcoholic beverages with off-sale privileges, or a premises that is licensed with on-sale privileges and sells alcoholic beverages directly to a customer from a bar or service bar, the license holder or specified employees must complete training in an approved alcohol awareness program in order to obtain and retain their alcoholic beverages license. The training program must be approved and certified by the Comptroller, and it must provide information on how alcohol affects a person's body and behavior, the dangers of drinking and driving, refusing service before a customer becomes intoxicated, and determining if a customer is old enough to legally consume alcohol. The training is valid for four years.

Background: There are currently 30 Class 5 brewery licenses issued in the State.

Small Business Effect: The bill significantly increases the amount of beer a Class 5 brewery may sell for on-premises consumption each year which is likely to lead to increased revenues from on-premises sales for existing breweries. Under the bill, the amount of beer a Class 5 brewery may sell for on-premises consumption each year increases from 500 barrels to 2,000 barrels. The brewery may apply for permission to sell

an additional 1,000 barrels per year, provided any beer sold in excess of the 2,000 barrels is first purchased by the brewer from a licensed wholesaler.

The bill limits the hours of sale for on-site consumption for specified license holders who obtain an on-site consumption permit after April 1, 2017, to 10 a.m. to 10 p.m., Monday through Sunday. However, Class 5 breweries who obtained licenses on or before April 1, 2017, are exempt from the bill's stated hours of sale and will continue to benefit from the longer hours of sale established in each local jurisdiction.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore, Montgomery, and Prince George's counties; Comptroller's Office; Brewer's Association of Maryland; Department of Legislative Services

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