

# HOUSE BILL 518

A1

8lr0115

---

By: **Chair, Economic Matters Committee (By Request – Departmental – Comptroller)**

Introduced and read first time: January 26, 2018

Assigned to: Economic Matters

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages – Reform on Tap Act of 2018**

3 FOR the purpose of repealing certain restrictions on the selling or serving of beer by a  
4 holder of a Class 5 brewery license to an individual purchaser; repealing a provision  
5 requiring that a certain individual purchaser of beer at a Class 5 brewery participate  
6 in or attend certain events; authorizing a Class 5 brewery to conduct certain events;  
7 requiring a local licensing board to grant an on-site consumption permit to an  
8 applicant who holds a certain license; authorizing holders of certain licenses to sell  
9 to an individual for on-premises consumption beer that is fermented and brewed  
10 under contract under certain circumstances; repealing certain limitations on the  
11 amount of beer that certain licensed brewers may sell for on-premises consumption  
12 each year; requiring the Comptroller to revoke the license of a Class 5 brewery under  
13 certain circumstances; repealing certain hours of sale restrictions on certain holders  
14 of a Class 5 brewery license and providing that the hours of sale for on-site  
15 consumption at Class 5 breweries are those set by a certain license; repealing a  
16 certain requirement that the Comptroller make certain reports to certain legislative  
17 committees; repealing the requirement that a holder of a Class 5 brewery license  
18 report certain information to the Comptroller; prohibiting the issuance of a Class 6  
19 pub-brewery license after a certain date except under certain circumstances;  
20 repealing the limitation on the annual amount of malt beverages that a holder of a  
21 Class 7 micro-brewery license may brew, bottle, or contract for; repealing the  
22 limitation on the amount of beer that a Class 7 micro-brewery may sell for  
23 on-premises consumption; eliminating the limit on the number of barrels of beer  
24 that a holder of a Class 8 farm brewery license may brew, bottle, or contract for;  
25 increasing the number of barrels of beer that a person may produce annually and  
26 continue to qualify for a Class 7 limited beer wholesaler's license; increasing the  
27 number of barrels of beer that a holder of a Class 7 limited beer wholesaler's license  
28 may self-distribute; making a certain licensed beer manufacturer exempt from the  
29 Beer Franchise Fair Dealing Act; and generally relating to beer and brewery  
30 licenses.

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – Alcoholic Beverages  
3 Section 2–207 through 2–209, 2–210(c)(3), 2–308, and 5–102  
4 Annotated Code of Maryland  
5 (2016 Volume and 2017 Supplement)

6 BY repealing and reenacting, without amendments,  
7 Article – Alcoholic Beverages  
8 Section 2–210(a)  
9 Annotated Code of Maryland  
10 (2016 Volume and 2017 Supplement)

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

13 **Article – Alcoholic Beverages**

14 2–207.

15 (a) In this section, “affiliate” means a person that directly or indirectly through  
16 one or more intermediaries controls, is controlled by, or is under common control with a  
17 holder of a Class 5 brewery license.

18 (b) There is a Class 5 brewery license.

19 (c) A license holder may:

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

22 (2) import beer from a holder of a nonresident dealer’s permit;

23 (3) contract to brew and bottle beer with and on behalf of the holder of a  
24 Class 2 rectifying license, Class 5 brewery license, Class 7 micro–brewery license, Class 8  
25 farm brewery license, or a nonresident dealer’s permit;

26 (4) sell and deliver beer to:

27 (i) a holder of a wholesaler’s license that is authorized to acquire  
28 beer; or

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

30 (5) [subject to subsection (i) of this section,] serve, at no charge, samples of  
31 beer, consisting of a total of not more than 18 ounces of beer per visit, to an individual who[

1 (i) has attained the legal drinking age; [and

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

4 (6) subject to subsections (d) and (i) of this section, sell beer for  
5 off-premises consumption at retail in a container other than a keg [to an individual  
6 participating in a guided tour of the brewery or attending a scheduled promotional event  
7 or other organized activity at the brewery; and];

8 **(7) CONDUCT A GUIDED TOUR OF THE BREWERY, PROMOTIONAL**  
9 **EVENT, OR OTHER ORGANIZED ACTIVITY AT THE BREWERY; AND**

10 [(7)] **(8)** subject to subsection (f) of this section, sell beer at the location  
11 described in the license for on-premises consumption.

12 (d) An individual may purchase beer under subsection (c)(6) of this section if the  
13 individual[:

14 (1) purchases not more than 288 ounces of beer per visit; and

15 (2)] has attained the legal drinking age.

16 (e) The annual license fee is \$1,500.

17 (f) (1) A local licensing board [may] **SHALL** grant an on-site consumption  
18 permit to an applicant that holds a Class 5 brewery license and, subject to paragraph [(6)]  
19 **(5)** of this subsection, a **CLASS B BEER LICENSE OR** Class D beer license.

20 (2) Subject to [the maximum volume limit under paragraph (4) of this  
21 subsection, a] **PARAGRAPH (3) OF THIS SUBSECTION, A CLASS B BEER LICENSE, A**  
22 **Class D beer license, or an equivalent license under paragraph [(6)] (5)** of this subsection  
23 entitles the holder to sell to an individual who has attained the legal drinking age, for  
24 on-premises consumption at the brewery:

25 (i) beer:

26 1. of which the holder of the Class 5 license is the brand  
27 owner; and

28 2. that is fermented and brewed entirely at the brewery of  
29 the license holder;

30 (ii) beer that is fermented and brewed [entirely] **IN PART** at the  
31 brewery under contract with a [brand owner who does not possess a Class 5 license; and]

1 **HOLDER OF A CLASS 5 BREWERY LICENSE OR CLASS 7 MICRO-BREWERY LICENSE;**

2 **(III) BEER THAT IS FERMENTED AND BREWED ENTIRELY AT THE**  
3 **BREWERY UNDER CONTRACT WITH A BRAND OWNER WHO DOES NOT POSSESS A**  
4 **CLASS 5 BREWERY LICENSE OR CLASS 7 MICRO-BREWERY LICENSE;**

5 **[(iii)] (IV)** subject to paragraph **[(3)] (4)** of this subsection, beer  
6 brewed at a location other than the Class 5 brewery if:

7 1. the brand owner of the beer is the holder of the Class 5  
8 license or an affiliate of the holder of the Class 5 license;

9 2. the number of barrels of the beer sold for on-premises  
10 consumption under the **CLASS B BEER LICENSE**, Class D beer license, or an equivalent  
11 license or an on-site consumption permit in a calendar year does not exceed [the greater  
12 of:

13 A. 25% of the total number of barrels of beer sold for  
14 on-premises consumption under the Class D license or an equivalent license or an on-site  
15 consumption permit in that calendar year; or

16 B.] 1.2% of total finished production under the Class 5  
17 brewery license; and

18 3. A. the license holder contracts with or on behalf of a  
19 holder of a manufacturer's license or nonresident dealer's permit; or

20 B. the beer is manufactured by an affiliate of the license  
21 holder.

22 **(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**  
23 **BEER MAY BE BREWED ENTIRELY OR IN PART AT A LOCATION OTHER THAN THE**  
24 **PREMISES FOR WHICH THE CLASS 5 BREWERY LICENSE IS ISSUED FOR UP TO 2**  
25 **YEARS AFTER ISSUANCE OF THE CLASS 5 BREWERY LICENSE.**

26 **(II) IF THE CLASS 5 BREWERY IS NOT FERMENTING AND**  
27 **BREWING AT LEAST 50 BARRELS OF BEER ANNUALLY AT THE BREWERY AFTER 2**  
28 **YEARS FOLLOWING THE ISSUANCE OF THE CLASS 5 BREWERY LICENSE, THE**  
29 **COMPTROLLER SHALL REVOKE THE LICENSE.**

30 **[(3)] (4)** (i) This paragraph applies to a Class 5 brewery with more  
31 than 1,000,000 barrels of finished production annually, alone or in combination with its  
32 affiliates.

33 (ii) Beer that is delivered to the Class 5 brewery in finished form

1 may be sold for on-premises consumption under paragraph [(2)(iii)2] **(2)(IV)2** of this  
2 subsection only if it is purchased from a licensed wholesaler.

3 [(4) Except as provided in paragraph (5) of this subsection, the total amount  
4 of beer sold each year for on-premises consumption under this subsection may not exceed  
5 2,000 barrels.

6 (5) (i) If, in a single year, the license holder reaches 80% of the volume  
7 authorized to be sold for on-premises consumption under paragraph (4) of this subsection,  
8 the license holder may file a request with the Comptroller for permission to sell up to an  
9 additional 1,000 barrels for on-premises consumption in that year.

10 (ii) The maximum volume that a license holder may sell for  
11 on-premises consumption in a single year is 3,000 barrels.

12 (iii) Any beer that the license holder sells for on-premises  
13 consumption in excess of the 2,000-barrel limit under paragraph (4) of this subsection shall  
14 be purchased from a licensed wholesaler.

15 **(6)] (5)** Before a local licensing board that does not issue a **CLASS B**  
16 **BEER LICENSE OR** Class D beer license may grant an on-site consumption permit, the  
17 local licensing board shall:

18 (i) establish an equivalent license; and

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

20 **[(7)] (6)** A local licensing board may charge a fee for granting an on-site  
21 consumption permit.

22 **[(8)] (7)** A local licensing board shall require the holder of an on-site  
23 consumption permit [or] **AND A CLASS B BEER LICENSE**, a Class D beer license, or an  
24 equivalent license under paragraph **[(6)] (5)** of this subsection to:

25 (i) comply with the alcohol awareness requirements under § 4-505  
26 of this article; and

27 (ii) abide by all applicable trade practice restrictions.

28 (g) (1) The Comptroller may issue a brewery promotional event permit to a  
29 holder of a Class 5 brewery license.

30 (2) Subject to subsection (i) of this section, the permit authorizes the holder  
31 to conduct on the premises of the brewery a promotional event at which the holder may,  
32 with respect to individuals who have attained the legal drinking age:

1 (i) provide samples consisting of a total of not more than 18 fluid  
2 ounces to a consumer; and

3 (ii) sell beer to individuals who participate in the event.

4 (3) [Subject to subsection (i) of this section, the] **THE** beer at the event  
5 shall be sold by the glass for on-premises consumption only.

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

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

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

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

12 [(h) (1) This subsection does not apply to:

13 (i) the holder of a Class 5 brewery license that held an on-site  
14 consumption permit and a Class D license or an equivalent license on or before April 1,  
15 2017;

16 (ii) an individual who held a minority interest in an on-site  
17 consumption permit and a Class D license or an equivalent license on or before April 1,  
18 2017, and then obtains by transfer a majority interest in the same license or permit;

19 (iii) a location in the State for which a completed brewer's notice form  
20 was filed with the U. S. Department of Treasury on or before April 1, 2017;

21 (iv) a promotional event conducted under subsection (g) of this  
22 section; and

23 (v) a guided tour during which:

24 1. samples of beer are served under subsection (c)(5) of this  
25 section; or

26 2. beer is sold for off-premises consumption under  
27 subsection (c)(6) of this section.

28 (2) This subsection applies to:

29 (i) a holder of a Class 5 brewery license who:

30 1. after April 1, 2017, obtains an on-site consumption permit

1 and a Class D beer license or equivalent license for on-premises consumption; or

2                                   2.     not holding a minority interest in an on-site consumption  
3 permit and a Class D license or an equivalent license on or before April 1, 2017, obtains a  
4 majority interest by transfer in an on-site consumption permit and a Class D license or an  
5 equivalent license; and

6                                   (ii) notwithstanding paragraph (1)(iii) of this subsection, a  
7 manufacturer of beer with more than 1,000,000 barrels of finished production annually  
8 alone or in combination with its affiliates.

9                                   (3) Notwithstanding any provision in Division II of this article, the sales  
10 and serving privileges of an on-site consumption permit and a Class D license or an  
11 equivalent license may be exercised only from 10 a.m. to 10 p.m. Monday through Sunday.]

12                                   **(H) THE HOURS OF SALE FOR ON-PREMISES CONSUMPTION AT A CLASS 5**  
13 **BREWERY ARE THOSE SET BY THE UNDERLYING CLASS B BEER LICENSE, CLASS D**  
14 **BEER LICENSE, OR EQUIVALENT LICENSE ISSUED BY A LOCAL LICENSING BOARD.**

15                                   (i) All beer offered, served, or sold to a consumer under subsection (c)(5) or (6) or  
16 (g) of this section shall be:

17                                   (1) fermented and brewed entirely at the Class 5 brewery; or

18                                   (2) beer of which the license holder or an affiliate of the license holder is  
19 the brand owner.

20                                   (j) (1) (i) The Comptroller may issue a refillable container permit for draft  
21 beer under § 4-1104 or Subtitle 11 of the various titles in Division II of this article to a  
22 holder of a Class 5 brewery license:

23                                   1. on completion of an application form that the Comptroller  
24 provides; and

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

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

28                                   (2) The hours of sale for a refillable container permit issued under this  
29 subsection are the same as the hours when a guided tour, a promotional event, or other  
30 organized activity at the licensed premises authorized under subsection (c) of this section  
31 may be conducted.

32                                   **[(k) (1) On or before October 1 each year, the Comptroller shall report to the**  
33 **Senate Education, Health, and Environmental Affairs Committee and the House Economic**

1 Matters Committee, in accordance with § 2–1246 of the State Government Article, on the  
2 following, identified by jurisdiction and Class 5 license holder:

3 (i) the total beer production of the license holder in the preceding  
4 fiscal year;

5 (ii) the total sales of the license holder for on–site consumption  
6 under an on–site consumption permit, a Class D beer license, or an equivalent license in  
7 the preceding fiscal year;

8 (iii) whether the license holder has requested permission to sell  
9 additional beer under subsection (f)(5)(i) of this section, and whether the Comptroller  
10 granted that permission, for the preceding fiscal year; and

11 (iv) the total sales of the license holder of additional beer under  
12 subsection (f)(5)(i) of this section in the preceding fiscal year.

13 (2) Each holder of a Class 5 license shall report to the Comptroller the  
14 information needed to prepare the annual report under this subsection.

15 (3) The Comptroller may include the information reported under this  
16 subsection in the annual report submitted under § 1–306 of this article.]

17 2–208.

18 (a) There is a Class 6 pub–brewery license.

19 (b) (1) The license may be issued only to the holder of a Class B beer, wine,  
20 and liquor (on–sale) license that is issued for use on the premises of a restaurant.

21 (2) The pub–brewery shall be located immediately adjacent to the  
22 restaurant where the malt beverage is to be sold to the public.

23 (c) A license holder:

24 (1) may brew malt beverages at a single location for consumption on the  
25 restaurant premises; but

26 (2) may not brew more than 2,000 barrels of malt beverage each calendar  
27 year.

28 (d) (1) A license holder may sell at retail malt beverages for off–premises  
29 consumption in a sealed refillable container.

30 (2) The container:

31 (i) may be returned for refilling; and



1 (ii) shall be sealed by the license holder when refilled.

2 (3) A license holder may not sell malt beverages to a retail dealer in the  
3 State for subsequent sale or distribution of the malt beverage under the retail license.

4 (e) Except for a license transferred to a new location, the license may be  
5 transferred under Title 4, Subtitle 3 of this article if an application for transfer is filed at  
6 the same time with the local licensing board and the Comptroller.

7 (f) If the Class B beer, wine, and liquor (on-sale) license of the holder is  
8 suspended, the Class 6 pub-brewery license shall be suspended for the same period.

9 (g) The license is void if:

10 (1) the restaurant described in subsection (b)(1) of this section ceases to be  
11 operated as a restaurant; or

12 (2) the Class B beer, wine, and liquor (on-sale) license of the license holder  
13 is revoked or transferred to a different location.

14 (h) The annual license fee is \$500.

15 (I) (1) **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A**  
16 **CLASS 6 PUB-BREWERY LICENSE MAY NOT BE ISSUED ON OR AFTER OCTOBER 1,**  
17 **2018.**

18 (2) **A HOLDER OF A CLASS 6 PUB-BREWERY LICENSE ISSUED BEFORE**  
19 **OCTOBER 1, 2018, MAY RENEW THE LICENSE AFTER THAT DATE.**

20 2-209.

21 (a) There is a Class 7 micro-brewery license.

22 (b) Except as provided in Division II of this article, the license may be issued only  
23 to the holder of a Class B beer, wine, and liquor (on-sale) license that is issued for use on  
24 the premises of a restaurant.

25 (c) A license holder may:

26 (1) brew and bottle malt beverages at the location described in the license;

27 (2) obtain a Class 2 rectifying license for a premises located within 1 mile  
28 of the existing Class 7 micro-brewery location to bottle malt beverages brewed at the  
29 micro-brewery location only;

1 (3) contract to brew and bottle malt beverages with and on behalf of the  
2 holder of a Class 2 rectifying license, Class 5 brewery license, Class 7 micro-brewery  
3 license, Class 8 farm brewery license, or a nonresident dealer's permit;

4 (4) store the finished product under an individual storage permit or at a  
5 licensed public storage facility for subsequent sale and delivery:

6 (i) to a holder of a wholesaler's license;

7 (ii) to an authorized person outside the State; or

8 (iii) for shipment back to the micro-brewery location for sale on the  
9 retail premises; and

10 (5) enter into a temporary delivery agreement with a distributor only for  
11 delivery of beer to a beer festival or a wine and beer festival, and the return of any unused  
12 beer, if:

13 (i) the festival is in a sales territory for which the license holder does  
14 not have a franchise with a distributor under the Beer Franchise Fair Dealing Act in Title  
15 5, Subtitle 1 of this article; and

16 (ii) the temporary delivery agreement is in writing.

17 [(d) (1) Subject to paragraph (2) of this subsection, a license holder may not  
18 collectively brew, bottle, or contract for more than 22,500 barrels of malt beverages each  
19 calendar year.

20 (2) (i) In determining the barrelage limitation under paragraph (1) of  
21 this subsection, any salable beer produced under a contractual arrangement accrues only  
22 to the license holder that owns the brand.

23 (ii) A license holder that wishes to produce more than the barrelage  
24 authorized under paragraph (1) of this subsection shall:

25 1. divest itself of any retail license; and

26 2. obtain a Class 5 brewery license.

27 (3) A license holder that has licenses for two locations may not collectively  
28 brew, bottle, or contract for more than 22,500 barrels of malt beverages in aggregate from  
29 both of its locations each calendar year.]

30 [(e)] (D) A license holder:

31 (1) may not own, operate, or be affiliated with another manufacturer of  
32 beer except for a Class 2 rectifying license authorized under subsection (c)(2) of this section;

1 and

2 (2) may not be granted a wholesaler's license.

3 [(f)] (E) (1) The on-sale privilege authorizes the license holder[, each  
4 calendar year,] to sell at retail for on-premises consumption[:

5 (i) up to 4,000 barrels of] beer brewed under the license[: or

6 (ii) if the license holder has licenses for two locations, beer that:

7 1. totals annually up to 4,000 barrels in aggregate from both  
8 its locations; and

9 2. has been brewed at the location where it is sold].

10 (2) A license holder may sell and deliver beer brewed under the license to:

11 (i) a holder of a wholesaler's license; or

12 (ii) a person outside the State that is authorized to acquire beer.

13 [(g)] (F) The hours and days for retail sales under the license are those  
14 established for a Class B license or for a holder of a Class B beer, wine, and liquor license.

15 [(h)] (G) A license holder may sell at retail beer brewed under the license for  
16 off-premises consumption:

17 (1) in a sealed refillable container that:

18 (i) may be returned for refilling; and

19 (ii) shall be sealed by the license holder when refilled; and

20 (2) as prepackaged beer in a nonrefillable container.

21 [(i)] (H) The annual license fee is \$500.

22 2-210.

23 (a) There is a Class 8 farm brewery license.

24 (c) A license holder may:

25 (3) brew, bottle, or contract for [not more than 15,000] AN UNLIMITED  
26 NUMBER OF barrels of beer each calendar year;

1 2–308.

2 (a) There is a Class 7 limited beer wholesaler’s license.

3 (b) The license may be issued only to a person that:

4 (1) holds a Class 5 manufacturer’s license, a Class 7 micro–brewery license,  
5 or a Class 8 farm brewery license; and

6 (2) produces in the aggregate from all of its locations not more than  
7 [22,500] **300,000** barrels of beer annually.

8 (c) The license authorizes the license holder to:

9 (1) sell and deliver its own beer produced at the license holder’s premises  
10 to:

11 (i) a holder of a retail license that is authorized to acquire beer from  
12 a wholesaler; and

13 (ii) a holder of a permit that is authorized to acquire beer from a  
14 wholesaler; and

15 (2) distribute not more than [3,000] **300,000** barrels of its own beer  
16 annually.

17 (d) The annual license fee is \$50.

18 (e) The license holder may use an additional location for the warehousing, sale,  
19 and delivery of beer:

20 (1) if approved by the Comptroller following submission of a separate  
21 application for each location; and

22 (2) on the payment of a \$50 fee for each additional location.

23 5–102.

24 **(A) THIS SUBTITLE DOES NOT APPLY TO A LICENSED MANUFACTURER THAT**  
25 **IN CONJUNCTION WITH AN AFFILIATE PRODUCES IN AGGREGATE NOT MORE THAN**  
26 **300,000 BARRELS OF BEER ANNUALLY.**

27 **(B)** This subtitle applies to corporations, partnerships, trusts, agencies, and other  
28 entities and to persons who are officers, directors, and other individuals in active control of  
29 the activities of a corporation, a partnership, a trust, an agency, or any other entity.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
2 1, 2018.