

# HOUSE BILL 1369

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CF SB 867

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By: **Delegate Luedtke**

Introduced and read first time: February 9, 2018

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages – Breweries – Limits on Production and On-Premises Sales**

3 FOR the purpose of repealing the limit on the total amount of malt beverages that a holder  
4 of a Class 7 micro-brewery license may brew, bottle, or contract for each year;  
5 altering the maximum number of barrels of beer brewed under a Class 7  
6 micro-brewery license that the license holder may sell at retail for on-premises  
7 consumption each year; establishing that certain limits on the maximum amount of  
8 beer that may be sold each year for on-premises consumption under a Class 7  
9 micro-brewery license apply for each licensed location under certain circumstances;  
10 establishing the maximum number of barrels of beer that a holder of a Class 8 farm  
11 brewery license may sell for on-premises consumption each year; repealing the limit  
12 on the total amount of beer a holder of a Class 8 farm brewery license may brew,  
13 bottle, or contract for each year; making conforming changes; and generally relating  
14 to limits on production and on-premises sales of beer by holders of brewery licenses.

15 BY repealing and reenacting, with amendments,

16 Article – Alcoholic Beverages  
17 Section 2-209 and 2-210(c)  
18 Annotated Code of Maryland  
19 (2016 Volume and 2017 Supplement)

20 BY repealing and reenacting, without amendments,

21 Article – Alcoholic Beverages  
22 Section 2-210(a)  
23 Annotated Code of Maryland  
24 (2016 Volume and 2017 Supplement)

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

27 **Article – Alcoholic Beverages**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 2-209.

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

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

6 (c) A license holder may:

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

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

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

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

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

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

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

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

23 (i) the festival is in a sales territory for which the license holder does  
24 not have a franchise with a distributor under the Beer Franchise Fair Dealing Act in Title  
25 5, Subtitle 1 of this article; and

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

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

30 (2) (i) In determining the barreage limitation under paragraph (1) of  
31 this subsection, any salable beer produced under a contractual arrangement accrues only

1 to the license holder that owns the brand.

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

4 1. divest itself of any retail license; and

5 2. obtain a Class 5 brewery license.

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

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

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

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

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

16 (i) up to [4,000] **25,000** barrels of beer brewed under the license; or

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

18 1. totals annually] up to [4,000] **25,000** barrels [in  
19 aggregate from both its locations; and

20 **2.] OF BEER FROM EACH LOCATION THAT** has been brewed  
21 at the location where it is sold.

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

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

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

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

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

- 1 (1) in a sealed refillable container that:
- 2 (i) may be returned for refilling; and
- 3 (ii) shall be sealed by the license holder when refilled; and
- 4 (2) as prepackaged beer in a nonrefillable container.

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

6 2–210.

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

8 (c) A license holder may:

9 (1) (i) sell **UP TO 25,000 BARRELS OF** beer produced by the license  
10 holder for on–premises consumption **EACH CALENDAR YEAR**;

11 (ii) in an amount not exceeding 6 fluid ounces per brand, provide  
12 samples of beer that the license holder produces to a consumer:

13 1. at no charge; or

14 2. for a fee;

15 (iii) sell or serve:

16 1. bread and other baked goods;

17 2. chili;

18 3. chocolate;

19 4. crackers;

20 5. cured meat;

21 6. fruits (whole and cut);

22 7. hard and soft cheese (whole and cut);

23 8. salads and vegetables (whole and cut);

24 9. ice cream;

25 10. jam;

- 1                                    11.    jelly;
- 2                                    12.    vinegar;
- 3                                    13.    pizza;
- 4                                    14.    prepackaged sandwiches and other prepackaged foods  
5 ready to be eaten;
- 6                                    15.    soup; and
- 7                                    16.    condiments; and

8                                    (iv)    subject to subsection (e)(2) of this section, sell or serve any food  
9 if the license holder is licensed to operate a food establishment under Title 21, Subtitle 3 of  
10 the Health – General Article;

11                                    (2)    store on its licensed farm, in a segregated area approved by the  
12 Comptroller, beer produced at the licensed farm for sale and delivery to a wholesaler  
13 licensed in the State or a person outside the State authorized to acquire the beer;

14                                    [(3)    brew, bottle, or contract for not more than 15,000 barrels of beer each  
15 calendar year;]

16                                    [(4)] (3)    contract with the holder of a Class 2 rectifying license, a Class 5  
17 brewery license, or a Class 7 micro–brewery license to brew and bottle beer from  
18 ingredients produced on the licensed farm;

19                                    [(5)] (4)    import, export, and transport its beer in accordance with this  
20 section;

21                                    [(6)] (5)    store beer at a warehouse for which the license holder has been  
22 issued an individual storage permit, for sale and delivery to a wholesaler licensed in the  
23 State or a person outside the State authorized to acquire the beer, or shipment back to the  
24 licensed farm, if:

25                                    (i)    the license holder does not serve or sell beer at the warehouse;  
26 and

27                                    (ii)    the Comptroller has full access at all times to the warehouse to  
28 enforce this article; and

29                                    [(7)] (6)    enter into a temporary delivery agreement with a distributor  
30 only for delivery of beer to a beer festival or a wine and beer festival, and the return of any  
31 unused beer, if:

1                   (i)     the festival is in a sales territory for which the license holder does  
2 not have a franchise with a distributor under the Beer Franchise Fair Dealing Act in Title  
3 5, Subtitle 1 of this article; and

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

5           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
6 1, 2018.