



ATCC

Alcohol, Tobacco, and Cannabis Commission

Wes Moore
Governor

Aruna K. Miller
Lt. Governor

Jeffrey A. Kelly
Executive Director

February 23, 2024

BILL: SB338 – Somerset County - Alcoholic Beverages - Class C Veterans' Organization or Club License
COMMITTEE: Finance Committee
POSITION: Unfavorable Report

Hon. Pamela Beidle, Chair and Members of the Finance Committee

I write on behalf of the Alcohol, Tobacco, and Cannabis Commission (ATCC) to request the Finance Committee to issue **an unfavorable report on SB338 – Somerset County - Alcoholic Beverages - Class C Veterans' Organization or Club License.**

SB338 seeks to allow a Class C (Veterans Organization or Club) beer, wine, and liquor retail license holder to purchase alcoholic beverages from another retail dealer for resale at their premises.

State law requires that a permanent retail license holder may only purchase alcoholic beverages for sale from a licensed wholesaler.¹ Passage of SB338 would set a new precedent by allowing a permanent retail license holder to purchase alcoholic beverages from another retailer, which would be in direct conflict with Maryland's three-tier system of regulation. Only temporary or "per diem" alcoholic beverage license holders are exempted from this rule, which exist only for the duration of a special event.²

Maryland operates under a three-tier alcoholic beverage distribution system that promotes public safety and health, responsible sales and consumption, efficient tax collection, and a competitive market environment. This system separates alcohol production, wholesale distribution, and retail sales into distinct operations to prevent excessive vertical integration and monopolization within the alcoholic beverage industry. This system also limits financial interests *between* licensees in the same tier to protect the competitive market.³ Federal Circuit Courts have consistently upheld the "unquestionable legitimacy" of the States that operate a three-tier system of alcohol regulation like Maryland to ensure consumers have access to safe products.⁴

¹ Alc. Bev. Can. 6-311(b)(1)

² Alc. Bev. Can. 6-311(b)(2)

³ See e.g. Alc. Bev. Can. 4-109(a)(16)-(20)

⁴ See *Sarasota Wine Mkt., LLC v. Schmitt*, 987 F.3d 1171 (2021), *Lebamoff Enters. v. Whitmer*, 956 F.3d 863 (2020), or *B-21 Wines, Inc. v. Bauer*, 36 F.4th 214 (2022).

While the ATCC understands that the intent behind SB338 is to make it easier for Class C (Veterans Organization or Club) beer, wine, and liquor retail license holders in Somerset County to purchase small amounts of product for sale at their location and address the dissolution of the County dispensary system in 2023. However, passage of SB338 may pose challenges to monitoring the distribution of legitimate products throughout the three-tier system, at risk to the Maryland consumer.

To that end, the ATCC will work with the Class C (Veterans Organization or Club) beer, wine, and liquor license holders in Somerset County and licensed wholesalers in the State to resolve the issues concerning product amount and availability. Working together to resolve issues between the tiers within Maryland's regulated system to ensure the orderly distribution of alcoholic beverages is not new to the ATCC.


During the 2022 Legislative Session, the Washington County Delegation introduced HB1117 that included language which would have allowed Class B, Class C, and Class D licensees to obtain a local permit to purchase alcoholic beverages from another retailer, to address limited product amounts and availability from licensed wholesalers. Ultimately, the Economic Matters Committee rejected the idea of a "retailer permit," which would have undermined the three-tier system.

However, after the hearing on HB1117 the ATCC pledged to work with Washington County retailers, the Washington County Board of Liquor License Commissioners, and licensed wholesalers to address the issue. Soon after the 2022 Legislative Session, the licensed wholesalers held a town hall meeting in Washington County and directly addressed the questions and concerns of the local retailers. As a result, the product amount and availability issues were resolved. The ATCC believes that a similar collaborative effort with all stakeholders at the table will resolve the issues raised in SB338.

Accordingly, the ATCC requests the Finance Committee to issue an **unfavorable report to SB338 – Somerset County - Alcoholic Beverages - Class C Veterans' Organization or Club License.**

I look forward to answering any questions or concerns that you have regarding this matter.

Sincerely,

A handwritten signature in black ink that reads "JA Kelly". The signature is written in a cursive, flowing style.

Jeffrey A. Kelly
Executive Director