

UNOFFICIAL COPY OF HOUSE BILL 1122
EMERGENCY BILL

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6lr2665
CF 6lr2541

By: **Delegates V. Clagett, Aumann, Bartlett, Barve, Bates, Bobo, Bohanan, Boschert, Boteler, Bozman, Bromwell, Bronrott, ~~Burns~~, Cadden, Cane, Cardin, G. Clagett, Cluster, Conway, Costa, Cryor, Donoghue, Dumais, Eckardt, Edwards, Elliott, Elmore, Franchot, Frank, Frush, Glassman, Gutierrez, Haddaway, Hogan, Holmes, Hubbard, Impallaria, James, Jameson, Jennings, Kach, Kelley, Kelly, King, Kohl, Kullen, Lawton, Madaleno, Mandel, Marriott, Mayer, McComas, McConkey, McIntosh, McKee, Miller, Montgomery, Nathan-Pulliam, Niemann, O'Donnell, Parrott, Patterson, Petzold, Pugh, Ramirez, Rosenberg, Rudolph, Shank, Shewell, Simmons, Smigiel, Sophocleus, Sossi, Stocksdale, Stull, Trueschler, Walkup, Weldon, ~~and Zirkin~~ Zirkin, Feldman, Krebs, Krysiak, Love, McHale, Moe, Taylor, Vaughn, and Wood**

Introduced and read first time: February 10, 2006

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 5, 2006

CHAPTER _____

1 AN ACT concerning

2 **Alcoholic Beverages - Limited Wine Wholesaler's License and Nonresident**
3 **Winery Permit**

4 FOR the purpose of creating a Class 6 limited wine wholesaler's license and a
5 nonresident winery permit; providing for a certain permit fee; authorizing the
6 Office of the Comptroller to issue a nonresident winery permit to a person that
7 meets certain requirements; authorizing the holder of a nonresident winery
8 permit to sell and deliver its own wine from a location outside of the State to
9 certain persons; requiring a nonresident winery permit holder to comply with
10 certain requirements and regulations; authorizing the holder of a certain
11 manufacturer's license to apply for and obtain a wholesaler's license; ~~repealing~~
12 the authority of holders of certain licenses to sell and deliver wine to certain
13 persons; providing for an annual license fee; authorizing holders of limited wine
14 wholesaler's licenses to use additional locations for warehousing, sale, and
15 delivery of wine under certain circumstances; establishing certain requirements
16 for applicants for a limited wine wholesaler's license; authorizing a holder of a
17 limited wine wholesaler's license to sell and deliver its own brand of wine to

1 certain persons under certain conditions; ~~prohibiting a holder of a limited wine~~
 2 ~~wholesaler's license to transfer alcoholic beverages to certain persons; specifying~~
 3 ~~the way a Class 6 limited wine wholesale licensee may distribute its product to~~
 4 ~~retailers; exempting a nonresident winery permit holder from a certain~~
 5 ~~requirement; providing that certain provisions of law do not prevent a holder of~~
 6 ~~certain licenses from holding a certain additional license; requiring a wine~~
 7 ~~manufacturer that holds a certain license and sells wine under certain~~
 8 ~~circumstances to pay the alcoholic beverage tax on that wine; exempting a~~
 9 ~~holder of a limited wine wholesaler's license certain licenses from certain~~
 10 ~~requirements and restrictions; prohibiting a nonresident winery permit holder~~
 11 ~~from taking certain actions; authorizing the Comptroller to regulate certain~~
 12 ~~discounts that may be allowed by a nonresident winery permit holder; requiring~~
 13 ~~a nonresident winery permit holder to meet certain filing requirements;~~
 14 ~~providing that this Act does not authorize the Comptroller to fix certain prices or~~
 15 ~~require a nonresident winery permit holder to take certain action; requiring a~~
 16 ~~nonresident winery permit holder to pay a certain tax; requiring the~~
 17 ~~Comptroller to require a nonresident winery permit holder to post certain~~
 18 ~~security for a certain tax; altering a certain definition; making technical~~
 19 ~~changes; making this Act an emergency measure; and generally relating to wine~~
 20 manufacturers, wholesalers, and retailers.

21 BY renumbering

22 Article - Tax - General
 23 Section 5-301(c), (d), and (e), respectively
 24 to be Section 5-301(d), (e), and (f), respectively
 25 Annotated Code of Maryland
 26 (2004 Replacement Volume and 2005 Supplement)

27 BY repealing and reenacting, without amendments,

28 Article 2B - Alcoholic Beverages
 29 Section 1-102(a)(1) and 12-104(b) and (e)
 30 Annotated Code of Maryland
 31 (2005 Replacement Volume)

32 BY repealing and reenacting, with amendments,

33 Article 2B - Alcoholic Beverages
 34 Section 1-102(a)(27), ~~2-101(b)(1)(i)~~, 2-201, 2-204, 2-205(b)(3), 2-301(a) ~~and,~~
 35 (b), ~~and (f)~~, 2-401, ~~12-102(a) and (b)~~, 12-103(b), (c), ~~and (e)~~, and
 36 12-104~~(e)~~(f)
 37 Annotated Code of Maryland
 38 (2005 Replacement Volume)

39 BY adding to

40 Article 2B - Alcoholic Beverages
 41 Section 2-101(v) and 12-104(f)
 42 Annotated Code of Maryland

1 (2005 Replacement Volume)

2 BY adding to

3 Article - Tax - General

4 Section 5-301(c)

5 Annotated Code of Maryland

6 (2004 Replacement Volume and 2005 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article - Tax - General

9 Section 13-825(b)(1)

10 Annotated Code of Maryland

11 (2004 Replacement Volume and 2005 Supplement)

12 Preamble

13 WHEREAS, The United States Supreme Court, in Granholm v. Heald, 125 S.Ct.

14 1885 (2005) stated that differential treatment between in-State and out-of-State

15 wineries constitutes explicit discrimination against interstate commerce; and

16 WHEREAS, In the Granholm opinion the Supreme Court stated that many

17 small wineries do not produce enough wine or have sufficient consumer demand for

18 their wine to make it economical for wholesalers to carry their products; and

19 WHEREAS, Since 1951, Maryland wineries have been allowed to deliver their

20 products to restaurants, retailers, and permit holders throughout the State of

21 Maryland; and

22 WHEREAS, Maryland is interested in preventing deceptive, destructive, and

23 unethical business practices by controlling the sale and distribution of alcoholic

24 beverages; and

25 WHEREAS, By regulating and controlling alcoholic beverages in accordance

26 with the three-tier system for sales and distribution, Maryland has been able to

27 protect the health, welfare, and safety of its citizens; and

28 WHEREAS, The Supreme Court in the Granholm opinion reaffirmed that the

29 three-tier system is legitimate; and

30 WHEREAS, The Comptroller of Maryland on February 1, 2006, issued an

31 Administrative Release that suspended the ability of Maryland's Class 4 limited

32 wineries to sell and deliver their product directly to Maryland restaurants, retailers,

33 and permit holders under Article 2B, § 2-205 of the Code; and

34 WHEREAS, Maryland currently has twenty-two licensed wineries that produce

35 and distribute wine; and

1 WHEREAS, Only four Maryland wineries use services of a wholesaler to
2 distribute their product; and

3 WHEREAS, Eighteen Maryland wineries sell a combined amount of more than
4 60,000 gallons of wine annually and distribute their wine themselves to restaurants,
5 retailers, and permit holders; and

6 WHEREAS, Maryland has taken substantial steps in the past years to promote
7 the growth of Maryland wineries, including the appropriation of \$100,000 in the fiscal
8 year 2006 budget to create a fund for grants to expand Maryland wineries; and

9 WHEREAS, The General Assembly has declared, as a matter of State policy,
10 that former tobacco farms be converted to vineyards to provide a new value-added
11 agricultural product; and

12 WHEREAS, The General Assembly has a history of promoting value-added
13 agricultural products as a method of preserving agricultural land in Maryland; and

14 WHEREAS, The Governor's Advisory Commission on Wine Making and Grape
15 Growing stated that every \$3 invested in Maryland wineries results in \$1 earned in
16 tourist trade to those wineries; and

17 WHEREAS, It is the intent of the General Assembly to provide both in-State
18 and out-of-State small wineries with market opportunities and equal access to
19 Maryland retailers; and

20 WHEREAS, It is the intent of the General Assembly to maintain its general
21 reliance on the three-tier system to uniformly regulate the sale and distribution of
22 alcoholic beverages; and

23 WHEREAS, The General Assembly, based on its deliberations, finds that all
24 wineries in the State and out of the State that produce less than 27,500 gallons
25 annually require special recognition within the three-tier system in order to grow
26 and maintain financial viability; now, therefore,

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That Section(s) 5-301(c), (d), and (e), respectively, of Article - Tax -
29 General of the Annotated Code of Maryland be renumbered to be Section(s) 5-301(d),
30 (e), and (f), respectively.

31 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
32 read as follows:

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

Article 2B - Alcoholic Beverages

1-102.

(a) (1) In this article the following words have the meanings indicated.

(27) (I) "Wholesaler" means:

1. [a] A person who purchases or imports any alcoholic beverage for sale to wholesale or retail dealers only[, and includes a county liquor control board and a county wholesale dispensary]; OR

2. A LIMITED WINERY THAT SELLS WINE TO RETAIL DEALERS.

(II) "WHOLESALER" INCLUDES A COUNTY LIQUOR CONTROL BOARD AND A COUNTY WHOLESALE DISPENSARY.

2-101.

(b) (1) (i) The Office of the Comptroller shall collect a fee for the issuance or renewal of the following permits:

1. \$50 for a solicitor's permit, an individual storage permit, A NONRESIDENT WINERY PERMIT, or a commercial nonbeverage permit;

2. \$75 for a public storage permit, a public transportation permit, or an import and export permit;

3. \$100 for a public storage and transportation permit, a nonresident dealer permit, or a bulk transfer permit;

4. \$400 for a family beer and wine facility permit; and

5. \$10 for a direct wine seller's permit.

(V) (1) THE OFFICE OF THE COMPTROLLER MAY ISSUE A NONRESIDENT WINERY PERMIT TO A PERSON THAT:

(I) IS LICENSED OUTSIDE OF THE STATE TO ENGAGE IN THE MANUFACTURE OF WINE;

(II) PRODUCES NOT MORE THAN 27,500 GALLONS OF ITS OWN WINE ANNUALLY; AND

(III) DOES NOT HOLD A NONRESIDENT DEALER'S PERMIT.

(2) A HOLDER OF A NONRESIDENT WINERY PERMIT MAY SELL AND DELIVER ITS OWN WINE FROM A LOCATION OUTSIDE OF THE STATE TO A RETAIL LICENSEE OR PERMIT HOLDER IN THE STATE AUTHORIZED TO ACQUIRE THE WINE.

1 (3) A NONRESIDENT WINERY PERMIT HOLDER SHALL COMPLY WITH ALL
 2 OF THE REQUIREMENTS OF THIS ARTICLE, THE TAX - GENERAL ARTICLE, AND THE
 3 REGULATIONS OF THE OFFICE OF THE COMPTROLLER THAT APPLY TO A HOLDER OF
 4 A CLASS 6 LIMITED WINE WHOLESALER'S LICENSE.

5 2-201.

6 (a) The annual fees for manufacturer's licenses are as follows:

7 Class 1	Distillery	\$ 2,000
8 Class 2	Rectifying	600
9 Class 3	Winery	750
10 Class 4	Limited Winery	200
11 Class 5	Brewery	1,500
12 Class 6	Pub-Brewery	500
13 Class 7	Micro-Brewery	500

14 (b) (1) Except for a Class 6 pub-brewery license, the holder of a distillery,
 15 rectifying, winery or brewery license may apply for and obtain, under a different
 16 name, one or more additional distillery, rectifying, winery or brewery licenses for the
 17 same or another premises. Those licenses may be issued to different persons or under
 18 trade names used by persons occupying a part of or all of the same premises.

19 (2) (I) The holder of a rectifying, winery, ~~LIMITED WINERY~~, or brewery
 20 license may apply for and obtain a wholesaler's license of any class for the same
 21 premises or elsewhere as provided under this article.

22 (II) THE HOLDER OF A LIMITED WINERY LICENSE MAY APPLY FOR
 23 AND OBTAIN A CLASS 6 LIMITED WINE WHOLESALER'S LICENSE FOR THE SAME
 24 PREMISES OR ELSEWHERE AS PROVIDED UNDER THIS ARTICLE.

25 2-204.

26 A Class 3 manufacturer's license:

27 (1) Is a winery license; and

28 (2) Authorizes the holder to:

29 (i) Establish and operate in this State a plant for fermenting and
 30 bottling wine at the location described in the license;

31 (ii) Import bulk wine from the holder of a nonresident dealer's
 32 permit;

33 {(iii) Sell and deliver wine to any wholesale licensee or permit holder
 34 in this State, or person outside of this State authorized to acquire wine;}

35 {(iv)} ~~(HH)~~ Sell wine made from products grown in Maryland at a
 36 retail price at the plant to persons participating in a guided tour of the facility. The

1 purchase shall be limited to not more than one quart per person per year provided the
2 purchaser has attained the Maryland legal drinking age; and

3 ~~{(v)}~~ ~~(IV)~~ Serve at no charge not more than 6 ounces of wines made
4 at the licensed facility to a person who is participating in a guided tour of the facility,
5 provided the person has attained the Maryland legal drinking age.

6 2-205.

7 (b) A Class 4 manufacturer's license:

8 (3) Permits the license holder to:

9 ~~{(i)}~~ Sell and deliver this wine and pomace brandy to any
10 WHOLESALE licensee or permit holder in this State, or person outside of this State,
11 authorized to acquire it;}

12 ~~{(ii)}~~ ~~(II)~~ Sell this wine and pomace brandy made at the plant to
13 persons participating in a guided tour of the facility. The purchase is limited to one
14 quart of each brand per person per year. Any person who has attained the Maryland
15 legal drinking age may purchase the wine. The licensee may operate only in one
16 location in the State;

17 ~~{(iii)}~~ ~~(II)~~ Serve at no charge not more than 6 ounces of wine and
18 pomace brandy made at the licensed facility to a person who is participating in a
19 guided tour of the facility, provided the person has attained the Maryland legal
20 drinking age;

21 ~~{(iv)}~~ ~~(III)~~ Sell by the glass wine and pomace brandy produced by
22 the licensee to persons participating in a guided tour of the facility or attending a
23 scheduled promotional event or other organized activity at the licensed premises; and

24 ~~{(v)}~~ ~~(IV)~~ Store on its licensed premises, in a segregated area
25 approved by the Comptroller, the product of other Class 4 limited wineries to be used
26 at bona fide Maryland Winery Association promotional activities, provided records
27 are maintained and reports filed as may be required by the Comptroller; and

28 2-301.

29 (a) (1) The annual fees for the following classes of wholesaler's licenses are:

30 Class 1	Beer, wine and liquor	\$2,000
31 Class 2	Wine and liquor	1,750
32 Class 3	Beer and wine	1,500
33 Class 4	Beer	1,250
34 Class 5	Wine	1,250
35 CLASS 6	LIMITED WINE	50

36 (2) Upon approval of the application:

1 (i) A Class 1 wholesale licensee may use additional locations for
2 the warehousing, sale and delivery of beer, wine and liquor upon the payment of an
3 additional fee of \$2,000 for each additional location.

4 (ii) A Class 2 wholesale licensee may use additional locations for
5 the warehousing, sale and delivery of wine and liquor upon the payment of an
6 additional fee of \$1,750 for each additional location.

7 (iii) A Class 3 wholesale licensee may use additional locations for
8 the warehousing, sale and delivery of beer and wine upon the payment of an
9 additional fee of \$1,500 for each additional location.

10 (iv) A Class 4 wholesale licensee may use additional locations for
11 the warehousing, sale and delivery of beer upon the payment of an additional fee of
12 \$1,250 for each additional location.

13 (v) A Class 5 wholesale licensee may use additional locations for
14 the warehousing, sale and delivery of wine upon the payment of an additional fee of
15 \$1,250 for each additional location.

16 (VI) A CLASS 6 LIMITED WINE WHOLESALER LICENSEE MAY USE
17 ADDITIONAL LOCATIONS FOR THE WAREHOUSING, SALE AND DELIVERY OF WINE
18 UPON THE PAYMENT OF AN ADDITIONAL FEE OF \$50 FOR EACH ADDITIONAL
19 LOCATION.

20 (b) (1) [A] EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A
21 wholesaler's license issued in accordance with the fee paid entitles the holder to
22 acquire the alcoholic beverages indicated on the license from licensees and holders of
23 nonresident dealer's permits authorized by this State to make the sales and
24 deliveries. The license authorizes the sale and delivery of those alcoholic beverages
25 from the licensed premises to licensees and permit holders in Maryland and to
26 persons outside of this State.

27 (2) A CLASS 6 ~~WHOLESALE~~ LIMITED WINE WHOLESALER'S LICENSE
28 SHALL BE ISSUED ONLY TO A WINE MANUFACTURERS: MANUFACTURER THAT:

29 ~~(I) THAT ARE SMALL DOMESTIC PRODUCERS, AS DEFINED IN~~
30 ~~TITLE 26, § 5041(C)(1) OF THE INTERNAL REVENUE CODE; AND~~

31 ~~(II) THAT HOLD A LICENSE ISSUED UNDER THIS ARTICLE OR BY~~
32 ~~ANOTHER STATE TO MANUFACTURE WINE.~~

33 (I) PRODUCES NOT MORE THAN 27,500 GALLONS OF ITS OWN WINE
34 ANNUALLY; AND

35 (II) HOLDS A CLASS 4 LIMITED WINERY MANUFACTURER'S LICENSE
36 ISSUED UNDER THIS ARTICLE.

37 ~~(3) A CLASS 6 WHOLESALER LICENSEE, ON APPROVAL OF THE~~
38 ~~APPLICATION AND PAYMENT OF THE FEE, MAY SELL AND DELIVER ITS OWN BRAND~~

1 ~~OF WINE PRODUCED AT THE HOLDER'S PREMISES TO A LICENSEE OR PERMIT~~
 2 ~~HOLDER IN THE STATE AUTHORIZED TO ACQUIRE THE WINE.~~

3 (4) ~~A CLASS 6 WHOLESALE LICENSEE MAY NOT TRANSFER ALCOHOLIC~~
 4 ~~BEVERAGES TO A THIRD PARTY FOR DELIVERY TO ANOTHER LICENSEE, PERMIT~~
 5 ~~HOLDER, OR CONSUMER.~~

6 (3) A PERSON WHO HOLDS A CLASS 6 LIMITED WINE WHOLESALER'S
 7 LICENSE, ON APPROVAL OF THE APPLICATION AND PAYMENT OF THE FEE:

8 (I) MAY SELL AND DELIVER ITS OWN BRAND OF WINE PRODUCED
 9 AT THE LICENSEE'S PREMISES TO A RETAIL LICENSEE OR PERMIT HOLDER IN THE
 10 STATE AUTHORIZED TO ACQUIRE THE WINE; AND

11 (II) MAY NOT SELL ITS WINE TO A LICENSED WHOLESALER.

12 [(2)] (5) (4) In Allegany County the holder of a Class 1 or Class 2
 13 wholesaler's license may not sell liquor in any size container smaller than 23 ounces
 14 or 680 milliliters to any holder of a special permit issued under § 7-101(h) of this
 15 article.

16 [(3)] (6) (5) A ~~wholesale~~ WHOLESALER'S license of the appropriate
 17 class authorizes the holder to directly import beer, wine, or distilled spirits from
 18 sources outside the continental limits and possessions of the United States. However,
 19 any wholesale licensee that imports for subsequent distribution in or outside the
 20 State of Maryland shall be:

21 (i) The brand owner;

22 (ii) A wholesale licensee that purchases directly from the brand
 23 owner or the authorized agent of the brand owner; or

24 (iii) A wholesale licensee that purchases from the authorized United
 25 States importer.

26 [(4)] (7) (6) Paragraph [(3)] (6) (5) of this subsection only applies if
 27 the ~~wholesaler~~ WHOLESALE licensee's jurisdiction and authority to sell has been
 28 submitted to the Comptroller by the brand owner.

29 (f) (1) THIS SUBSECTION DOES NOT APPLY TO A NONRESIDENT WINERY
 30 PERMIT HOLDER.

31 (2) Before any sale and delivery to a retail licensee, any alcoholic
 32 beverages acquired by a wholesaler from any source shall first come to rest on the
 33 licensed premises of the wholesaler.

34 2-401.

35 (a) An individual applicant, an applicant qualifying as a resident applicant for
 36 a corporation, or each applicant for a partnership applying for a manufacturer's or

1 wholesaler's license ~~OTHER THAN A CLASS 6 LIMITED WINE WHOLESALER'S LICENSE~~
2 shall have been a resident of this State for 2 years immediately preceding the filing of
3 the application.

4 (b) [The] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A
5 holder of a manufacturer's or wholesaler's license may not sell or deliver alcoholic
6 beverages to any person in this State other than a licensee or permit holder, except as
7 provided in § 7-101(c).

8 ~~(C) THE HOLDER OF A CLASS 6 LIMITED WINE WHOLESALER'S LICENSE MAY~~
9 ~~SELL OR DELIVER WINE TO ANY PERSON IN THE STATE IF THE HOLDER IS~~
10 ~~AUTHORIZED TO DO SO UNDER TITLE 4, SUBTITLE 2 OF THIS ARTICLE.~~

11 (C) NOTHING IN THIS SECTION PREVENTS A HOLDER OF A CLASS 4 LIMITED
12 WINE MANUFACTURER'S LICENSE AND A CLASS 6 LIMITED WINE WHOLESALER'S
13 LICENSE FROM HOLDING A LICENSE ISSUED UNDER THE AUTHORITY OF TITLE 4,
14 SUBTITLE 2 OF THIS ARTICLE.

15 12-102.

16 (a) In order to eliminate the undue stimulation of the sale of alcoholic
17 beverages and the practice of manufacturers and wholesalers in granting secret
18 discounts, rebates, allowances, free goods or other inducement to selected licensees
19 which contribute to a disorderly distribution of alcoholic beverages, it shall be
20 unlawful for any person licensed hereunder as a manufacturer [or], wholesaler, OR
21 NONRESIDENT WINERY PERMIT HOLDER to discriminate directly or indirectly in
22 price, discounts or the quality of merchandise sold, between one dispensary and
23 another dispensary, between one wholesaler and another wholesaler or between one
24 retailer and another retailer purchasing alcoholic beverages bearing the same brand
25 and trade name and of like age and quality. It shall be unlawful for any nonresident
26 dealer, NONRESIDENT WINERY PERMIT HOLDER, or nonresident unlicensed
27 manufacturer to use or promote the use of any such practices for the sale or
28 distribution of alcoholic beverages to or through the manufacturers, wholesalers or
29 county dispensaries in this State. This section shall not restrict a manufacturer, [or]
30 wholesaler, [or] nonresident dealer, OR NONRESIDENT WINERY PERMIT HOLDER
31 from limiting the quantity of alcoholic beverages to be sold to any licensee under a
32 voluntary or compulsory plan of ration and the word "purchase" shall not imply that
33 a manufacturer, wholesaler, [or] nonresident dealer, OR NONRESIDENT WINERY
34 PERMIT HOLDER shall be required to sell to all licensees from whom they receive
35 orders. The Comptroller may promulgate such rules and regulations as are necessary
36 to carry out the purpose of this section.

37 (b) A supplier, nonresident dealer, NONRESIDENT WINERY PERMIT HOLDER,
38 or wholesaler may not make a discount, rebate, or depletion allowance that is offered
39 on a product dependent on the pricing policy or practice of the licensee who is invoiced
40 for the product.

1 12-103.

2 (b) The Comptroller is authorized and directed, by regulation, to prescribe the
3 maximum discounts which may be allowed by any manufacturer, [or] wholesaler, OR
4 NONRESIDENT WINERY PERMIT HOLDER in the sale and distribution of various
5 quantities of wines and liquors. Said regulation may also, in the discretion of the
6 Comptroller, prohibit the giving of discounts by any manufacturer, [or] wholesaler,
7 OR NONRESIDENT WINERY PERMIT HOLDER in the sale and distribution of any or all
8 quantities or kinds of wines and liquors.

9 (c) The Comptroller is authorized and directed, by regulation, to require the
10 filing, from time to time, by any manufacturer, [or] wholesaler, [or] nonresident
11 dealer, OR NONRESIDENT WINERY PERMIT HOLDER of schedules of prices at which
12 wines and liquors are sold by such manufacturer, [or] wholesaler, [or] nonresident
13 dealer, OR NONRESIDENT WINERY PERMIT HOLDER and further to require the filing
14 of any proposed price change. Said regulation shall provide that the effective date of
15 any proposed price decrease shall be postponed for such period of time as the
16 Comptroller may prescribe sufficient to permit notice thereof to other manufacturers
17 or wholesalers selling similar wines and liquors and an opportunity for the same to
18 make a like price decrease. Said regulation shall also provide that any manufacturer,
19 [or] wholesaler, [or] nonresident dealer, OR NONRESIDENT WINERY PERMIT
20 HOLDER proposing to sell any wines and liquors not currently being sold by the same
21 shall first give notice to the Comptroller of the prices at which such wines and liquors
22 are proposed to be sold; and said regulation shall further provide that sales of such
23 wines and liquors shall not be made for such period of time as the Comptroller may
24 prescribe sufficient to permit notice thereof to other manufacturers or wholesalers
25 selling similar wines and liquors and an opportunity for such other manufacturers or
26 wholesalers to alter the price of such similar wines and liquors so as to make that
27 price comparable to the price fixed by the manufacturer or wholesaler proposing to
28 sell wines and liquors not currently being sold. The Comptroller is authorized and
29 empowered, in promulgating the regulations required by this subsection, to require
30 the filing by any manufacturer, [or] wholesaler, [or] nonresident dealer, OR
31 NONRESIDENT WINERY PERMIT HOLDER of any other information with regard to the
32 size, containers, brands, labels, descriptions, packages, quantities to be sold and any
33 other data in connection with wines and liquors as the Comptroller may reasonably
34 determine.

35 (e) Nothing contained in this section shall be construed to authorize the
36 Comptroller to fix the prices at which any wines and liquors may be sold by any
37 manufacturer, [or] wholesaler, [or] nonresident dealer, OR NONRESIDENT WINERY
38 PERMIT HOLDER other than to fix permissible discounts which may be allowed by any
39 manufacturer or wholesaler on such sales and other than to postpone the effective
40 date of any proposed price decrease in the sale and distribution of wines and liquors
41 currently sold by any manufacturer, [or] wholesaler, [or] nonresident dealer, OR
42 NONRESIDENT WINERY PERMIT HOLDER or the effective date of the sale of any wines
43 and liquors not currently being sold by any manufacturer, [or] wholesaler, [or]
44 nonresident dealer, OR NONRESIDENT WINERY PERMIT HOLDER for a reasonable
45 period sufficient to permit the filing of proposed price decreases or proposed sales of
46 wines and liquors not currently being sold, as the case may be, with the Comptroller

1 and notice thereof to other manufacturers or wholesalers, and an opportunity for the
 2 same to make like price changes. Nothing contained in this section shall be construed
 3 to require any manufacturer, [or] wholesaler, [or] nonresident dealer, OR
 4 NONRESIDENT WINERY PERMIT HOLDER of wines and liquors to make sales to any
 5 licensees under the provisions of this article.

6 12-104.

7 (b) (1) A business entity may not have any financial interest in the premises
 8 upon or in which any alcoholic beverage is sold at retail by any licensee or in any
 9 business conducted by any licensee.

10 (2) A person or business entity, or anyone connected with that person or
 11 business entity, may not lend any money or other thing of value, make any gift, or
 12 offer any gratuity to any retail dealer.

13 (3) Except as provided for, a retail dealer may not accept, receive or
 14 make use of any money, gift, or sign furnished by any business entity or become
 15 indebted to any person except for the purchase of alcoholic beverages and allied
 16 products purchased for resale.

17 (4) A business entity, other than a wholesaler of beer and malt
 18 beverages, may not furnish any sign, except as provided in this article.

19 (e) (1) The provisions of subsections (b) and (d) of this section do not apply to
 20 a holder of a Class 3 or Class 4 winery manufacturer's license who is issued a Class
 21 A2 light wine on- and off-sale license in Baltimore City with respect to the wine
 22 manufactured or bottled on the winery premises.

23 (2) The provisions of subsections (b) and (c) of this section do not apply to
 24 the holder of a Class 6 pub-brewery license with respect to the malt beverages brewed
 25 on the premises of the pub-brewery.

26 (3) The provisions of subsections (b) and (c) of this section do not apply to
 27 a holder of a Class 7 micro-brewery license with respect to the malt beverages brewed
 28 on the premises of the micro-brewery for the purpose of being licensed as a retailer
 29 for selling on the brewery licensed premises or in a restaurant or brewery pub owned,
 30 conducted, and operated by the holder in or adjacent to the brewery for which it is
 31 licensed.

32 ~~(4) THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION DO NOT~~
 33 ~~APPLY TO A HOLDER OF A CLASS 3 WINERY OR CLASS 4 LIMITED WINERY~~
 34 ~~MANUFACTURER'S LICENSE WHO IS ISSUED A CLASS 6 LIMITED WINE~~
 35 ~~WHOLESALE'S LICENSE.~~

36 ~~{(4)}~~ ~~(5)~~ In addition to the retail license required under § 2-207 or §
 37 2-208 of this article, a Class 6 pub-brewery licensee or a Class 7 micro-brewery
 38 licensee may hold or have a financial interest in one additional retail alcoholic
 39 beverages license that does not apply to premises to which a Class 6 pub-brewery
 40 license or Class 7 micro-brewery license applies.

1 (F) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (B)(1) OF THIS
 2 SECTION, A HOLDER OF A CLASS 6 LIMITED WINE WHOLESALER'S LICENSE MAY
 3 HAVE A FINANCIAL INTEREST IN UP TO ONE CLASS A LICENSED PREMISES
 4 AUTHORIZED UNDER TITLE 4, SUBTITLE 2 OF THIS ARTICLE.

5 [(f)] (G) Any person who violates the provisions of this section shall be
 6 punished by a fine of not more than \$1,000 or by imprisonment for not more than 2
 7 years, or both.

8 **Article - Tax - General**

9 5-301.

10 (C) A PERSON WHO HOLDS A NONRESIDENT WINERY PERMIT UNDER ARTICLE
 11 2B, § 2-101(V) OF THE CODE THAT SELLS OR DELIVERS WINE TO RETAIL DEALERS IN
 12 THE STATE SHALL PAY THE ALCOHOLIC BEVERAGE TAX ON THAT WINE, IN THE
 13 MANNER THAT THE COMPTROLLER REQUIRES, WITH THE RETURN THAT COVERS
 14 THE PERIOD IN WHICH THE WINE MANUFACTURER WHO HOLDS A NONRESIDENT
 15 WINERY PERMIT SELLS OR DELIVERS THAT WINE.

16 13-825.

17 (b) The Comptroller shall require:

18 (1) a manufacturer, [or] wholesaler, OR NONRESIDENT WINERY PERMIT
 19 HOLDER who sells or delivers beer or wine to retailers in the State to post security for
 20 the alcoholic beverage tax:

21 (i) in an amount not less than:

22 1. \$1,000 for beer; and

23 2. \$1,000 for wine; and

24 (ii) if the alcoholic beverage tax on beer and wine paid in any 1
 25 month exceeds \$1,000, in an additional amount at least equal to the excess; and

26 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
 27 ~~July 1, 2006.~~

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
 29 measure, is necessary for the immediate preservation of the public health or safety,
 30 has been passed by a ye and nay vote supported by three-fifths of all the members
 31 elected to each of the two Houses of the General Assembly, and shall take effect from
 32 the date it is enacted.

