

UNOFFICIAL COPY OF SENATE BILL 812
EMERGENCY BILL

A1

(6lr2541)

ENROLLED BILL

-- Education, Health, and Environmental Affairs/Economic Matters --

Introduced by **Senators Middleton, Astle, Brinkley, Dyson, Garagiola, Jacobs, Kittleman, Munson, Pipkin, and ~~Teitelbaum~~ Teitelbaum, Hafer, and Hogan**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

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

1 for applicants for a limited wine wholesaler's license; authorizing a holder of a
 2 limited wine wholesaler's license to sell and deliver its own brand of wine to
 3 certain persons under certain conditions; ~~prohibiting a holder of a limited wine
 4 wholesaler's license to transfer alcoholic beverages to certain persons; requiring
 5 a Class 6 limited wine wholesale licensee to designate an agent for certain
 6 purposes; authorizing an agent to represent only a single licensee; authorizing
 7 an agent or an employee of an agent to make certain deliveries of wine;
 8 requiring each agent and employee of an agent to register with the Comptroller;
 9 requiring each registration form to include certain information; prohibiting
 10 transfers of wine to a third party under certain conditions; authorizing the
 11 Comptroller to revoke or suspend a certain license under certain circumstances;
 12 *<score>specifying the way a Class 6 limited wine wholesale licensee may distribute its
 13 product to retailers; exempting a nonresident winery permit holder from a certain
 14 requirement; providing that certain provisions of law do not prevent a holder of
 15 certain licenses from holding a certain additional license; requiring a wine
 16 manufacturer that holds a certain license and sells wine under certain
 17 circumstances to pay the alcoholic beverage tax on that wine; exempting a
 18 holder of a limited wine wholesaler's license *certain licenses* from certain
 19 requirements and restrictions; ~~defining a term; prohibiting a nonresident winery
 20 permit holder from taking certain actions; authorizing the Comptroller to
 21 regulate certain discounts that may be allowed by a nonresident winery permit
 22 holder; requiring a nonresident winery permit holder to meet certain filing
 23 requirements; providing that this Act does not authorize the Comptroller to fix
 24 certain prices or require a nonresident winery permit holder to take certain
 25 action; requiring a nonresident winery permit holder to pay a certain tax;
 26 requiring the Comptroller to require a nonresident winery permit holder to post
 27 certain security for a certain tax;~~ altering a certain definition; making technical
 28 changes; making this Act an emergency measure; and generally relating to wine
 29 manufacturers, wholesalers, and retailers.*~~

30 BY renumbering

31 Article - Tax - General
 32 Section 5-301(c), (d), and (e), respectively
 33 to be Section 5-301(d), (e), and (f), respectively
 34 Annotated Code of Maryland
 35 (2004 Replacement Volume and 2005 Supplement)

36 BY repealing and reenacting, without amendments,
 37 Article 2B - Alcoholic Beverages
 38 Section 1-102(a)(1) and 12-104(b) and (e)
 39 Annotated Code of Maryland
 40 (2005 Replacement Volume)

41 BY repealing and reenacting, with amendments,
 42 Article 2B - Alcoholic Beverages
 43 Section 1-102(a)(27), 2-101(b)(1)(i), 2-201, 2-204, 2-205(b)(3), 2-301(a) ~~and~~

1 (b), ~~and (f)~~, 2-401, ~~12-102(a) and (b)~~, 12-103(b), (c), ~~and (e)~~, and 12-104(~~e~~)
 2 ~~and(f)~~
 3 Annotated Code of Maryland
 4 (2005 Replacement Volume)

5 BY adding to
 6 Article 2B - Alcoholic Beverages
 7 Section 2-101(v) and 12-104(f)
 8 Annotated Code of Maryland
 9 (2005 Replacement Volume)

10 BY adding to
 11 Article - Tax - General
 12 Section 5-301(c)
 13 Annotated Code of Maryland
 14 (2004 Replacement Volume and 2005 Supplement)

15 BY repealing and reenacting, with amendments,
 16 Article - Tax - General
 17 Section ~~5-301(b)~~ 13-825(b)(1)
 18 Annotated Code of Maryland
 19 (2004 Replacement Volume and 2005 Supplement)

20 Preamble

21 WHEREAS, The United States Supreme Court, in Granholm v. Heald, 125 S.Ct.
 22 1885 (2005) stated that differential treatment between ~~in state~~ *in-State* and
 23 ~~out of state~~ *out-of-State* wineries constitutes explicit discrimination against
 24 interstate commerce; and

25 WHEREAS, In the Granholm opinion the Supreme Court stated that many
 26 small wineries do not produce enough wine or have sufficient consumer demand for
 27 their wine to make it economical for wholesalers to carry their products; and

28 WHEREAS, Since 1951, Maryland wineries have been allowed to deliver their
 29 products to restaurants, retailers, and permit holders throughout the State of
 30 Maryland; and

31 WHEREAS, In ~~Bushnell v. Ehrlich~~, a United States District Court case, a
 32 Pennsylvania winery alleges that by allowing Maryland wineries to deliver their
 33 product to restaurants, retailers, and permit holders, Maryland discriminates against
 34 out of state wineries and violates the Commerce Clause of the United States
 35 Constitution; and

1 ~~WHEREAS, As a result of both the Granholm decision and the Bushnell suit,~~
2 ~~the Maryland is interested in preventing deceptive, destructive, and unethical business~~
3 ~~practices by controlling the sale and distribution of alcoholic beverages; and~~

4 ~~WHEREAS, By regulating and controlling alcoholic beverages in accordance~~
5 ~~with the three-tier system for sales and distribution, Maryland has been able to protect~~
6 ~~the health, welfare, and safety of its citizens; and~~

7 ~~WHEREAS, The Supreme Court in the Granholm opinion reaffirmed that the~~
8 ~~three-tier system is legitimate; and~~

9 ~~WHEREAS, The Comptroller of Maryland on February 1, 2006, issued an~~
10 ~~Administrative Release that suspended the ability of Maryland's Class 4 limited~~
11 ~~wineries to sell and deliver their product directly to Maryland restaurants, retailers,~~
12 ~~and permit holders under Article 2B, § 2-205 of the Code; and~~

13 ~~WHEREAS, Maryland currently has twenty-two licensed wineries that produce~~
14 ~~and distribute wine; and~~

15 ~~WHEREAS, Only four Maryland wineries use services of a wholesaler to~~
16 ~~distribute their product; and~~

17 ~~WHEREAS, Eighteen Maryland wineries sell a combined amount of more than~~
18 ~~60,000 gallons of wine annually and distribute their wine themselves to restaurants,~~
19 ~~retailers, and permit holders; and~~

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

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

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

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

31 ~~WHEREAS, Small wineries cannot economically use the services of a wholesaler~~
32 ~~to distribute their wine product to restaurants and retail outlets throughout the~~
33 ~~State; now, therefore,~~

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

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

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

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

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

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

17 **Article 2B - Alcoholic Beverages**

18 1-102.

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

20 (27) (I) "Wholesaler" means:

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

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

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

28 2-101.

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

31 1. \$50 for a solicitor's permit, an individual storage permit, A
32 NONRESIDENT WINERY PERMIT, or a commercial nonbeverage permit;

33 2. \$75 for a public storage permit, a public transportation
34 permit, or an import and export permit;

UNOFFICIAL COPY OF SENATE BILL 812

1 3. \$100 for a public storage and transportation permit, a
 2 nonresident dealer permit, or a bulk transfer permit;

3 4. \$400 for a family beer and wine facility permit; and

4 5. \$10 for a direct wine seller's permit.

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

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

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

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

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

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

19 2-201.

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

21	Class 1	Distillery	\$ 2,000
22	Class 2	Rectifying	600
23	Class 3	Winery	750
24	Class 4	Limited Winery	200
25	Class 5	Brewery	1,500
26	Class 6	Pub-Brewery	500
27	Class 7	Micro-Brewery	500

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

33 (2) (1) The holder of a rectifying, winery, ~~LIMITED WINERY,~~ or brewery
 34 license may apply for and obtain a wholesaler's license of any class for the same
 35 premises or elsewhere as provided under this article.

1 (II) THE HOLDER OF A LIMITED WINERY LICENSE MAY APPLY
FOR
2 AND OBTAIN A CLASS 6 LIMITED WINE ~~WHOLESALE~~ WHOLESALER'S LICENSE FOR
3 THE SAME PREMISES OR ELSEWHERE AS PROVIDED UNDER THIS ARTICLE.

4 2-204.

5 A Class 3 manufacturer's license:

6 (1) Is a winery license; and

7 (2) Authorizes the holder to:

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

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

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

15 {(iv)} ~~(III)~~ Sell wine made from products grown in Maryland at a
16 retail price at the plant to persons participating in a guided tour of the facility. The
17 purchase shall be limited to not more than one quart per person per year provided the
18 purchaser has attained the Maryland legal drinking age; and

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

22 2-205.

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

24 (3) Permits the license holder to:

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

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

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

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

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

8 2-301.

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

10	Class 1	Beer, wine and liquor	\$2,000
11	Class 2	Wine and liquor	1,750
12	Class 3	Beer and wine	1,500
13	Class 4	Beer	1,250
14	Class 5	Wine	1,250
15	CLASS 6	LIMITED WINE	50

16 (2) Upon approval of the application:

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

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

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

26 (iv) A Class 4 wholesale licensee may use additional locations for
27 the warehousing, sale and delivery of beer upon the payment of an additional fee of
28 \$1,250 for each additional location.

29 (v) A Class 5 wholesale licensee may use additional locations for
30 the warehousing, sale and delivery of wine upon the payment of an additional fee of
31 \$1,250 for each additional location.

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

36 ~~(B)~~ ~~(1)~~ IN THIS SUBSECTION, "AGENT" MEANS AN INDIVIDUAL WHO IS
37 OBLIGATED BY CONTRACT OR EMPLOYMENT TO A CLASS 6 LIMITED WINE
38 WHOLESALER LICENSEE TO BE RESPONSIBLE FOR THE LICENSEE'S WINE WHILE IT IS

1 ~~IN THE STATE AND TO ENSURE THAT ALL LAWS, RULES, AND REGULATIONS~~
 2 ~~GOVERNING ALCOHOLIC BEVERAGES IN THE STATE ARE OBSERVED.~~

3 (b) (B) (4) ~~(2)-(1)~~ [A] EXCEPT AS OTHERWISE PROVIDED IN THIS
 4 SUBSECTION, A wholesaler's license issued in accordance with the fee paid entitles
 5 the holder to acquire the alcoholic beverages indicated on the license from licensees
 6 and holders of nonresident dealer's permits authorized by this State to make the sales
 7 and deliveries. The license authorizes the sale and delivery of those alcoholic
 8 beverages from the licensed premises to licensees and permit holders in Maryland
 9 and to persons outside of this State.

10 ~~(2) (3) (2)~~ A CLASS 6 LIMITED WINE WHOLESALE 11 WHOLESALER'S
 12 LICENSE SHALL BE ISSUED ONLY TO A WINE MANUFACTURERS: MANUFACTURER
 13 THAT:

14 (I) ~~THAT ARE SMALL DOMESTIC PRODUCERS, AS DEFINED IN~~
 15 ~~TITLE 26, § 5041(C)(1) OF THE INTERNAL REVENUE CODE PRODUCE LESS THAN 40,000~~
 16 ~~GALLONS OF WINE A YEAR; AND~~

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

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

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

23 ~~(3) (4) A CLASS 6 LIMITED WINE WHOLESALE LICENSEE, ON~~
 24 ~~APPROVAL OF THE APPLICATION AND PAYMENT OF THE FEE, MAY SELL AND~~
 25 ~~DELIVER ITS OWN BRAND OF WINE PRODUCED AT THE HOLDER'S PREMISES TO A~~
 26 ~~LICENSEE OR PERMIT HOLDER IN THE STATE AUTHORIZED TO ACQUIRE THE WINE.~~

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

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

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

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

36 (5) A CLASS 6 LIMITED WINE WHOLESALE LICENSEE SHALL DESIGNATE
 37 AN AGENT TO RECEIVE AND HOLD ITS OWN BRAND OF WINE IN THE STATE.

1 ~~(6)~~ AN AGENT MAY REPRESENT ONLY A SINGLE CLASS 6 LIMITED WINE
 2 WHOLESALE LICENSEE.

3 ~~(7)~~ AN AGENT OR AN EMPLOYEE OF AN AGENT MAY DELIVER THE
 4 LICENSEE'S BRAND OF WINE WITHIN THE STATE TO ANOTHER LICENSEE OR PERMIT
 5 HOLDER AUTHORIZED TO RECEIVE IT UNDER THIS ARTICLE.

6 ~~(8)~~ ~~(f)~~ EACH AGENT AND EMPLOYEE OF AN AGENT SHALL REGISTER
 7 WITH THE COMPTROLLER.

8 ~~(H)~~ EACH REGISTRATION FORM SHALL INCLUDE THE NAME AND
 9 ADDRESS OF THE AGENT AND OF THE EMPLOYEE AND ANY OTHER INFORMATION
 10 THE COMPTROLLER REQUIRES.

11 ~~(9)~~ AFTER THE WINE OF A CLASS 6 LIMITED WINE WHOLESALER IS
 12 RECEIVED OR PRODUCED IN THE STATE, THE CLASS 6 WHOLESALER, THE AGENT,
 13 AND AN EMPLOYEE OF THE AGENT MAY NOT TRANSFER WINE TO A THIRD PARTY FOR
 14 DELIVERY TO A LICENSEE, PERMIT HOLDER, OR CONSUMER.

15 ~~(10)~~ THE COMPTROLLER MAY REVOKE OR SUSPEND THE LICENSE OF A
 16 CLASS 6 LIMITED WINE WHOLESALER WHOSE AGENT VIOLATES ANY PROVISION OF
 17 THIS ARTICLE OR WHOSE ACTION IS LISTED AS A CAUSE UNDER § 10-401(A)(3) OF THIS
 18 ARTICLE.

19 [(2)] ~~(5)~~ ~~(11)~~ (4) In Allegany County the holder of a Class 1 or Class 2
 20 wholesaler's license may not sell liquor in any size container smaller than 23 ounces
 21 or 680 milliliters to any holder of a special permit issued under § 7-101(h) of this
 22 article.

23 [(3)] ~~(6)~~ ~~(12)~~ (5) A ~~wholesale~~ WHOLESALE license of the
 24 appropriate class authorizes the holder to directly import beer, wine, or distilled
 25 spirits from sources outside the continental limits and possessions of the United
 26 States. However, any wholesale licensee that imports for subsequent distribution in
 27 or outside the State of Maryland shall be:

28 (i) The brand owner;

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

31 (iii) A wholesale licensee that purchases from the authorized United
 32 States importer.

33 [(4)] ~~(7)~~ ~~(13)~~ (6) Paragraph [(3)] ~~(6)~~ ~~(12)~~ (5) of this subsection only
 34 applies if the ~~wholesaler~~ WHOLESALE licensee's jurisdiction and authority to sell has
 35 been submitted to the Comptroller by the brand owner.

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

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

4 2-401.

5 (a) An individual applicant, an applicant qualifying as a resident applicant for
 6 a corporation, or each applicant for a partnership applying for a manufacturer's or
 7 wholesaler's license ~~OTHER THAN A CLASS 6 LIMITED WINE WHOLESALER'S LICENSE~~
 8 shall have been a resident of this State for 2 years immediately preceding the filing of
 9 the application.

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

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

17 (C) NOTHING IN THIS SECTION PREVENTS A HOLDER OF A MARYLAND WINE
 18 OR CLASS 4 LIMITED WINE MANUFACTURER'S LICENSE AND A CLASS 6 LIMITED WINE
 19 WHOLESALER'S LICENSE FROM HOLDING A LICENSE ISSUED UNDER THE
 20 AUTHORITY OF TITLE 4, SUBTITLE 2 OF THIS ARTICLE.

21 12-102.

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

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

5 12-103.

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

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

38 (e) Nothing contained in this section shall be construed to authorize the
39 Comptroller to fix the prices at which any wines and liquors may be sold by any
40 manufacturer, [or] wholesaler, [or] nonresident dealer, OR NONRESIDENT WINERY
41 PERMIT HOLDER other than to fix permissible discounts which may be allowed by any
42 manufacturer or wholesaler on such sales and other than to postpone the effective date
43 of any proposed price decrease in the sale and distribution of wines and liquors
44 currently sold by any manufacturer, [or] wholesaler, [or] nonresident dealer, OR
45 NONRESIDENT WINERY PERMIT HOLDER or the effective date of the sale of any wines

1 and liquors not currently being sold by any manufacturer, [or] wholesaler, [or]
 2 nonresident dealer, OR NONRESIDENT WINERY PERMIT HOLDER for a reasonable
 3 period sufficient to permit the filing of proposed price decreases or proposed sales of
 4 wines and liquors not currently being sold, as the case may be, with the Comptroller
 5 and notice thereof to other manufacturers or wholesalers, and an opportunity for the
 6 same to make like price changes. Nothing contained in this section shall be construed
 7 to require any manufacturer, [or] wholesaler, [or] nonresident dealer, OR
 8 NONRESIDENT WINERY PERMIT HOLDER of wines and liquors to make sales to any
 9 licensees under the provisions of this article.

10 12-104.

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

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

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

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

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

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

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

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

1 ~~{(4)}~~ ~~(5)~~ In addition to the retail license required under § 2-207 or §
2 2-208 of this article, a Class 6 pub-brewery licensee or a Class 7 micro-brewery
3 licensee may hold or have a financial interest in one additional retail alcoholic
4 beverages license that does not apply to premises to which a Class 6 pub-brewery
5 license or Class 7 micro-brewery license applies.

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

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

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

15 Article - Tax - General

16 ~~5-301.~~

17 ~~(b)~~ ~~(1)~~ ~~A manufacturer that, under an alcoholic beverage license as a winery~~
18 ~~or limited winery, sells or delivers wine to retail dealers or to consumers in the State~~
19 ~~shall pay the alcoholic beverage tax on that wine, in the manner that the Comptroller~~
20 ~~requires, with the return that covers the period in which the manufacturer sells or~~
21 ~~delivers that wine.~~

22 ~~(2)~~ ~~A manufacturer that sells, to wholesalers or retail dealers for~~
23 ~~consumption in the State, beer on which the alcoholic beverage tax was not paid~~
24 ~~before the beer was delivered into the State shall pay the alcoholic beverage tax on~~
25 ~~that beer, in the manner that the Comptroller requires, with the return that covers~~
26 ~~the period in which the manufacturer sells that beer.~~

27 ~~(3)~~ ~~A manufacturer that, under a Class 6 pub-brewery license, brews~~
28 ~~and transfers malt beverages for consumption on restaurant premises in the State~~
29 ~~shall pay the alcoholic beverage tax on that malt beverage, in the manner that the~~
30 ~~Comptroller requires, with the return that covers the period in which the~~
31 ~~manufacturer transfers that malt beverage.~~

32 ~~(4)~~ ~~A manufacturer that, under a Class 7 micro-brewery license, brews~~
33 ~~and transfers malt beverages for consumption off the micro-brewery licensed~~
34 ~~premises in the State shall pay the alcoholic beverage tax on that malt beverage, in~~
35 ~~the manner that the Comptroller requires, with the return that covers the period in~~
36 ~~which the manufacturer transfers that malt beverage.~~

37 ~~(5)~~ ~~(1)~~ IN THIS SECTION, "AGENT" HAS THE MEANING STATED IN
38 ARTICLE 2B, § 2-301(B)(1) OF THE CODE.

1 ~~(H) A WINE MANUFACTURER WHO HOLDS A CLASS 6 LIMITED WINE~~
 2 ~~WHOLESALE LICENSE UNDER ARTICLE 2B, § 2-301 OF THE CODE THAT SELLS OR~~
 3 ~~DELIVERS WINE WITH AN AGENT TO RETAIL DEALERS IN THE STATE SHALL PAY THE~~
 4 ~~ALCOHOLIC BEVERAGE TAX ON THAT WINE, IN THE MANNER THAT THE~~
 5 ~~COMPTROLLER REQUIRES, WITH THE RETURN THAT COVERS THE PERIOD IN WHICH~~
 6 ~~THE WINE MANUFACTURER WHO HOLDS A CLASS 6 LIMITED WINE WHOLESALE~~
 7 ~~LICENSE SELLS OR DELIVERS THAT WINE WITH AN AGENT.~~

8 (C) A PERSON WHO HOLDS A NONRESIDENT WINERY PERMIT UNDER ARTICLE
 9 2B, § 2-101(V) OF THE CODE THAT SELLS OR DELIVERS WINE TO RETAIL DEALERS IN
 10 THE STATE SHALL PAY THE ALCOHOLIC BEVERAGE TAX ON THAT WINE, IN THE
 11 MANNER THAT THE COMPTROLLER REQUIRES, WITH THE RETURN THAT COVERS
 12 THE PERIOD IN WHICH THE WINE MANUFACTURER WHO HOLDS A NONRESIDENT
 13 WINERY PERMIT SELLS OR DELIVERS THAT WINE.

14 13-825.

15 (b) The Comptroller shall require:

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

19 (i) in an amount not less than:

20 1. \$1,000 for beer; and

21 2. \$1,000 for wine; and

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

24 SECTION 2-3. AND BE IT FURTHER ENACTED, That this Act is an
 25 emergency measure, is necessary for the immediate preservation of the public health
 26 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
 27 members elected to each of the two Houses of the General Assembly, and shall take
 28 effect from the date it is enacted.