

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 625
Economic Matters

(Delegate Petzold, *et al.*)

Alcoholic Beverages - Direct Wine Shipper's License

This bill repeals the ability of the Comptroller's Office to issue a direct wine seller's permit and authorizes it to issue a Direct Wine Shipper's License. The annual license fee is \$100.

The bill takes effect July 1, 2006.

Fiscal Summary

State Effect: State annual license fee revenues would increase by \$300 for each new license issued and by \$130 for each license renewed. Potential increase in excise and sales taxes from a potential increase in wine sales. Expenses associated with auditing out-of-state wineries could increase.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: For the purposes of the bill, wine includes brandy that is distilled from the pulpy residue of the wine press, including the skins, pips, and stalks of grapes. The bill requires that a person must be licensed as a direct wine shipper by the Comptroller's Office before the person may engage in shipping wine directly to a resident in the State.

To qualify for a direct wine shipper's license, the applicant must be (1) a person licensed outside of the State to engage in the manufacture of wine; (2) an authorized brand owner

of wine, a U.S. importer of wine, or a designated Maryland agent of a brand owner or U.S. importer; or (3) a holder of a State issued Class 3 manufacturer's (winery) license or a Class 4 manufacturer's (limited winery) license.

The direct wine shipper must (1) ensure that all containers of wine shipped directly to a State resident are conspicuously labeled "contains alcohol; signature of person age 21 or older required for delivery;" (2) annually report to the Comptroller's Office the total of wine, by type, shipped in the State the preceding calendar year; (3) annually pay to the Comptroller's Office all sales and excise taxes due on sales to residents of the State in the preceding calendar year; (4) allow the Comptroller's Office to audit the direct wine shipper's records upon request; and (5) consent to the jurisdiction of the Comptroller's Office or other State unit and the State courts concerning enforcement of this section and any related law. A direct wine shipper is prohibited from shipping more than 24 bottles per month to any one individual or shipping to an address in an area in which the board of license commissioners for that area declares that these shipments are prohibited.

To receive a direct shipment of wine, a State resident must be 21 years old. In addition, the bill stipulates that a wine shipment may be ordered or purchased through a computer network. A person who receives a wine shipment can only use it for personal consumption and not resell it.

A person who violates the laws associated with a direct wine shipper's license would be guilty of a felony and subject to imprisonment of up to two years, a fine of up to \$1,000, or both.

Current Law: The Comptroller's Office is authorized to issue a direct wine seller's permit, for an annual fee of \$10. A direct wine seller's permit is issued to a person or entity that (1) is domiciled outside of the State; (2) is engaged in the manufacture of wine, or is the brand owner, U.S. importer, or designated Maryland agent of the brand owner or U.S. importer of wine sold under this authority; (3) holds and acts within the scope of any alcoholic beverages license or permit required in the state where the applicant is domiciled or by the federal Bureau of Alcohol, Tobacco, and Firearms; and (4) does not hold any alcoholic beverages license or permit issued by the State, and is not owned, as a whole or in part, by another person or entity that holds another alcoholic beverages license or permit issued by the State or one of its political subdivisions within two years before the application.

A direct wine seller's permit authorizes a direct wine seller to sell wine to a personal consumer by receiving and filling orders that the personal consumer transmits by electronic or other means. A direct wine seller, however, may not sell a brand of wine in the State that (1) is distributed in the State by a wholesaler licensed in the State; or (2) was distributed in the State within two years before the application for the direct wine

seller's permit is filed. During a permit year (November 1 – October 31), a direct wine seller may not sell in the State more than 900 liters of wine or more than 108 liters to a single personal consumer. A direct wine seller is required to file an annual tax return.

Wine shipped to a personal consumer must be shipped to a wholesaler licensed in the State that is designated by the Alcohol and Tobacco Tax Bureau, and then delivered by the wholesaler to a retail dealer. The wholesaler and retail dealer are solely facilitators in the shipping process and do not have title to the wine. The personal consumer must take personal delivery of the shipment at the licensed premises of the retail dealer promptly upon receiving notice from the dealer. The wholesaler may impose a service charge at a rate of \$2 per bottle but no more than \$4 per shipment, and the retail dealer may impose a service charge of \$5 per bottle but no more than \$10 per shipment when the consumer takes delivery.

Background: According to its *Alcohol and Tobacco Tax Annual Report*, the Comptroller's Office reports that it issued one direct wine seller's permit in fiscal 2005. The Comptroller's Office advises that it charges a \$200 application fee for new alcoholic beverages licenses it issues and a \$30 application fee for each license it renews.

State Fiscal Effect: To the extent that the Comptroller's Office issues Direct Wine Shipper's Licenses, State annual license fee revenues would increase by \$300 for each new license issued, including the \$100 license fee and a \$200 one-time application fee. For each license renewed, revenues would increase by \$130, including the \$100 license fee and a \$30 renewal application fee. If there is an increase in wine sales as a result of issuing Direct Wine Shipper's Licenses, State excise and sales tax revenues could increase. The increase in taxes cannot be reliably quantified at this time, as it would depend on the increase in wine sales, if any, resulting from the bill.

Repealing the authority of the Comptroller's Office to issue direct wine seller's permits would cause annual revenues from the issuance of these permits to decrease by \$10 for each permit no longer issued.

To the extent that more out-of-state wineries obtain a Direct Wine Shipper's License than those who obtained a direct wine seller's permit, travel expenditures associated with auditing out-of-state wineries' records could increase. This increase in expenditures depends on the number of out-of-state wineries who obtain a Direct Wine Shipper's License, the location of the winery, as well as how often auditors from the Comptroller's Office would need to audit direct wine shippers' records.

Small Business Effect: To the extent that Direct Wine Shipper's Licenses are obtained by small businesses in Maryland, these small businesses could be positively impacted by

a potential increase in sales. To the extent that wine sales decrease at retail locations, these small businesses could be negatively impacted.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Anne Arundel County, Garrett County, Montgomery County, Prince George's County, Department of Legislative Services

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