

HOUSE BILL 1262

A1
HB 1260/08 – ECM

9lr1431

By: **Delegates Hucker, Ali, Anderson, Aumann, Barnes, Bartlett, Beidle, Bobo, Bohanan, Branch, Cardin, Carr, Carter, V. Clagett, Conaway, Costa, Donoghue, Dumais, Dwyer, Elmore, Feldman, Frick, Frush, George, Gilchrist, Glenn, Gutierrez, Haddaway, Hecht, Heller, Holmes, Howard, Hubbard, Ivey, Kach, Kaiser, Kipke, Kramer, Krebs, Kullen, Lafferty, Lee, Malone, Manno, McComas, McConkey, McDonough, Mizeur, Montgomery, Myers, Nathan-Pulliam, Niemann, Pena-Melnyk, Proctor, Ramirez, Reznik, Rice, Robinson, Ross, Schuh, Schuler, Shewell, Simmons, Sossi, Stein, Stull, Tarrant, F. Turner, V. Turner, Valderrama, Vallario, Waldstreicher, Walkup, Weir, and Weldon**

Introduced and read first time: February 13, 2009

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages – Direct Wine Shipper’s License**

3 FOR the purpose of repealing provisions that provide for a direct wine seller’s permit;
4 establishing a direct wine shipper’s license to be issued by the Office of the
5 Comptroller to certain persons in or outside of the State; requiring a person to
6 be licensed before the person may engage in shipping wine directly to a resident
7 in the State; requiring a direct wine shipper to perform certain actions;
8 prohibiting a direct wine shipper from performing certain actions; providing for
9 the qualifications and requirements of license applicants; providing for the fee
10 and renewal of a license; specifying certain requirements and conditions to
11 receive a direct shipment of wine; authorizing the Office of the Comptroller to
12 adopt certain regulations; prohibiting a person without a license from shipping
13 wine directly to consumers in the State; providing a certain exception to a
14 certain licensing provision; providing a certain penalty; defining certain terms;
15 altering certain definitions; and generally relating to the establishment of a
16 direct wine shipper’s license.

17 BY repealing

18 Article 2B – Alcoholic Beverages

19 Section 7.5–101 through 7.5–110 and the title “Title 7.5. Direct Wine Seller’s
20 Permit”

21 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2005 Replacement Volume and 2008 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article 2B – Alcoholic Beverages
4 Section 2–101(b)(1)(i) and 9–102(a)
5 Annotated Code of Maryland
6 (2005 Replacement Volume and 2008 Supplement)

7 BY adding to
8 Article 2B – Alcoholic Beverages
9 Section 7.5–101 through 7.5–110 to be under the new title “Title 7.5. Direct
10 Wine Shipper’s License”
11 Annotated Code of Maryland
12 (2005 Replacement Volume and 2008 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article – Tax – General
15 Section 5–101(a)
16 Annotated Code of Maryland
17 (2004 Replacement Volume and 2008 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Tax – General
20 Section 5–101(f) and 5–201(d)
21 Annotated Code of Maryland
22 (2004 Replacement Volume and 2008 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That Section(s) 7.5–101 through 7.5–110 and the title “Title 7.5. Direct
25 Wine Seller’s Permit” of Article 2B – Alcoholic Beverages of the Annotated Code of
26 Maryland be repealed.

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

29 **Article 2B – Alcoholic Beverages**

30 2–101.

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

33 1. \$50 for a solicitor’s permit, an individual storage
34 permit, a nonresident winery permit, or a commercial nonbeverage permit;

35 2. \$75 for a public storage permit, a public
36 transportation permit, or an import and export permit;

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] **\$100** for a direct wine [seller's permit]
5 **SHIPPER'S LICENSE.**

6 **TITLE 7.5. DIRECT WINE SHIPPER'S LICENSE.**

7 **7.5-101.**

8 (A) **IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
9 **INDICATED.**

10 (B) **"DIRECT WINE SHIPPER" MEANS THE HOLDER OF A DIRECT WINE**
11 **SHIPPER'S LICENSE ISSUED UNDER THIS TITLE.**

12 (C) **"LICENSE" MEANS A DIRECT WINE SHIPPER'S LICENSE ISSUED BY**
13 **THE OFFICE OF THE COMPTROLLER.**

14 (D) **"WINE" INCLUDES BRANDY THAT IS DISTILLED FROM THE PULPY**
15 **RESIDUE OF THE WINE PRESS, INCLUDING THE SKINS, PIPS, AND STALKS OF**
16 **GRAPES.**

17 **7.5-102.**

18 **A PERSON SHALL BE LICENSED BY THE OFFICE OF THE COMPTROLLER AS**
19 **A DIRECT WINE SHIPPER BEFORE THE PERSON MAY ENGAGE IN SHIPPING WINE**
20 **DIRECTLY TO A RESIDENT IN THE STATE.**

21 **7.5-103.**

22 **TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL BE:**

23 (1) **A PERSON LICENSED OUTSIDE OF THE STATE TO ENGAGE IN**
24 **THE MANUFACTURE OF WINE;**

25 (2) **AN AUTHORIZED BRAND OWNER OF WINE, A UNITED STATES**
26 **IMPORTER OF WINE, OR A DESIGNATED MARYLAND AGENT OF A BRAND OWNER**
27 **OR UNITED STATES IMPORTER;**

28 (3) **A HOLDER OF A CLASS 3 MANUFACTURER'S LICENSE OR A**
29 **CLASS 4 MANUFACTURER'S LICENSE ISSUED UNDER THIS ARTICLE; OR**

1 (4) A PERSON LICENSED BY THE STATE OR OUTSIDE THE STATE
2 TO ENGAGE IN THE RETAIL SALE OF WINE FOR CONSUMPTION OFF THE
3 PREMISES.

4 **7.5-104.**

5 (A) AN APPLICANT FOR A LICENSE SHALL:

6 (1) SUBMIT TO THE OFFICE OF THE COMPTROLLER A
7 COMPLETED APPLICATION ON A FORM THAT THE OFFICE OF THE
8 COMPTROLLER PROVIDES;

9 (2) PROVIDE TO THE OFFICE OF THE COMPTROLLER A COPY OF
10 THE CURRENT ALCOHOLIC BEVERAGES LICENSE OF THE APPLICANT; AND

11 (3) PAY A FEE OF \$100.

12 (B) THE OFFICE OF THE COMPTROLLER SHALL ISSUE A LICENSE TO
13 EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS TITLE FOR A
14 LICENSE.

15 **7.5-105.**

16 (A) A DIRECT WINE SHIPPER SHALL:

17 (1) ENSURE THAT ALL CONTAINERS OF WINE SHIPPED DIRECTLY
18 TO A RESIDENT IN THE STATE ARE CONSPICUOUSLY LABELED WITH THE WORDS
19 "CONTAINS ALCOHOL; SIGNATURE OF PERSON AT LEAST AGE 21 YEARS OLD
20 REQUIRED FOR DELIVERY";

21 (2) REPORT TO THE OFFICE OF THE COMPTROLLER ANNUALLY
22 THE TOTAL OF WINE, BY TYPE, SHIPPED IN THE STATE THE PRECEDING
23 CALENDAR YEAR;

24 (3) PAY ANNUALLY TO THE OFFICE OF THE COMPTROLLER ALL
25 SALES TAXES AND EXCISE TAXES DUE ON SALES TO RESIDENTS OF THE STATE IN
26 THE PRECEDING CALENDAR YEAR, THE AMOUNT OF THE TAXES TO BE
27 CALCULATED AS IF THE SALE WERE MADE AT THE DELIVERY LOCATION;

28 (4) ALLOW THE OFFICE OF THE COMPTROLLER TO PERFORM AN
29 AUDIT OF THE DIRECT WINE SHIPPER'S RECORDS ON REQUEST; AND

1 **(5) CONSENT TO THE JURISDICTION OF THE OFFICE OF THE**
2 **COMPTRROLLER OR OTHER STATE UNIT AND THE STATE COURTS CONCERNING**
3 **ENFORCEMENT OF THIS SECTION AND ANY RELATED LAW.**

4 **(B) A DIRECT WINE SHIPPER MAY NOT:**

5 **(1) SHIP MORE THAN 24 9-LITER CASES OF WINE ANNUALLY TO**
6 **ANY ONE INDIVIDUAL; OR**

7 **(2) SHIP WINE TO AN ADDRESS IN AN AREA IN WHICH THE BOARD**
8 **OF LICENSE COMMISSIONERS FOR THAT AREA MAY NOT ISSUE A LICENSE**
9 **AUTHORIZING THE SALE OF WINE.**

10 **7.5-106.**

11 **A DIRECT WINE SHIPPER MAY ANNUALLY RENEW ITS LICENSE, IF THE**
12 **DIRECT WINE SHIPPER:**

13 **(1) IS OTHERWISE ENTITLED TO BE LICENSED;**

14 **(2) PROVIDES TO THE OFFICE OF THE COMPTRROLLER A COPY OF**
15 **ITS CURRENT ALCOHOLIC BEVERAGES LICENSE; AND**

16 **(3) PAYS TO THE OFFICE OF THE COMPTRROLLER A RENEWAL FEE**
17 **OF \$50.**

18 **7.5-107.**

19 **(A) TO RECEIVE A DIRECT SHIPMENT OF WINE, A RESIDENT OF THE**
20 **STATE MUST BE AT LEAST 21 YEARS OF AGE.**

21 **(B) A SHIPMENT OF WINE MAY BE ORDERED OR PURCHASED THROUGH**
22 **A COMPUTER NETWORK.**

23 **(C) A PERSON WHO RECEIVES A SHIPMENT OF WINE SHALL USE THE**
24 **SHIPMENT FOR PERSONAL CONSUMPTION ONLY AND MAY NOT RESELL IT.**

25 **7.5-108.**

26 **THE OFFICE OF THE COMPTRROLLER MAY ADOPT REGULATIONS TO CARRY**
27 **OUT THIS TITLE.**

28 **7.5-109.**

1 **A PERSON WITHOUT A LICENSE MAY NOT SHIP WINE DIRECTLY TO**
2 **CONSUMERS IN THE STATE.**

3 **7.5–110.**

4 **A PERSON WHO VIOLATES THIS TITLE IS GUILTY OF A FELONY AND ON**
5 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 YEARS OR A**
6 **FINE NOT EXCEEDING \$1,000 OR BOTH.**

7 9–102.

8 (a) No more than one license provided by this article, except by way of
9 renewal or as otherwise provided in this section, shall be issued in any county or
10 Baltimore City, to any person, or for the use of any partnership, corporation,
11 unincorporated association, or limited liability company, in Baltimore City or any
12 county of the State, and no more than one license shall be issued for the same
13 premises except as provided in §§ 2–201 through 2–208, 2–301, and 6–701 of this
14 article, and nothing herein shall be construed to apply to **TITLE 7.5**, § 6–201(r)(4),
15 (15), and (17), § 7–101(b) and (c), § 8–202(g)(2)(ii) and (iii), § 8–508, or § 12–202 of this
16 article.

17 **Article – Tax – General**

18 5–101.

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

20 (f) “Direct wine [seller] **SHIPPER**” has the meaning stated in Article 2B, §
21 7.5–101 of the Code.

22 5–201.

23 (d) (1) A person who is a direct wine [seller] **SHIPPER** shall file with the
24 Office of the Comptroller an annual tax return.

25 (2) The annual tax return shall be due no later than October 15 of
26 each year covering the previous 12 calendar months ending September 30.

27 **SECTION 3. AND BE IT FURTHER ENACTED**, That this Act shall take effect
28 July 1, 2009.