

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 786 (Senator Madaleno, *et al.*)

Education, Health, and Environmental Affairs
and Budget and Taxation

Alcoholic Beverages - Enhanced Beer

This bill specifies that enhanced beer can only be sold by a holder of a beer, wine, or liquor license. The bill also specifies that for alcoholic beverage tax purposes, enhanced beer is taxed as beer.

Fiscal Summary

State Effect: The bill is not expected to significantly affect State revenues. Expenditures are not affected.

Local Effect: Local alcoholic beverages licensing fee revenues may increase by \$192,700 annually, under one set of assumptions. To the extent that more or fewer license holders apply for a beer, wine, and liquor license, actual revenues will vary accordingly. Expenditures are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: Enhanced beer is defined as an alcoholic beverage that contains (1) 6% or less alcohol by volume, derived primarily from the fermentation of grain, with not more than 49% of the beverage's overall alcohol content by volume obtained from flavors and other added nonbeverage ingredients containing alcohol; or (2) more than 6% alcohol by volume, derived primarily from the fermentation of grain, with not more than 1.5% of the beverage's overall alcohol content by volume obtained from flavors and other added nonbeverage ingredients containing alcohol.

Current Law: Beer is defined under State law, as any brewed alcoholic beverage to include beer, ale, porter, stout, and hard cider. Chapter 702 of 2008 expanded the definition of beer to include alcoholic beverages that contain (1) 6% or less alcohol by volume, derived primarily from the fermentation of grain, with not more than 49% of the beverage’s overall alcohol content by volume obtained from flavors and other added nonbeverage ingredients containing alcohol; or (2) more than 6% alcohol by volume, derived primarily from the fermentation of grain, with not more than 1.5% of the beverage’s overall alcohol content by volume obtained from flavors and other added nonbeverage ingredients containing alcohol.

Background: State tax rates for alcoholic beverages in Maryland are \$1.50 per gallon for distilled spirits, 40 cents per gallon for wine, and 9 cents per gallon for beer. **Exhibit 1** shows the estimated revenues from each type of alcoholic beverage for fiscal 2010.

Exhibit 1
Estimated Alcoholic Beverage Tax Revenues
FY 2010

	<u>Tax Rate</u> <u>Per Gallon</u>	<u>Estimated</u> <u>Gallons Sold</u>	<u>Revenues</u>
Distilled Spirits Tax	\$1.50	9,950,000	\$14.9 Million
Wine Tax	0.40	13,315,000	5.3 Million
Beer Tax	0.09	103,700,000	9.3 Million
Total			\$29.6 Million

Chapter 702 of 2008 established the current definition of beer, which includes alcoholic beverages with a beer base but with other alcoholic ingredients included. Chapter 702 was enacted without the Governor’s signature. Previously, there was some question of whether these products, which some call “alcopops” were to be categorized as “beer” or “liquor.” The new definition ended the controversy, and it had two major effects. First, it clearly allowed holders of beer (only) licenses to sell these types of products, as there was some question of whether the seller had to hold a beer, wine, and liquor license to sell these products, because of the added ingredients. Second, it followed that these new beer products were to be taxed as beer and not as liquor.

This bill states that only holders of beer, wine, and liquor licenses may sell these products and affirms the categorization, by Chapter 702, of these products for tax purposes as beer and not as liquor.

In fiscal 2008 there were 168 beer only licenses; 1,298 beer and wine licenses; and 5,525 beer, wine, and liquor licenses issued in the State.

Local Fiscal Effect: The bill may result in a local revenue increase depending on the number of beer licensees and beer and wine licensees that apply for a beer, wine, and liquor license in order to sell enhanced beer products. Under one set of assumptions, local government revenue may increase by \$192,700 annually, based on the following facts and assumptions:

- In fiscal 2008 there were 69 Class A beer licenses, and 477 Class A beer and wine licenses issued by local governments.
- The average annual license fee for a Class A beer license is \$155, and the average annual license fee for a Class A beer and wine license is \$280, and the average annual license fee for a Class A beer, wine, and liquor license is \$970.
- 50% of Class A beer and beer and wine licensees will apply for a Class A beer, wine, and liquor license.

For the purposes of this estimate, it is assumed that only Class A (off-sales) licenses are affected. To the extent that more or fewer beer or beer and wine license holders apply for a beer, wine, and liquor license, actual revenues will vary accordingly.

Small Business Effect: To the extent that small retailers who have a beer or beer and wine license realize reduced sales as a result of not being able to sell enhanced beer products if they choose not to apply for a beer, wine, and liquor license they will be negatively impacted. However, it is also possible that sales of beer and wine could increase. Any effect on small retailers depends on the volume of enhanced beer sales.

Additional Information

Prior Introductions: None.

Cross File: HB 1180 (Delegate Bronrott, *et al.*) - Economic Matters.

Information Source(s): Comptroller's Office, Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2009
ncs/hlb

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