

SB0858/603423/1

BY: Senator Zirkin

AMENDMENTS TO SENATE BILL 858
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, after “of” insert “repealing provisions that provide for a direct wine seller’s permit;”; in line 19, after “Act;” insert “establishing a direct wine shipper’s license to be issued by the Office of the Comptroller; requiring a person to be licensed before the person or the person’s agent may engage in shipping wine directly to a personal consumer in the State; requiring an applicant to meet certain qualifications for a license, submit an application and a copy of its current alcoholic beverages license to the Office of the Comptroller, and pay a certain fee; requiring a direct wine shipper to perform certain actions; prohibiting a direct wine shipper from shipping more than a certain amount of wine annually to any one personal consumer or make deliveries on Sunday; requiring a direct wine shipper to meet certain requirements to renew the license; specifying certain requirements for receiving a direct shipment of wine; allowing a shipment of wine to be ordered or purchased through a computer network; authorizing the Office of the Comptroller to adopt certain regulations; prohibiting a person without a license from shipping wine directly to personal consumers in the State; providing a certain penalty;”; in the same line, after the second “that” insert “certain provisions of”; in the same line, strike “applies” and substitute “apply”; in line 21, after “industry;” insert “defining certain terms; making certain technical corrections; altering a certain definition;”; after line 22, insert:

“BY repealing

Article 2B – Alcoholic Beverages

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

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)”;

(Over)

and in line 25, after “2-101(x)” insert “; and 7.5–101 through 7.5–111 to be under the new title “Title 7.5. Direct Wine Shipper’s License””.

On page 2, in line 5, after “Section” insert “2-101(b)(1)(i).”; in the same line, after “2-205,” insert “9-102(a).”; in the same line, strike “and”; in the same line, after “11-511” insert “, and 15-204(b)”; and after line 7, insert:

“BY repealing and reenacting, without amendments,

Article – Tax – General

Section 5–101(a)

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 5–101(f) and 5–201(d)

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)”.

AMENDMENT NO. 2

On page 2, in line 9, after “That” insert “Section(s) 7.5–101 through 7.5–110 and the title “Title 7.5. Direct Wine Seller’s Permit” of Article 2B – Alcoholic Beverages of the Annotated Code of Maryland be repealed.”

SECTION 2. AND BE IT FURTHER ENACTED, That”.

On page 11, after line 33, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

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. \$200 for a public storage and transportation permit, a nonresident dealer’s permit, a resident dealer’s permit, or a bulk transfer permit;

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

5. [~~\$10~~] \$100 for a direct wine [seller’s permit]

SHIPPER’S LICENSE.

TITLE 7.5. DIRECT WINE SHIPPER’S LICENSE.

7.5–101.

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

(B) “DIRECT WINE SHIPPER” MEANS THE HOLDER OF A DIRECT WINE SHIPPER’S LICENSE ISSUED UNDER THIS TITLE.

(Over)

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

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

7.5-102.

A PERSON SHALL BE LICENSED BY THE OFFICE OF THE COMPTROLLER AS A DIRECT WINE SHIPPER BEFORE THE PERSON OR THE PERSON'S AGENT MAY ENGAGE IN SHIPPING WINE DIRECTLY TO A PERSONAL CONSUMER IN THE STATE.

7.5-103.

TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL BE:

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

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

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

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

7.5-104.

(A) AN APPLICANT FOR A LICENSE SHALL:

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

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

(3) PAY A FEE OF \$100.

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

7.5-105.

(A) A DIRECT WINE SHIPPER SHALL:

(1) ENSURE THAT ALL CONTAINERS OF WINE SHIPPED DIRECTLY TO A PERSONAL CONSUMER IN THE STATE ARE CONSPICUOUSLY LABELED WITH THE WORDS "CONTAINS ALCOHOL: SIGNATURE OF PERSON AT LEAST 21 YEARS OF AGE REQUIRED FOR DELIVERY";

(2) REPORT MONTHLY TO THE OFFICE OF THE COMPTROLLER THE TOTAL AMOUNT OF WINE, BY TYPE, SHIPPED IN THE STATE, THE PRICE CHARGED, AND THE NAME AND ADDRESS OF EACH PURCHASER;

(3) PAY MONTHLY TO THE OFFICE OF THE COMPTROLLER ALL SALES TAXES AND EXCISE TAXES DUE ON SALES TO PERSONAL CONSUMERS IN THE STATE, THE AMOUNT OF THE TAXES TO BE CALCULATED AS IF THE SALE WERE MADE AT THE DELIVERY LOCATION;

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

(5) CONSENT TO THE JURISDICTION OF THE OFFICE OF THE COMPTROLLER OR OTHER STATE UNIT AND THE STATE COURTS CONCERNING ENFORCEMENT OF THIS SECTION AND ANY RELATED LAW.

(B) A DIRECT WINE SHIPPER MAY NOT:

(1) SHIP MORE THAN 24 9-LITER CASES OF WINE ANNUALLY TO ANY ONE PERSONAL CONSUMER; OR

(2) DELIVER WINE ON SUNDAY TO AN ADDRESS IN THE STATE.

7.5-106.

A DIRECT WINE SHIPPER MAY ANNUALLY RENEW ITS LICENSE IF THE DIRECT WINE SHIPPER:

(1) IS OTHERWISE ENTITLED TO BE LICENSED;

(2) PROVIDES TO THE OFFICE OF THE COMPTROLLER A COPY OF ITS CURRENT ALCOHOLIC BEVERAGES LICENSE; AND

(3) PAYS TO THE OFFICE OF THE COMPTROLLER A RENEWAL FEE OF \$50.

7.5-107.

(A) TO RECEIVE A DIRECT SHIPMENT OF WINE, A PERSONAL CONSUMER OF THE STATE MUST BE AT LEAST 21 YEARS OLD.

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

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

7.5-108.

(A) A SHIPMENT MADE IN ACCORDANCE WITH THIS TITLE SHALL BE MADE BY A COMMON CARRIER AND BE ACCOMPANIED BY A SHIPPING LABEL THAT CLEARLY INDICATES THE NAME OF THE DIRECT SHIPPER AND THE NAME AND ADDRESS OF THE RECIPIENT.

(B) TO COMPLETE DELIVERY OF A SHIPMENT, THE COMMON CARRIER SHALL REQUIRE FROM A PERSONAL CONSUMER AT THE ADDRESS LISTED ON THE SHIPPING LABEL:

(Over)

(1) THE SIGNATURE OF THE PERSONAL CONSUMER; AND

(2) PHOTOGRAPHIC IDENTIFICATION SHOWING THAT THE PERSONAL CONSUMER IS AT LEAST 21 YEARS OLD.

7.5-109.

THE OFFICE OF THE COMPTROLLER MAY ADOPT REGULATIONS TO CARRY OUT THIS TITLE.

7.5-110.

A BUSINESS ENTITY WITHOUT A LICENSE MAY NOT SHIP WINE DIRECTLY TO PERSONAL CONSUMERS IN THE STATE.

7.5-111.

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

9-102.

(a) No more than one license provided by this article, except by way of renewal or as otherwise provided in this section, shall be issued in any county or Baltimore City, to any person, or for the use of any partnership, corporation, unincorporated association, or limited liability company, in Baltimore City or any county of the State, and no more than one license shall be issued for the same premises except as provided in §§ 2-201 through 2-208, 2-301, [and] 6-701, AND

TITLE 7.5 of this article, and nothing herein shall be construed to apply to § 6-201(r)(4), (15), and (17), § 7-101(b) and (c), § 8-202(g)(2)(ii) and (iii), § 8-217(e), § 8-508, or § 12-202 of this article.

15-204.

(b) (1) Provided, that in Montgomery County no person, firm, or corporation shall keep for sale any alcoholic beverage not purchased from the Department of Liquor Control for Montgomery County, provided, however, that nothing in this subsection shall apply to a holder of a Class F license or a holder of a Class 1 beer, wine and liquor, Class 2 wine and liquor, Class 3 beer and wine, Class 4 beer, or Class 5 wine wholesaler's license, who may not sell or deliver any alcoholic beverage in Montgomery County for resale except to a county liquor dispensary.

(2) Notwithstanding paragraph (1) of this subsection:

(i) 1. A holder of a Class 6 limited wine wholesaler's license or of a nonresident winery permit may sell or deliver wine directly to a county liquor dispensary, restaurant, or other retail dealer in Montgomery County; and

[(ii)] 2. A county liquor dispensary, restaurant, or other retail dealer in Montgomery County may purchase wine directly from a holder of a Class 6 limited wine wholesaler's license or of a nonresident winery permit; AND

(II) A HOLDER OF A DIRECT WINE SHIPPER'S LICENSE MAY SHIP WINE DIRECTLY TO A PERSONAL CONSUMER IN MONTGOMERY COUNTY.

Article – Tax – General

5-101.

(Over)

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

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

5–201.

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

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

On page 12, in lines 1, 4, and 10, strike “2.”, “3.”, and “4.”, respectively, and substitute “4.”, “5.”, and “6.”, respectively; in line 1, after “That” insert “Section 2 of”; and in line 9, strike “1” and substitute “2”.