

HOUSE BILL 1127

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By: **Delegates Schulz, Clagett, Hogan, Hough, and Otto**

Introduced and read first time: February 10, 2012

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages – Micro–Breweries and Pub–Breweries – Class 7 Limited**
3 **Beer Wholesaler’s License**

4 FOR the purpose of authorizing the holder of a pub–brewery or micro–brewery license
5 to apply for and obtain certain additional licenses under certain conditions;
6 authorizing a holder of a micro–brewery license to provide samples of beer in a
7 certain amount at the licensed location at no charge or for a fee; repealing a
8 certain limit on the amount of beer that a holder of a micro–brewery license
9 may sell at retail for consumption on the licensed premises; repealing a
10 restriction on the beer that a holder of a micro–brewery license may sell at
11 retail for consumption off the licensed premises; creating a Class 7 limited beer
12 wholesaler’s license; specifying certain fees for the limited beer wholesaler’s
13 license; authorizing the issuance of a limited beer wholesaler’s license to a beer
14 manufacturer that meets certain requirements; authorizing a holder of a limited
15 beer wholesaler’s license to exercise certain privileges under certain conditions;
16 specifying that a holder of a limited beer wholesaler’s license may cancel certain
17 beer franchise agreements under certain conditions; and generally relating to
18 the manufacture, distribution, and sale of beer in the State.

19 BY repealing and reenacting, with amendments,
20 Article 2B – Alcoholic Beverages
21 Section 2–201(b)(1), 2–208, 2–301, 17–103, and 17–104
22 Annotated Code of Maryland
23 (2011 Replacement Volume)

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

26 **Article 2B – Alcoholic Beverages**

27 2–201.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) (1) [Except for a Class 6 pub–brewery license, the] **THE** holder of a
2 distillery, rectifying, winery, limited winery, [or] brewery, **PUB–BREWERY, OR**
3 **MICRO–BREWERY** license may apply for and obtain, under a different name, one or
4 more additional distillery, rectifying, winery, limited winery, [or] brewery,
5 **PUB–BREWERY, OR MICRO–BREWERY** licenses for the same or another premises.
6 Those licenses may be issued to different persons or under trade names used by
7 persons occupying a part of or all of the same premises.

8 2–208.

9 (a) There is a Class 7 micro–brewery (on– and off–sale) license.

10 (b) The license shall be issued:

11 (1) By the State Comptroller;

12 (2) Only in the following jurisdictions:

13 (i) Allegany County;

14 (ii) Baltimore City;

15 (iii) Baltimore County;

16 (iv) The City of Annapolis;

17 (v) Anne Arundel County;

18 (vi) Calvert County;

19 (vii) Carroll County;

20 (viii) Charles County;

21 (ix) Dorchester County;

22 (x) Frederick County;

23 (xi) Garrett County;

24 (xii) Harford County;

25 (xiii) Howard County;

26 (xiv) Montgomery County;

1 (xv) Prince George's County;

2 (xvi) Talbot County;

3 (xvii) Washington County;

4 (xviii) Wicomico County; and

5 (xix) Worcester County;

6 (3) (i) Only to a holder of a Class B beer, wine and liquor (on-sale)
7 license that is issued for use on the premises of a restaurant located in a jurisdiction
8 listed in paragraph (2) of this subsection;

9 (ii) To a holder of a Class D beer (off-sale) license that is issued
10 for use on the premises of the existing Class D license if the premises are located in
11 the Town of Berlin in Worcester County; or

12 (iii) To a holder of a Class D alcoholic beverages license that is
13 issued for use on the premises of the existing Class D license if the premises are
14 located in:

15 1. The 22nd Alcoholic Beverages District of Prince
16 George's County; or

17 2. Washington County; and

18 (4) In addition to item (3) of this subsection, in Montgomery County
19 only to a holder of a Class H beer and light wine license that is issued for use on the
20 premises of a restaurant located in the County.

21 (c) (1) A holder of a Class 7 micro-brewery license:

22 (i) May brew and bottle malt beverages at the license location;

23 **(ii) IN AN AMOUNT NOT EXCEEDING 2 FLUID OUNCES PER**
24 **SAMPLE, PROVIDE SAMPLES OF BEER THAT THE LICENSEE PRODUCES TO**
25 **CONSUMERS AT THE LICENSED LOCATION AT NO CHARGE OR FOR A FEE;**

26 **[(ii)] (iii)** May obtain a Class 2 rectifying license for a premises
27 located within 1 mile of the existing Class 7 micro-brewery location to bottle malt
28 beverages brewed at the micro-brewery location only;

29 **[(iii)] (iv)** May contract with the holder of a Class 5 brewery
30 license, a Class 7 micro-brewery license, or a Class 2 rectifying license held under §

1 2–203 of this subtitle or the holder of a nonresident dealer’s permit to brew and bottle
2 malt beverages on their behalf;

3 [(iv)] (v) May store the finished product under an individual
4 storage permit or at a licensed public storage facility for subsequent sale and delivery
5 to a licensed wholesaler, an authorized person outside this State, and for shipment
6 back to the micro–brewery location for sale on the retail premises;

7 [(v)] (VI) May not collectively brew, bottle, or contract for more
8 than 22,500 barrels of malt beverages each calendar year; and

9 [(vi)] (VII) May enter into a temporary delivery agreement with
10 a distributor only for delivery of beer to a beer festival or wine and beer festival and
11 the return of any unused beer if:

12 1. The beer festival or wine and beer festival is in a sales
13 territory for which the holder does not have a franchise with a distributor under the
14 Beer Franchise Fair Dealing Act; and

15 2. The temporary delivery agreement is in writing.

16 (2) A Class 7 licensee who wishes to produce more than the barrelage
17 authorized under paragraph [(1)(v)] (1)(VI) of this subsection shall divest of any Class
18 B, D, or any other retail license and obtain a Class 5 manufacturer’s license.

19 (3) For the purposes of determining the barrelage limitation under
20 paragraph [(1)(v)] (1)(VI) of this subsection, any salable beer produced under
21 contractual arrangements accrues only to the Class 7 micro–brewery licensee who is
22 the brand owner.

23 (4) In Allegany County only, the holder of a Class 7 license:

24 (i) May brew in one location and may contract for the bottling
25 of the malt beverage in another location; and

26 (ii) Need not meet the hotel/motel requirements for a Class B
27 beer, wine and liquor licensee but shall meet the requirements for those Class B
28 restaurants.

29 (d) (1) The on–sale privilege authorizes the holder, each calendar year, to
30 sell at retail [up to 4,000 barrels of] beer brewed under this license to customers for
31 consumption on the licensed premises.

32 (2) The off–sale privilege authorizes the holder to sell and deliver beer
33 brewed under this license to:

1 (i) Any wholesaler licensed under this article to sell beer in this
2 State; or

3 (ii) Any person who is located in a state other than Maryland
4 who is authorized under the laws of that state to receive brewed beverages.

5 (3) (i) This paragraph applies only in:

- 6 1. Allegany County;
- 7 2. The City of Annapolis;
- 8 3. Anne Arundel County;
- 9 4. Baltimore City;
- 10 5. Baltimore County;
- 11 6. Calvert County;
- 12 7. Carroll County;
- 13 8. Charles County;
- 14 9. Dorchester County;
- 15 10. Frederick County;
- 16 11. Garrett County;
- 17 12. Harford County;
- 18 13. Howard County;
- 19 14. Montgomery County;
- 20 15. Prince George's County;
- 21 16. Talbot County;
- 22 17. Washington County;
- 23 18. Wicomico County; and
- 24 19. Worcester County.

1 (ii) The holder may sell at retail beer brewed under this license
2 to customers for consumption off the licensed premises [in refillable containers that
3 are sealed by the micro–brewery licensee at the time of each refill].

4 (e) A holder of a Class 7 micro–brewery license:

5 (1) May not own, operate or be affiliated with any other manufacturer
6 of beer except for a Class 2 rectifying license authorized by subsection (c)(1)(ii) of this
7 section; and

8 (2) Notwithstanding § 2–201(b) of this subtitle, may not be granted a
9 wholesale alcoholic beverages license **UNLESS THE LICENSE IS A CLASS 7 LIMITED**
10 **BEER WHOLESALE’S LICENSE.**

11 (f) (1) Except as provided in paragraph (2) of this subsection, the hours
12 and days for consumer sales under a Class 7 micro–brewery license are as established
13 for:

14 (i) A Class B license in the respective jurisdictions listed in
15 subsection (b)(2) of this section, for a holder of a Class B beer, wine and liquor license;
16 or

17 (ii) A Class D beer license in Worcester County, for a holder of a
18 Class D beer license in the Town of Berlin in Worcester County.

19 (2) For Class D licensees in the 22nd Alcoholic Beverages District in
20 Prince George’s County only, the hours and days for consumer sales under this license
21 are as established for a Class D license in Prince George’s County.

22 (3) For Class D licensees in Washington County, the hours and days
23 for consumer sales under this license are as established for a Class D license in
24 Washington County.

25 (g) In Montgomery County, a holder of a Class 7 micro–brewery license shall
26 enter into a written agreement with the Department of Liquor Control for
27 Montgomery County for the sale and resale of malt beverages brewed under this
28 license in accordance with this article.

29 (h) For Talbot County, the Office of the Comptroller of Maryland shall
30 specify which local license is the equivalent of the Class B beer, wine and liquor
31 license specified in subsection (b)(3) of this section.

32 (i) In Carroll County, the distance restriction requirement for
33 micro–breweries is found in § 9–207 of this article.

34 (j) (1) This subsection applies only in Washington County.

1 (2) The Comptroller may not issue a Class 7 micro-brewery license for
2 a premises on property that has been leased unless the landlord of the property
3 presents to the Comptroller a receipt or certificate showing that there are no unpaid
4 taxes due to the State, a county, or any local government from the landlord or any
5 entity in which the landlord has a direct or indirect interest that:

6 (i) Is proprietary; or

7 (ii) Has been obtained by a loan, mortgage, or lien, or in any
8 other manner.

9 2-301.

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

12	Class 1	Beer, wine and liquor.....	\$2,000
13	Class 2	Wine and liquor.....	1,750
14	Class 3	Beer and wine.....	1,500
15	Class 4	Beer.....	1,250
16	Class 5	Wine.....	1,250
17	Class 6	Limited wine	50
18	CLASS 7	LIMITED BEER	50

19 (2) Upon approval of the application:

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

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

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

29 (iv) A Class 4 wholesale licensee may use additional locations for
30 the warehousing, sale and delivery of beer upon the payment of an additional fee of
31 \$1,250 for each additional location.

32 (v) A Class 5 wholesale licensee may use additional locations for
33 the warehousing, sale and delivery of wine upon the payment of an additional fee of
34 \$1,250 for each additional location.

1 (vi) A Class 6 limited wine wholesale licensee may use
2 additional locations for the warehousing, sale and delivery of wine upon the payment
3 of an additional fee of \$50 for each additional location.

4 **(VII) A CLASS 7 LIMITED BEER WHOLESALE LICENSEE MAY**
5 **USE ADDITIONAL LOCATIONS FOR THE WAREHOUSING, SALE AND DELIVERY OF**
6 **BEER UPON THE PAYMENT OF AN ADDITIONAL FEE OF \$50 FOR EACH**
7 **ADDITIONAL LOCATION.**

8 (b) (1) Except as otherwise provided in this subsection, a wholesaler's
9 license issued in accordance with the fee paid entitles the holder to acquire the
10 alcoholic beverages indicated on the license from licensees and holders of nonresident
11 dealer's permits and resident dealer's permits authorized by this State to make the
12 sales and deliveries. The license authorizes the sale and delivery of those alcoholic
13 beverages from the licensed premises to licensees and permit holders in Maryland and
14 to persons outside of this State.

15 (2) A Class 6 limited wine wholesaler's license shall be issued only to a
16 wine manufacturer that:

17 (i) Produces not more than 27,500 gallons of its own wine
18 annually; and

19 (ii) Holds a Class 4 limited winery manufacturer's license issued
20 under this article.

21 (3) A person who holds a Class 6 limited wine wholesaler's license, on
22 approval of the application and payment of the fee:

23 (i) May sell and deliver its own brand of wine produced at the
24 licensee's premises to a retail licensee or permit holder in the State authorized to
25 acquire the wine; and

26 (ii) May not sell its wine to a licensed wholesaler.

27 **(4) A CLASS 7 LIMITED BEER WHOLESALE LICENSEE SHALL BE**
28 **ISSUED ONLY TO A BEER MANUFACTURER THAT:**

29 **(I) PRODUCES NOT MORE THAN 4,500 BARRELS OF ITS**
30 **OWN BEER ANNUALLY; AND**

31 **(II) HOLDS A CLASS 7 MICRO-BREWERY MANUFACTURER'S**
32 **LICENSE ISSUED UNDER THIS ARTICLE.**

33 **(5) A PERSON WHO HOLDS A CLASS 7 LIMITED BEER**
34 **WHOLESALE LICENSE, ON APPROVAL OF THE APPLICATION AND PAYMENT OF**

1 THE FEE, MAY SELL AND DELIVER ITS OWN BRAND OF BEER PRODUCED AT THE
2 LICENSEE'S PREMISES TO A RETAIL LICENSEE OR PERMIT HOLDER IN THE
3 STATE AUTHORIZED TO ACQUIRE THE BEER.

4 [(4)] (6) In Allegany County the holder of a Class 1 or Class 2
5 wholesaler's license may not sell liquor in any size container smaller than 23 ounces or
6 680 milliliters to any holder of a special permit issued under § 7-101(h) of this article.

7 [(5)] (7) A wholesaler's license of the appropriate class authorizes the
8 holder to directly import beer, wine, or distilled spirits from sources outside the
9 continental limits and possessions of the United States. However, any wholesale
10 licensee that imports for subsequent distribution in or outside the State of Maryland
11 shall be:

12 (i) The brand owner;

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

15 (iii) A wholesale licensee that purchases from the authorized
16 United States importer.

17 [(6)] (8) Paragraph [(5)] (7) of this subsection only applies if the
18 wholesale licensee's jurisdiction and authority to sell has been submitted to the
19 Comptroller by the brand owner.

20 (c) The holder of a Class 1, Class 2 or Class 3 wholesaler's license, upon
21 approval of application and the payment of the fee, may obtain more than one such
22 license provided separate records are kept.

23 (d) Delivery from a truck or vehicle under the exclusive control of the holder
24 of a wholesaler's license of beer previously purchased by and delivered to the license
25 holder constitutes delivery from his place of business within the meaning of this
26 section.

27 (e) Delivery from a truck or vehicle under the exclusive control of the holder
28 of a wholesaler's license of wine or a wine-based beverage constitutes delivery from
29 the wholesaler's place of business within the meaning of this section if:

30 (1) The wholesaler has a license to sell wine; and

31 (2) The wine or wine-based beverage has an alcoholic content by
32 volume of 6.5 percent or less.

33 (f) (1) This subsection does not apply to a nonresident winery permit
34 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 (g) (1) This subsection applies in Montgomery County.

5 (2) The Department of Liquor Control may sell its inventory through
6 county liquor dispensaries at wholesale and retail and through retail outlets operated
7 by individuals with whom the Department contracts under § 15–203(d) of this article.

8 (3) Notwithstanding any other provision of law, this article may not be
9 interpreted to prohibit the sale of alcoholic beverages in whole cases or in individual
10 bottles by the director of the Department of Liquor Control, through county liquor
11 dispensaries selling at wholesale or retail, to a licensee in Montgomery County.

12 (4) The Department of Liquor Control may not sell alcoholic beverages
13 at different prices to different licensees or classes of licensees.

14 17–103.

15 (a) This section does not apply to temporary delivery agreements under §
16 [2–208(c)(1)(vi)] **2–208(C)(1)(VII)** of this article regarding beer festivals or wine and
17 beer festivals.

18 (b) Notwithstanding the terms, provisions or conditions of any agreement or
19 franchise, **AND EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION**, no
20 franchisor shall cancel, terminate or refuse to continue or renew any beer franchise, or
21 cause a franchisee to resign from a franchise, unless good cause exists for termination,
22 cancellation, nonrenewal, noncontinuation or causing a resignation; provided, that
23 good cause shall exist if a franchisee’s license to do business in the State is revoked
24 under any provisions of this article.

25 **(C) A HOLDER OF A CLASS 7 LIMITED BEER WHOLESALER’S LICENSE**
26 **MAY CANCEL ONE OR MORE BEER FRANCHISE AGREEMENTS IF THE HOLDER:**

27 **(1) IS A HOLDER OF A CLASS 7 MICRO–BREWERY LICENSE;**

28 **(2) GIVES NOTICE AT LEAST 30 DAYS BEFORE THE**
29 **CANCELLATION TAKES EFFECT; AND**

30 **(3) BUYS BACK AT COST ANY PRODUCT OF THE HOLDER THAT IS**
31 **IN THE POSSESSION OF THE FRANCHISEE.**

32 17–104.

1 (a) This section does not apply to temporary delivery agreements under §
2 ~~[2-208(c)(1)(vi)]~~ **2-208(C)(1)(VII)** of this article regarding beer festivals or wine and
3 beer festivals.

4 (b) Except as provided in this section **AND IN § 17-103(C) OF THIS**
5 **SUBTITLE**, a beer manufacturer shall provide a franchisee at least 180 days prior
6 written notice of any intent to terminate, cancel or nonrenew any franchise agreement.
7 The notice shall state all the reasons for the intended termination, cancellation, or
8 nonrenewal. The franchisee shall have 180 days in which to rectify any claimed
9 deficiency. If the deficiency shall be rectified within 180 days of notice, then the
10 proposed termination, cancellation or nonrenewal shall be null and void and without
11 legal effect. The notice provisions of this section shall not apply if the reason for
12 termination, cancellation or nonrenewal is insolvency, the occurrence of an assignment
13 for the benefit of creditors, or bankruptcy.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 July 1, 2012.