

## Chapter 361

### (House Bill 192)

AN ACT concerning

#### **Kent County – Alcoholic Beverages – Micro–Brewery Licenses**

FOR the purpose of adding Kent County to the list of counties in which a Class 7 micro–brewery license may be issued; adding the county to the list of counties in which the license holder may sell at retail beer brewed under the license for consumption off the licensed premises under certain conditions; providing that the license may ~~only~~ be issued to a holder of a Class D beer (off–sale) license; providing for the hours and days for sale for the license; and generally relating to alcoholic beverages in Kent County.

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 2–208

Annotated Code of Maryland

(2011 Replacement Volume)

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

#### **Article 2B – Alcoholic Beverages**

2–208.

- (a) There is a Class 7 micro–brewery (on– and off–sale) license.
- (b) The license shall be issued:
  - (1) By the State Comptroller;
  - (2) Only in the following jurisdictions:
    - (i) Allegany County;
    - (ii) Baltimore City;
    - (iii) Baltimore County;
    - (iv) The City of Annapolis;

- (v) Anne Arundel County;
- (vi) Calvert County;
- (vii) Carroll County;
- (viii) Charles County;
- (ix) Dorchester County;
- (x) Frederick County;
- (xi) Garrett County;
- (xii) Harford County;
- (xiii) Howard County;
- (xiv) **KENT COUNTY**;
- (xv) Montgomery County;
- [(xv)] **(XVI)** Prince George's County;
- [(xvi)] **(XVII)** Talbot County;
- [(xvii)] **(XVIII)** Washington County;
- [(xviii)] **(XIX)** Wicomico County; and
- [(xix)] **(XX)** Worcester County;

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

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

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

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

2. Washington County; and

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

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

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

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

(iii) May contract with the holder of a Class 5 brewery license, a Class 7 micro-brewery license, or a Class 2 rectifying license held under § 2-203 of this subtitle or the holder of a nonresident dealer's permit to brew and bottle malt beverages on their behalf;

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

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

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

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

2. The temporary delivery agreement is in writing.

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

(3) For the purposes of determining the barrelage limitation under paragraph (1)(v) of this subsection, any salable beer produced under contractual

arrangements accrues only to the Class 7 micro-brewery licensee who is the brand owner.

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

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

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

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

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

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

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

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

1. Allegany County;
2. The City of Annapolis;
3. Anne Arundel County;
4. Baltimore City;
5. Baltimore County;
6. Calvert County;
7. Carroll County;
8. Charles County;
9. Dorchester County;
10. Frederick County;

11. Garrett County;
12. Harford County;
13. Howard County;
14. **KENT COUNTY;**
15. Montgomery County;
- [15.] 16. Prince George's County;
- [16.] 17. Talbot County;
- [17.] 18. Washington County;
- [18.] 19. Wicomico County; and
- [19.] 20. Worcester County.

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

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

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

(2) Notwithstanding § 2-201(b) of this subtitle, may not be granted a wholesale alcoholic beverages license.

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

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

(ii) A Class D beer license in Worcester County, for a holder of a Class D beer license in the Town of Berlin in Worcester County; **OR**

**(III) A CLASS D LICENSE IN KENT COUNTY.**

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

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

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

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

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

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

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

(i) Is proprietary; or

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

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

**Approved by the Governor, May 2, 2012.**