

## Chapter 396

(House Bill 978)

AN ACT concerning

### Alcoholic Beverages – Winery Off-Site Permit and Wine Festival Permit

FOR the purpose of requiring the Office of the Comptroller to collect a fee for a winery off-site permit and a wine festival permit; repealing provisions that provide for a winery special event permit and a related fee; repealing provisions that provide for a farmer's market permit; establishing a winery off-site permit to be issued by the Office of the Comptroller; authorizing the Office of the Comptroller to issue a winery off-site permit to certain persons who meet certain requirements; authorizing a winery off-site permit holder to provide and sell wine for certain purposes under certain circumstances; requiring a winery off-site permit holder to have a certain agent present ~~during a certain event~~ while selling wine or providing samples at a farmers' market; specifying certain events in which a winery off-site permit may be used; specifying the term of a winery off-site permit; requiring an applicant for a winery off-site permit to submit a certain application form developed by the Office of the Comptroller and pay a certain fee to obtain a permit; requiring a winery off-site permit holder to notify the Office of the Comptroller within a certain period of time of its intention to attend an off-site event; authorizing the Office of the Comptroller to adopt regulations to require a winery off-site permit holder to notify a certain board of license commissioners of its intention to attend an off-site event; specifying a certain winery off-site permit fee; establishing a wine festival permit to be issued by the Office of the Comptroller; authorizing the Office of the Comptroller to issue a wine festival permit to certain persons who meet certain requirements, provided that the wine festival will occur over a certain period of time; authorizing a wine festival permit holder to purchase wine at wholesale to provide and sell wine for certain purposes under certain circumstances; requiring a wine festival permit holder to provide space at the wine festival for holders of winery off-site permits; authorizing a winery off-site permit holder to provide and sell wine in the same manner as a wine festival permit holder, under certain circumstances; requiring a wine festival permit holder to have certain agents present during a certain event; ~~requiring a certain holder of a winery off site permit to have a certain agent present during a certain event~~; requiring an applicant for a wine festival permit to submit a certain application form developed by the Office of the Comptroller within a certain period of time before the proposed event and pay a certain fee to obtain a permit; specifying the contents of an application for a wine festival permit; requiring a wine festival permit holder to provide the Office of the Comptroller with a list of winery off-site permit holders that will attend a certain wine festival within a certain period of time before the event; establishing certain

limits on the attendance at a certain number of events each calendar year by a winery off-site permit holder; making conforming changes; and generally relating to winery off-site permits and wine festival permits.

BY repealing and reenacting, with amendments,  
 Article 2B – Alcoholic Beverages  
 Section 2–101(b)(1), (v), (w), and (y) and 7.5–101(b)  
 Annotated Code of Maryland  
 (2011 Replacement Volume and 2012 Supplement)

BY repealing  
 Article 2B – Alcoholic Beverages  
 Section 2–101(b)(11), (u), and (x)  
 Annotated Code of Maryland  
 (2011 Replacement Volume and 2012 Supplement)

BY adding to  
 Article 2B – Alcoholic Beverages  
 Section 2–102 ~~and 2–103~~, 2–103, and 2–104  
 Annotated Code of Maryland  
 (2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, 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;
5. \$200 for issuance or renewal of a direct wine shipper’s permit; [and]

- 6. \$100 for a common carrier permit;
- 7. \$100 FOR A WINERY OFF-SITE PERMIT; AND**
- 8. \$100 FOR A WINE FESTIVAL PERMIT.**

(ii) The Office of the Comptroller shall issue a nonbeverage permit without the payment of any fee for an eleemosynary or a fuel-alcohol permittee.

**[(11) The fee for a winery special event permit is \$25 per event.]**

**[(u) (1) The Office of the Comptroller may issue a winery special event permit to a licensed Class 4 Maryland limited winery, provided that:**

(i) Except as provided in paragraphs (6), (7), (8), (9), (10), (11), (12), (13), and (14) of this subsection, no more than 12 winery special event permits are issued to the Class 4 Maryland limited winery in any given calendar year;

(ii) The permit does not exceed 3 consecutive days; and

(iii) Except as provided in paragraphs (6), (7), (8), (9), (10), (11), (12), (13), and (14) of this subsection, no more than three winery special event permits are issued in any calendar year to any given limited winery for use in the same political subdivision.

(2) In addition to the winery special event permit under paragraph (1) of this subsection, the Office of the Comptroller may issue a winery special event permit to a licensed Class 4 Maryland limited winery for use during the entire length of the Montgomery County Agricultural Fair.

(3) The winery special event permit may only be issued for an event which:

(i) Has as its major purpose an activity other than the sale and promotion of alcoholic beverages and for which the participation of the winery is a subordinate activity;

(ii) Is approved by the Department of Agriculture and the Office of the Comptroller; and

(iii) Is held on a nonlicensed premises or a premises on which a person may obtain a temporary alcoholic beverages license.

(4) A winery special event permit shall authorize the holder to:

(i) Provide samples not to exceed 1 fluid ounce per brand to consumers;

(ii) Sell not more than four 750 ml bottles of wine to a consumer at any given event or festival for off-premises consumption; and

(iii) Sell by the glass wine produced by the licensee to persons participating in any event or festival and for on-premises consumption.

(5) The winery special event permit application shall be filed with the Office of the Comptroller not less than 15 days prior to any event.

(6) A Class 4 Maryland limited winery in Calvert County may be issued a winery special event permit for unlimited use for one night each week from June through November at the North Beach Friday Night Farmers' Market.

(7) (i) In addition to the winery special event permits that may be issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery may be issued not more than 12 winery special event permits for use at farmers' markets in Prince George's County that are listed on the Farmers' Market Directory of the Maryland Department of Agriculture.

(ii) If a winery special event permit is issued under this paragraph:

1. The holder of the permit may not sell wine by the glass; and

2. The farmers' market administrator or the administrator's designee and the holder of the permit or the holder's designee shall be:

A. Certified by an alcohol awareness program approved by the Comptroller; and

B. Present during the hours when wine may be sold.

(8) (i) In addition to the winery special event permits that may be issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery may be issued not more than 12 winery special event permits for use at farmers' markets in Montgomery County that are listed on the Farmers' Market Directory of the Maryland Department of Agriculture.

(ii) If a winery special event permit is issued under this paragraph:

1. The holder of the permit may not sell wine by the glass; and

2. The farmers' market administrator or the administrator's designee and the holder of the permit or the holder's designee shall be:

A. Certified by an alcohol awareness program approved by the Comptroller; and

B. Present during the hours when wine may be sold.

(9) (i) In addition to the winery special event permits that may be issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery may be issued not more than 12 winery special event permits for use at farmers' markets in Frederick County that are listed on the Farmers' Market Directory of the Maryland Department of Agriculture.

(ii) If a winery special event permit is issued under this paragraph:

1. The holder of the permit may not sell wine by the glass; and

2. The farmers' market administrator or the administrator's designee and the holder of the permit or the holder's designee shall be:

A. Certified by an alcohol awareness program approved by the Comptroller; and

B. Present during the hours when wine may be sold.

(10) (i) 1. In addition to the winery special event permits that may be issued under paragraph (1)(i) and (iii) of this subsection and subject to subsubparagraph 2 of this subparagraph, a Class 4 Maryland limited winery may be issued not more than 12 winery special event permits for use at farmers' markets in Baltimore County that are listed on the Farmers' Market Directory of the Maryland Department of Agriculture.

2. A Class 4 Maryland limited winery may use not more than six winery special event permits at the same farmers' market in Baltimore County in a year.

(ii) If a winery special event permit is issued under this paragraph:

1. The holder of the permit may not sell wine by the glass; and

2. The farmers' market administrator or the administrator's designee and the holder of the permit or the holder's designee shall be:

A. Certified by an alcohol awareness program approved by the Comptroller; and

B. Present during the hours when wine may be sold.

(11) (i) In addition to the winery special event permits that may be issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery may be issued not more than 12 winery special event permits for use at farmers' markets in Carroll County that are listed on the Farmers' Market Directory of the Maryland Department of Agriculture.

(ii) If a winery special event permit is issued under this paragraph:

1. The holder of the permit may not sell wine by the glass; and

2. The farmers' market administrator or the administrator's designee and the holder of the permit or the holder's designee shall be:

A. Certified by an alcohol awareness program approved by the Comptroller; and

B. Present during the hours when wine may be sold.

(12) In addition to the winery special event permits that may be issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery may be issued a winery special event permit for unlimited use for 1 day each week at a farmers' market in St. Mary's County that is listed on the Farmers' Market Directory of the Maryland Department of Agriculture.

(13) In addition to the winery special event permits that may be issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery may be issued a winery special event permit for unlimited use for 1 day each week at a farmers' market in Dorchester County that is listed on the Farmers' Market Directory of the Maryland Department of Agriculture.

(14) In addition to the winery special event permits that may be issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery may be issued a winery special event permit for unlimited use for 1 day each week at a

farmers' market in Charles County that is listed on the Farmers' Market Directory of the Maryland Department of Agriculture.]

**[(v)] (U)** (1) The Office of the Comptroller may issue a nonresident winery permit to a person that:

(i) Is licensed outside of the State to engage in the manufacture of wine;

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

(iii) Does not hold a nonresident dealer's permit.

(2) A holder of a nonresident winery permit may sell and deliver its own wine from a location outside of the State to a retail licensee or permit holder in the State authorized to acquire the wine.

(3) A nonresident winery permit holder shall comply with all of the requirements of this article, the Tax – General Article, and the regulations of the Office of the Comptroller that apply to a holder of a Class 6 limited wine wholesaler's license.

**[(w)] (V)** (1) Subject to paragraph (2) of this subsection, the Comptroller may issue a resident dealer's permit to:

(i) An importer of beer, wine, or distilled spirits produced outside the United States who purchases directly from the brand owner or from a sales agent of a brewer, distiller, rectifier, bottler, manufacturer, vintner, or winery, who is authorized by the brand owner to sell in the State, and who has provided proof of this sales agency relationship to the Comptroller; or

(ii) An American sales agent of an importer under subparagraph (i) of this paragraph, providing proof of that agency is presented to the Comptroller.

(2) To be issued a resident dealer's permit, an individual applicant, an applicant qualifying as a resident applicant for a corporation, or each applicant for a partnership shall have been a resident of the State for at least 2 years immediately before applying for the permit.

(3) A resident dealer's permit may not be issued to a person who:

(i) Holds a wholesaler or retailer license of any class issued under this article;

(ii) Has an interest in a wholesaler licensed under this article, other than a disclosed legal, equity, or security interest of a malt beverage wholesaler; or

(iii) Has an interest in a retailer licensed under this article.

(4) A resident dealer's permit authorizes the holder to sell alcoholic beverages to a wholesaler licensed under this article in the State or to a person outside of the State who the Comptroller authorizes to acquire the alcoholic beverages.

(5) A holder of a resident dealer's permit may not own or operate a warehouse in the State.

[(x) (1) In this subsection, "permit" means a farmer's market permit.

(2) There is a farmer's market permit.

(3) The Comptroller may issue the permit to a holder of a license:

(i) Other than a Class 4 limited winery license, that allows the holder to sell alcoholic beverages to the public for consumption off the licensed premises; and

(ii) That was issued by the local licensing board of the jurisdiction in which the farmer's market will be held.

(4) The holder of a permit shall notify the local licensing board of the jurisdiction in which the farmer's market will be held that the permit has been issued.

(5) (i) A permit may be used only:

1. At a farmer's market that is listed in the farmer's market directory of the Maryland Department of Agriculture;

2. At the farmer's market named in the permit; and

3. During the hours of operation of the farmer's market for which it is obtained.

(ii) The Comptroller may issue not more than one permit for use at each farmer's market.

(6) A permit authorizes the holder to:

(i) Occupy stall space at a farmer's market; and



(ii) Subject to paragraph (7) of this subsection:

1. Offer and sell sealed containers of wine to consumers for consumption off the licensed premises of the farmer's market; and

2. Provide at no charge samples of wine not to exceed 1 fluid ounce per brand to consumers for consumption on the licensed premises of the farmer's market.

(7) All wine offered for sale or samplings by the permit holder shall be the product of a Class 4 limited winery.]

[(y)] (w) (1) The Office of the Comptroller may issue a common carrier permit to a person who meets the definition of a "common carrier" under § 7.5-101 of this article.

(2) The holder of a common carrier permit may deliver wine from a location inside or outside the State to a consumer in the State for the consumer's personal use under Title 7.5 of this article.

(3) The holder of a common carrier permit that delivers wine solely under Title 7.5 of this article may not be required to obtain a transportation permit issued under subsection (g) of this section in addition to the common carrier permit.

## **2-102.**

**(A) THERE IS A WINERY OFF-SITE PERMIT.**

**(B) THE OFFICE OF THE COMPTROLLER MAY ISSUE THE PERMIT TO A CLASS 4 LIMITED WINERY THAT MEETS THE REQUIREMENTS OF THIS SECTION.**

**(C) DURING AN EVENT LISTED IN SUBSECTION (E) OF THIS SECTION, THE PERMIT HOLDER MAY:**

**(1) PROVIDE TO A CONSUMER A SAMPLE THAT HAS BEEN PRODUCED BY THE PERMIT HOLDER AND THAT MAY NOT EXCEED 1 FLUID OUNCE FOR EACH BRAND;**

**(2) SELL TO A CONSUMER WINE ~~IN SEALED CONTAINERS~~ THAT HAS BEEN PRODUCED BY THE PERMIT HOLDER FOR OFF-PREMISES CONSUMPTION; AND**

**(3) EXCEPT FOR FARMERS' MARKETS LISTED IN SUBSECTION (E) OF THIS SECTION, SELL TO A CONSUMER WINE ~~BY THE GLASS~~ THAT IS**

PRODUCED BY THE PERMIT HOLDER FOR ~~ON-PREMISES~~ ON- AND OFF-PREMISES CONSUMPTION.

(D) WHILE SELLING WINE OR PROVIDING SAMPLES AT ~~AN EVENT LISTED~~ A FARMERS' MARKET AS PROVIDED IN SUBSECTION ~~(E)~~ (E)(4) OF THIS SECTION, A PERMIT HOLDER SHALL HAVE AN AGENT PRESENT WHO IS CERTIFIED BY AN APPROVED ALCOHOL AWARENESS PROGRAM.

(E) THE WINERY OFFSITE PERMIT MAY BE USED ONLY:

(1) DURING THE MONTGOMERY COUNTY AGRICULTURAL FAIR;

(2) 1 NIGHT EACH WEEK FROM JUNE THROUGH NOVEMBER AT THE NORTH BEACH FRIDAY NIGHT FARMERS' MARKET;

(3) AT AN EVENT THAT HAS AS ITS MAJOR PURPOSE AN ACTIVITY:

(I) THAT IS OTHER THAN THE SALE AND PROMOTION OF ALCOHOLIC BEVERAGES; AND

(II) FOR WHICH THE PARTICIPATION OF A WINERY IS A SUBORDINATE ACTIVITY;

(4) AT FARMERS' MARKETS THAT ARE:

~~(I) LISTED~~ LISTED ON THE FARMERS' MARKET DIRECTORY OF THE MARYLAND DEPARTMENT OF AGRICULTURE; ~~AND~~

~~(II) LOCATED IN BALTIMORE COUNTY, CARROLL COUNTY, FREDERICK COUNTY, MONTGOMERY COUNTY, OR PRINCE GEORGE'S COUNTY;~~  
AND

(5) AT A WINE FESTIVAL THAT:

(I) HAS AS ITS PRIMARY PURPOSE THE PROMOTION OF MARYLAND WINE; AND

(II) IS AUTHORIZED BY THE OFFICE OF THE COMPTROLLER UNDER § 2-103 OF THIS SUBTITLE.

(F) THE TERM OF A WINERY OFF-SITE PERMIT IS 1 YEAR.

(G) AN APPLICANT SHALL:

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

(2) PAY A FEE OF \$100 FOR THE WINERY OFF-SITE PERMIT.

(H) (1) NO LATER THAN THE 20TH DAY OF THE MONTH PRECEDING THE OFF-SITE EVENT, THE PERMIT HOLDER SHALL NOTIFY THE OFFICE OF THE COMPTROLLER OF ITS INTENTION TO ATTEND AN OFF-SITE EVENT.

(2) THE NOTICE SHALL BE ON A FORM THAT THE OFFICE OF THE COMPTROLLER PROVIDES.

(I) THE COMPTROLLER MAY ADOPT REGULATIONS TO REQUIRE THE PERMIT HOLDER TO NOTIFY THE BOARD OF LICENSE COMMISSIONERS IN THE COUNTY WHERE THE EVENT IS BEING HELD OF ITS INTENTION TO ATTEND AN OFF-SITE EVENT.

2-103.

(A) THERE IS A WINE FESTIVAL PERMIT.

(B) (1) AN APPLICANT FOR A WINE FESTIVAL PERMIT ~~MAY ONLY~~ SHALL BE A NONPROFIT ORGANIZATION, AS DEFINED BY § 501(C) OF THE INTERNAL REVENUE CODE.

(2) THE OFFICE OF THE COMPTROLLER MAY ISSUE THE PERMIT TO A NONPROFIT ORGANIZATION THAT MEETS THE REQUIREMENTS OF THIS SECTION.

(3) A PERMIT AUTHORIZES THE PERMIT HOLDER TO CONDUCT A WINE FESTIVAL FOR AT LEAST 1 DAY AND NOT MORE THAN 3 CONSECUTIVE DAYS.

(C) (1) THE PERMIT HOLDER MAY PURCHASE WINE AT WHOLESALE TO:

(I) PROVIDE TO A CONSUMER A SAMPLE THAT MAY NOT EXCEED 1 FLUID OUNCE FOR EACH BRAND; AND

(II) SELL TO A CONSUMER WINE ~~IN A SEALED CONTAINER~~ FOR ON- AND OFF-PREMISES CONSUMPTION; ~~AND~~

~~(III) SELL TO A CONSUMER WINE IN AN OPEN CONTAINER OR BY THE GLASS FOR ON-PREMISES CONSUMPTION.~~

(2) THE PERMIT HOLDER SHALL PROVIDE SPACE AT A WINE FESTIVAL FOR HOLDERS OF WINERY OFF-SITE PERMITS.

(3) A HOLDER OF A WINERY OFF-SITE PERMIT THAT ATTENDS A WINE FESTIVAL MAY PROVIDE WINE TO A CONSUMER IN THE SAME MANNER AS THE HOLDER OF THE WINE FESTIVAL PERMIT.

(4) THE PERMIT HOLDER MAY PROVIDE OR SELL AT THE WINE FESTIVAL ONLY ALCOHOLIC BEVERAGES PROVIDED BY THE PERMIT HOLDER OR A HOLDER OF A WINERY OFF-SITE PERMIT THAT IS IN ATTENDANCE.

(D) ~~(1)~~ AT ALL TIMES DURING THE WINE FESTIVAL, THE PERMIT HOLDER SHALL HAVE PRESENT AT LEAST TWO AGENTS, ONE OF WHOM MAY BE THE PERMIT HOLDER, WHO ARE CERTIFIED BY AN APPROVED ALCOHOL AWARENESS PROGRAM.

~~(2) A HOLDER OF A WINERY OFF-SITE PERMIT THAT ATTENDS A WINE FESTIVAL SHALL HAVE PRESENT AN ADDITIONAL AGENT WHO IS CERTIFIED BY AN APPROVED ALCOHOL AWARENESS PROGRAM AS REQUIRED UNDER § 2-102(D) OF THIS SUBTITLE.~~

(E) AN APPLICANT FOR A WINE FESTIVAL PERMIT SHALL:

(1) NO LESS THAN 30 DAYS BEFORE THE PROPOSED EVENT, SUBMIT TO THE OFFICE OF THE COMPTROLLER A COMPLETED APPLICATION ON A FORM THAT THE OFFICE OF THE COMPTROLLER PROVIDES THAT:

(I) STATES THAT THE PRIMARY PURPOSE OF THE WINE FESTIVAL IS TO PROMOTE MARYLAND WINE;

(II) PROVIDES DETAILS OF THE WINE FESTIVAL, INCLUDING THE LOCATION, DATES, AND TIMES OF OPERATION; AND

(III) INCLUDES APPROPRIATE EVIDENCE THAT THE OWNER OF THE PROPERTY IN WHICH THE WINE FESTIVAL MAY BE HELD HAS GIVEN PERMISSION TO THE APPLICANT TO HAVE THE WINE FESTIVAL ON ITS PREMISES; AND

(2) PAY A FEE OF \$100 FOR THE WINE FESTIVAL PERMIT.

**(F) NO LESS THAN 15 DAYS BEFORE THE WINE FESTIVAL, THE PERMIT HOLDER SHALL PROVIDE THE OFFICE OF THE COMPTROLLER WITH A LIST OF WINERY OFF-SITE PERMIT HOLDERS THAT WILL ATTEND.**

**2-104.**

**EACH CALENDAR YEAR, ATTENDANCE AT AN EVENT DESCRIBED IN § 2-102(E)(3) OF THIS TITLE AND AT A WINE FESTIVAL DESCRIBED IN § 2-103 OF THIS TITLE BY A HOLDER OF A WINERY OFF-SITE PERMIT SHALL BE LIMITED TO ATTENDANCE AT NO MORE THAN:**

**(1) 21 EVENTS STATEWIDE; AND**

**(2) NINE EVENTS AT ANY SINGLE VENUE.**

7.5-101.

(b) (1) “Common carrier” means a business entity that:

(i) Holds itself out as being available to the public to transport in interstate or foreign commerce for compensation any class of passenger or property; and

(ii) Holds a common carrier permit issued under § [2-101(y)] **2-101(W)** of this article.

(2) “Common carrier” does not include a business entity that transports only property it owns or that is consigned to it.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2013.

**Approved by the Governor, May 2, 2013.**