

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 590 (Delegate Arora, *et al.*)
Economic Matters

Alcoholic Beverages - Direct Shipment - Kosher or Sacramental Wine Sold at Retail

This bill alters the qualifications of an applicant for a direct wine shipper's permit to include persons licensed by the State or licensed outside the State to engage in the retail sale of wine for consumption off the premises, provided that these persons ship only kosher or sacramental wine to consumers in the State.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: General fund revenues increase beginning in FY 2014. The amount of the increase depends on the number of additional direct wine shipper's licenses that are issued and the amount of kosher or sacramental wine that is shipped to Maryland residents. Expenditures are not affected.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: There is a direct wine shipper's permit as well as a common carrier permit that may be issued by the Comptroller's Office. A person permitted as a direct wine shipper may engage in shipping wine directly to a resident in the State. The initial fee for the direct wine shipper permit is \$200 and the common carrier permit fee is \$100.

A person must be permitted as a direct wine shipper by the Comptroller's Office before the person may engage in shipping wine directly to a personal consumer in the State. Wine includes pomace brandy that is distilled from the pulpy residue of the wine press, including the skins, pips, and stalks of grapes. Wine does not include beer, distilled spirits, or any alcoholic beverage other than wine. A common carrier is a business entity that holds itself out as being available to the public to transport in interstate or foreign commerce for compensation any class of passenger or property.

To qualify for a direct wine shipper's permit the applicant must be (1) a person licensed outside of the State to engage in the manufacture of wine or (2) a holder of a State issued Class 3 manufacturer's (winery) license.

The direct wine shipper must ensure that all containers of wine shipped directly to a consumer in the State are conspicuously labeled with (1) the name of the direct wine shipper; (2) the name and address of the consumer who is the intended recipient; and (3) the words "Contains Alcohol; Signature of Person at Least 21 Years of Age Required for Delivery." A direct wine shipper must also (1) report quarterly to the Comptroller's Office the total amount of wine, by type, shipped in the State, the price charged, and the name and address of each purchaser; (2) file a quarterly alcoholic beverage tax return; (3) pay quarterly to the Comptroller's Office all sales and excise taxes due on sales to personal consumers in the State, calculating the amount of the taxes as if the sale was made in the State; (4) maintain for three years complete and accurate records of all information needed to verify compliance; (5) allow the Comptroller's Office to audit the direct wine shipper's records on request; and (6) consent to the jurisdiction of the Comptroller's Office or other State unit and the State courts concerning enforcement. A direct wine shipper is prohibited from shipping more than 18 9-liter cases of wine annually to a single delivery address or delivering wine on Sunday to an address in the State.

To receive a direct shipment of wine, a personal consumer in the State must be at least 21 years old. In addition, a wine shipment may be ordered or purchased through a computer network. A person who receives a wine shipment can only use the wine for personal consumption and not resell it.

A shipment must 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. To complete delivery of a shipment, the common carrier must require the signature of the consumer or another individual at the address and photo identification demonstrating that the individual is at least 21 years old. A common carrier must be licensed in the State and pay a \$100 permit fee.

The holder of a common carrier permit must submit information to the Comptroller on its age-verification training program for drivers and verify each year that its shippers to Maryland hold valid Maryland permits.

A direct wine shipper's permit may ship wine directly to a consumer in Montgomery County. Under specified circumstances the holder of a direct wine shipper's permit must post security for the alcoholic beverage tax in an amount of at least \$1,000.

Background: As required by the legislation establishing the direct wine shipper's permit, the Comptroller's Office issued a report in December 2012 on the implementation of the direct wine shipping program. The report indicates that in the first year, 49,350 gallons of wine was shipped to Maryland consumers from 629 wineries and that the total gallons of wine sold in Maryland increased by only 0.34% as a result of direct wine shipping. In addition, direct wine shipping resulted in an alcoholic beverages tax increase of \$19,740 and a sales and use tax revenue increase of \$547,784.

The report also states that though the increases in volume and tax revenues are nominal, there is a measurable positive impact on product availability and consumer choice. Maryland consumers can now access 53 of the effective "Top 100" wines worldwide (effective = 56 wines that could truly be available in Maryland) creating access to nearly 95% of those wines.

Further, according to the report, there have been no incidents of access to underage persons reported to the Office of the Comptroller. Additionally, there have been no significant complaints specific to the law or its implementation from the industry, permit holders, or consumers since the law took effect.

State Fiscal Effect: General fund revenues may increase as a result of the expanded eligibility of the direct wine shipper permit. The amount of the increase depends on the number of permits issued and the amount of kosher or sacramental wine shipped to Maryland residents.

Revenues from Permits Issued

It is uncertain as to how many retailers of kosher wine or kosher wineries will apply for a direct wine shipper's permit in Maryland. General fund revenues will increase by \$200 for each permit issued.

Excise Tax and Sales Tax Revenue

The majority of wine that would be sold by holders of a direct wine shipper's permit would have otherwise been sold at a retail location in the State. To the extent that

consumer access to additional brands of wine, lower prices offered from nationwide Internet wine retailers, and the convenience of home delivery would result in an increase in per-capita wine consumption, State sales and excise tax revenues would increase.

Current wine excise taxes are imposed at \$0.40 per gallon, which equates to \$0.08 per 750 ml bottle and \$0.96 per 9-liter (12 750 ml bottles) case. The State sales and use tax on alcoholic beverages is 9%. A 9-liter case of wine, which includes 12 bottles of 750 milliliters of wine sold at \$25.00 per bottle, is taxed at a rate of \$27.96 per case. For each case of wine, this tax consists of \$0.96 in State excise tax and \$27.00 in sales tax. However to the extent that wine shipped to Maryland offsets wine that would have otherwise been purchased at a Maryland retailer, the increase in excise tax and sales tax revenue will be mitigated.

Small Business Effect: Authorizing the shipment of wine directly to consumers from outside the State may result in a decline in sales for certain retailers and wholesalers of alcoholic beverages in the State. To the extent that direct wine shipper's permits are obtained by wineries in Maryland, these small businesses could be positively impacted by a potential increase in sales.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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