

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 672
Economic Matters

(Montgomery County Delegation)
Education, Health, and Environmental Affairs

Montgomery County - Consumption of Wine Not Bought from License Holder -
Class H Licenses
MC 17-13

This bill adds Class H alcoholic beverages licensees in Montgomery County, allowing the sale of wine, to the types of licensees that may allow an individual to consume wine not purchased from or provided by the restaurant or facility.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: Minimal. The bill is not expected to significantly affect State tax revenues relating to the sale or consumption of alcoholic beverages.

Local Effect: Because the practice of “corkage” is already allowed at other classes of licenses in Montgomery County, there is no operational or fiscal impact on the county.

Small Business Effect: Minimal.

Analysis

Current Law: Generally, with limited exceptions, it is unlawful to consume alcoholic beverages that were not purchased from the license holder on that licensee’s premises. Additionally, it is unlawful for a licensee to permit any person to do so.

However, Chapters 86 and 87 of 2012 (SB 755/HB 228) allow an individual in a restaurant, club, or hotel with a Class B or Class C alcoholic beverages license to

consume wine not purchased from or provided by the restaurant or facility if (1) the wine is consumed with a meal; (2) the individual receives the approval of the license holder; (3) the wine is not available for sale on the license holder's wine list; and (4) the license holder obtains a specified permit from the local licensing board. The license holder is allowed to charge a fee for the privilege of consuming the wine, on which the sales tax must be imposed. The license holder must dispose of any wine that remains after the meal is finished. Any unconsumed wine may be removed from the premises by the individual if the bottle is corked or capped.

In Montgomery County, a Class H license authorizes the licensee to keep for sale and to sell beer at retail at any hotel, restaurant, or bowling alley for consumption on the premises. The annual license fee is \$400.

Background: The practice commonly referred to as "corkage" allows customers to bring their own bottles of wine to drink with a meal at a restaurant. Restaurants that allow corkage are typically allowed to charge a corkage fee for each bottle a patron brings. The corkage fee covers service, the cost of glass (breakage and/or cleaning), and the lost revenue from not selling the customer a bottle of wine. Additionally, corkage allows the customer to bring a bottle of wine that may not be available on the restaurant's wine list.

There are currently 156 Class H beer and wine licensees in Montgomery County.

State Fiscal Effect: Generally, a bottle of wine purchased from a retail licensee is less expensive than when purchased at a restaurant. As a result, general fund revenues from the sales tax on alcoholic beverages may decrease slightly from individuals that purchase wine at retail instead of a Class H licensed establishment. If a Class H licensee chooses to impose a corkage fee, however, the fee is subject to the sales tax and is expected to at least partially offset any reduction in sales tax revenues from the sale of wine. Revenues from alcoholic beverage excise taxes are not affected, since wine purchased from a licensee or brought into the premises by a patron is tax-paid. Under the bill, State revenues are not expected to be materially affected.

The Comptroller will collect the sales and use tax imposed on the corkage fees charged by restaurants. The bill's administrative requirements for the Comptroller can be handled with existing budgeted resources.

Small Business Effect: Revenues from wine sales may decrease for some establishments as patrons take advantage of the opportunity to bring in wine not purchased at the restaurant to consume with their meal; however, some establishments may experience increased business if allowing corkage attracts new patrons. Revenues for these businesses may also increase to the degree that the authorized corkage fee is

charged, though some establishments may choose to charge a lesser fee to encourage repeat business or in response to corkage policies of competing restaurants.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Department of Legislative Services

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mlm/hlb

Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510