

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 774
Economic Matters

(Delegate Haddaway-Riccio, *et al.*)

Alcoholic Beverages - Micro-Breweries - Annual Production Limit

This bill increases the annual production limit for Class 7 micro-breweries from 22,500 barrels to 60,000 barrels of malt beverages.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: General fund revenue from alcoholic beverages taxes and sales taxes may increase beginning in FY 2015 to the extent that micro-breweries increase production in excess of the 22,500 barrels of malt beverages authorized under current law. General fund revenues may also be affected to the extent that businesses obtain Class 7 micro-brewery licenses instead of Class 5 brewery licenses. Expenditures are not affected.

Local Effect: None.

Small Business Effect: Potential meaningful. Micro-breweries may benefit from the ability to sell more beer.

Analysis

Current Law: Class 7 micro-brewery (on- and off-sale) licenses are issued by the Comptroller's Office for use in 23 jurisdictions – Allegany, Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Charles, Dorchester, Frederick, Garrett, Harford, Howard, Kent, Montgomery, Prince George's, Queen Anne's, St. Mary's, Talbot, Washington, Wicomico, and Worcester counties; Baltimore City; and the City of Annapolis. In

general, the license is issued 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 with exceptions for the Town of Berlin in Worcester County, and Dorchester, Kent, Montgomery, Prince George's, and Washington counties. The annual license fee is \$500.

Class 7 micro-brewery licensees may sell up to 4,000 barrels of beer to customers for consumption on the premises and may collectively brew, bottle, or contract for up to 22,500 barrels of malt beverages each calendar year. License holders in the 23 jurisdictions also have an off-sale privilege to sell beer brewed under the license to customers for consumption off the licensed premises in refillable containers that are sealed by the licensee at the time of each refill.

Background: There are currently 21 Class 7 micro-brewery licenses issued in the State. According to the Comptroller's Office, all Class 7 micro-brewery license holders produced an aggregate of 22,377 barrels in fiscal 2013. In fiscal 2013, there were 2,855 Class B beer, wine, and liquor license holders in the State.

According to the Comptroller's *Alcohol & Tobacco Tax Report* for fiscal 2013, Maryland brewers sold 4.6 million gallons of beer in fiscal 2013. Of this amount, 34.9% was sold to wholesalers, 8.5% was sold at the brewery, and 55.8% was sold out of State.

The sales tax on alcoholic beverages is 9%, and the alcoholic beverages tax on beer is \$0.09 per gallon. Revenues from these taxes are deposited into the general fund.

Federal law imposes a reduced federal barrel tax of \$7 per barrel on the first 60,000 barrels of beer, removed for consumption or sale, produced by a brewer who produces not more than 2.0 million barrels per year. The regular federal tax rate for beer is \$18 per barrel.

State Revenues: General fund revenues from alcoholic beverages taxes and sales taxes may increase beginning in fiscal 2015 to the extent that micro-breweries increase production of malt beverages in excess of the 22,500 barrels authorized under current law. The amount of the revenue increase depends on the amount of malt beverages that are brewed and sold in excess of the current limit, which cannot be reliably estimated at this time.

Each barrel of beer that is brewed and sold is subject to both the alcoholic beverages tax and the sales tax. As noted above, the alcoholic beverages tax on beer is \$0.09 per gallon. There are 31 gallons in each barrel of beer. Thus, for each barrel that is brewed in excess of the current limit, alcoholic beverages tax revenues increase by \$2.79. *For illustrative purposes*, if each of the 21 current Class 7 micro-brewery license holders

brews an additional 500 barrels of beer as a result of the bill, alcoholic beverages tax revenues increase by \$29,295 annually.

Sales tax revenues also increase for each additional barrel of malt beverages that is brewed as a result of the bill. The amount of the increase cannot be reliably estimated and depends on the sale price of each barrel of malt beverages that is brewed.

The bill authorizes a 167% increase in the amount of malt beverages that micro-breweries can brew or have brewed under contract. It is not known how many micro-breweries will increase their production of malt beverage under the bill, but even with the production limit increase provided by the bill, it is assumed that micro-breweries will not produce more beer than they can sell.

The bill may allow Class 5 (brewery) manufacturer's licensees to obtain a micro-brewery license provided that they currently brew less than 60,000 barrels of beer. The annual license fee for a Class 5 brewery license is \$1,500 and the annual license fee for a Class 7 micro-brewery license is \$500. Thus, for every business that obtains a Class 7 micro-brewery license instead of a Class 5 brewing license, general fund revenues decrease by \$1,000 annually.

Additional Information

Prior Introductions: SB 755 of 2013 received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee. Its cross file, HB 704, received a hearing in the House Economic Matters Committee, but no further action was taken.

Cross File: SB 445 (Senator Colburn) - Education, Health, and Environmental Affairs.

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

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