

HOUSE BILL 598

Q4, L1, A1

6lr1021

By: **Delegate Frick**

Introduced and read first time: February 3, 2016

Assigned to: Economic Matters and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages – Distribution and Sales Tax Revenues**

3 FOR the purpose of authorizing the Montgomery County Department of Liquor Control to
4 authorize the wholesale distribution of beer in the county to a person who purchases
5 a certain interest from the county; requiring the purchase to be made at a public
6 auction; establishing that the county's monopoly on the wholesale distribution of
7 beer under a franchise is extinguished when the sale of the interest in the franchise
8 is made; authorizing the Department to sell its interest in a dispensary to a person
9 who holds or is eligible to hold a certain license; requiring the purchase to be by
10 public auction; requiring the Board of License Commissioners for Montgomery
11 County to issue a certain license within a certain number of days to a certain person;
12 prohibiting the Department from selling its interest in more than a certain number
13 of dispensaries; requiring the Comptroller to distribute to counties in a certain
14 manner the sales and use tax revenue from the sale of alcoholic beverages; requiring
15 the sales and use tax revenue from the sale of alcoholic beverages not distributed to
16 the counties to be paid into the General Fund of the State; defining a certain term;
17 making this Act subject to a certain contingency; and generally relating to the sale
18 and taxation of alcoholic beverages.

19 BY repealing and reenacting, with amendments,
20 Article – Alcoholic Beverages
21 Section 25–307(b)
22 Annotated Code of Maryland
23 (As enacted by Chapter ___ (S.B. ___)(6lr1406) of the Acts of the General Assembly
24 of 2016)

25 BY repealing and reenacting, without amendments,
26 Article – Tax – General
27 Section 2–1301, 2–1302, and 11–104(g)
28 Annotated Code of Maryland
29 (2010 Replacement Volume and 2015 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Tax – General
3 Section 2–1304
4 Annotated Code of Maryland
5 (2010 Replacement Volume and 2015 Supplement)

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

8 **Article – Alcoholic Beverages**

9 25–307.

10 (b) (1) Except as provided in paragraphs (2) through [(8)] (9) of this
11 subsection:

12 (i) the Department has a monopoly on the wholesale distribution of
13 beer, wine, and liquor and retail distribution of off-sale liquor in the County, subject to §
14 1–309 of this article; and

15 (ii) a person may sell only alcoholic beverages that are purchased
16 from the Department.

17 (2) The holders of the following wholesaler’s licenses may sell or deliver
18 alcoholic beverages for resale to a dispensary:

19 (i) a Class 1 beer, wine, and liquor license;

20 (ii) a Class 2 wine and liquor license;

21 (iii) a Class 3 beer and wine license;

22 (iv) a Class 4 beer license; or

23 (v) a Class 5 wine license.

24 (3) The holder of a Class 6 limited wine wholesaler’s license or nonresident
25 winery permit may sell or deliver wine directly to a dispensary, restaurant, or other retail
26 dealer in the County.

27 (4) The holder of a Class 7 limited beer wholesaler’s license or nonresident
28 brewery permit may sell or deliver its own beer to a dispensary, restaurant, or other retail
29 dealer in the County.

30 (5) A holder of a direct wine shipper’s permit may ship wine directly to a
31 consumer in the County.

1 (6) A dispensary, restaurant, or other retail dealer in the County may
2 purchase wine directly from a holder of a Class 6 limited wine wholesaler's license or of a
3 nonresident winery permit.

4 (7) A dispensary, restaurant, or other retail dealer in the County may
5 purchase beer directly from a holder of a Class 7 limited beer wholesaler's license or of a
6 nonresident brewery permit.

7 (8) A holder of a charity wine auction permit in the County may receive
8 and sell wine obtained from any source listed under § 2-137 of this article.

9 **(9) (I) THE DEPARTMENT MAY AUTHORIZE THE WHOLESALE**
10 **DISTRIBUTION OF BEER IN THE COUNTY TO A PERSON WHO PURCHASES THE**
11 **DEPARTMENT'S INTEREST AS A FRANCHISEE HELD BY THE DEPARTMENT IN**
12 **ACCORDANCE WITH TITLE 5 OF THIS ARTICLE.**

13 **(II) THE PURCHASE OF A FRANCHISEE INTEREST OF THE**
14 **DEPARTMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE BY PUBLIC**
15 **AUCTION.**

16 **(III) THE SALE OF THE DEPARTMENT'S INTEREST AS A**
17 **FRANCHISEE UNDER THIS PARAGRAPH EXTINGUISHES THE DEPARTMENT'S**
18 **MONOPOLY ON THE WHOLESALE DISTRIBUTION OF BEER DISTRIBUTED UNDER THE**
19 **FRANCHISE.**

20 **(10) (I) THE DEPARTMENT MAY SELL ITS INTEREST IN ANY**
21 **DISPENSARY TO ANY EXISTING CLASS A BEER AND WINE LICENSE HOLDER, OR TO**
22 **ANY PERSON THAT MEETS THE REQUIREMENTS TO OBTAIN A CLASS A BEER AND**
23 **WINE LICENSE.**

24 **(II) THE PURCHASE OF THE DEPARTMENT'S INTEREST IN A**
25 **DISPENSARY UNDER SUBPARAGRAPH (I) OF THIS SUBPARAGRAPH SHALL BE BY**
26 **PUBLIC AUCTION.**

27 **(III) WITHIN 60 DAYS OF CONVEYANCE, THE BOARD SHALL**
28 **ISSUE TO THE PERSON RECEIVING THE INTEREST IN THE DISPENSARY A CLASS A**
29 **BEER, WINE, AND LIQUOR LICENSE.**

30 **(IV) THE DEPARTMENT MAY NOT SELL ITS INTEREST IN MORE**
31 **THAN 25 DISPENSARIES UNDER THIS PARAGRAPH, AND MAY NOT CONVEY MORE**
32 **THAN ONE DISPENSARY LOCATION TO ANY PERSON.**

1 2-1301.

2 From the sales and use tax revenue, the Comptroller shall distribute the amount
3 necessary to pay refunds relating to the sales and use tax to a refund account.

4 2-1302.

5 After making the distribution required under § 2-1301 of this subtitle, from the
6 remaining sales and use tax revenue, the Comptroller shall distribute the amount
7 necessary to administer the sales and use tax laws to an administrative cost account.

8 **2-1304.**

9 **(A) IN THIS SECTION, "SALES AND USE TAX" MEANS THE SALES AND USE TAX**
10 **IMPOSED UNDER § 11-104(G) OF THIS ARTICLE.**

11 **(B) BEGINNING IN FISCAL YEAR 2018 AND IN EACH FISCAL YEAR**
12 **THEREAFTER, AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 2-1301**
13 **THROUGH 2-1303 OF THIS SUBTITLE, THE COMPTROLLER SHALL PAY TO EACH**
14 **COUNTY THE PORTION OF THE SALES AND USE TAX COLLECTED ON THE SALE OF**
15 **ALCOHOLIC BEVERAGES SOLD IN THE COUNTY THAT EXCEEDS THE AMOUNT OF**
16 **SALES AND USE TAX COLLECTED ON THE SALE OF ALCOHOLIC BEVERAGES SOLD IN**
17 **THE COUNTY IN FISCAL YEAR 2017.**

18 **(C) THE COMPTROLLER SHALL PAY THE REMAINING SALES AND USE TAX**
19 **COLLECTED ON THE SALE OF ALCOHOLIC BEVERAGES THAT IS NOT DISTRIBUTED**
20 **UNDER SUBSECTION (B) OF THIS SECTION INTO THE GENERAL FUND OF THE STATE.**

21 11-104.

22 (g) The sales and use tax rate for the sale of an alcoholic beverage, as defined in
23 § 5-101 of this article, is:

24 (1) 9% of the charge for the alcoholic beverage; and

25 (2) 6% of a charge that is made in connection with the sale of an alcoholic
26 beverage and is stated as a separate item of the consideration and made known to the buyer
27 at the time of sale for:

28 (i) any labor or service rendered;

29 (ii) any material used; or

30 (iii) any property sold.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
2 1, 2016, contingent on the taking effect of Chapter ____ (S.B. ____)(6lr0465) of the Acts of
3 the General Assembly of 2016, and if Chapter ____ (S.B. ____)(6lr0465) does not become
4 effective, this Act shall be null and void without the necessity of further action by the
5 General Assembly.