

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1237 (Montgomery County Delegation)
Economic Matters

**Montgomery County - Alcoholic Beverages - Class A Beer, Wine, and Liquor
Licenses - Purchases From Licensed Wholesalers**
MC 3-16

This bill establishes a Class A beer, wine, and liquor license in Montgomery County beginning July 1, 2018. The annual license fee is \$1,000. The Montgomery County Board of License Commissioners must adopt regulations governing the sale, including the hours of sale, of alcoholic beverages by the holder of a Class A beer, wine, and liquor license. Additionally, beginning July 1, 2018, the bill authorizes an alcoholic beverages license holder in Montgomery County to purchase alcoholic beverages from a licensed wholesaler instead of the Montgomery County Department of Liquor Control (DLC) if specified requirements and conditions are met.

The bill takes effect July 1, 2016, contingent on passage of a referendum by Montgomery County voters in the November 2016 general election.

Fiscal Summary

State Effect: The bill does not directly affect State operations or finances.

Local Effect: Montgomery County revenues decrease significantly beginning in FY 2019 to the extent that (1) licensees purchase alcoholic beverages directly from wholesalers rather than from DLC and (2) people purchase liquor for off-premises consumption from Class A beer, wine, and liquor establishments instead of county liquor stores. County expenditures decrease correspondingly due to savings on staff, purchasing of alcoholic beverages, and other industry-related operating costs. County expenditures increase, however, to pay debt service on bonds that were previously paid for using alcoholic beverage sale revenues. County revenues increase for each Class A license applied for and issued as a result of the bill due to applicable application and license fees. The

Montgomery County election board can handle the requirements of a referendum with existing resources. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful. Beginning in FY 2019, licensees may be able to purchase a larger variety of alcoholic beverages and may be required to pay less or more for alcoholic beverages than under the current system. Furthermore, in that same year, small businesses are able to open using a Class A beer, wine, and liquor license in Montgomery County.

Analysis

Bill Summary: If a license holder in Montgomery County chooses to purchase alcoholic beverages from a licensed wholesaler, the license holder must provide a written notice of its intent to DLC at least 60 days prior to the date it plans to purchase from a wholesaler. The notice must contain (1) the name of the license holder; (2) the name and address of the licensed premises; and (3) the date the notice was sent to DLC. DLC must issue a letter of confirmation to a license holder that meets the requirements to purchase from a wholesaler, and the license holder must conspicuously display the letter on the licensed premises.

Current Law: In Montgomery County, the liquor control board is authorized to sell any kind of alcoholic beverage and the county may sell alcoholic beverages through the use of a county liquor dispensary. Furthermore, in Montgomery County, no person, firm, or corporation may keep for sale any alcoholic beverage not purchased from DLC. Unless otherwise specified by law, no retailer may sell or deliver any alcoholic beverage in Montgomery County for resale except to a county liquor dispensary. Holders of a Class 6 limited wine wholesaler's license or a nonresident winery permit may sell or deliver wine directly to a restaurant, county liquor dispensary, or other retail dealer in Montgomery County, and the holder of a direct wine shipper's permit may ship wine directly to consumers in Montgomery County.

Background: In general, most Maryland jurisdictions permit the sale of alcoholic beverages through a three-tier system in which retail alcoholic beverages licensees (first tier) purchase alcoholic beverages from licensed Maryland wholesalers (second tier) who purchase alcoholic beverages from licensed manufacturers and import companies (third tier). In Montgomery County, DLC operates a dispensary system that acts as the second-tier wholesaler for retail alcoholic beverages licensees in the county. Furthermore, there is only one Class A beer, wine, and liquor license issued in Montgomery County; people who want to purchase liquor for off-premises consumption must generally buy from a county-operated liquor store.

Montgomery County issued revenue bonds in 2009, 2011, and 2013 that are backed by a pledge of annual revenue derived from DLC. The county has about \$114 million in outstanding debt backed by this source, which requires debt service of about \$10 million annually. Montgomery County advises that the bill likely results in a breach of the county's contract with its bondholders, and that this may lead to (1) the trustee declaring the bonds to be in default due to the changes in pledged revenues; (2) a forced downgrade of the outstanding bonds as well as the bond rating agency putting the bonds on negative outlook; and/or (3) refinancing of the bonds to general obligation bonds.

As shown in **Exhibit 1**, in fiscal 2014, Montgomery County DLC expenditures totaled \$239.2 million, while revenues totaled \$268.7 million; \$26.4 million (approximately 10% of total revenues) was transferred to the Montgomery County general fund. The debt service payment on DLC revenue-backed bonds was \$9.8 million in that same year. Additionally, DLC had about 400 employees in fiscal 2014.

Exhibit 1
DLC Sales and Transfers to the Montgomery County General Fund
Fiscal 2010-2014
(\$ in Millions)

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>
Total Expenditures	\$204.7	\$215.4	\$220.2	\$225.7	\$239.2
Debt Service Payments	3.8	3.7	6.4	6.4	9.8
Total Revenues	\$229.3	\$242.8	\$252.3	\$259.3	\$268.7
Total Retail Sales	106.2	113.7	120.0	122.4	127.2
Total Warehouse Sales	121.2	127.1	130.4	134.4	139.4
Total Sales	227.4	240.8	250.4	256.8	266.6
License and Other Revenue	1.9	2.0	1.9	2.5	2.1
General Fund Transfers	\$29.0	\$26.2	\$28.5	\$25.7	\$26.4

Source: *Montgomery County Department of Liquor Control Annual Report*, fiscal 2014; *Montgomery County Comprehensive Annual Financial Report*, fiscal 2014

Local Fiscal Effect: Montgomery County revenues decrease significantly as retailers begin to purchase alcoholic beverages from wholesalers and people who want to purchase liquor for off-premises consumption begin to shop at any newly established retail outlets with Class A beer, wine, and liquor licenses. Expenditures decrease correspondingly as DLC scales down its operations and staff due to no longer being required to purchase,

stock, store, sell, and deliver as many alcoholic beverages throughout the county as other entities enter the market.

Under the current system, DLC revenues average about \$250 million per year and expenditures average about \$221 million per year. Under the bill, it is likely that much of these revenues and corresponding expenditures are eliminated beginning in fiscal 2019 as wholesaler competitors enter the market in the county and Class A beer, wine, and liquor licenses begin to be issued; however, the exact fiscal impact cannot be reliably estimated.

In addition to the loss of revenues and expenditures from scaling back DLC operations, revenues that would normally be transferred to the Montgomery County general fund are affected. Over the preceding five fiscal years, DLC has transferred an average of \$27 million annually to the Montgomery County general fund. It is likely that most or all of this revenue is lost beginning in fiscal 2019. Furthermore, general fund expenditures increase by about \$10 million annually beginning in fiscal 2019 as Montgomery County is forced to pay the debt service on bonds that were originally issued and backed by revenues derived from DLC and alcoholic beverages sales.

Finally, Montgomery County revenues increase from application fees (\$600) and license fees (\$1,000 annually) beginning in fiscal 2019 as the county receives applications for and begins issuing Class A beer, wine, and liquor licenses.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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