

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1052 (Delegates Branch and Davis)
Economic Matters

Alcoholic Beverages - Class 5 Brewery License - Alterations

This bill makes numerous changes to the production, on-site sampling, and sale of beer by a Class 5 brewery by, among other things, partially repealing Chapter 813 of 2017. **The bill takes effect June 1, 2018.**

Fiscal Summary

State Effect: The Comptroller's Office can handle the bill's requirements using existing budgeted resources. Revenues are not expected to be materially affected.

Local Effect: Local licensing boards can handle the bill's altered responsibilities related to on-premises sampling and sale of beer for Class 5 breweries using existing resources. Revenues are not materially affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill makes the following changes to the production, sampling, and sale of beer by a Class 5 brewery.

- The maximum amount of beer that a brewery may sell for on-premises consumption is reduced from 2,000 barrels each year to 500 barrels each year. However, this reduction does not apply to a brewery that produces 1 million barrels of beer each year, either alone or in combination with its affiliates. Such a brewery may continue to sell up to 2,000 barrels each year, and an additional 1,000 barrels under certain conditions.

- The express authorization allowing a Class 5 brewery to contract to brew and bottle beer with and on behalf of another Class 5 brewery, a holder of a Class 2 rectifying license, a Class 7 micro-brewery license, a Class 8 farm brewery license, or a nonresident dealer's permit is repealed. Provisions related to the sampling of contract brewed beer are also repealed.
- A brewery may serve no more than six samples of beer, consisting of no more than three ounces from a single style of beer, to each individual of legal drinking age that participates in a guided tour of the brewery or attends a promotional event.
- The prohibition against selling kegged beer, at retail, for off-premises is repealed.
- A local licensing board must grant a brewery an on-site consumption permit if the applicant also has a Class D beer license.
- The total amount of beer that was brewed at a location other than the licensed premises that can be sold for on-premises consumption is simplified so that the brewery may sell up to 1.2% of the total amount of beer brewed each year in this manner.
- The hours of sale for on-premises consumption at all breweries are those set by the underlying Class B beer license, Class D beer license, or equivalent license.

Current Law:

Class 5 Breweries – Generally

The holder of a Class 5 brewery license may (1) establish and operate a plant for brewing and bottling malt beverages at the location described in the license; (2) import beer from a holder of a nonresident dealer's permit; (3) contract to brew and bottle beer on behalf of other license holders; and (4) sell and deliver beer to a holder of a beer wholesaler's license. There is no limit to the amount of beer that a Class 5 brewery, also called a "production brewery," may produce.

A Class 5 brewery may serve samples of beer to an individual who participates in a guided tour of the brewery or attends a scheduled promotional event; an individual may be served up to 18 ounces of beer in this manner per visit. Generally, the beer brewed at the brewery may also be sold for off-premises consumption at retail in a container other than a keg to an individual participating in a guided tour of the brewery or attending a scheduled promotional event or other organized activity at the brewery. Each individual may purchase up to 288 ounces of beer per visit.

Local licensing boards in the State may issue on-premises consumption permits to applicants that hold a Class 5 brewery license and a Class D beer license. Accordingly, a brewery with a Class D beer license can operate like other bars, the most common type of Class D establishment, meaning that a brewery tap room can often stay open until 2 a.m.

A local licensing board that does not issue a Class D beer license must establish an equivalent license and require the applicant to obtain that license before issuing a permit for on-premises consumption.

Class 5 Breweries – Chapter 813 of 2017

Chapter 813 of 2017 made three significant changes to the manner in which Class 5 breweries are regulated in the State. First, Chapter 813 increased from 500 barrels to 2,000 barrels the volume of its own beer that a Class 5 brewery may sell each year for on-premises consumption. A brewery may sell or sample an additional 1,000 barrels of its own beer if the additional beer is sold to and purchased back from a licensed wholesaler and the brewery receives permission from the Comptroller's Office. If a brewery produces more than 1 million barrels of beer each year, it must buy any beer it wishes to sell or serve for on-premises consumption back from a licensed wholesaler. Second, Chapter 813 expressly authorized contract brewed beer and allows the contract brewed beer produced at another location to be sold and sampled at the brewery in limited quantities.

Third, Chapter 813 made changes to the hours during which a brewery may sell and serve beer for on-premises consumption. A brewery that acquires the permit and license needed for on-premises consumption after April 1, 2017, is restricted by shortened hours of sale unless the brewery had already filed a brewer's notice form with the U.S. Department of Treasury by that same date. For such a brewery, beer may only be sold for on-premises consumption from 10 a.m. to 10 p.m. each day.

Background: In February 2018, there were 41 Class 5 brewery licenses issued in the State.

In April 2017, the Comptroller's Office established the Reform on Tap Task Force. The task force's stated goal was to modernize the State's beer laws. The task force's [findings report](#) discussed the recent expansion of craft beer manufacturing in the country and its effect on the State's economy.

In November 2017, the Department of Legislative Services (DLS) published a report on [Regulation of the Alcoholic Beverages Industry in Maryland](#). The report summarizes the current manner in which alcoholic beverages are regulated in the State, with a focus on alcoholic beverages manufacturers.

Small Business Effect: The bill reduces the amount of beer a Class 5 brewery that does not produce at least 1 million barrels of beer each year may sell for on-premises consumption. This reduction may result in decreased revenues from on-premises sales for affected breweries. Breweries that obtain an on-site consumption permit after April 1, 2017, are no longer limited to only selling beer for on-premises consumption from 10 a.m. to 10 p.m. each day. This may lead to increased sales for affected breweries. The

repeal of the express authorization for contract brewing may negatively affect a brewery if a significant part of the brewery's business model relies on the practice.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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