

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 1044 (Senator Salling)  
Education, Health, and Environmental Affairs

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Alcoholic Beverages - Class 5 Breweries - On-Premises Consumption - Hours of  
Operation

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This bill authorizes a Class 5 brewery to sell and sample its own beer without obtaining a Class D or equivalent license from a local licensing board and establishes hours of sale for such a brewery. The bill also repeals a limitation on the on-premises hours of sale for certain breweries. **The bill takes effect July 1, 2018.**

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Fiscal Summary

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

**Local Effect:** Local revenues decrease, likely minimally, to the extent that the bill results in breweries no longer acquiring Class D beer or equivalent licenses because the bill authorizes a brewery to sell beer for on-premises consumption without such a license. Expenditures are not affected.

**Small Business Effect:** Minimal overall, but potential meaningful for newer breweries, as discussed below.

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Analysis

**Bill Summary:** The bill makes the following changes to on-site sale and sampling of beer by a Class 5 brewery.

- A brewery may serve samples of beer to anyone of legal age that is visiting the brewery, instead of only during tours and events.

- 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, if the brewery has one of those types of licenses.
- If a brewery does not have a Class B beer, Class D beer, or equivalent license, it may still sell beer for on-premises consumption but only (1) from 10:00 a.m. to 11:00 p.m. on Monday through Thursday; (2) from 10:00 a.m. to 2:00 a.m. the following day on Friday through Sunday; and (3) from 10:00 a.m. to 2:00 a.m. the following day when the following day is a State holiday.

### **Current Law:**

#### *Class 5 Breweries*

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 also serve samples of beer to an individual who participates in a guided tour of the brewery or attends a scheduled promotional event. 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 2:00 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*

Among other things, 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 10:00 a.m. to 10:00 p.m. each day.

**Background:** In February 2018, there were 41 Class 5 breweries.

**Small Business Effect:** Small business 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 10:00 a.m. to 10:00 p.m. each day. This may lead to increased sales for affected breweries.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1176 (Delegate Grammer) - Economic Matters.

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

**Fiscal Note History:** First Reader - February 18, 2018  
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