

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1148 (Delegates Atterbear and Mosby)
Economic Matters

Alcoholic Beverages - Class 5 Breweries - On-Premises Sales

This bill increases the amount of its own beer that a Class 5 brewery can sell for on-premises consumption from a maximum of 3,000 barrels annually to 25,000 barrels annually. The bill also repeals the requirement that a brewery must buy from a wholesaler any beer that it sells for on-site consumption in excess of 2,000 barrels in a year and makes conforming changes. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: The bill is not expected to materially affect State operations or finances.

Local Effect: The bill does not directly affect local government operations or finances.

Small Business Effect: Meaningful.

Analysis

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: A small business brewery can sell significantly more of its own beer for on-premises consumption under the bill. This is likely to lead to an increase in sales and revenues for such a brewery.

Additional Information

Prior Introductions: None.

Cross File: SB 1017 (Senator Robinson) - Education, Health, and Environmental Affairs.

Information Source(s): Anne Arundel, Frederick, and Montgomery counties; Comptroller's Office; Department of Legislative Services

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