

HOUSE BILL 1010

A1

9lr1860
CF SB 801

By: **Delegates Atterbeary, Brooks, Anderton, Boteler, Bridges, Buckel, Carr, Cassilly, Chang, Charles, Corderman, Cullison, W. Fisher, Ghrist, Gilchrist, Grammer, Hornberger, Ivey, Jackson, Kelly, Kerr, Krimm, J. Lewis, Lierman, Lisanti, Lopez, Luedtke, Moon, Mosby, Palakovich Carr, Pippy, Queen, Reilly, Reznik, Saab, Shetty, Shoemaker, Smith, Solomon, Stewart, Szeliga, Valderrama, Washington, Wilkins, K. Young, and P. Young**

Introduced and read first time: February 8, 2019

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Brewery Modernization Act of 2019**

3 FOR the purpose of authorizing a holder of a Class 5 brewery license, under certain
4 circumstances, to serve samples of beer and sell beer for off-premises consumption
5 at the location described in the license; authorizing the holder to brew and bottle
6 malt beverages at a location listed on an individual storage permit; requiring a local
7 licensing board to grant an on-site consumption permit to an applicant that holds a
8 Class 5 brewery license or a Class D beer license or its equivalent; specifying that a
9 Class D beer license entitles the holder to sell beer that is fermented and brewed at
10 a certain location; altering the amount of beer that a holder of a Class 5 brewery
11 license may sell annually for on-premises consumption; repealing certain provisions
12 of law that allow a holder of a Class 5 brewery license to sell a certain amount of beer
13 under certain circumstances; repealing certain provisions of law concerning hours of
14 sale and specifying the hours of sale for any holder of a Class 5 brewery license with
15 an on-site consumption permit and a Class D license or equivalent license;
16 authorizing a holder of a Class 7 micro-brewery license to hold an additional Class
17 7 micro-brewery license under certain circumstances; altering the amount of malt
18 beverages that a holder of a Class 7 micro-brewery license may brew, bottle, or
19 contract for each calendar year; authorizing a holder of a Class 7 micro-brewery
20 license to be granted a Class 7 limited beer wholesaler's license; altering the amount
21 of beer a Class 7 micro-brewery license holder may sell at retail each calendar year;
22 altering the location where a holder of a Class 8 farm brewery license may store beer
23 produced by the license holder; authorizing a holder of a Class 8 farm brewery license
24 to store, brew, and bottle beer in a certain facility; authorizing a holder of a Class 8
25 farm brewery license to exercise certain privileges, sponsor certain activities, and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 store certain products at a certain location; and generally relating to Class 5 brewery
2 licenses, Class 7 micro-brewery licenses, and Class 8 farm brewery licenses.

3 BY repealing and reenacting, with amendments,
4 Article – Alcoholic Beverages
5 Section 2–207, 2–209, and 2–210
6 Annotated Code of Maryland
7 (2016 Volume and 2018 Supplement)

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

10 **Article – Alcoholic Beverages**

11 2–207.

12 (a) In this section, “affiliate” means a person that directly or indirectly through
13 one or more intermediaries controls, is controlled by, or is under common control with a
14 holder of a Class 5 brewery license.

15 (b) There is a Class 5 brewery license.

16 (c) A license holder may:

17 (1) establish and operate a plant for brewing and bottling malt beverages
18 at the location described in the license;

19 (2) import beer from a holder of a nonresident dealer’s permit;

20 (3) contract to brew and bottle beer with and on behalf of the holder of a
21 Class 2 rectifying license, Class 5 brewery license, Class 7 micro-brewery license, Class 8
22 farm brewery license, or a nonresident dealer’s permit;

23 (4) sell and deliver beer to:

24 (i) a holder of a wholesaler’s license that is authorized to acquire
25 beer; or

26 (ii) a person outside of the State that is authorized to acquire beer;

27 (5) subject to subsection (i) of this section, serve, **AT THE LOCATION**
28 **DESCRIBED IN THE LICENSE AND** at no charge, samples of beer, consisting of a total of
29 not more than 18 ounces of beer per visit, to an individual who:

30 (i) has attained the legal drinking age; and

31 (ii) is participating in a guided tour of the brewery or attends a

1 scheduled promotional event or other organized activity at the brewery;

2 (6) subject to subsections (d) and (i) of this section, sell beer for
3 off-premises consumption **AT THE LOCATION DESCRIBED IN THE LICENSE**, at retail in
4 a container other than a keg to an individual [participating in a guided tour of the brewery
5 or attending a scheduled promotional event or other organized activity at the brewery; and]
6 **WHO HAS ATTAINED LEGAL DRINKING AGE;**

7 (7) subject to subsection (f) of this section, sell beer at the location described
8 in the license for on-premises consumption; **AND**

9 **(8) BREW AND BOTTLE MALT BEVERAGES AT A LOCATION LISTED ON**
10 **A PERMIT ISSUED TO THE LICENSED HOLDER IN ACCORDANCE WITH § 2-113 OF THIS**
11 **TITLE.**

12 (d) An individual may purchase beer under subsection (c)(6) of this section if the
13 individual:

14 (1) purchases not more than 288 ounces of beer per visit; and

15 (2) has attained the legal drinking age.

16 (e) The annual license fee is \$1,500.

17 (f) (1) A local licensing board [may] **SHALL** grant an on-site consumption
18 permit to an applicant that holds a Class 5 brewery license and, subject to paragraph [(6)]
19 **(5)** of this subsection, a Class D beer license.

20 (2) Subject to the maximum volume limit under paragraph (4) of this
21 subsection, a Class D beer license or an equivalent license under paragraph [(6)] **(5)** of this
22 subsection entitles the holder to sell to an individual who has attained the legal drinking
23 age, for on-premises consumption at the brewery:

24 (i) beer:

25 1. of which the holder of the Class 5 license is the brand
26 owner; and

27 2. that is fermented and brewed entirely [at the brewery of
28 the license holder] **BY THE LICENSE HOLDER AT A LOCATION AUTHORIZED BY THIS**
29 **SECTION;**

30 (ii) beer that is fermented and brewed entirely at the brewery under
31 contract with a brand owner who does not possess a Class 5 license; and

32 (iii) subject to paragraph (3) of this subsection, beer brewed at a

1 location other than the Class 5 brewery if:

2 1. the brand owner of the beer is the holder of the Class 5
3 license or an affiliate of the holder of the Class 5 license;

4 2. the number of barrels of the beer sold for on-premises
5 consumption under the Class D beer license or an equivalent license or an on-site
6 consumption permit in a calendar year does not exceed the greater of:

7 A. 25% of the total number of barrels of beer sold for
8 on-premises consumption under the Class D license or an equivalent license or an on-site
9 consumption permit in that calendar year; or

10 B. 1.2% of total finished production under the Class 5
11 brewery license; and

12 3. A. the license holder contracts with or on behalf of a
13 holder of a manufacturer's license or nonresident dealer's permit; or

14 B. the beer is manufactured by an affiliate of the license
15 holder.

16 (3) (i) This paragraph applies to a Class 5 brewery with more than
17 1,000,000 barrels of finished production annually, alone or in combination with its
18 affiliates.

19 (ii) Beer that is delivered to the Class 5 brewery in finished form
20 may be sold for on-premises consumption under paragraph (2)(iii)2 of this subsection only
21 if it is purchased from a licensed wholesaler.

22 (4) [Except as provided in paragraph (5) of this subsection, the] **THE** total
23 amount of beer sold each year for on-premises consumption under this subsection may not
24 exceed [2,000] **5,000** barrels.

25 (5) [(i) If, in a single year, the license holder reaches 80% of the volume
26 authorized to be sold for on-premises consumption under paragraph (4) of this subsection,
27 the license holder may file a request with the Comptroller for permission to sell up to an
28 additional 1,000 barrels for on-premises consumption in that year.

29 (ii) The maximum volume that a license holder may sell for
30 on-premises consumption in a single year is 3,000 barrels.

31 (iii) Any beer that the license holder sells for on-premises
32 consumption in excess of the 2,000-barrel limit under paragraph (4) of this subsection shall
33 be purchased from a licensed wholesaler.

34 (6) Before a local licensing board that does not issue a Class D beer license

1 may grant an on-site consumption permit, the local licensing board shall:

2 (i) establish an equivalent license; and

3 (ii) require the applicant to obtain that equivalent license.

4 ~~[(7)] (6)~~ A local licensing board may charge a fee for granting an on-site
5 consumption permit.

6 ~~[(8)] (7)~~ A local licensing board shall require the holder of an on-site
7 consumption permit or a Class D beer license or an equivalent license under paragraph
8 ~~[(6)] (5)~~ of this subsection to:

9 (i) comply with the alcohol awareness requirements under § 4-505
10 of this article; and

11 (ii) abide by all applicable trade practice restrictions.

12 (g) (1) The Comptroller may issue a brewery promotional event permit to a
13 holder of a Class 5 brewery license.

14 (2) Subject to subsection (i) of this section, the permit authorizes the holder
15 to conduct on the premises of the brewery a promotional event at which the holder may,
16 with respect to individuals who have attained the legal drinking age:

17 (i) provide samples consisting of a total of not more than 18 fluid
18 ounces to a consumer; and

19 (ii) sell beer to individuals who participate in the event.

20 (3) Subject to subsection (i) of this section, the beer at the event shall be
21 sold by the glass for on-premises consumption only.

22 (4) To obtain a permit, an applicant, at least 15 days before the event, shall
23 file with the Comptroller an application that the Comptroller provides.

24 (5) A holder of a Class 5 brewery license may not be issued more than 12
25 permits in a calendar year.

26 (6) A single promotional event may not exceed 3 consecutive days.

27 (7) The permit fee is \$25 per event.

28 (h) (1) This subsection does not apply to:

29 (i) [the holder of a Class 5 brewery license that held an on-site
30 consumption permit and a Class D license or an equivalent license on or before April 1,

1 2017;

2 (ii) an individual who held a minority interest in an on-site
3 consumption permit and a Class D license or an equivalent license on or before April 1,
4 2017, and then obtains by transfer a majority interest in the same license or permit;

5 (iii) a location in the State for which a completed brewer's notice form
6 was filed with the U. S. Department of Treasury on or before April 1, 2017;

7 (iv)] a promotional event conducted under subsection (g) of this
8 section; and

9 [(v)] (II) a guided tour during which:

10 1. samples of beer are served under subsection (c)(5) of this
11 section; or

12 2. beer is sold for off-premises consumption under
13 subsection (c)(6) of this section.

14 [(2) This subsection applies to:

15 (i) a holder of a Class 5 brewery license who:

16 1. after April 1, 2017, obtains an on-site consumption permit
17 and a Class D beer license or equivalent license for on-premises consumption; or

18 2. not holding a minority interest in an on-site consumption
19 permit and a Class D license or an equivalent license on or before April 1, 2017, obtains a
20 majority interest by transfer in an on-site consumption permit and a Class D license or an
21 equivalent license; and

22 (ii) notwithstanding paragraph (1)(iii) of this subsection, a
23 manufacturer of beer with more than 1,000,000 barrels of finished production annually
24 alone or in combination with its affiliates.

25 (3) Notwithstanding any provision in Division II of this article, the sales
26 and serving privileges of an on-site consumption permit and a Class D license or an
27 equivalent license may be exercised only from 10 a.m. to 10 p.m. Monday through Sunday.]

28 **(2) A HOLDER OF A CLASS 5 BREWERY LICENSE WITH AN ON-SITE**
29 **CONSUMPTION PERMIT AND A CLASS D LICENSE OR AN EQUIVALENT LICENSE MAY**
30 **SERVE OR SELL BEER FOR ON-PREMISES CONSUMPTION DURING THE HOURS**
31 **SPECIFIED IN THE LICENSE AT THE LOCATION DESCRIBED IN THE CLASS D LICENSE.**

32 (i) All beer offered, served, or sold to a consumer under subsection (c)(5) or (6) or

1 (g) of this section shall be:

2 (1) fermented and brewed entirely at the Class 5 brewery; or

3 (2) beer of which the license holder or an affiliate of the license holder is
4 the brand owner.

5 (j) (1) (i) The Comptroller may issue a refillable container permit for draft
6 beer under § 4–1104 or Subtitle 11 of the various titles in Division II of this article to a
7 holder of a Class 5 brewery license:

8 1. on completion of an application form that the Comptroller
9 provides; and

10 2. at no cost to the holder of the Class 5 brewery license.

11 (ii) A refillable container permit may be renewed each year
12 concurrently with the renewal of the Class 5 brewery license.

13 (2) The hours of sale for a refillable container permit issued under this
14 subsection are the same as the hours when a guided tour, a promotional event, or other
15 organized activity at the licensed premises authorized under subsection (c) of this section
16 may be conducted.

17 (k) (1) On or before October 1 each year, the Comptroller shall report to the
18 Senate Education, Health, and Environmental Affairs Committee and the House Economic
19 Matters Committee, in accordance with § 2–1246 of the State Government Article, on the
20 following, identified by jurisdiction and Class 5 license holder:

21 (i) the total beer production of the license holder in the preceding
22 fiscal year; **AND**

23 (ii) the total sales of the license holder for on–site consumption
24 under an on–site consumption permit, a Class D beer license, or an equivalent license in
25 the preceding fiscal year[;

26 (iii) whether the license holder has requested permission to sell
27 additional beer under subsection (f)(5)(i) of this section, and whether the Comptroller
28 granted that permission, for the preceding fiscal year; and

29 (iv) the total sales of the license holder of additional beer under
30 subsection (f)(5)(i) of this section in the preceding fiscal year].

31 (2) Each holder of a Class 5 license shall report to the Comptroller the
32 information needed to prepare the annual report under this subsection.

33 (3) The Comptroller may include the information reported under this

1 subsection in the annual report submitted under § 1–306 of this article.

2 2–209.

3 (a) There is a Class 7 micro–brewery license.

4 (b) Except as provided in Division II of this article, the license may be issued only
5 to the holder of a Class B beer, wine, and liquor (on–sale) license that is issued for use on
6 the premises of a restaurant.

7 (c) A license holder may:

8 (1) brew and bottle malt beverages at the location described in the license;

9 (2) obtain a Class 2 rectifying license for a premises located within 1 mile
10 of the existing Class 7 micro–brewery location to bottle malt beverages brewed at the
11 micro–brewery location only;

12 (3) contract to brew and bottle malt beverages with and on behalf of the
13 holder of a Class 2 rectifying license, Class 5 brewery license, Class 7 micro–brewery
14 license, Class 8 farm brewery license, or a nonresident dealer’s permit;

15 (4) store the finished product under an individual storage permit or at a
16 licensed public storage facility for subsequent sale and delivery:

17 (i) to a holder of a wholesaler’s license;

18 (ii) to an authorized person outside the State; or

19 (iii) for shipment back to the micro–brewery location for sale on the
20 retail premises; [and]

21 (5) enter into a temporary delivery agreement with a distributor only for
22 delivery of beer to a beer festival or a wine and beer festival, and the return of any unused
23 beer, if:

24 (i) the festival is in a sales territory for which the license holder does
25 not have a franchise with a distributor under the Beer Franchise Fair Dealing Act in Title
26 5, Subtitle 1 of this article; and

27 (ii) the temporary delivery agreement is in writing;

28 **(6) HOLD AN ADDITIONAL CLASS 7 MICRO–BREWERLY LICENSE**
29 **PROVIDED THAT BOTH LICENSES REMAIN SUBJECT TO THE PRODUCTION LIMITS OF**
30 **SUBSECTION (D) OF THIS SECTION; AND**

1 **(7) SUBJECT TO SUBSECTION (D) OF THIS SECTION, BREW AND**
2 **BOTTLE MALT BEVERAGES AT A LOCATION LISTED ON A PERMIT ISSUED IN**
3 **ACCORDANCE WITH § 2-113 OF THIS TITLE.**

4 (d) (1) Subject to paragraph (2) of this subsection, a license holder may not
5 collectively brew, bottle, or contract for more than [22,500] **45,000** barrels of malt
6 beverages each calendar year.

7 (2) [(i)] In determining the barrelage limitation under paragraph (1) of
8 this subsection, any salable beer produced under a contractual arrangement accrues only
9 to the license holder that owns the brand.

10 [(ii) A license holder that wishes to produce more than the barrelage
11 authorized under paragraph (1) of this subsection shall:

- 12 1. divest itself of any retail license; and
- 13 2. obtain a Class 5 brewery license.]

14 (3) A license holder that has licenses for two locations may not collectively
15 brew, bottle, or contract for more than [22,500] **45,000** barrels of malt beverages in
16 aggregate from both of its locations each calendar year.

17 (e) A license holder:

18 (1) may not own, operate, or be affiliated with another manufacturer of
19 beer except for a Class 2 rectifying license authorized under subsection (c)(2) of this section
20 **OR ONE ADDITIONAL CLASS 7 MICRO-BREWERY LICENSE; and**

21 (2) may not be granted a wholesaler's license **OTHER THAN A CLASS 7**
22 **LIMITED BEER WHOLESALER'S LICENSE.**

23 (f) (1) The on-sale privilege authorizes the license holder, each calendar year,
24 to sell at retail for on-premises consumption:

- 25 (i) up to [4,000] **5,000** barrels of beer brewed under the license; or
- 26 (ii) if the license holder has licenses for two locations, beer that:

27 1. totals annually up to [4,000] **5,000** barrels [in aggregate
28 from both its locations] **AT EACH LOCATION; and**

- 29 2. has been brewed at the location where it is sold.

30 (2) A license holder may sell and deliver beer brewed under the license to:

1 (i) a holder of a wholesaler's license; or

2 (ii) a person outside the State that is authorized to acquire beer.

3 (g) The hours and days for retail sales under the license are those established for
4 a Class B license or for a holder of a Class B beer, wine, and liquor license.

5 (h) A license holder may sell at retail beer brewed under the license for
6 off-premises consumption:

7 (1) in a sealed refillable container that:

8 (i) may be returned for refilling; and

9 (ii) shall be sealed by the license holder when refilled; and

10 (2) as prepackaged beer in a nonrefillable container.

11 (i) The annual license fee is \$500.

12 2-210.

13 (a) There is a Class 8 farm brewery license.

14 (b) (1) Subject to paragraph (2) of this subsection, a license holder may sell
15 and deliver beer manufactured in a facility on the licensed farm or in a facility other than
16 one on the licensed farm to:

17 (i) a wholesaler licensed to sell and deliver beer in the State; or

18 (ii) a person in another state authorized to acquire beer.

19 (2) The beer to be sold and delivered under paragraph (1) of this subsection
20 shall be manufactured with an ingredient from a Maryland agricultural product, including
21 hops, grain, and fruit, produced on the licensed farm.

22 (c) A license holder may:

23 (1) (i) sell beer produced by the license holder for on-premises
24 consumption;

25 (ii) in an amount not exceeding 6 fluid ounces per brand, provide
26 samples of beer that the license holder produces to a consumer:

27 1. at no charge; or

28 2. for a fee;

1 (iii) sell or serve:

2 1. bread and other baked goods;

3 2. chili;

4 3. chocolate;

5 4. crackers;

6 5. cured meat;

7 6. fruits (whole and cut);

8 7. hard and soft cheese (whole and cut);

9 8. salads and vegetables (whole and cut);

10 9. ice cream;

11 10. jam;

12 11. jelly;

13 12. vinegar;

14 13. pizza;

15 14. prepackaged sandwiches and other prepackaged foods
16 ready to be eaten;

17 15. soup; and

18 16. condiments; and

19 (iv) subject to subsection (e)(2) of this section, sell or serve any food
20 if the license holder is licensed to operate a food establishment under Title 21, Subtitle 3 of
21 the Health – General Article;

22 (2) store [on its licensed farm], in a segregated area approved by the
23 Comptroller, beer produced [at the licensed farm] **BY THE LICENSE HOLDER** for sale and
24 delivery to a wholesaler licensed in the State or a person outside the State authorized to
25 acquire the beer;

26 (3) brew, bottle, or contract for not more than 15,000 barrels of beer each
27 calendar year;

1 (4) contract with the holder of a Class 2 rectifying license, a Class 5
2 brewery license, or a Class 7 micro-brewery license to brew and bottle beer from
3 ingredients produced on the licensed farm;

4 (5) import, export, and transport its beer in accordance with this section;

5 (6) store, **BREW, AND BOTTLE** beer [at a warehouse for which the license
6 holder has been issued an individual storage permit] **IN A FACILITY LISTED ON A PERMIT**
7 **ISSUED TO THE LICENSE HOLDER IN ACCORDANCE WITH § 2-113 OF THIS TITLE**, for
8 sale and delivery to a wholesaler licensed in the State or a person outside the State
9 authorized to acquire the beer, or shipment back to the licensed farm, if:

10 (i) the license holder does not serve or sell beer at the warehouse;
11 and

12 (ii) the Comptroller has full access at all times to the warehouse to
13 enforce this article; and

14 (7) enter into a temporary delivery agreement with a distributor only for
15 delivery of beer to a beer festival or a wine and beer festival, and the return of any unused
16 beer, if:

17 (i) the festival is in a sales territory for which the license holder does
18 not have a franchise with a distributor under the Beer Franchise Fair Dealing Act in Title
19 5, Subtitle 1 of this article; and

20 (ii) the temporary delivery agreement is in writing.

21 (d) (1) A Class 8 farm brewery may be located only at the place stated on the
22 license.

23 (2) The place listed on the license shall be in compliance with § 1-405(b) of
24 this article.

25 (e) (1) Except as provided in paragraph (2) of this subsection and
26 notwithstanding any local law, a license holder may exercise the privileges of a Class 8
27 farm brewery license.

28 (2) A license holder who sells foods under subsection (c)(1)(iv) of this section
29 shall meet the same ratio of gross receipts between food and alcoholic beverages sales as a
30 holder of a Class D beer and wine license or an equivalent license in the jurisdiction, as the
31 local licensing board determines.

32 (f) Subject to subsections (i) and (j) of this section, a license holder **AT THE**
33 **LOCATION LISTED ON THE LICENSE** may exercise the privileges of the license each day:

1 (1) from 10 a.m. to 6 p.m., for consumption of beer and sales and service of
2 food at the licensed farm; and

3 (2) from 10 a.m. to 10 p.m., for:

4 (i) sampling of beer;

5 (ii) consumption of beer off the licensed farm if the beer is packaged
6 in sealed or resealable containers, such as growlers; and

7 (iii) guests who attend a planned promotional event or other
8 organized activity at the licensed farm.

9 (g) Except as provided in Division II of this article, a Class 8 farm brewery license
10 allows the license holder to operate 7 days a week.

11 (h) Nothing in this section limits the application of relevant provisions of Title 21
12 of the Health – General Article, and regulations adopted under that title, to a license holder.

13 (i) (1) A license holder may sponsor a multibrewery activity at the [licensed
14 farm] **LOCATION ISSUED ON THE LICENSE** that:

15 (i) includes the products of other Maryland breweries; and

16 (ii) provides for the sale of beer by the glass for on–premises
17 consumption only.

18 (2) In a segregated area approved by the Comptroller [on the licensed
19 farm] **AT THE LOCATION LISTED ON THE LICENSE**, a license holder may store the
20 products of other Maryland breweries for the multibrewery activity.

21 (3) The multibrewery activity:

22 (i) may be held from 10 a.m. to 10 p.m. each day; and

23 (ii) may not exceed 3 consecutive days.

24 (j) (1) The Comptroller may issue a brewery promotional event permit to a
25 license holder.

26 (2) At least 15 days before holding a planned promotional event, the license
27 holder shall obtain a permit from the Comptroller by filing a notice of the promotional event
28 on the form that the Comptroller provides.

29 (3) The permit authorizes the license holder to conduct at the [licensed
30 farm] **LOCATION LISTED ON THE LICENSE** a promotional event at which the license

1 holder may:

2 (i) provide samples of not more than 6 fluid ounces per brand to
3 consumers; and

4 (ii) sell beer produced by the license holder to persons who
5 participate in the event.

6 (4) The beer at the event shall be sold by the glass and for on-premises
7 consumption only.

8 (5) The license holder may not be issued more than 12 permits in a
9 calendar year.

10 (6) A single promotional event:

11 (i) may be held from 10 a.m. to 10 p.m. each day; and

12 (ii) may not exceed 3 consecutive days.

13 (7) The permit fee is \$25 per event.

14 (k) The annual license fee is \$200.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
16 1, 2019.