

# SENATE BILL 839

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By: **Senator Simonaire**

Introduced and read first time: February 3, 2020

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2020

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Alcoholic Beverages – Manufacturer’s Permits and Brewery Limits**

3 FOR the purpose of repealing provisions on brewing company off–site permits, distillery  
4 off–site permits, and winery off–site permits; establishing a manufacturer’s off–site  
5 permit with certain privileges; authorizing the Comptroller to issue a permit to the  
6 holder of certain manufacturer’s licenses; authorizing a permit holder to sell and  
7 provide certain products at certain events; requiring a permit holder to have an  
8 employee trained in alcohol awareness present at certain events; specifying certain  
9 events at which a permit may be used; providing for a certain number of events at  
10 which a permit may be used annually; specifying the primary purpose of certain  
11 events; prohibiting use of the permit at more than a certain number of events  
12 annually; requiring an applicant for a permit to complete a certain form; requiring a  
13 permit holder to provide certain notification to the Comptroller; authorizing the  
14 Comptroller to adopt certain regulations; establishing a certain fee; authorizing the  
15 Comptroller to issue a certain permit; requiring a certain license holder to file a  
16 certain notice for a certain permit; authorizing a permit holder to host a certain  
17 event; providing for the limitations of a certain permit; altering the volumes of beer  
18 that the holders of certain licenses may produce and distribute annually; authorizing  
19 the holder of a certain license to sell a certain volume of beer at a permitted event;  
20 and generally relating to breweries and permit revisions.

21 BY repealing

22 Article – Alcoholic Beverages

23 Section 2–130, 2–132.2, 2–133, and 2–210(i) and (j)

24 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2016 Volume and 2019 Supplement)

2 BY adding to  
3 Article – Alcoholic Beverages  
4 Section 2–130 ~~and~~, 2–140, and 2–212(c)  
5 Annotated Code of Maryland  
6 (2016 Volume and 2019 Supplement)

7 BY repealing and reenacting, with amendments,  
8 Article – Alcoholic Beverages  
9 Section 2–207(g) through (k), 2–210(c)(1)(i), (f), (k), and (l), and 2–212(b)  
10 Annotated Code of Maryland  
11 (2016 Volume and 2019 Supplement)

12 BY repealing and reenacting, without amendments,  
13 Article – Alcoholic Beverages  
14 Section 2–210(g) and (h)  
15 Annotated Code of Maryland  
16 (2016 Volume and 2019 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
18 That Section(s) 2–130, 2–132.2, and 2–133 of Article – Alcoholic Beverages of the Annotated  
19 Code of Maryland be repealed.

20 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
21 as follows:

22 **Article – Alcoholic Beverages**

23 **2–130.**

24 **(A) THERE IS A MANUFACTURER OFF–SITE PERMIT.**

25 **(B) THE COMPTROLLER MAY ISSUE THE PERMIT TO A HOLDER OF A CLASS**  
26 **1 DISTILLERY LICENSE, A CLASS 9 LIMITED DISTILLERY LICENSE, A CLASS 3 WINERY**  
27 **LICENSE, A CLASS 4 LIMITED WINERY LICENSE, A CLASS 5 BREWERY LICENSE, A**  
28 **CLASS 7 MICRO–BREWERY LICENSE, OR A CLASS 8 FARM BREWERY LICENSE THAT**  
29 **MEETS THE REQUIREMENTS OF THIS SECTION.**

30 **(C) DURING AN EVENT LISTED IN SUBSECTION (E) OF THIS SECTION, THE**  
31 **PERMIT HOLDER MAY:**

32 **(1) PROVIDE SAMPLES AND SELL PRODUCTS MANUFACTURED BY THE**  
33 **PERMIT HOLDER UNDER ITS ASSOCIATED LICENSE;**

34 **(2) PROVIDE TO A CONSUMER SAMPLES THAT MAY NOT EXCEED:**

1 (I) 1 FLUID OUNCE OF EACH OFFERING OF WINE;

2 (II) 1 FLUID OUNCE OF EACH OFFERING OF BEER; AND

3 (III) ONE-QUARTER OF 1 FLUID OUNCE OF EACH OFFERING OF  
4 LIQUOR;

5 (3) EXCEPT FOR A FARMER'S MARKET EVENT, SELL TO A CONSUMER  
6 FOR ON-PREMISES CONSUMPTION; AND

7 (4) SUBJECT TO § 2-212(C) OF THIS TITLE, SELL TO A CONSUMER FOR  
8 OFF-PREMISES CONSUMPTION.

9 (D) THE PERMIT HOLDER SHALL HAVE PRESENT AT LEAST ONE INDIVIDUAL  
10 WHO IS CERTIFIED BY AN APPROVED ALCOHOL AWARENESS PROGRAM WHILE  
11 PROVIDING SAMPLES OR SELLING DURING AN EVENT.

12 (E) THE PERMIT MAY BE USED AT THE FOLLOWING EVENTS:

13 (1) A COUNTY AGRICULTURAL FAIR;

14 (2) THE MARYLAND STATE AGRICULTURAL FAIR;

15 (3) A FARMER'S MARKET THAT IS LISTED ON THE FARMER'S MARKET  
16 DIRECTORY OF THE MARYLAND DEPARTMENT OF AGRICULTURE;

17 (4) A NONPROFIT BEER, WINE, AND LIQUOR FESTIVAL UNDER § 2-131  
18 OF THIS SUBTITLE; AND

19 (5) NOT MORE THAN 32 OTHER EVENTS IN A YEAR THAT HAVE AN  
20 ACTIVITY AS A MAJOR PURPOSE:

21 (I) THAT IS OTHER THAN THE SALE AND PROMOTION OF  
22 ALCOHOLIC BEVERAGES; OR

23 (II) FOR WHICH THE PARTICIPATION OF THE PERMIT HOLDER IS  
24 A SUBORDINATE ACTIVITY.

25 (F) THE PERMIT MAY NOT BE USED FOR MORE THAN NINE EVENTS  
26 ANNUALLY AT ANY INDIVIDUAL LOCATION.

27 (G) AN APPLICANT FOR A PERMIT SHALL COMPLETE AN APPLICATION ON A  
28 FORM THAT THE COMPTROLLER PROVIDES.

1 (H) THE PERMIT HOLDER SHALL NOTIFY THE COMPTROLLER OF THE  
2 PERMIT HOLDER'S INTENTION TO ATTEND AN EVENT WITHIN A PERIOD OF TIME  
3 THAT THE COMPTROLLER DETERMINES ON A FORM THAT THE COMPTROLLER  
4 AUTHORIZES.

5 (I) THE COMPTROLLER MAY ADOPT REGULATIONS FOR THE NOTIFICATION  
6 OF THE LOCAL LICENSING BOARD OF THE JURISDICTION WHERE THE EVENT IS  
7 BEING HELD OF THE PERMIT HOLDER'S INTENTION TO ATTEND THE EVENT.

8 (J) THE ANNUAL PERMIT FEE IS \$100.

9 2-140.

10 (A) THE COMPTROLLER MAY ISSUE A BREWERY SPECIAL EVENT PERMIT TO  
11 A HOLDER OF A CLASS 5 BREWERY LICENSE OR A CLASS 8 FARM BREWERY LICENSE.

12 (B) AT LEAST 15 DAYS BEFORE HOLDING A SPECIAL EVENT, THE LICENSE  
13 HOLDER SHALL OBTAIN A PERMIT FROM THE COMPTROLLER BY FILING A NOTICE  
14 OF THE SPECIAL EVENT ON THE FORM THAT THE COMPTROLLER PROVIDES.

15 (C) THE PERMIT AUTHORIZES THE LICENSE HOLDER TO CONDUCT AT THE  
16 LOCATION LISTED ON THE LICENSE A SPECIAL EVENT AT WHICH THE LICENSE  
17 HOLDER MAY:

18 (1) FOR A CLASS 8 FARM BREWERY LICENSE HOLDER ONLY, INCLUDE  
19 THE PRODUCTS OF OTHER MARYLAND BREWERIES;

20 (2) PROVIDE SAMPLES OF NOT MORE THAN 6 FLUID OUNCES PER  
21 BRAND TO CONSUMERS;

22 (3) SELL BEER PRODUCED BY THE LICENSE HOLDER AND OTHER  
23 MARYLAND BREWERIES TO PERSONS WHO PARTICIPATE IN THE EVENT; AND

24 (4) IN A SEGREGATED AREA APPROVED BY THE COMPTROLLER AT  
25 THE LOCATION LISTED ON THE LICENSE, STORE THE PRODUCTS OF OTHER  
26 MARYLAND BREWERIES.

27 (D) THE BEER AT THE EVENT SHALL BE SOLD IN THE MANNER AUTHORIZED  
28 UNDER THE LICENSE.

29 (E) THE LICENSE HOLDER MAY NOT BE ISSUED MORE THAN 12 PERMITS IN  
30 A CALENDAR YEAR.

31 (F) A SINGLE SPECIAL EVENT MAY NOT EXCEED 3 CONSECUTIVE DAYS.

1           **(G) THE PERMIT FEE IS \$25 PER EVENT.**

2 2-207.

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

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

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

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

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

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

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

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

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

19           (h)] (1) This subsection does not apply to:

20                           (i) the holder of a Class 5 brewery license that held an on-site  
21 consumption permit and a Class D license or an equivalent license on or before April 1,  
22 2017, and any transferee of those licenses;

23                           (ii) an individual who held a minority interest in an on-site  
24 consumption permit and a Class D license or an equivalent license on or before April 1,  
25 2017, and then obtains by transfer a majority interest in the same license or permit;

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

28                           (iv) a [promotional event conducted under subsection (g) of this  
29 section] **BREWERY SPECIAL EVENT PERMIT ISSUED UNDER § 2-140 OF THIS TITLE;**  
30 and

1 (v) a guided tour during which:

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

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

6 (2) This subsection applies to:

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

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

10 2. not holding a minority interest in an on-site consumption  
11 permit and a Class D license or an equivalent license on or before April 1, 2017, obtains a  
12 majority interest by transfer in an on-site consumption permit and a Class D license or an  
13 equivalent license; and

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

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

20 **[(i)] (H)** All beer offered, served, or sold to a consumer under subsection (c)(5) or  
21 (6) **[or (g)]** of this section shall be:

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

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

25 **[(j)] (I)** (1) (i) The Comptroller may issue a refillable container permit  
26 for draft beer under § 4-1104 or Subtitle 11 of the various titles in Division II of this article  
27 to a holder of a Class 5 brewery license:

28 1. on completion of an application form that the Comptroller  
29 provides; and

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

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

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

5           **[(k)] (J)**     (1)     On or before October 1 each year, the Comptroller shall report to  
6 the Senate Education, Health, and Environmental Affairs Committee and the House  
7 Economic Matters Committee, in accordance with § 2–1257 of the State Government  
8 Article, on the following, identified by jurisdiction and Class 5 license holder:

9                     (i)     the total beer production of the license holder in the preceding  
10 fiscal year; and

11                    (ii)    the total sales of the license holder for on–site consumption  
12 under an on–site consumption permit, a Class D beer license, or an equivalent license in  
13 the preceding fiscal year.

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

16           (3)     The Comptroller shall include the information reported under this  
17 subsection in the annual report submitted under § 1–306 of this article.

18 2–210.

19           (c)     A license holder may:

20                     (1)     (i)     sell beer produced by the license holder for on–premises **AND**  
21 **OFF–PREMISES** consumption;

22                     (f)     **(1)**     [Subject to subsections (i) and (j) of this section, a] **A** license holder at  
23 the location listed on the license may exercise the privileges of the license each day from 10  
24 a.m. to 10 p.m.

25                     **(2)     THIS SECTION DOES NOT APPLY TO A BREWERY SPECIAL EVENT**  
26 **PERMIT ISSUED UNDER § 2–140 OF THIS TITLE.**

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

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

31                     **[(i)] (1)**     A license holder may sponsor a multibrewery activity at the location  
32 issued on the license that:

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

2 (ii) provides for the sale of beer by the glass for on-premises  
3 consumption only.

4 (2) In a segregated area approved by the Comptroller at the location listed  
5 on the license, a license holder may store the products of other Maryland breweries for the  
6 multibrewery activity.

7 (3) The multibrewery activity:

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

9 (ii) may not exceed 3 consecutive days.

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

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

15 (3) The permit authorizes the license holder to conduct at the location  
16 listed on the license a promotional event at which the license holder may:

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

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

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

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

25 (6) A single promotional event:

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

27 (ii) may not exceed 3 consecutive days.

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

29 [(k)] (I) The annual license fee is \$200.



1           **[1] (J)**       (1)    On or before October 1 each year, the Comptroller shall report to  
2 the Senate Education, Health, and Environmental Affairs Committee and the House  
3 Economic Matters Committee, in accordance with § 2–1257 of the State Government  
4 Article, the total beer production of each Class 8 license holder in the preceding fiscal year,  
5 identified by jurisdiction and license holder.

6           (2)    Each holder of a Class 8 license shall report to the Comptroller the  
7 information needed to prepare the annual report required under this subsection.

8           (3)    The Comptroller shall include the information reported under this  
9 subsection in the annual report submitted under § 1–316 of this article.

10 2–212.

11           (b)    (1)    The holder of a rectifying or winery license may apply for and obtain a  
12 wholesaler’s license of any class for the same premises or elsewhere as provided under this  
13 article.

14           (2)    The holder of a Class 4 limited winery license may apply for and obtain  
15 a Class 6 limited wine wholesaler’s license for the same premises or elsewhere as provided  
16 under this article.

17           (3)    (i)    The holder of a Class 5 brewery license or Class 7 micro–brewery  
18 license may apply for and obtain a Class 7 limited beer wholesaler’s license in accordance  
19 with this paragraph.

20                   (ii)   A holder of a Class 5 brewery license that was selling the holder’s  
21 own beer at wholesale in the State as of January 1, 2013, may obtain a Class 7 limited beer  
22 wholesaler’s license to continue to sell the holder’s own beer at wholesale in the same  
23 location in an amount that is not more than **[3,000] 5,000** barrels annually.

24                   (iii)  A holder of a Class 5 brewery license that produces in aggregate  
25 from all its locations not more than **[22,500] 45,000** barrels of beer annually may obtain a  
26 Class 7 limited beer wholesaler’s license and distribute not more than **[3,000] 5,000** barrels  
27 of its own beer annually.

28           (4)    A holder of one or two Class 7 micro–brewery licenses that produces in  
29 aggregate from all of its locations not more than **[22,500] 45,000** barrels of beer annually  
30 may obtain a Class 7 limited beer wholesaler’s license and distribute beer that:

31                   (i)    totals annually not more than **[3,000] 5,000** barrels in aggregate  
32 from all of its locations; and

33                   (ii)   has been brewed at the location from where it is distributed.

1           (5)     The holder of a Class 1 distillery license may apply for and obtain a  
2 Class 8 liquor wholesaler's license for the same premises or elsewhere as provided under  
3 this article.

4           **(C) THE HOLDER OF A CLASS 5 BREWERY LICENSE, A CLASS 7**  
5 **MICRO-BREWERY LICENSE, OR A CLASS 8 FARM BREWERY LICENSE THAT OBTAINS**  
6 **A MANUFACTURER OFF-SITE PERMIT UNDER § 2-130 OF THIS TITLE MAY SELL TO**  
7 **EACH CONSUMER AT AN APPROVED OFF-SITE PERMITTED EVENT UP TO 288 OUNCES**  
8 **OF BEER.**

9           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
10 1, 2020.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.