

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 839

(Senator Simonaire)

Education, Health, and Environmental Affairs

Economic Matters

Alcoholic Beverages - Manufacturer's Permits and Brewery Limits

This bill makes various changes to the regulation of alcoholic beverages manufacturers in the State. The bill repeals specified manufacturer's permits and establishes a manufacturer off-site permit and a brewery special event permit. The bill authorizes a Class 8 farm brewery license to sell beer produced by the license holder for off-premises consumption. The bill also clarifies the maximum amount of beer specified holders of Class 7 limited beer wholesaler's licenses may manufacture and distribute annually. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: General fund revenues from alcoholic beverages permits, taxes, and sales taxes may increase minimally beginning in FY 2021 as permits are issued and events are held under the bill. General fund expenditures are not anticipated to be materially affected.

Local Effect: The bill does not materially affect local governmental operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

The bill repeals the brewing company off-site permit; the distillery off-site permit; the winery off-site permit; and specified brewery promotional event permits. In their place, the bill establishes the permits discussed below.

Manufacturer Off-site Permit

The Comptroller may issue a manufacturer off-site permit to the holder of a Class 1 distillery license, a Class 9 limited distillery license, a Class 3 winery license, a Class 4 limited winery license, a Class 5 brewery license, a Class 7 micro-brewery license, or a Class 8 farm brewery license. The permit authorizes the sale and sampling of the permit holder's products at up to 36 fairs and festivals throughout the State, as specified. The annual permit fee is \$100.

The permit holder must have at least one individual present who is certified by an approved alcohol awareness program while providing samples or selling during an event. A permit holder must notify the Comptroller of its intent to attend an event in a specified manner. The Comptroller may adopt regulations to notify the local licensing board of the jurisdiction where an event is being held of the permit holder's intention to attend the event.

The holder of a Class 5 brewery license, Class 7 micro-brewery license, or Class 8 farm brewery license that obtains a manufacturer off-site permit may sell each consumer up to 288 ounces of beer at each approved off-site permitted event.

Brewery Special Event Permit

The Comptroller may issue a brewery special event permit to the holder of a Class 5 brewery license or Class 8 farm brewery license. The permit authorizes the license holder to conduct a special on-premises event to sell and provide samples of beer produced by the license holder or, for a Class 8 farm brewery license holder only, other Maryland breweries, as specified. A license holder may only obtain 12 permits per calendar year and a single special event may not exceed three calendar days. The permit fee is \$25 per event.

Class 8 Farm Brewery License

The bill authorizes a Class 8 farm brewery license to sell beer produced by the license holder for off-premises consumption. The limitation that a farm brewery may only sell and serve beer from 10 a.m. to 10 p.m. each day does not apply to a brewery special event permit.

Class 7 Limited Beer Wholesaler's License

The bill clarifies that a holder of a Class 7 limited beer wholesaler's license, which was issued to a specified Class 5 brewery or a Class 7 micro-brewery is authorized to sell up to 5,000 barrels (instead of 3,000 barrels) of its own beer at wholesale annually. Additionally, the bill clarifies a Class 5 brewery and Class 7 micro-brewery may obtain the Class 7 limited beer wholesaler's license if it produces in aggregate from all of its locations up to 45,000 of beer annually (instead of 22,500 barrels of beer annually).

Current Law:

Alcohol and Tobacco Commission

Chapter 12 of 2019 establishes the Alcohol and Tobacco Commission (ATC), beginning June 1, 2020, and transfers personnel, powers, duties, and responsibilities that relate to the regulation of alcoholic beverages and tobacco from the Comptroller's Office, specifically the Field Enforcement Division (FED), to ATC. Chapter 12 specified that all duties and responsibilities associated with FED's alcoholic beverages and tobacco regulation functions must continue under ATC. Employees transferred under Chapter 12 retain any merit system and retirement status they may have on the date of transfer and must be transferred without any change or loss of pay, working conditions, benefits, rights, or status. Furthermore, Chapter 12 specifies that files, furniture, fixtures, records, other properties, credits, liabilities, and obligations are retained by the appropriate entity under the transfer.

Alcoholic Beverages Manufacturers

Alcoholic beverages manufacturers (breweries, wineries, and distilleries) are currently licensed and regulated by the Comptroller's Office; however, as discussed above, these regulatory and licensing duties must transfer to ATC by July 1, 2020, pursuant to Chapter 12 of 2019. There are nine licenses that authorize the production of alcoholic beverages in the State: four for beer, two for wine, and three for liquor. Each license authorizes the production of different amounts of beer, wine, or liquor and grants the license holder various other privileges and responsibilities related to, among other things, the sale and sampling of beer, wine, or liquor products on the licensed premises and the sale of food. In fiscal 2019, there were 298 manufacturer's licenses issued in the State.

Class 7 Limited Beer Wholesaler's License

Under § 2-308 of the Alcoholic Beverages Article, a Class 7 limited beer wholesaler's license may be issued to the holder of a Class 5 brewery license, Class 7 micro-brewery

license, or a Class 8 farm brewery license that produces in aggregate from all of its locations up to 45,000 barrels of beer annually. A Class 7 limited beer wholesaler's license holder may also distribute up to 5,000 barrels of its own beer annually. The annual license fee is \$50. For an additional fee of \$50, the license holder may use a second location for the warehousing, sale, and delivery of beer if approved by the Comptroller's Office.

State Fiscal Effect: As previously discussed, Chapter 12 of 2019 transfers the regulatory and licensing duties for alcoholic beverages from the Comptroller's Office to ATC by July 1, 2020. Therefore, for purposes of this analysis it is assumed that the Comptroller's Office signs a memorandum of understanding with ATC such that ATC is the entity responsible for implementing the bill. ATC is likely to be able to handle the bills requirements with no material impact.

If the Comptroller's Office were required to implement the bill, it would likely need multiple staff since all of its alcoholic beverages regulatory staff must be transferred to ATC under Chapter 12.

Small Business Effect: The bill repeals and establishes various permits that a small business alcoholic beverages manufacturer may obtain to increase its business. Additionally, the bill enhances the privileges associated with the Class 8 farm brewery license to authorize the sale of beer for off-premises consumption, which may result in increased sales.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore, Charles, and Frederick counties; Department of Legislative Services

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