

Chapter 461

(House Bill 854)

AN ACT concerning

Alcoholic Beverages – Maryland Alcohol Manufacturing and Promotion

FOR the purpose of repealing the Maryland Wine and Grape Promotion Fund and the Advisory Commission on Maryland Wine and Grape Growing; establishing the Advisory Commission on Maryland Alcohol Manufacturing in the Department of Commerce as the successor to the Advisory Commission on Maryland Wine and Grape Growing; establishing the Maryland Alcohol Manufacturing Promotion Fund for certain purposes; requiring the Secretary of Commerce to award certain grants from the Fund for certain purposes; directing the distribution of certain alcoholic beverage tax revenues to the Fund; providing for the transfer of certain funds as of a certain date; and generally relating to Maryland alcohol manufacturing and promotion.

BY repealing

Article – Agriculture

Section 2–1101 and 2–1102 and the subtitle “Subtitle 11. Maryland Wine and Grape Promotion Fund”; and 10–1201 through 10–1206 and the subtitle “Subtitle 12. Advisory Commission on Maryland Wine and Grape Growing”

Annotated Code of Maryland

(2016 Replacement Volume and 2021 Supplement)

BY adding to

Article – Economic Development

Section 5–1901 through 5–1912 to be under the new subtitle “Subtitle 19. Maryland Alcohol Manufacturing and Promotion”

Annotated Code of Maryland

(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 2–301 and 5–105

Annotated Code of Maryland

(2016 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 2–1101 and 2–1102 and the subtitle “Subtitle 11. Maryland Wine and Grape Promotion Fund”; and 10–1201 through 10–1206 and the subtitle “Subtitle 12. Advisory Commission on Maryland Wine and Grape Growing” of Article – Agriculture of the Annotated Code of Maryland be repealed.

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

Article – Economic Development

SUBTITLE 19. MARYLAND ALCOHOL MANUFACTURING AND PROMOTION.

5–1901.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ADVISORY COMMISSION” MEANS THE ADVISORY COMMISSION ON MARYLAND ALCOHOL MANUFACTURING.

(C) “BEER” HAS THE MEANING STATED IN § 1–101 OF THE ALCOHOLIC BEVERAGES ARTICLE.

(D) “BREWERY” MEANS AN ESTABLISHMENT OPERATED UNDER A CLASS 5 BREWERY LICENSE, CLASS 6 PUB–BREWERY LICENSE, CLASS 7 MICRO–BREWERY LICENSE, OR CLASS 8 FARM BREWERY LICENSE.

(E) “DISTILLED SPIRITS” HAS THE MEANING STATED IN § 5–101 OF THE TAX – GENERAL ARTICLE.

(F) “DISTILLERY” MEANS AN ESTABLISHMENT OPERATED UNDER A CLASS 1 DISTILLERY LICENSE OR CLASS 9 LIMITED DISTILLERY LICENSE.

(G) “FUND” MEANS THE MARYLAND ALCOHOL MANUFACTURING PROMOTION FUND.

(H) “GROWER” MEANS A PERSON WHO:

(1) GROWS GRAPES, HOPS, FRUIT, HONEY, OR GRAIN TO BE INCLUDED IN MANUFACTURED ALCOHOL IN THE STATE; AND

(2) PRODUCES AT LEAST \$10,000 WORTH OF THESE PRODUCTS EACH YEAR.

(I) “VITICULTURE” MEANS THE CULTIVATION AND STUDY OF GRAPES AND GRAPE VINES.

(J) “WINE” HAS THE MEANING STATED IN § 1–101 OF THE ALCOHOLIC BEVERAGES ARTICLE.

(K) "WINERY" MEANS AN ESTABLISHMENT OPERATED UNDER A CLASS 3 WINERY LICENSE OR CLASS 4 LIMITED WINERY LICENSE.

5-1902.

THERE IS AN ADVISORY COMMISSION ON MARYLAND ALCOHOL MANUFACTURING IN THE DEPARTMENT.

5-1903.

(A) (1) THE ADVISORY COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

~~(1)~~ (I) THE SECRETARY OR THE SECRETARY'S DESIGNEE;

~~(2)~~ (II) THE SECRETARY OF AGRICULTURE, OR THE SECRETARY'S DESIGNEE;

(III) THE SPECIAL SECRETARY OF THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS, OR THE SPECIAL SECRETARY'S DESIGNEE;

~~(3)~~ (IV) ONE MEMBER OF THE ALCOHOL AND TOBACCO COMMISSION, DESIGNATED BY THE CHAIR OF THE ALCOHOL AND TOBACCO COMMISSION;

~~(4)~~ (V) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

~~(4)~~ ~~(5)~~ (VI) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE; AND

~~(5)~~ ~~(6)~~ (VII) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

~~(H)~~ 1. ONE MEMBER REPRESENTING THE UNIVERSITY OF MARYLAND COLLEGE OF AGRICULTURE AND NATURAL RESOURCES;

~~(H)~~ 2. TWO MEMBERS REPRESENTING BREWERIES IN THE STATE;

~~(H)~~ 3. TWO MEMBERS REPRESENTING DISTILLERIES IN THE STATE;

~~(IV)~~ 4. TWO MEMBERS REPRESENTING WINERIES IN THE STATE; AND

~~(V)~~ 5. TWO MEMBERS REPRESENTING GROWERS IN THE STATE.

(2) TO THE EXTENT PRACTICABLE, THE MEMBERS OF THE COMMISSION SHALL REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE.

(B) BEFORE TAKING OFFICE, EACH MEMBER OF THE ADVISORY COMMISSION SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

(C) (1) THE TERM OF A MEMBER IS 3 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE ADVISORY COMMISSION ON JULY 1, 2022.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) A MEMBER MAY NOT BE APPOINTED FOR MORE THAN TWO CONSECUTIVE FULL TERMS.

(D) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR MISCONDUCT.

5-1904.

(A) THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE ADVISORY COMMISSION.

(B) FROM AMONG ITS MEMBERS, THE ADVISORY COMMISSION EACH YEAR SHALL ELECT A VICE CHAIR.

(C) THE ADVISORY COMMISSION SHALL DETERMINE THE MANNER OF ELECTION OF THE VICE CHAIR AND ANY OTHER OFFICERS.

5-1905.

(A) THE ADVISORY COMMISSION SHALL DETERMINE THE TIMES AND PLACES OF ITS REGULAR AND SPECIAL MEETINGS.

(B) THE CHAIR OF THE ADVISORY COMMISSION:

(1) MAY CALL A SPECIAL MEETING AT ANY TIME; AND

(2) SHALL CALL A SPECIAL MEETING WHEN REQUESTED BY TWO OR MORE MEMBERS OF THE ADVISORY COMMISSION.

(C) A MAJORITY OF THE MEMBERS THEN SERVING ON THE ADVISORY COMMISSION IS A QUORUM.

5-1906.

A MEMBER OF THE ADVISORY COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ADVISORY COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

5-1907.

THE DEPARTMENT SHALL PROVIDE STAFF FOR THE ADVISORY COMMISSION.

5-1908.

THE ADVISORY COMMISSION SHALL:

(1) ADVISE AND RECOMMEND TO THE SECRETARY FOR APPROVAL THE ALLOCATION OF MONEY FROM THE MARYLAND ALCOHOL MANUFACTURING PROMOTION FUND TO ELIGIBLE APPLICANTS FOR PROGRAMS CONSIDERED NECESSARY OR ADVISABLE TO ACCOMPLISH THE PURPOSES OF THIS SUBTITLE;

(2) PROVIDE A FORUM TO ADDRESS THE ISSUES THAT ARE RELEVANT TO THE GROWTH OF THE MARYLAND ALCOHOL MANUFACTURING INDUSTRY; AND

(3) IDENTIFY STRATEGIES TO FACILITATE GROWTH OF VITICULTURE AND OTHER PRODUCTS USED IN MANUFACTURED ALCOHOL SUCH AS HOPS, FRUIT, HONEY, AND GRAIN.

5-1909.

(A) THERE IS A MARYLAND ALCOHOL MANUFACTURING PROMOTION FUND.

(B) THE PURPOSE OF THE FUND IS TO PROVIDE GRANTS THAT PROMOTE THE ADVANTAGES AND ATTRIBUTES OF STATE BREWERIES, DISTILLERIES, AND WINERIES AND THEIR PRODUCTS MANUFACTURED IN THE STATE.

(C) THE SECRETARY SHALL ADMINISTER THE FUND.

(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO REVERSION UNDER § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(E) THE FUND CONSISTS OF:

(1) REVENUE DISTRIBUTED TO THE FUND UNDER § 2-301(B) OF THE TAX – GENERAL ARTICLE;

(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND; AND

(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(F) THE FUND MAY BE USED ONLY FOR:

(1) GRANTS TO ELIGIBLE APPLICANTS UNDER § 5-1910 OF THIS SUBTITLE; AND

(2) ADMINISTRATIVE EXPENSES OF THE FUND.

(G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE GENERAL FUND OF THE STATE.

(H) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

5-1910.

(A) AN APPLICANT FOR A GRANT FROM THE FUND SHALL SUBMIT AN APPLICATION TO THE ADVISORY COMMISSION ON THE FORM THAT THE SECRETARY REQUIRES.

(B) TO BE ELIGIBLE TO RECEIVE A GRANT FROM THE FUND, AN APPLICANT MUST BE:

(1) A NONPROFIT ORGANIZATION UNDER ~~§ 501(C)(3)~~ ~~§ 501(C)~~ § 501(C)(3) OR (6) OF THE INTERNAL REVENUE CODE; OR

(2) A STATE OR LOCAL GOVERNMENTAL UNIT.

(C) THE SECRETARY SHALL AWARD GRANTS TO ELIGIBLE APPLICANTS FROM THE FUND BASED ON THE ADVICE OF THE ADVISORY COMMISSION.

(D) SUBJECT TO THE AVAILABILITY OF MONEY IN THE FUND, THE SECRETARY MAY AWARD GRANTS TO ELIGIBLE APPLICANTS TO:

(1) FOSTER THE CREATION AND EXPANSION OF STATE BREWERIES, DISTILLERIES, AND WINERIES;

(2) ATTRACT NEW VISITORS TO STATE BREWERIES, DISTILLERIES, AND WINERIES;

(3) ENCOURAGE AND CREATE INCENTIVES FOR SPECIAL EVENTS TO PROMOTE STATE BREWERIES, DISTILLERIES, AND WINERIES;

(4) EDUCATE THE PUBLIC ABOUT ALCOHOL MANUFACTURING IN THE STATE, ESPECIALLY THE HISTORY OF THE INDUSTRY;

(5) CONDUCT RESEARCH ON, DEVELOP INCENTIVES FOR, AND PROMOTE THE GROWTH OF STATE AGRICULTURAL PRODUCTS USED IN STATE MANUFACTURED BEER, WINE, AND SPIRITS; OR

(6) SUPPORT THE EXPANSION OF MINORITY OWNERSHIP AND PARTICIPATION IN THE OPERATION OF STATE BREWERIES, DISTILLERIES, AND WINERIES.

(E) AN ELIGIBLE APPLICANT MAY NOT USE A GRANT PROVIDED UNDER THIS SUBTITLE TO:

(1) SATISFY ANY PART OF A MATCHING FUND REQUIREMENT OF ANOTHER STATE GRANT PROVIDED TO THE ELIGIBLE APPLICANT; OR

(2) PAY FOR ACTIVITIES RELATED TO LOBBYING, AS DEFINED IN TITLE 5 OF THE GENERAL PROVISIONS ARTICLE.

5-1911.

THE ADVISORY COMMISSION SHALL ISSUE A REPORT EACH YEAR TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE ON THE ADVISORY COMMISSION'S FINDINGS AND RECOMMENDATIONS.

5-1912.

THE SECRETARY MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

Article – Tax – General

2-301.

(a) From the alcoholic beverage tax revenue, the Comptroller shall distribute the amount necessary to administer the alcoholic beverage tax laws to an administrative cost account.

(b) **AFTER MAKING THE DISTRIBUTION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE COMPTROLLER SHALL DISTRIBUTE TO THE MARYLAND ALCOHOL MANUFACTURING PROMOTION FUND UNDER § 5-1909 OF THE ECONOMIC DEVELOPMENT ARTICLE THE ALCOHOLIC BEVERAGE TAX REVENUE COLLECTED UNDER § 5-105 OF THIS ARTICLE ON:**

(1) BEER PRODUCED BY HOLDERS OF A CLASS 5 BREWERY LICENSE, CLASS 6 PUB-BREWERY LICENSE, CLASS 7 MICRO-BREWERY LICENSE, OR CLASS 8 FARM BREWERY LICENSE;

(2) WINE PRODUCED BY HOLDERS OF A CLASS 3 WINERY LICENSE OR CLASS 4 LIMITED WINERY LICENSE; AND

(3) DISTILLED SPIRITS PRODUCED BY HOLDERS OF A CLASS 1 DISTILLERY LICENSE OR CLASS 9 LIMITED DISTILLERY LICENSE.

(C) After making the [distribution] **DISTRIBUTIONS** required under [subsection (a)] **SUBSECTIONS (A) AND (B)** of this section, the Comptroller shall distribute the remaining alcoholic beverage tax revenue to the General Fund of the State.

5–105.

(a) Except as provided in subsection (d) of this section, the alcoholic beverage tax rate for distilled spirits is:

(1) \$1.50 for each gallon or 39.63 cents for each liter; and

(2) if distilled spirits contain a percentage of alcohol greater than 100 proof, an additional tax, for each 1 proof over 100 proof, of 1.5 cents for each gallon or 0.3963 cents for each liter.

(b) Except as provided in subsection (d) of this section, the alcoholic beverage tax rate for wine is 40 cents for each gallon or 10.57 cents for each liter.

(c) Except as provided in subsection (d) of this section, the alcoholic beverage tax rate on beer and mead is 9 cents for each gallon or 2.3778 cents for each liter.

(d) The tax imposed under § 5–102(b) of this subtitle shall equal the amount that the discriminating jurisdiction charges a Maryland licensee or permit holder.

[(e) The revenue generated from the tax imposed under subsection (b) of this section on wine produced at wineries licensed under the Alcoholic Beverages Article shall be distributed to the Maryland Wine and Grape Promotion Fund under § 2–1102 of the Agriculture Article.]

SECTION 3. AND BE IT FURTHER ENACTED, That all funds in the Maryland Wine and Grape Promotion Fund at the end of June 30, 2022, shall be transferred to the Maryland Alcohol Manufacturing Promotion Fund established under Section 2 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The Advisory Commission on Maryland Alcohol Manufacturing established under Section 2 of this Act is the successor of the Advisory Commission on Maryland Wine and Grape Growing.

(b) In every law, executive order, rule, regulation, policy, or document created by an official, an employee, or a unit of this State, the names and titles of those agencies and officials mean the names and titles of the successor agency or official.

SECTION 5. AND BE IT FURTHER ENACTED, That any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended by this Act and validly entered into or existing before the effective date of this Act

and every right, duty, or interest flowing from a statute amended by this Act remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended by this Act as though the amendment had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.

SECTION 6. AND BE IT FURTHER ENACTED, That:

(1) the continuity of every board, commission, office, department, agency, or other unit is retained; and

(2) the personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION 7. AND BE IT FURTHER ENACTED, That the initial terms of the members appointed to the Advisory Commission on Maryland Alcohol Manufacturing under ~~§ 5-1903(a)(5)~~ ~~§ 5-1903(a)(6)~~ § 5-1903(a)(1)(vii) of the Economic Development Article, as enacted by Section 2 of this Act, shall terminate as follows:

(1) three members on June 30, 2024;

(2) three members on June 30, 2025; and

(3) three members on June 30, 2026.

SECTION 8. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022.

Approved by the Governor, May 16, 2022.