

HOUSE BILL 854

A1, C8

2lr2416
CF SB 698

By: **Delegate Wilkins**

Introduced and read first time: February 7, 2022

Assigned to: Ways and Means and Economic Matters

Reassigned: Economic Matters and Ways and Means, February 11, 2022

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2022

CHAPTER _____

1 AN ACT concerning

2 **Alcoholic Beverages – Maryland Alcohol Manufacturing and Promotion**

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

13 BY repealing

14 Article – Agriculture

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

18 Annotated Code of Maryland

19 (2016 Replacement Volume and 2021 Supplement)

20 BY adding to

21 Article – Economic Development

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 Section 5–1901 through 5–1912 to be under the new subtitle “Subtitle 19. Maryland
2 Alcohol Manufacturing and Promotion”
3 Annotated Code of Maryland
4 (2018 Replacement Volume and 2021 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article – Tax – General
7 Section 2–301 and 5–105
8 Annotated Code of Maryland
9 (2016 Replacement Volume and 2021 Supplement)

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14 Annotated Code of Maryland be repealed.

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

17 **Article – Economic Development**

18 **SUBTITLE 19. MARYLAND ALCOHOL MANUFACTURING AND PROMOTION.**

19 **5–1901.**

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

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

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

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

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

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

1 (G) "FUND" MEANS THE MARYLAND ALCOHOL MANUFACTURING
2 PROMOTION FUND.

3 (H) "GROWER" MEANS A PERSON WHO:

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

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

8 (I) "VITICULTURE" MEANS THE CULTIVATION AND STUDY OF GRAPES AND
9 GRAPE VINES.

10 (J) "WINE" HAS THE MEANING STATED IN § 1-101 OF THE ALCOHOLIC
11 BEVERAGES ARTICLE.

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

14 5-1902.

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

17 5-1903.

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

19 (1) THE SECRETARY OR THE SECRETARY'S DESIGNEE;

20 (2) THE SECRETARY OF AGRICULTURE, OR THE SECRETARY'S
21 DESIGNEE;

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

24 (4) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE
25 PRESIDENT OF THE SENATE;

26 ~~(4)~~ (5) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED
27 BY THE SPEAKER OF THE HOUSE; AND

28 ~~(5)~~ (6) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

1 (I) ONE MEMBER REPRESENTING THE UNIVERSITY OF
2 MARYLAND COLLEGE OF AGRICULTURE AND NATURAL RESOURCES;

3 (II) TWO MEMBERS REPRESENTING BREWERIES IN THE STATE;

4 (III) TWO MEMBERS REPRESENTING DISTILLERIES IN THE
5 STATE;

6 (IV) TWO MEMBERS REPRESENTING WINERIES IN THE STATE;
7 AND

8 (V) TWO MEMBERS REPRESENTING GROWERS IN THE STATE.

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

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

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

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

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

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

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

24 5-1904.

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

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

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

3 5-1905.

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

6 (B) THE CHAIR OF THE ADVISORY COMMISSION:

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

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

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

12 5-1906.

13 A MEMBER OF THE ADVISORY COMMISSION:

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

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

18 5-1907.

19 THE DEPARTMENT SHALL PROVIDE STAFF FOR THE ADVISORY COMMISSION.

20 5-1908.

21 THE ADVISORY COMMISSION SHALL:

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

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

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

4 **5-1909.**

5 **(A) THERE IS A MARYLAND ALCOHOL MANUFACTURING PROMOTION**
6 **FUND.**

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

10 **(C) THE SECRETARY SHALL ADMINISTER THE FUND.**

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

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

16 **(E) THE FUND CONSISTS OF:**

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

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

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

22 **(F) THE FUND MAY BE USED ONLY FOR:**

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

25 **(2) ADMINISTRATIVE EXPENSES OF THE FUND.**

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

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

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

3 **5-1910.**

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

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

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

11 **(2) A STATE OR LOCAL GOVERNMENTAL UNIT.**

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

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

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

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

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

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

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

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

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

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

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

7 5-1911.

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

13 5-1912.

14 THE SECRETARY MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

15 Article - Tax - General

16 2-301.

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

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

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

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

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

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

4 5–105.

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

7 (1) \$1.50 for each gallon or 39.63 cents for each liter; and

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

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

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

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

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

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

24 SECTION 4. AND BE IT FURTHER ENACTED, That:

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

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

31 SECTION 5. AND BE IT FURTHER ENACTED, That any transaction or
32 employment status affected by or flowing from any change of nomenclature or any statute
33 amended by this Act and validly entered into or existing before the effective date of this Act
34 and every right, duty, or interest flowing from a statute amended by this Act remains valid

1 after the effective date of this Act and may be terminated, completed, consummated, or
2 enforced as required or allowed by any statute amended by this Act as though the
3 amendment had not occurred. If a change in nomenclature involves a change in name or
4 designation of any State unit, the successor unit shall be considered in all respects as
5 having the powers and obligations granted the former unit.

6 SECTION 6. AND BE IT FURTHER ENACTED, That:

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

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

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

17 (1) three members on June 30, 2024;

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

19 (3) three members on June 30, 2026.

20 SECTION 8. AND BE IT FURTHER ENACTED, That this Act shall take effect July
21 1, 2022.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.