

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Enrolled

Senate Bill 1041

(Senators Gile and Folden)

Finance

Economic Matters

Alcoholic Beverages - Breweries, Wineries, and Distilleries - Direct Delivery

This bill establishes permits authorizing the direct delivery of specified alcoholic beverages to a consumer in the State. The bill (1) increases the maximum amount that a recipient of specified alcoholic beverages may receive annually; (2) repeals restrictions on the maximum amount of alcoholic beverages a consumer may purchase when visiting Class 1 distilleries and Class 5 breweries; and (3) requires specific license holders to report certain information to the Alcohol, Tobacco, and Cannabis Commission (ATCC). **The bill generally takes effect July 1, 2024. Section 2 of the bill takes effect July 1, 2024, the effective date of Chapter 594 of 2023, unless the effective date of Chapter 594 is amended, then Section 2 takes effect on the taking effect of Chapter 594.**

Fiscal Summary

State Effect: General fund revenues increase to the extent ATCC issues permits under the bill, as discussed below. ATCC can handle any additional monitoring or enforcement activity with existing resources.

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

Small Business Effect: Meaningful.

Analysis

Bill Summary/Current Law:

Direct Wine Shipper's Permits

Under current law, a person must be issued a direct wine shipper's permit by ATCC before the person may engage in shipping wine directly to a consumer in the State. To qualify for

a direct wine shipper's permit, an applicant must be either a person licensed outside the State to engage in the manufacture of wine; or a holder of a Class 3 or a Class 4 manufacturer's license.

Direct Wine Delivery Permits

The bill establishes that before a licensed manufacturer engages in delivering wine directly to a consumer in the State, the manufacturer must be issued a direct wine delivery permit. To qualify for a direct wine delivery permit created under the bill, an applicant must be (1) a person licensed in the State to engage in the manufacture of wine and (2) a holder of a Class 6 limited wine wholesaler's license. The permit holder may sell and deliver the permit holder's own product to an individual in the State if (1) the delivery is made by an employee who is at least 18 years old and certified by an approved alcohol awareness program; (2) the purchaser, or another individual at least 21 years old designated by the purchaser, is physically present to receive the wine at the time and place of delivery; (3) the purchaser pays for the purchase at the time of order; and (4) the direct wine deliverer and the individual receiving the delivery each endorse a delivery form that the executive director approves certifying that the direct wine deliverer examined the recipient's government-issued identification and the recipient was at least 21 years old.

A direct wine delivery permit entitles the holder to sell and deliver wine manufactured by the holder directly to a consumer in the State by receiving and filling orders that the consumer transmits by electronic or other means. The term for the permit is one year and begins July 1.

A direct wine delivery permit holder may not cause more than 18 nine-liter cases of wine to be delivered to a single address in a single calendar year.

A permit holder may renew its direct wine delivery permit each year if the direct wine deliverer (1) is otherwise entitled to hold a direct wine delivery permit; (2) provides to the ATCC executive director and the Comptroller a copy of its current permit; and (3) pays ATCC a renewal fee of \$200. ATCC may deny a renewal application for a direct wine delivery permit if the holder fails to (1) file a tax return required under this part; (2) pay a fee or tax when due; or (3) after receiving notice, comply with applicable State law and regulations.

Direct to Consumer Beer and Liquor Delivery

The bill creates a direct beer delivery permit and a direct liquor delivery permit. Before a licensed manufacturer may engage in delivering beer or liquor directly to a consumer in the State, the manufacturer must be issued a direct beer or direct liquor delivery permit.

To qualify for a direct beer delivery permit, an applicant must be a person licensed in the State to engage in the manufacture of beer; and a holder of a Class 7 limited beer wholesaler's license. To qualify for a direct liquor delivery permit, an applicant must be a person issued a license in the State to engage in the manufacture of liquor; and a holder of a Class 8 limited wholesaler's license.

A direct beer or direct liquor delivery permit holder may sell and deliver the permit holder's own product to an individual in the State if (1) the delivery is made by an employee who is at least 18 years old and certified by an approved alcohol awareness program; (2) the purchaser, or another individual at least 21 years old designated by the purchaser, is physically present to receive the beer or liquor at the time and place of delivery; (3) the purchaser pays for the purchase at the time of order; and (4) the direct beer or direct liquor deliverer and the individual receiving the delivery each endorse a delivery form that ATCC approves certifying that the direct deliverer examined the recipient's government-issued identification and the recipient was at least 21 years old.

A direct beer or direct liquor delivery permit entitles the holder to sell and deliver beer or liquor manufactured by the holder directly to a consumer in the State by receiving and filling orders that the consumer transmits by electronic or other means.

The bill requires that all specified permit holders must:

- ensure that any container containing an alcoholic beverage delivered directly to a consumer in the State is (1) conspicuously labeled with the name of the manufacturer; the name and address of the consumer who is the intended recipient; and the words "Contains Alcohol: Signature of Person at Least 21 Years of Age Required for Delivery"; and (2) commercially sealed by the manufacturer;
- report to ATCC about the deliveries, as specified;
- file a quarterly tax return in accordance State law;
- pay quarterly to the Comptroller all sales taxes and excise taxes due on sales to consumers in the State and calculate the taxes as if the sale were made in the State;
- maintain for three years complete and accurate records of all information needed to verify compliance with this part;
- allow the Office of the Comptroller or ATCC to perform an audit of the permit holder's records on request; and
- consent to the jurisdiction of ATCC, Office of the Comptroller, or other State unit and the State courts concerning enforcement.

The bill also establishes (1) the term for any permit is one year (which begins July 1); (2) the initial application and renewal fee for any permit is \$200; and (3) delivery limits.

Customer Restrictions

For a customer to receive a direct delivery of beer or liquor, a consumer in the State must be at least 21 years old. The product received by the customer is for person consumption only and may not be resold.

Class 1 Distillery and Class 5 Brewery Licenses

Under current law, a Class 1 distillery license authorizes the establishment and operation of a plant for distilling brandy, rum, whiskey, alcohol, and neutral spirits at the location described in the license. It also authorizes the sale and delivery of those alcoholic beverages, with specified restrictions. The annual license fee is \$2,000.

A Class 1 distillery license also authorizes the license holder to conduct guided tours, serve samples, and sell up to 2.25 liters of products manufactured on the licensed premises, for consumption off the licensed premises, and sell related merchandise, to persons of legal drinking age who participate in a guided tour of the licensed premises.

A Class 5 brewery license holder may establish and operate a plant for brewing and bottling malt beverages at the location described in the license. The annual license fee is \$1,500.

A Class 5 brewery license also authorizes the license holder to conduct guided tours, serve samples and sell up to 288 ounces of beer manufactured on the licensed premises, for consumption off the licensed premises.

The bill repeals the off-premises sales restrictions noted for the Class 1 and Class 5 licenses above.

Reporting Requirements

The bill requires Class 1 distillery, Class 3 winery, Class 4 limited winery, and Class 5 brewery licenses holders to report to ATCC annually, as specified. License holders must provide information on (1) the amount of alcoholic beverages produced under the license; (2) the amount of alcoholic beverages sold for off-premises consumption; and (3) the amount of alcoholic beverages served for on-premises consumption. The bill specifies that a license holder is prohibited from selling alcoholic beverages for off-premises consumption to a person who intends to resell the alcoholic beverages.

Standard Digital Age Verification System

The bill requires ATCC to evaluate the implementation of a standard digital age verification system that holders of a direct delivery permit issued under the bill must use to verify the age of a person accepting the delivery of alcoholic beverages.

State Fiscal Effect: ATCC advises there are approximately 42 manufacturers currently providing direct to consumer shipping or delivery services to consumers within the State under the temporary authorizations most recently extended by Chapter 594 of 2023. To the extent that each manufacturer applies for a permit under the bill and pays the \$200 application fee (and then the subsequent annual renewal fee), general fund revenues for ATCC increase by at least \$8,400 annually beginning in fiscal 2025.

ATCC also advises that it can handle any evaluation or enforcement under the bill with existing budgeted resources.

Small Business Effect: The bill may allow for a small business manufacturer to deliver its own alcoholic beverages products, subject to specified limits under the bill, which likely results in increased sales.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1217 (Delegate Kerr) - Economic Matters.

Information Source(s): Alcohol, Tobacco, and Cannabis Commission; Department of Legislative Services

Fiscal Note History: First Reader - February 16, 2024
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