

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 32 (Senator Colburn)  
Education, Health, and Environmental Affairs

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Alcoholic Beverages - Brewery License - On-Premises Consumption

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This bill authorizes a Class 5 brewery licensee to sell annually up to 6,000 barrels of beer brewed at the location for on-premises consumption. The brewery is prohibited from selling beer for on-premises consumption to persons that have not attained the legal drinking age.

The bill takes effect July 1, 2013.

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Fiscal Summary

**State Effect:** General fund revenues may increase beginning in FY 2014 as a result of increased sales tax collections and alcoholic beverages taxes on the new sale of beer sold for on-premises consumption at Class 5 breweries. Under one set of assumptions, general fund revenues may increase by approximately \$57,000 annually. Expenditures are not affected.

**Local Effect:** None. Any additional enforcement activities can be handled with existing budgeted resources.

**Small Business Effect:** Meaningful. Breweries will benefit from additional avenues by which to produce and sell beer.

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Analysis

**Current Law:** A Class 5 brewery licensee is authorized to (1) establish and operate a plant in Maryland for brewing and bottling malt beverages at the location described in the license; (2) import beer from holders of nonresident dealer's permits; and (3) sell and

deliver beer to any wholesale licensee in the State, or person outside of this State, authorized to acquire it.

A licensee is authorized to serve to a person of legal drinking age who participates in a guided tour of the facility or attends a scheduled promotional event or other organized activity at the licensed premises, no more than six samples of beer brewed at the licensed premises, with each sample consisting of no more than 3 ounces from a single style of beer. A licensee may also sell up to 228 ounces, per person, of beer brewed at the brewery for off-premises consumption to anyone who participates in a guided tour of the brewery or attends a scheduled promotional event or other organized activity at the licensed premises, provided the person is of legal drinking age.

The Office of the Comptroller may issue a special brewery promotional event permit to a holder of a Class 5 manufacturer's license. The permit authorizes the holder to conduct on the premises of the brewery a promotional event at which the holder may (1) provide samples of no more than three fluid ounces per brand to consumers and (2) sell beer produced by the holder to persons who participate in the event. The beer at the event must be sold by the glass and for consumption on the premises only. A licensee may not be issued more than 12 permits in a calendar year and a single promotional event may not exceed three consecutive days.

**Background:** There are currently 12 Class 5 brewery licenses issued in the State. According to the Comptroller's *Alcohol & Tobacco Tax Report for Fiscal 2012*, Maryland brewers sold 3.9 million gallons of beer in fiscal 2012. Of this amount, 32.4% was sold to wholesalers, 8.6% was sold at the brewery, 58.2% was sold out of state, 0.3% was consumed on premises, and 0.4% was returned to the brewery.

Other manufacturers that have an on-sale privilege typically need (1) a Class B or Class D license (pub-brewery and microbrewery) or (2) are limited in the products that they may sell (those produced on premises for distillers and rectifiers, limited class of food-related items for wineries, and farm breweries).

The State sales tax rate on alcoholic beverages is 9.0% and the alcoholic beverages tax on beer is \$0.09 per gallon.

**State Fiscal Effect:** The bill authorizes Class 5 brewery licensees to sell up to 6,000 barrels of beer annually for on-premises consumption. As a result, general fund revenues may increase by a potentially significant amount from new sales taxes collected on beer sold for on-premises consumption and on alcoholic beverages taxes from new beer produced at each brewery. The actual amount of the revenue increase cannot be reliably estimated and depends on a number of factors, including the number of Class 5 brewery licensees that choose to sell beer for on-premises consumption, the brewery

location and hours of operation, and the amount of new sales that occur at each location, as opposed to sales that are shifted from other establishments. It is assumed that breweries will not produce more beer than they can sell.

The Comptroller's *Alcohol & Tobacco Tax Report for Fiscal 2012* indicates that 9,880 gallons of beer was consumed on premises at Maryland breweries in fiscal 2012; this is done primarily through beer tastings and other promotional events. This equates to approximately 823 gallons of beer consumed at each brewery location. *For illustrative purposes only*, if it is assumed that (1) each of the 12 current Class 5 licensees opts to sell beer for on-premises consumption; (2) the average cost of a pint of beer is \$4.00; and (3) each brewery sells an additional 1,600 gallons of beer for on-premises consumption, and these sales are considered new sales, then general fund sales tax revenues may increase by approximately \$55,300 annually. Using the same assumptions will result in an increase in alcoholic beverages taxes of approximately \$1,700 annually.

To the extent that fewer Class 5 licensees choose to sell beer for on-premises consumption and/or the amount of beer is actually sold at each location varies from the estimate, the general fund revenue increase will vary accordingly.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 4 (Delegates Haddaway-Riccio and Eckardt) - Economic Matters.

**Information Source(s):** Comptroller's Office, Department of Legislative Services

**Fiscal Note History:** First Reader - January 25, 2013  
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