

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 959 (Senator Hershey)  
Education, Health, and Environmental Affairs

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**Kent County - Alcoholic Beverages - Limited Distillery License**

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This bill authorizes the Comptroller to issue a Class 9 limited distillery license to a holder of a Class B beer, wine, and liquor (BWL) license and a holder of a Class D BWL license in Kent County, if the Class B BWL or Class D BWL license authorizes on- and off-premises consumption.

The bill takes effect July 1, 2016.

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**Fiscal Summary**

**State Effect:** General fund revenues increase by \$500 annually for each Class 9 limited distillery license issued in Kent County beginning in FY 2017. Alcoholic beverages and sales tax revenues may also increase by a minimal amount. Expenditures are not materially affected.

**Local Effect:** The bill does not materially affect Kent County finances or operations.

**Small Business Effect:** Minimal overall, but potential meaningful positive impact for any small business that applies for and obtains a Class 9 limited distillery license.

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**Analysis**

**Bill Summary:** A holder of a Class 9 limited distillery license and a Class B BWL license may annually sell up to 15,500 gallons of the products manufactured under the Class 9 limited distillery license at retail on the premises of the Class B license in a manner consistent with the underlying Class B license. A holder of a Class 9 limited distillery license and a Class B BWL license that distills more than 100,000 gallons in a calendar

year must divest itself of any Class B retail license and obtain a Class 1 manufacturers license.

## **Current Law:**

### *Limited Distillery License*

Chapter 449 of 2015 established a Class 9 limited distillery license in the State. The license must be issued by the Comptroller and only to the holder of a Class D beer, wine, and liquor license in Worcester County for use on the licensed premises. A Class 9 limited distillery license authorizes the user to distill, rectify, bottle, or sell no more than 100,000 gallons of brandy, rum, whiskey, alcohol, and neutral spirits under specified conditions. The annual license fee is \$500.

A holder of a Class 9 limited distillery license may establish and operate a plant in Maryland for distilling, rectifying, and bottling brandy, rum, whiskey, alcohol, and neutral spirits if the holder meets specified conditions. A license holder may (1) acquire bulk alcoholic beverages from the holder of a distillery or rectifying license or from the holder of a nonresident dealer's permit; (2) after acquiring an individual storage permit, store products manufactured on the licensed premises; (3) sell and deliver those products to specified entities; (4) sell the products at retail in a manner consistent with the underlying Class D license; (5) conduct guided tours of the licensed premises, as specified; and (6) serve not more than three one-half ounce samples of products to persons who have attained the legal drinking age, participated in a guided tour of the premises, and are present in the portion of the premises used for the limited distillery operation.

A license holder may not (1) apply for or possess a wholesaler's license; (2) sell bottles of the products on that part of the premises used for the distillery operation; (3) distill, rectify, bottle, or sell more than 100,000 gallons of product in a calendar year; (4) sell at retail on the premises of the Class D license, for on- or off-sale consumption, more than 15,500 gallons of the products manufactured under the Class 9 limited distillery license each calendar year; and (5) own, operate, or be affiliated in any manner with another manufacturer.

To distill more than 100,000 gallons per calendar year, a holder of a Class 9 limited distillery license must divest itself of any Class D retail license and obtain a Class 1 manufacturer's (distillery) license.

### *Class 1 Manufacturer's License (Distillery License)*

A Class 1 distillery license is issued by the Comptroller's Office and authorizes the establishment and operation of a plant for distilling brandy, rum, whiskey, alcohol, and

neutral spirits. It also authorizes the sale and delivery of those alcoholic beverages, with specified restrictions. The annual license fee is \$2,000.

#### *Class B Beer, Wine, and Liquor License*

In Kent County, a Class B BWL license may be issued to a restaurant that is fully equipped with an adequate dining room, has sufficient facilities for preparing and serving meals to the public, and is approved by the board. When operating under the license, a holder's average daily receipts from the sale of food must be at least 60% of the average daily receipts of the business. On Sunday, the license holder may sell beer, wine, and liquor for consumption on premises if the customer is seated at a table and not at a bar or on a bar stool, the alcoholic beverage is a supplement to the customer's meal, and the total price of the alcoholic beverages does not exceed the total price of the meal. Only beer and wine may be sold for off-premises consumption. The annual license fee is \$2,000

#### *Class D Beer, Wine, and Liquor License*

In Maryland, a Class D BWL license authorizes the license holder to sell or provide beer, wine, and liquor for on- or off-premises consumption as specified on each license. Commonly, such licenses are issued for use in a bar or tavern, and a license may not be issued for any drugstore.

In Kent County, the license authorizes the license holder to sell beer, wine, and liquor at retail at the place described in the license for on-premises consumption. On Sunday, a license holder may only sell beer and wine for off-premises consumption. The annual license fee is \$1,500.

**Background:** In fiscal 2015, there were 24 Class B BWL licenses and 2 Class D BWL licenses issued for use in Kent County.

**State Fiscal Effect:** General fund revenues from license fees increase by \$500 annually for each Class 9 limited distillery license issued by the Comptroller. Alcoholic beverages and sales tax revenues may increase minimally from additional liquor being produced and sold by limited distilleries. Any increase in tax revenues cannot be reliably estimated and depends on the amount of product distilled; however, it is not anticipated to be significant. The sales tax on alcoholic beverages is 9%, and the alcoholic beverages tax on distilled spirits is \$1.50 per gallon. If the distilled spirits contain a percentage of alcohol greater than 100 proof, an additional tax of 1.5 cents per gallon is added for each one proof over 100 proof. Revenues from these taxes and licensing fees are deposited into the general fund.

Chapter 449 of 2015 required the Comptroller's Office to establish the limited distillery license in Worcester County, and the fiscal and policy note for that bill advised that the Comptroller's Office needed a one-time expenditure increase of \$48,000 in fiscal 2016 to create and program the new license forms into its system. Due to the previous establishment of this license, any additional expenditure increase for the Comptroller's Office to allow applicants in Kent County to obtain the license is expected to be minimal.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 925 (Delegate Jacobs, *et al.*) - Economic Matters.

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

**Fiscal Note History:** First Reader - February 18, 2016  
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