

HOUSE BILL 1052

A1

8lr3816

By: **Delegates Branch and Davis**

Introduced and read first time: February 7, 2018

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages – Class 5 Brewery License – Alterations**

3 FOR the purpose of repealing the authority of the holder of a Class 5 brewery license to
4 contract with certain persons to brew and bottle beer; altering the sample sizes,
5 types, and amounts of certain beer that the holder may serve to certain persons
6 under certain circumstances; altering the authorization for a license holder to sell
7 beer for off–premises consumption in a certain manner; altering the authorization of
8 an individual to purchase beer not exceeding a certain amount; requiring a local
9 licensing board to grant an on–site consumption permit to the holder of a certain
10 license; repealing the authorization for a license holder to sell certain beer that is
11 fermented and brewed under contract with a certain brand owner; repealing the
12 authorization to sell certain beer for on–premises consumption that is brewed at a
13 location other than the licensed premises; altering the total amount of beer that may
14 be sold each year by a license holder for on–premises consumption, with a certain
15 exception; altering the sample sizes, types, and amounts of beer that the holder may
16 provide at a certain promotional event; repealing certain limitations on the sales and
17 serving privileges of an on–site consumption permit and certain licenses; making
18 conforming changes; and generally relating to breweries and alcoholic beverages
19 regulation.

20 BY repealing and reenacting, with amendments,
21 Article – Alcoholic Beverages
22 Section 2–207
23 Annotated Code of Maryland
24 (2016 Volume and 2017 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
26 That the Laws of Maryland read as follows:

27 **Article – Alcoholic Beverages**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 2–207.

2 (a) In this section, “affiliate” means a person that directly or indirectly through
3 one or more intermediaries controls, is controlled by, or is under common control with a
4 holder of a Class 5 brewery license.

5 (b) There is a Class 5 brewery license.

6 (c) A license holder may:

7 (1) establish and operate a plant for brewing and bottling malt beverages
8 at the location described in the license;

9 (2) import beer from a holder of a nonresident dealer’s permit;

10 (3) [contract to brew and bottle beer with and on behalf of the holder of a
11 Class 2 rectifying license, Class 5 brewery license, Class 7 micro–brewery license, Class 8
12 farm brewery license, or a nonresident dealer’s permit;

13 (4)] sell and deliver beer to:

14 (i) a holder of a wholesaler’s license that is authorized to acquire
15 beer; or

16 (ii) a person outside of the State that is authorized to acquire beer;

17 [(5)] (4) subject to subsection [(i)] (H) of this section, serve, at no charge,
18 NOT MORE THAN SIX samples of beer, consisting of [a total of] not more than [18] 3 ounces
19 FROM A SINGLE STYLE of beer [per visit], to an individual who:

20 (i) has attained the legal drinking age; and

21 (ii) is participating in a guided tour of the brewery or attends a
22 scheduled promotional event or other organized activity at the brewery;

23 [(6)] (5) subject to subsections (d) and [(i)] (H) of this section, sell beer for
24 off–premises consumption at retail [in a container other than a keg] to an individual
25 participating in a guided tour of the brewery or attending a scheduled promotional event
26 or other organized activity at the brewery; and

27 [(7)] (6) subject to subsection (f) of this section, sell beer at the location
28 described in the license for on–premises consumption.

29 (d) An individual may purchase beer under subsection [(c)(6)] (C)(5) of this
30 section if the individual:

1 (1) purchases not more than 288 ounces of beer [per visit]; and

2 (2) has attained the legal drinking age.

3 (e) The annual license fee is \$1,500.

4 (f) (1) A local licensing board [may] **SHALL** grant an on-site consumption
5 permit to an applicant that holds a Class 5 brewery license and, subject to paragraph (6) of
6 this subsection, a Class D beer license.

7 (2) Subject to the maximum volume limit under paragraph (4) of this
8 subsection, a Class D beer license or an equivalent license under paragraph (6) of this
9 subsection entitles the holder to sell to an individual who has attained the legal drinking
10 age, for on-premises consumption at the brewery:

11 (i) beer:

12 1. of which the holder of the Class 5 license is the brand
13 owner; and

14 2. that is fermented and brewed entirely at the brewery of
15 the license holder; **AND**

16 (ii) [beer that is fermented and brewed entirely at the brewery under
17 contract with a brand owner who does not possess a Class 5 license; and

18 (iii)] subject to paragraph (3) of this subsection, beer brewed at a
19 location other than the Class 5 brewery if:

20 1. the brand owner of the beer is the holder of the Class 5
21 license or an affiliate of the holder of the Class 5 license;

22 2. the number of barrels of the beer sold for on-premises
23 consumption under the Class D beer license or an equivalent license or an on-site
24 consumption permit in a calendar year does not exceed [the greater of:

25 A. 25% of the total number of barrels of beer sold for
26 on-premises consumption under the Class D license or an equivalent license or an on-site
27 consumption permit in that calendar year; or

28 B.] 1.2% of total finished production under the Class 5
29 brewery license; and

30 3. [A. the license holder contracts with or on behalf of a
31 holder of a manufacturer's license or nonresident dealer's permit; or

1 B.] the beer is manufactured by an affiliate of the license
2 holder.

3 (3) (i) This paragraph applies to a Class 5 brewery with more than
4 1,000,000 barrels of finished production annually, alone or in combination with its
5 affiliates.

6 (ii) Beer that is delivered to the Class 5 brewery in finished form
7 may be sold for on-premises consumption under paragraph [(2)(iii)2] **(2)(II)2** of this
8 subsection only if it is purchased from a licensed wholesaler.

9 (4) Except as provided in paragraph (5) of this subsection, the total amount
10 of beer sold each year for on-premises consumption under this subsection may not exceed
11 **[2,000] 500** barrels.

12 (5) **(I) THIS PARAGRAPH APPLIES TO A CLASS 5 BREWERY WITH
13 MORE THAN 1,000,000 BARRELS OF FINISHED PRODUCTION ANNUALLY, ALONE OR
14 IN COMBINATION WITH ITS AFFILIATES.**

15 **(II) THE TOTAL AMOUNT OF BEER SOLD EACH YEAR FOR
16 ON-PREMISES CONSUMPTION MAY NOT EXCEED 2,000 BARRELS.**

17 [(i)] **(III)** If, in a single year, the license holder reaches 80% of the
18 volume authorized to be sold for on-premises consumption under [paragraph (4) of this
19 subsection] **SUBPARAGRAPH (II) OF THIS PARAGRAPH**, the license holder may file a
20 request with the Comptroller for permission to sell up to an additional 1,000 barrels for
21 on-premises consumption in that year.

22 [(ii)] **(IV)** The maximum volume that a license holder may sell for
23 on-premises consumption in a single year is 3,000 barrels.

24 [(iii)] **(V)** Any beer that the license holder sells for on-premises
25 consumption in excess of the 2,000-barrel limit under [paragraph (4) of this subsection]
26 **SUBPARAGRAPH (II) OF THIS PARAGRAPH** shall be purchased from a licensed
27 wholesaler.

28 (6) Before a local licensing board that does not issue a Class D beer license
29 may grant an on-site consumption permit, the local licensing board shall:

30 (i) establish an equivalent license; and

31 (ii) require the applicant to obtain that equivalent license.

32 (7) A local licensing board may charge a fee for granting an on-site
33 consumption permit.

1 (8) A local licensing board shall require the holder of an on-site
2 consumption permit or a Class D beer license or an equivalent license under paragraph (6)
3 of this subsection to:

4 (i) comply with the alcohol awareness requirements under § 4-505
5 of this article; and

6 (ii) abide by all applicable trade practice restrictions.

7 (g) (1) The Comptroller may issue a brewery promotional event permit to a
8 holder of a Class 5 brewery license.

9 (2) Subject to subsection [(i)] (H) of this section, the permit authorizes the
10 holder to conduct on the premises of the brewery a promotional event at which the holder
11 may, with respect to individuals who have attained the legal drinking age:

12 (i) provide samples consisting of a total of not more than [18] 3 fluid
13 ounces PER BRAND to a consumer; and

14 (ii) sell beer to individuals who participate in the event.

15 (3) Subject to subsection [(i)] (H) of this section, the beer at the event shall
16 be sold by the glass for on-premises consumption only.

17 (4) To obtain a permit, an applicant, at least 15 days before the event, shall
18 file with the Comptroller an application that the Comptroller provides.

19 (5) A holder of a Class 5 brewery license may not be issued more than 12
20 permits in a calendar year.

21 (6) A single promotional event may not exceed 3 consecutive days.

22 (7) The permit fee is \$25 per event.

23 (h) [(1) This subsection does not apply to:

24 (i) the holder of a Class 5 brewery license that held an on-site
25 consumption permit and a Class D license or an equivalent license on or before April 1,
26 2017;

27 (ii) an individual who held a minority interest in an on-site
28 consumption permit and a Class D license or an equivalent license on or before April 1,
29 2017, and then obtains by transfer a majority interest in the same license or permit;

30 (iii) a location in the State for which a completed brewer's notice form
31 was filed with the U. S. Department of Treasury on or before April 1, 2017;

1 (iv) a promotional event conducted under subsection (g) of this
2 section; and

3 (v) a guided tour during which:

4 1. samples of beer are served under subsection (c)(5) of this
5 section; or

6 2. beer is sold for off-premises consumption under
7 subsection (c)(6) of this section.

8 (2) This subsection applies to:

9 (i) a holder of a Class 5 brewery license who:

10 1. after April 1, 2017, obtains an on-site consumption permit
11 and a Class D beer license or equivalent license for on-premises consumption; or

12 2. not holding a minority interest in an on-site consumption
13 permit and a Class D license or an equivalent license on or before April 1, 2017, obtains a
14 majority interest by transfer in an on-site consumption permit and a Class D license or an
15 equivalent license; and

16 (ii) notwithstanding paragraph (1)(iii) of this subsection, a
17 manufacturer of beer with more than 1,000,000 barrels of finished production annually
18 alone or in combination with its affiliates.

19 (3) Notwithstanding any provision in Division II of this article, the sales
20 and serving privileges of an on-site consumption permit and a Class D license or an
21 equivalent license may be exercised only from 10 a.m. to 10 p.m. Monday through Sunday.

22 (i) All beer offered, served, or sold to a consumer under subsection [(c)(5)] (C)(4)
23 or [(6)] (5) or (g) of this section shall be:

24 (1) fermented and brewed entirely at the Class 5 brewery; or

25 (2) beer of which the license holder or an affiliate of the license holder is
26 the brand owner.

27 [(j)] (I) (1) (i) The Comptroller may issue a refillable container permit
28 for draft beer under § 4-1104 or Subtitle 11 of the various titles in Division II of this article
29 to a holder of a Class 5 brewery license:

30 1. on completion of an application form that the Comptroller
31 provides; and

32 2. at no cost to the holder of the Class 5 brewery license.

1 (ii) A refillable container permit may be renewed each year
2 concurrently with the renewal of the Class 5 brewery license.

3 (2) The hours of sale for a refillable container permit issued under this
4 subsection are the same as the hours when a guided tour, a promotional event, or other
5 organized activity at the licensed premises authorized under subsection (c) of this section
6 may be conducted.

7 **[(k)] (J)** (1) On or before October 1 each year, the Comptroller shall report to
8 the Senate Education, Health, and Environmental Affairs Committee and the House
9 Economic Matters Committee, in accordance with § 2-1246 of the State Government
10 Article, on the following, identified by jurisdiction and Class 5 license holder:

11 (i) the total beer production of the license holder in the preceding
12 fiscal year;

13 (ii) the total sales of the license holder for on-site consumption
14 under an on-site consumption permit, a Class D beer license, or an equivalent license in
15 the preceding fiscal year;

16 (iii) whether the license holder has requested permission to sell
17 additional beer under subsection **[(f)(5)(i)] (F)(5)(III)** of this section, and whether the
18 Comptroller granted that permission, for the preceding fiscal year; and

19 (iv) the total sales of the license holder of additional beer under
20 subsection **[(f)(5)(i)] (F)(5)(III)** of this section in the preceding fiscal year.

21 (2) Each holder of a Class 5 license shall report to the Comptroller the
22 information needed to prepare the annual report under this subsection.

23 (3) The Comptroller may include the information reported under this
24 subsection in the annual report submitted under § 1-306 of this article.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
26 1, 2018.