

SENATE BILL 839

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By: **Senator Simonaire**

Introduced and read first time: February 3, 2020

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages – Manufacturer’s Permits and Brewery Limits**

3 FOR the purpose of repealing provisions on brewing company off-site permits, distillery
4 off-site permits, and winery off-site permits; establishing a manufacturer’s off-site
5 permit with certain privileges; authorizing the Comptroller to issue a permit to the
6 holder of certain manufacturer’s licenses; authorizing a permit holder to sell and
7 provide certain products at certain events; requiring a permit holder to have an
8 employee trained in alcohol awareness present at certain events; specifying certain
9 events at which a permit may be used; providing for a certain number of events at
10 which a permit may be used annually; specifying the primary purpose of certain
11 events; prohibiting use of the permit at more than a certain number of events
12 annually; requiring an applicant for a permit to complete a certain form; requiring a
13 permit holder to provide certain notification to the Comptroller; authorizing the
14 Comptroller to adopt certain regulations; establishing a certain fee; authorizing the
15 Comptroller to issue a certain permit; requiring a certain license holder to file a
16 certain notice for a certain permit; authorizing a permit holder to host a certain
17 event; providing for the limitations of a certain permit; altering the volumes of beer
18 that the holders of certain licenses may produce and distribute annually; and
19 generally relating to breweries and permit revisions.

20 BY repealing

21 Article – Alcoholic Beverages
22 Section 2–130, 2–132.2, 2–133, and 2–210(i) and (j)
23 Annotated Code of Maryland
24 (2016 Volume and 2019 Supplement)

25 BY adding to

26 Article – Alcoholic Beverages
27 Section 2–130 and 2–140
28 Annotated Code of Maryland
29 (2016 Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY repealing and reenacting, with amendments,
Article – Alcoholic Beverages
Section 2–207(g) through (k), 2–210(c)(1)(i), (f), (k), and (l), and 2–212(b)
Annotated Code of Maryland
(2016 Volume and 2019 Supplement)

BY repealing and reenacting, without amendments,
Article – Alcoholic Beverages
Section 2–210(g) and (h)
Annotated Code of Maryland
(2016 Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That Section(s) 2–130, 2–132.2, and 2–133 of Article – Alcoholic Beverages of the Annotated
Code of Maryland be repealed.

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

Article – Alcoholic Beverages

2–130.

(A) THERE IS A MANUFACTURER OFF–SITE PERMIT.

(B) THE COMPTROLLER MAY ISSUE THE PERMIT TO A HOLDER OF A CLASS 1 DISTILLERY LICENSE, A CLASS 9 LIMITED DISTILLERY LICENSE, A CLASS 3 WINERY LICENSE, A CLASS 4 LIMITED WINERY LICENSE, A CLASS 5 BREWERY LICENSE, A CLASS 7 MICRO–BREWERY LICENSE, OR A CLASS 8 FARM BREWERY LICENSE THAT MEETS THE REQUIREMENTS OF THIS SECTION.

(C) DURING AN EVENT LISTED IN SUBSECTION (E) OF THIS SECTION, THE PERMIT HOLDER MAY:

(1) PROVIDE SAMPLES AND SELL PRODUCTS MANUFACTURED BY THE PERMIT HOLDER UNDER ITS ASSOCIATED LICENSE;

(2) PROVIDE TO A CONSUMER SAMPLES THAT MAY NOT EXCEED:

(I) 1 FLUID OUNCE OF EACH OFFERING OF WINE;

(II) 1 FLUID OUNCE OF EACH OFFERING OF BEER; AND

(III) ONE–QUARTER OF 1 FLUID OUNCE OF EACH OFFERING OF

1 LIQUOR;

2 (3) EXCEPT FOR A FARMER'S MARKET EVENT, SELL TO A CONSUMER
3 FOR ON-PREMISES CONSUMPTION; AND

4 (4) SELL TO A CONSUMER FOR OFF-PREMISES CONSUMPTION.

5 (D) THE PERMIT HOLDER SHALL HAVE PRESENT AT LEAST ONE INDIVIDUAL
6 WHO IS CERTIFIED BY AN APPROVED ALCOHOL AWARENESS PROGRAM WHILE
7 PROVIDING SAMPLES OR SELLING DURING AN EVENT.

8 (E) THE PERMIT MAY BE USED AT THE FOLLOWING EVENTS:

9 (1) A COUNTY AGRICULTURAL FAIR;

10 (2) THE MARYLAND STATE AGRICULTURAL FAIR;

11 (3) A FARMER'S MARKET THAT IS LISTED ON THE FARMER'S MARKET
12 DIRECTORY OF THE MARYLAND DEPARTMENT OF AGRICULTURE;

13 (4) A NONPROFIT BEER, WINE, AND LIQUOR FESTIVAL UNDER § 2-131
14 OF THIS SUBTITLE; AND

15 (5) NOT MORE THAN 32 OTHER EVENTS IN A YEAR THAT HAVE AN
16 ACTIVITY AS A MAJOR PURPOSE:

17 (I) THAT IS OTHER THAN THE SALE AND PROMOTION OF
18 ALCOHOLIC BEVERAGES; OR

19 (II) FOR WHICH THE PARTICIPATION OF THE PERMIT HOLDER IS
20 A SUBORDINATE ACTIVITY.

21 (F) THE PERMIT MAY NOT BE USED FOR MORE THAN NINE EVENTS
22 ANNUALLY AT ANY INDIVIDUAL LOCATION.

23 (G) AN APPLICANT FOR A PERMIT SHALL COMPLETE AN APPLICATION ON A
24 FORM THAT THE COMPTROLLER PROVIDES.

25 (H) THE PERMIT HOLDER SHALL NOTIFY THE COMPTROLLER OF THE
26 PERMIT HOLDER'S INTENTION TO ATTEND AN EVENT WITHIN A PERIOD OF TIME
27 THAT THE COMPTROLLER DETERMINES ON A FORM THAT THE COMPTROLLER
28 AUTHORIZES.

(I) THE COMPTROLLER MAY ADOPT REGULATIONS FOR THE NOTIFICATION OF THE LOCAL LICENSING BOARD OF THE JURISDICTION WHERE THE EVENT IS BEING HELD OF THE PERMIT HOLDER'S INTENTION TO ATTEND THE EVENT.

(J) THE ANNUAL PERMIT FEE IS \$100.

2-140.

(A) THE COMPTROLLER MAY ISSUE A BREWERY SPECIAL EVENT PERMIT TO A HOLDER OF A CLASS 5 BREWERY LICENSE OR A CLASS 8 FARM BREWERY LICENSE.

(B) AT LEAST 15 DAYS BEFORE HOLDING A SPECIAL EVENT, THE LICENSE HOLDER SHALL OBTAIN A PERMIT FROM THE COMPTROLLER BY FILING A NOTICE OF THE SPECIAL EVENT ON THE FORM THAT THE COMPTROLLER PROVIDES.

(C) THE PERMIT AUTHORIZES THE LICENSE HOLDER TO CONDUCT AT THE LOCATION LISTED ON THE LICENSE A SPECIAL EVENT AT WHICH THE LICENSE HOLDER MAY:

(1) INCLUDE THE PRODUCTS OF OTHER MARYLAND BREWERIES;

(2) PROVIDE SAMPLES OF NOT MORE THAN 6 FLUID OUNCES PER BRAND TO CONSUMERS;

(3) SELL BEER PRODUCED BY THE LICENSE HOLDER AND OTHER MARYLAND BREWERIES TO PERSONS WHO PARTICIPATE IN THE EVENT; AND

(4) IN A SEGREGATED AREA APPROVED BY THE COMPTROLLER AT THE LOCATION LISTED ON THE LICENSE, STORE THE PRODUCTS OF OTHER MARYLAND BREWERIES.

(D) THE BEER AT THE EVENT SHALL BE SOLD IN THE MANNER AUTHORIZED UNDER THE LICENSE.

(E) THE LICENSE HOLDER MAY NOT BE ISSUED MORE THAN 12 PERMITS IN A CALENDAR YEAR.

(F) A SINGLE SPECIAL EVENT MAY NOT EXCEED 3 CONSECUTIVE DAYS.

(G) THE PERMIT FEE IS \$25 PER EVENT.

2-207.

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

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

(i) provide samples consisting of a total of not more than 18 fluid ounces to a consumer; and

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

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

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

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

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

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

(h)] (1) This subsection does not apply to:

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

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

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

(iv) a [promotional event conducted under subsection (g) of this section] **BREWERY SPECIAL EVENT PERMIT ISSUED UNDER § 2-140 OF THIS TITLE;** and

(v) a guided tour during which:

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

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

(2) This subsection applies to:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **[(k)] (J)** (1) On or before October 1 each year, the Comptroller shall report to
2 the Senate Education, Health, and Environmental Affairs Committee and the House
3 Economic Matters Committee, in accordance with § 2–1257 of the State Government
4 Article, on the following, identified by jurisdiction and Class 5 license holder:

5 (i) the total beer production of the license holder in the preceding
6 fiscal year; and

7 (ii) the total sales of the license holder for on–site consumption
8 under an on–site consumption permit, a Class D beer license, or an equivalent license in
9 the preceding fiscal year.

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

12 (3) The Comptroller shall include the information reported under this
13 subsection in the annual report submitted under § 1–306 of this article.

14 2–210.

15 (c) A license holder may:

16 (1) (i) sell beer produced by the license holder for on–premises **AND**
17 **OFF–PREMISES** consumption;

18 (f) **(1)** [Subject to subsections (i) and (j) of this section, a] **A** license holder at
19 the location listed on the license may exercise the privileges of the license each day from 10
20 a.m. to 10 p.m.

21 **(2)** **THIS SECTION DOES NOT APPLY TO A BREWERY SPECIAL EVENT**
22 **PERMIT ISSUED UNDER § 2–140 OF THIS TITLE.**

23 (g) Except as provided in Division II of this article, a Class 8 farm brewery license
24 allows the license holder to operate 7 days a week.

25 (h) Nothing in this section limits the application of relevant provisions of Title 21
26 of the Health – General Article, and regulations adopted under that title, to a license holder.

27 **[(i)]** (1) A license holder may sponsor a multibrewery activity at the location
28 issued on the license that:

29 (i) includes the products of other Maryland breweries; and

30 (ii) provides for the sale of beer by the glass for on–premises
31 consumption only.

(2) In a segregated area approved by the Comptroller at the location listed on the license, a license holder may store the products of other Maryland breweries for the multibrewery activity.

(3) The multibrewery activity:

(i) may be held from 10 a.m. to 10 p.m. each day; and

(ii) may not exceed 3 consecutive days.

(j) (1) The Comptroller may issue a brewery promotional event permit to a license holder.

(2) At least 15 days before holding a planned promotional event, the license holder shall obtain a permit from the Comptroller by filing a notice of the promotional event on the form that the Comptroller provides.

(3) The permit authorizes the license holder to conduct at the location listed on the license a promotional event at which the license holder may:

(i) provide samples of not more than 6 fluid ounces per brand to consumers; and

(ii) sell beer produced by the license holder to persons who participate in the event.

(4) The beer at the event shall be sold by the glass and for on-premises consumption only.

(5) The license holder may not be issued more than 12 permits in a calendar year.

(6) A single promotional event:

(i) may be held from 10 a.m. to 10 p.m. each day; and

(ii) may not exceed 3 consecutive days.

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

[(k)] (I) The annual license fee is \$200.

[(l)] (J) (1) On or before October 1 each year, the Comptroller shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2-1257 of the State Government Article, the total beer production of each Class 8 license holder in the preceding fiscal year,

1 identified by jurisdiction and license holder.

2 (2) Each holder of a Class 8 license shall report to the Comptroller the
3 information needed to prepare the annual report required under this subsection.

4 (3) The Comptroller shall include the information reported under this
5 subsection in the annual report submitted under § 1–316 of this article.

6 2–212.

7 (b) (1) The holder of a rectifying or winery license may apply for and obtain a
8 wholesaler's license of any class for the same premises or elsewhere as provided under this
9 article.

10 (2) The holder of a Class 4 limited winery license may apply for and obtain
11 a Class 6 limited wine wholesaler's license for the same premises or elsewhere as provided
12 under this article.

13 (3) (i) The holder of a Class 5 brewery license or Class 7 micro–brewery
14 license may apply for and obtain a Class 7 limited beer wholesaler's license in accordance
15 with this paragraph.

16 (ii) A holder of a Class 5 brewery license that was selling the holder's
17 own beer at wholesale in the State as of January 1, 2013, may obtain a Class 7 limited beer
18 wholesaler's license to continue to sell the holder's own beer at wholesale in the same
19 location in an amount that is not more than [3,000] **5,000** barrels annually.

20 (iii) A holder of a Class 5 brewery license that produces in aggregate
21 from all its locations not more than [22,500] **45,000** barrels of beer annually may obtain a
22 Class 7 limited beer wholesaler's license and distribute not more than [3,000] **5,000** barrels
23 of its own beer annually.

24 (4) A holder of one or two Class 7 micro–brewery licenses that produces in
25 aggregate from all of its locations not more than [22,500] **45,000** barrels of beer annually
26 may obtain a Class 7 limited beer wholesaler's license and distribute beer that:

27 (i) totals annually not more than [3,000] **5,000** barrels in aggregate
28 from all of its locations; and

29 (ii) has been brewed at the location from where it is distributed.

30 (5) The holder of a Class 1 distillery license may apply for and obtain a
31 Class 8 liquor wholesaler's license for the same premises or elsewhere as provided under
32 this article.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
34 1, 2020.