

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 949

(Senator Mathias)

Education, Health, and Environmental Affairs

Economic Matters

Worcester County - Alcoholic Beverages

This bill makes numerous changes to the alcoholic beverages law in Worcester County. Additionally, the bill authorizes the Worcester County Board of License Commissioners to issue a Class EF (entertainment facility) beer, wine, and liquor on-sale license.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: None.

Local Effect: Worcester County license fee revenues increase minimally from issuing Class EF licenses and from higher fines being assessed on individuals and businesses. However, Worcester County revenues may decrease beginning in FY 2015 to the extent licensees purchase alcoholic beverages directly from wholesalers rather than from the county dispensaries. Worcester County can handle any related enforcement with existing resources.

Small Business Effect: Small businesses that violate the law could pay higher fines. Expenditures may increase minimally for small businesses that need to certify additional employees and choose to pay employee training costs. Licensees may be able to purchase alcoholic beverages at a lower cost, beginning in FY 2015, rather than beginning in FY 2016.

Analysis

Bill Summary: The Class EF licensee may sell beer, wine, and liquor from one or more outlets in the entertainment facility for consumption anywhere throughout the

entertainment facility. A Class EF licensee may not sell alcoholic beverages for off-sale consumption. An applicant for the Class EF license must have an initial capital investment in the facility for which the license is sought of at least \$45 million. One or more Class EF licenses may be issued for the same facility. The hours for sale of alcoholic beverages under an entertainment facility license are during the days that the entertainment facility is open for business and from 9:00 a.m. through 4:00 a.m. the following day. A Class EF license authorizes dancing and the playing of music, and the annual license fee is \$15,000.

The bill specifies that seven-day license holders may sell beer, wine, and liquor on sale and off-sale in Worcester County. The maximum fine for individuals consuming alcoholic beverages on a premises open to the general public, any place of public entertainment, or a licensed premises and the owner, operator, or manager for knowingly permitting consumption during prohibited hours is increased to \$4,000.

The bill requires that, for establishments licensed to serve alcoholic beverages in Worcester County, the licensee or a supervisory employee designated by the licensee be certified by an approved alcohol awareness program and present during the hours in which alcohol may be sold on the premises. This requirement does not apply to a holder of a Class C license. The person certified by an approved alcohol awareness program may be absent from the licensed premises for a bona fide personal or business reason or an emergency, if the absence lasts for no more than two hours.

The bill changes the date for when an alcoholic beverages licensee may begin to elect to purchase wine and liquor from a licensed wholesaler in addition to or instead of from the department of liquor control from May 1, 2016, to July 1, 2014. Acting as a wholesaler, the Worcester County Department of Liquor Control may purchase wine and liquor, on which the excise tax has not been paid, from a licensed wholesaler, and the department may only resell the wine and liquor to a nondispensary, licensed retailer and only after the excise tax has been paid. Acting as a retailer, the Worcester County Department of Liquor Control may purchase wine and liquor, on which the excise tax has been paid, from a licensed wholesaler for retail sale in dispensary stores.

Current Law: Seven-day Class B and Class D beer, wine, and liquor license holders may sell beer, wine, and liquor (on-sale) and beer and light wine (off-sale).

The maximum fine for individuals consuming alcoholic beverages on a licensed premises and the owner for knowingly permitting consumption during prohibited hours is \$1,000.

Alcohol awareness programs are approved and certified by the State Comptroller. The programs must:

- include instruction on how alcohol affects a person's body and behavior;
- provide education on the dangers of drinking and driving; and
- define effective methods for serving customers to minimize the chance of intoxication, ceasing service before a customer becomes intoxicated, and determining if a customer is under the drinking age.

A holder of any class of retail alcoholic beverages license or an employee designated by the holder must complete an approved alcohol awareness training program. The training program is valid for four years, at which time the individual must complete a retraining course. Individuals who complete the program are issued certificates of completion.

In Caroline, Howard, Kent, Montgomery, Washington, and Wicomico counties, the licensee or a supervisor authorized by the licensee are required to be certified and present at the licensed establishment at all times when alcohol is served, with specified exceptions. This requirement does not apply to a holder of a Class C license in Wicomico County. In Howard, Kent, Washington, and Wicomico counties, the person certified by an approved alcohol awareness program may be absent from the licensed premises for a bona fide personal or business reason or an emergency, if the absence lasts for no more than two hours. In Caroline County, the person certified by an approved alcohol awareness program may be absent from the licensed premises for a bona fide emergency, if the absence lasts for no more than two hours.

Subject to certain limitations, the Worcester County Board of License Commissioners may issue a Class B beer, wine, and liquor license for use in a restaurant or hotel. There is no authorized alcoholic beverages license specific to an entertainment facility in Worcester County.

Baltimore City has a Class BWL-VLF and Class BWL-VLC license, which permits the sale of beer, wine, and liquor within the video lottery terminal (VLT) facility licensed to operate in Baltimore City. Anne Arundel County has an entertainment facility and entertainment concessionaire license, which permits the sale of beer, wine, and liquor within the VLT facility licensed to operate in Anne Arundel County, and Cecil County also, has an entertainment facility license.

Under Chapter 4 of the 2007 special session (SB 3), a video lottery operation licensee may not provide food or alcoholic beverages to an individual at no cost, with the exception of hors d'oeuvres, pretzels, cheese, or crackers as allowed under § 12-106 of Article 2B. Food or alcoholic beverages offered by a video lottery operation licensee may be offered only at prices that are determined by the county alcoholic beverages licensing authority to be commensurate with the price of similar types of food and alcoholic beverages at restaurants in the county in which the VLT facility is located.

A video lottery operation licensee must ensure that intoxicated individuals are not allowed to play VLTs and are not allowed in areas of the VLT facility where VLTs are located. The Code of Maryland Regulations requires security operating procedures that ensure that intoxicated individuals are prohibited from entering the VLT facility, or if necessary, immediately removed from the facility. A VLT facility may operate 24 hours a day.

In general, most Maryland jurisdictions permit the sale of alcoholic beverages through a three-tier system in which retail alcoholic beverage licensees purchase alcoholic beverages from licensed Maryland wholesalers who purchase alcoholic beverages from licensed manufacturers and import companies. In Montgomery, Somerset, Wicomico, and Worcester counties, however, the counties operate dispensary systems through which they act as the wholesalers for retail alcoholic beverage licensees in their respective jurisdictions. In Worcester County, the sale of alcoholic beverages is regulated by the Worcester County Department of Liquor Control. An alcoholic beverages licensee in the county, beginning on May 1, 2016, may elect to purchase wine and liquor from a licensed wholesaler in addition to or instead of from the department of liquor control by providing written notice to the department.

Background: The Comptroller's Office has approved and certified 22 alcohol awareness programs and 394 alcohol awareness instructors in the State. There was one violation in 2012 in Worcester County for an after-hours alcohol violation.

The General Assembly has authorized six video lottery operation licenses in Baltimore City and Allegany, Anne Arundel, Cecil, Prince George's, and Worcester counties with a maximum number of 16,500 VLTs allotted in the State. Licensees are also authorized to operate table games in the facilities with the approval of the State Lottery and Gaming Control Commission. Penn Cecil in Cecil County, Ocean Downs in Worcester County, and Maryland Live in Anne Arundel County are open to the public, while a VLT facility at the Rocky Gap Lodge and Resort in Allegany County is expected to open by June 2013, and a facility in Baltimore City is scheduled to open in mid 2014. The Video Lottery Facility Location Commission may award a license for a Prince George's County facility to begin operations the earlier of July 1, 2016, or 30 months after the VLT facility in Baltimore City is open to the public.

There are 3 beer licensees, 99 beer and wine licensees, and 194 beer, wine, and liquor licensees in the county.

Local Fiscal Effect: License fee revenues for Worcester County will increase annually by \$15,000 for each Class EF license issued. The Worcester County Board of License Commissioners estimates either one or two establishments would seek a Class EF license

at the casino, so annual license fee revenues will increase annually by \$15,000 or \$30,000.

Worcester County revenues may decrease beginning in fiscal 2015, instead of fiscal 2016, to the extent retailers elect to purchase alcoholic beverages from wholesalers rather than from county dispensaries. However, the amount of any decrease cannot be reliably estimated. In fiscal 2012, annual wholesale sales totaled \$10.9 million and annual cost of wholesale sales totaled \$8.6 million. After accounting for store operating expenses, general expenses, and related financial expenses, the board had a net income from wholesale sales of \$712,797 in fiscal 2012. Net income is distributed among the county government and its four municipalities. *For illustrative purposes*, if there is a 20% reduction in wholesale sales and cost of goods sold in fiscal 2015 while keeping other expenses constant, wholesale net income decreases by \$465,000.

Small Business Effect: Some businesses pay for or reimburse employees to attend alcohol awareness training programs, while others require employees to pay their own training expenses. Businesses in Worcester County that pay for employee training and need to train additional employees may incur additional expenses as a result of this bill. However, these expenses are expected to be minimal. *For illustrative purposes*, the Maryland State Licensed Beverage Association, which purportedly sponsors the leading alcohol awareness training program in the State, charges \$70 (members) or \$80 (nonmembers) per person for training.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Worcester County, Maryland State Licensed Beverage Association, Department of Legislative Services

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