

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 821

(Senators Hester and Gallion)

Education, Health, and Environmental Affairs

Economic Matters

Alcoholic Beverages - Manufacturer's Licenses and Off-Site Permits

This emergency bill makes various changes to the regulation of alcoholic beverages manufacturers in the State. Broadly, the bill (1) repeals specified manufacturer's permits and establishes a manufacturer off-site permit and a brewery special event permit; (2) alters the fee structure for most manufacturer licenses; (3) authorizes most manufacturers to sell and deliver their own alcoholic beverages products to consumers if specified procedures are followed; (4) alters the limitations of the Class 7 limited beer wholesaler's license; and (5) alters the privileges associated with Class 1 distillery licenses and Class 8 farm-brewery licenses. **The bill terminates December 31, 2022.**

Fiscal Summary

State Effect: General fund revenues from alcoholic beverages permits, taxes, and sales taxes may increase minimally in FY 2021, 2022, and 2023 as permits are issued and events are held under the bill. General fund revenues may decrease minimally due to the bill's fee changes, as discussed below. General fund expenditures may increase minimally for the Alcohol and Tobacco Commission (ATC) to enhance its enforcement activities under the bill.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: Meaningful.

Analysis

Bill Summary/Current Law:

Manufacturer Off-site Permit

The bill establishes a manufacturer off-site permit that may be issued to the holder of a Class 1 distillery license, Class 3 winery license, Class 4 limited winery license, Class 5 brewery license, Class 7 micro-brewery license, Class 8 farm-brewery license, or Class 9 limited distillery license. The permit holder may provide samples of (in specified amounts) and sell (for on- and off-premises consumption) alcoholic beverages products that are manufactured by the permit holder. The annual permit fee is \$100.

Generally, the permit may be used up to 32 times each year for specified events, and the bill establishes other criteria for where and how often the permit may be used. The permit holder must have present at least one individual who is certified by an approved alcohol awareness program while providing samples or selling an alcoholic beverage during an event.

An applicant for a permit must complete an application on a form that ATC authorizes. The permit holder must notify ATC when it intends to attend an event within a period of time determined by ATC. ATC may adopt regulations to require the permit holder to notify the local licensing board of the jurisdiction where an event is being held when a permit holder intends to attend the event.

Brewery Special Event Permit and Brewery Promotional Event Permit

The bill establishes a brewery special event permit that may be issued to the holder of a Class 5 brewery license or Class 8 far-brewery license. The permit authorizes the license holder to conduct a special event to provide samples, sell products manufactured by the license holder, and, in a segregated area, store the products of other Maryland breweries. At least 15 days before holding a special event, the license holder must obtain a permit from ATC by filing a notice on the form that ATC provides. The permit fee is \$25 per event, and a single special event may not exceed three consecutive days.

The brewery promotional event permit that exists under current law (which is similar to the bill's brewery special event permit, but more limiting in how often and when an event can take place), is repealed.

Changes to License Fees

The Alcoholic Beverages Article establishes an annual license fee that must be charged by ATC for each different alcoholic beverages manufacturer's license. For example, under current law, the annual license fee for a Class 5 brewery license is \$1,500.

The bill alters the fees for each license (except for a Class 6 pub-brewery license) to instead be determined by ATC and requires that the fee for each license not exceed the current law amount of the fee. For example, the bill requires the annual license fee for a Class 5 brewery license to be determined by ATC, but the fee it sets may not exceed \$1,500.

Sale and Delivery by Manufacturers

The bill authorizes the holder of an alcoholic beverages manufacturer's license (except for a Class 2 rectifying license, Class 3 winery license, or Class 6 pub-brewery license) to sell and deliver a product produced under the holder's license to an individual located in the State if (1) the delivery is made by an employee who is at least 18 years old and certified by an approved alcohol awareness program; (2) the purchaser or another individual at least 21 years old is physically present to receive the delivery, as specified; (3) the purchaser pays for the purchase at the time of the order; and (4) the deliverer and individual receiving the delivery each endorse a delivery form, that ATC approves, at the time of delivery, as specified.

Additionally, the alcoholic beverages manufacturer may directly ship alcohol to a consumer on request, if ATC authorizes the shipment after determining that it can be completed safely using a common carrier and all applicable sales and excise taxes are paid.

Class 7 Limited Beer Wholesaler's License

The bill alters the limitations of the Class 7 limited beer wholesaler's license, which generally allows a Class 5 brewery or Class 7 micro-brewery that obtains the license to sell some of its own beer at wholesale.

Specifically, the bill authorizes the sale of up to 5,000 barrels of beer (instead of 3,000 barrels of beer under current law) at wholesale each year. Additionally, a Class 5 brewery or Class 7 micro-brewery may obtain the Class 7 limited beer wholesaler's license if it produces in aggregate from all of its locations up to 45,000 barrels of beer annually (instead of 22,500 barrels of beer annually under current law).

Other Benefits for Class 1 Distilleries

Under current law, a Class 1 distillery is authorized to conduct guided tours of its licensed premises and (1) provide samples, as specified, to individuals who have attained the legal drinking age and participated in the tour and (2) sell up to 2.25 liters of alcoholic beverages products to individuals who have attained the legal drinking age and participated in the tour.

The bill alters this sales requirement by (1) repealing the 2.25 liter limit on product sales and (2) allowing the distillery to sell products to any individual who has attained the legal drinking age, instead of only individuals who have participated in a guided tour.

Other Benefits for Class 8 Farm-breweries

The bill authorizes the holder of a Class 8 farm-brewery license to sell alcoholic beverages for off-premises consumption (under current law, alcoholic beverages may only be sold for on-premises consumption) and makes conforming changes.

State Revenues: The bill alters the annual license fee for each manufacturer's license (except for a Class 6 pub-brewery license) to instead be determined by ATC and requires that the fee for each license not exceed the current law amount of the fee. While the bill does not directly decrease the license fees, it does make it possible for ATC to reduce the fee. Thus general fund revenues decrease minimally in fiscal 2021, 2022, and 2023 to the extent that ATC reduces the fees; however, any such impact cannot be reliably estimated.

Small Business Effect: The bill repeals and establishes various permits that a small business alcoholic beverages manufacturer may obtain to increase its business. Additionally, the bill authorizes a small business manufacturer to deliver its own alcoholic beverages products, which likely results in increased sales.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1232 (Delegate Brooks) - Economic Matters.

Information Source(s): Baltimore, Carroll, Harford, and Montgomery counties; Department of Legislative Services

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