

SENATE BILL 287

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4lr1676
CF 4lr0309

By: **Senator Zirkin**

Introduced and read first time: January 17, 2014

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages – Shipment of Kosher Wine Sold at Retail**

3 FOR the purpose of establishing a limited kosher wine seller's permit; requiring an
4 applicant for the permit to meet certain qualifications; authorizing a limited
5 kosher wine seller to sell kosher wine to a consumer by receiving and filling
6 orders that the consumer transmits by electronic or other means; specifying the
7 term of a permit; requiring a limited kosher wine seller to file an annual tax
8 return; authorizing the Comptroller to disapprove a permit renewal application
9 under certain circumstances; prohibiting a limited kosher wine seller from
10 selling certain kosher wine; limiting the amount of kosher wine that a limited
11 kosher wine seller may sell during each year; requiring that the delivery of
12 kosher wine by a limited kosher wine seller to a consumer follow a certain
13 procedure; requiring that a certain wholesaler keep certain records for certain
14 purposes; requiring a limited kosher wine seller to list the contents of wine
15 shipments in a certain manner; specifying that a wholesaler and retail dealer
16 act solely as facilitators in the delivery process; specifying the duties of certain
17 wholesalers; requiring that a consumer promptly take personal delivery of
18 kosher wine at a certain time; authorizing a wholesaler and retail dealer to
19 impose on the consumer a service charge that the Comptroller sets; prohibiting
20 a consumer from receiving more than a certain amount of kosher wine in a year;
21 specifying that a wholesaler and the retail dealer do not bear the risk of loss and
22 are not liable for certain damages except under certain circumstances; imposing
23 a certain fee; authorizing the Comptroller to adopt certain regulations;
24 requiring a holder of a permit to file a certain tax return; requiring a certain
25 security to be posted under certain circumstances; defining certain terms;
26 making certain conforming changes; and generally relating to the establishment
27 of a limited kosher wine seller's permit.

28 BY adding to
29 Article 2B – Alcoholic Beverages

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 7.7–101 through 7.7–116 to be under the new title “Title 7.7. Limited
2 Kosher Wine Seller’s Permit”
3 Annotated Code of Maryland
4 (2011 Replacement Volume and 2013 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article 2B – Alcoholic Beverages
7 Section 12–301, 14–202(c), and 15–204(b)(2)(ii)
8 Annotated Code of Maryland
9 (2011 Replacement Volume and 2013 Supplement)

10 BY adding to
11 Article – Tax – General
12 Section 5–201(f)
13 Annotated Code of Maryland
14 (2010 Replacement Volume and 2013 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Tax – General
17 Section 13–825(b) and (i)
18 Annotated Code of Maryland
19 (2010 Replacement Volume and 2013 Supplement)

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

22 **Article 2B – Alcoholic Beverages**

23 **TITLE 7.7. LIMITED KOSHER WINE SELLER’S PERMIT.**

24 **7.7–101.**

25 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
26 INDICATED.

27 (B) “CONSUMER” MEANS AN INDIVIDUAL WHO:

28 (1) IS AT LEAST 21 YEARS OLD;

29 (2) IS A RESIDENT OF THE STATE;

30 (3) DOES NOT HOLD AN ALCOHOLIC BEVERAGES LICENSE IN THE
31 STATE; AND

1 **(4) INTENDS TO USE WINE PURCHASED UNDER THIS TITLE FOR**
2 **PERSONAL CONSUMPTION ONLY AND NOT FOR RESALE OR ANY OTHER**
3 **COMMERCIAL PURPOSE.**

4 **(C) “KOSHER WINE” MEANS WINE THAT IS CERTIFIED AS KOSHER FROM**
5 **A RECOGNIZED KOSHER CERTIFICATION AGENCY.**

6 **(D) “LIMITED KOSHER WINE SELLER” MEANS THE HOLDER OF A**
7 **LIMITED KOSHER WINE SELLER’S PERMIT ISSUED UNDER THIS TITLE.**

8 **(E) “PERMIT” MEANS A LIMITED KOSHER WINE SELLER’S PERMIT.**

9 **(F) “PERMIT YEAR” MEANS THE PERIOD THAT BEGINS ON JULY 1 AND**
10 **ENDS ON JUNE 30 OF THE FOLLOWING YEAR.**

11 **7.7-102.**

12 **THERE IS A LIMITED KOSHER WINE SELLER’S PERMIT.**

13 **7.7-103.**

14 **A PERSON SHALL BE ISSUED A LIMITED KOSHER WINE SELLER’S PERMIT**
15 **BY THE COMPTROLLER AS A LIMITED KOSHER WINE SELLER BEFORE THE**
16 **PERSON MAY ENGAGE IN SENDING KOSHER WINE TO A CONSUMER IN THE**
17 **STATE.**

18 **7.7-104.**

19 **TO QUALIFY FOR A LIMITED KOSHER WINE SELLER’S PERMIT, AN**
20 **APPLICANT SHALL BE A PERSON THAT:**

21 **(1) (I) IS LICENSED OUTSIDE THE STATE TO ENGAGE IN THE**
22 **MANUFACTURE OR RETAIL SALE OF KOSHER WINE; OR**

23 **(II) IS THE BRAND OWNER, UNITED STATES IMPORTER, OR**
24 **DESIGNATED STATE AGENT OF THE BRAND OWNER OR UNITED STATES**
25 **IMPORTER FOR KOSHER WINE;**

26 **(2) HOLDS AND ACTS WITHIN THE SCOPE OF ANY ALCOHOLIC**
27 **BEVERAGES LICENSE OR PERMIT REQUIRED:**

28 **(I) IN THE STATE WHERE THE APPLICANT IS DOMICILED;**
29 **OR**

1 (ii) BY THE FEDERAL BUREAU OF ALCOHOL, TOBACCO,
2 FIREARMS AND EXPLOSIVES; AND

3 (3) WITHIN 2 YEARS BEFORE THE APPLICATION:

4 (i) DOES NOT HOLD ANY ALCOHOLIC BEVERAGES LICENSE
5 OR PERMIT ISSUED BY THE STATE; AND

6 (ii) IS NOT OWNED, WHOLLY OR PARTLY, BY ANY OTHER
7 PERSON THAT HOLDS ANOTHER ALCOHOLIC BEVERAGES LICENSE OR PERMIT
8 ISSUED BY THE STATE.

9 **7.7-105.**

10 A LIMITED KOSHER WINE SELLER MAY SELL KOSHER WINE TO A
11 CONSUMER BY RECEIVING AND FILLING ORDERS THAT THE CONSUMER
12 TRANSMITS BY ELECTRONIC OR OTHER MEANS.

13 **7.7-106.**

14 (A) THE TERM OF THE PERMIT BEGINS ON JULY 1 AND EXPIRES ON
15 JUNE 30 OF THE FOLLOWING YEAR.

16 (B) THE PERMIT MAY BE RENEWED FOR A 1-YEAR TERM IN
17 ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMPTROLLER.

18 **7.7-107.**

19 A LIMITED KOSHER WINE SELLER SHALL FILE AN ANNUAL TAX RETURN
20 IN ACCORDANCE WITH § 5-201 OF THE TAX – GENERAL ARTICLE.

21 **7.7-108.**

22 THE COMPTROLLER MAY DISAPPROVE THE PERMIT RENEWAL
23 APPLICATION OF A LIMITED KOSHER WINE SELLER THAT FAILS TO:

24 (1) FILE THE TAX RETURN REQUIRED UNDER § 7.7-107 OF THIS
25 TITLE;

26 (2) REMIT ANY APPLICABLE FEE OR TAX WHEN IT IS DUE; OR

27 (3) ON RECEIPT OF NOTICE, COMPLY WITH ANY REGULATION
28 THAT THE COMPTROLLER ADOPTS.

1 **7.7-109.**

2 (A) A LIMITED KOSHER WINE SELLER MAY NOT SELL IN THE STATE A
3 BRAND OF KOSHER WINE THAT IS DISTRIBUTED IN THE STATE BY A
4 WHOLESALER OTHER THAN A COUNTY LIQUOR CONTROL BOARD AND
5 WHOLESALE DISPENSARY.

6 (B) DURING A PERMIT YEAR, A LIMITED KOSHER WINE SELLER MAY NOT
7 SELL IN THE STATE:

8 (1) MORE THAN 900 LITERS OF WINE; OR

9 (2) MORE THAN 108 LITERS OF WINE TO A SINGLE CONSUMER.

10 **7.7-110.**

11 (A) KOSHER WINE THAT IS DELIVERED BY A LIMITED KOSHER WINE
12 SELLER ULTIMATELY TO A CONSUMER SHALL BE FIRST:

13 (1) DELIVERED TO A HOLDER OF A WHOLESALER'S LICENSE THAT
14 THE COMPTROLLER DESIGNATES; AND

15 (2) DELIVERED BY THE WHOLESALER TO A RETAIL DEALER THAT
16 THE LIMITED KOSHER WINE SELLER DESIGNATES.

17 (B) THE COMPTROLLER SHALL RECORD THE RECEIPT AND
18 DISPOSITION OF ALL KOSHER WINE SOLD BY A LIMITED KOSHER WINE SELLER.

19 (C) THE WHOLESALER SHALL KEEP A RECORD OF EACH INVOICE TO:

20 (1) PROVIDE THE COMPTROLLER WITH A DOCUMENTARY TRAIL;
21 AND

22 (2) NOTIFY THE CONSUMER OF ANY RECALL ON ACCOUNT OF
23 HEALTH OR WELFARE.

24 **7.7-111.**

25 (A) A LIMITED KOSHER WINE SELLER SHALL LIST THE CONTENTS OF
26 EACH DELIVERY ON THE OUTSIDE OF THE SHIPPING PACKAGE WITH AN
27 IDENTIFYING NUMBER THAT THE WHOLESALER SHALL RECORD.

1 **(B) THE WHOLESALER AND RETAIL DEALER ACT SOLELY AS**
2 **FACILITATORS IN THE SHIPPING PROCESS AND DO NOT HAVE TITLE TO THE**
3 **KOSHER WINE VESTED IN THEM.**

4 **(C) A WHOLESALER THAT RECEIVES THE WINE DELIVERY:**

5 **(1) MAY NOT ENTER THE WINE INTO THE WHOLESALER'S**
6 **INVENTORY; BUT**

7 **(2) SHALL DELIVER THE WINE ON THE WHOLESALER'S NEXT**
8 **DELIVERY DATE TO THE RETAIL DEALER.**

9 **7.7-112.**

10 **(A) ON RECEIVING NOTICE FROM A RETAIL DEALER, A CONSUMER**
11 **PROMPTLY SHALL TAKE PERSONAL DELIVERY OF A KOSHER WINE SHIPMENT**
12 **FROM A LIMITED KOSHER WINE SELLER AT THE LICENSED PREMISES OF THE**
13 **RETAIL DEALER.**

14 **(B) THE WHOLESALER AND THE RETAIL DEALER MAY IMPOSE ON THE**
15 **CONSUMER A SERVICE CHARGE THAT THE COMPTROLLER SETS BY**
16 **REGULATION.**

17 **7.7-113.**

18 **A CONSUMER MAY NOT RECEIVE MORE THAN 108 LITERS OF KOSHER**
19 **WINE IN THE AGGREGATE FROM ONE OR MORE LIMITED KOSHER WINE SELLERS**
20 **IN A PERMIT YEAR.**

21 **7.7-114.**

22 **EXCEPT FOR DAMAGE THAT THE WHOLESALER OR THE RETAIL DEALER**
23 **CAUSES, THE WHOLESALER AND THE RETAIL DEALER:**

24 **(1) DO NOT BEAR THE RISK OF LOSS; AND**

25 **(2) ARE NOT LIABLE FOR ANY PRODUCT DEFECT, PRODUCT**
26 **CONTAMINATION, OR OTHER PRODUCT OR PACKAGING DAMAGE.**

27 **7.7-115.**

28 **THE FEE FOR THE ISSUANCE OR RENEWAL OF A PERMIT IS \$10.**

1 **7.7-116.**

2 **THE COMPTROLLER MAY ADOPT REGULATIONS TO CARRY OUT THIS**
3 **TITLE.**

4 12-301.

5 (a) (1) A retail dealer may not employ any solicitor or salesman for the
6 purpose of soliciting, outside of the licensed place of business, orders for the sale of any
7 alcoholic beverages within this State.

8 (2) The sale of alcoholic beverages may not be consummated outside of
9 the licensed place of business.

10 (3) These provisions do not prohibit the receiving of orders by mail,
11 telephone or messenger and the filling of such orders by delivery and the payment for
12 them at the place of delivery.

13 (b) Retail delivery to a purchaser of any alcoholic beverages is prohibited
14 unless:

15 (1) The delivery is made from the retail licensed premises by the retail
16 license holder or employee of the retail license holder authorized to sell and distribute
17 alcoholic beverages by the local licensing authority in the jurisdiction where the
18 delivery is made; and

19 (2) The retail license holder obtains a letter of authorization from the
20 local licensing authority to make deliveries and complies with any regulations
21 promulgated by the local licensing authority pertaining to those deliveries.

22 (c) (1) This subsection applies only in Howard County.

23 (2) An alcoholic beverages licensee may not make a retail delivery of
24 alcoholic beverages unless the purchaser:

25 (i) Is physically present on the licensed premises when the
26 purchaser orders the alcoholic beverages; and

27 (ii) Makes payment for the purchase at the time of the order.

28 (d) (1) This subsection applies only in Montgomery County.

29 (2) An alcoholic beverages licensee may not make an off-site retail
30 delivery of alcoholic beverages unless:

31 (i) The deliverer is at least:

- 1 1. 21 years old; or
- 2 2. 18 years old and is accompanied by a supervisor who
- 3 is at least 21 years old; and

4 (ii) The person taking possession of the delivery provides the
5 deliverer with written certification supported by documentary proof that the person is
6 of legal age to purchase alcoholic beverages. Certification shall be in the form set forth
7 in § 12–109(1) of this article.

8 (3) (i) Each certification executed under this subsection shall be
9 retained by the licensee for at least 1 year.

10 (ii) The certifications shall be available for examination during
11 regular business hours by an authorized representative of the Board of License
12 Commissioners.

13 (4) The Board of License Commissioners shall adopt regulations to
14 implement this subsection.

15 (e) (1) This subsection applies only in Garrett County.

16 (2) The Board of License Commissioners may issue a delivery option
17 that entitles an alcoholic beverages licensee or an authorized employee of the licensee
18 to make an off–site retail delivery of alcoholic beverages if:

19 (i) The deliverer is at least 21 years old and certified by an
20 approved alcohol awareness program;

21 (ii) The deliverer and purchaser endorse a delivery form that
22 the Board of License Commissioners approves certifying that:

23 1. The person who receives the delivery claims to be at
24 least 21 years old, and the claim is supported by documentary proof;

25 2. The person who receives the delivery knows that it is
26 a criminal offense for alcoholic beverages to be furnished to a person under the age of
27 21 years; and

28 3. The deliverer examined the purchaser’s identification.

29 (3) Each delivery form endorsed under paragraph (2)(ii) of this
30 subsection shall be submitted to the Board of License Commissioners on or before the
31 10th day of the following month.

32 (4) (i) The annual fee for a delivery option is \$150.

1 (ii) In addition to an annual fee, the Board of License
2 Commissioners shall charge an issuing fee of \$150.

3 (5) The Board of License Commissioners shall adopt regulations to
4 carry out this subsection.

5 (f) This section does not apply to:

6 (1) The delivery of wine from a direct wine shipper to a consumer
7 using a common carrier in accordance with Title 7.5 of this article; [or]

8 (2) The holder of a common carrier permit in the course of delivering
9 directly shipped wine in accordance with Title 7.5 of this article; **OR**

10 **(3) THE DELIVERY OF KOSHER WINE FROM A LIMITED KOSHER**
11 **WINE SELLER TO A CONSUMER IN ACCORDANCE WITH TITLE 7.7 OF THIS**
12 **ARTICLE.**

13 14–202.

14 (c) Nothing in this section may be construed to authorize:

15 (1) The consignment of alcoholic beverages from any point outside of
16 the State to points within the State of Maryland, to any person except:

17 (i) The holder of a permit or manufacturer's or wholesaler's
18 license, duly issued under this article; or

19 (ii) A consumer under Title 7.5 **OR TITLE 7.7** of this article; or

20 (2) The consignment of alcoholic beverages from any point within this
21 State to a point outside the State, to any person not authorized to receive the same
22 under the law of the point of destination.

23 15–204.

24 (b) (2) Notwithstanding paragraph (1) of this subsection:

25 (ii) **1.** A holder of a direct wine shipper's permit may ship
26 wine directly to a consumer in Montgomery County; **AND**

27 **2. A HOLDER OF A LIMITED KOSHER WINE SELLER'S**
28 **PERMIT MAY SEND KOSHER WINE TO A CONSUMER IN MONTGOMERY COUNTY.**

29

1 5-201.

2 (F) A PERSON THAT IS REQUIRED TO OBTAIN A LIMITED KOSHER WINE
3 SELLER'S PERMIT UNDER ARTICLE 2B, TITLE 7.7 OF THE CODE SHALL FILE
4 WITH THE OFFICE OF THE COMPTROLLER A QUARTERLY TAX RETURN.

5 13-825.

6 (b) The Comptroller shall require:

7 (1) a manufacturer, wholesaler, or nonresident winery permit holder
8 who sells or delivers beer or wine to retailers in the State to post security for the
9 alcoholic beverage tax:

10 (i) in an amount not less than:

11 1. \$1,000 for beer; and

12 2. \$1,000 for wine; and

13 (ii) if the alcoholic beverage tax on beer and wine paid in any 1
14 month exceeds \$1,000, in an additional amount at least equal to the excess;

15 (2) a manufacturer or wholesaler who sells or delivers any distilled
16 spirits or any wine and distilled spirits in the State to post a security for the alcoholic
17 beverage tax:

18 (i) in an amount not less than \$5,000; and

19 (ii) in an additional amount:

20 1. equal to twice the amount of its largest monthly
21 alcoholic beverage tax liability for wine and distilled spirits in the preceding calendar
22 year less \$5,000; or

23 2. if the information for the preceding calendar year is
24 not available or cannot be provided, equal to the amount that the Comptroller
25 requires; and

26 (3) except as provided in subsection (i) of this section, a holder of a
27 direct wine shipper's permit **OR LIMITED KOSHER WINE SELLER'S PERMIT** to post
28 security for the alcoholic beverage tax in an amount not less than \$1,000.

29 (i) A person need not post security under subsection (b)(3) of this section if:

30 (1) the person is a manufacturer that has posted security under
31 subsection (b)(2) of this section; or

1 (2) at any time starting 3 years after the Comptroller first issues a
2 direct wine shipper's permit **OR LIMITED KOSHER WINE SELLER'S PERMIT** to the
3 person, the Comptroller:

4 (i) determines that the person has a substantial record of tax
5 and reporting compliance; and

6 (ii) waives the security requirement.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 July 1, 2014.