

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1080
Economic Matters

(Delegate Krimm, *et al.*)

Alcoholic Beverages - Beer Franchise Agreements - Notice of Nonrenewal or
Termination

This bill reduces the number of days, from 180 days to 15 days, that a “small franchisor” brewery must wait after notifying a distributor of its intent to terminate or refuse to renew a beer franchise agreement before terminating the agreement. Before terminating a beer franchise agreement, a small franchisor must buy back all of its beer from the franchisee, as specified. The bill also establishes notification requirements for a distributor related to the breweries it distributes for. **The bill takes effect July 1, 2019. For a small franchisor that is party to a franchise agreement existing before July 1, 2019, the law in effect on June 30, 2019, continues to apply through December 31, 2019, and the bill takes effect January 1, 2020.**

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Large franchisor” means a beer manufacturer that, in conjunction with any affiliate, annually produces more than 300,000 barrels of beer in aggregate or represents more than 10% of a franchisee’s total annual sales volume.

“Small franchisor” means a beer manufacturer that, in conjunction with any affiliate, annually produces 300,000 barrels of beer or less in aggregate and accounts for 10% or less of a franchisee’s total annual sales volume.

Once each calendar year, a franchisee must notify a small franchisor of the percentage of the total annual sales volume that the small franchisor accounts for in comparison to all its other franchisors. If a change in this percentage occurs that would change the status of a small or large franchisor, the franchisee must notify the affected brewery.

Current Law: Established in 1947, the Beer Franchise Fair Dealing Act regulates the agreements, franchises, and relationships between beer manufactures and their distributors (wholesalers). Among other things, the act prohibits a brewery from terminating a contract with a distributor without good cause.

Additionally, if a brewery wishes to terminate or refuse to renew a franchise agreement with one of its distributors, the brewery must provide the distributor with notice at least 180 days before terminating or refusing to renew the contract. The notice must state all the reasons for the intended termination or nonrenewal. If deficiency is claimed as the reason for the termination or nonrenewal, the distributor has 180 days after the notice is received to rectify the deficiency. If the distributor rectifies the deficiency within this time period, the brewery may not terminate or refuse to renew the contract with the distributor.

Background: Alcoholic beverages in the State are regulated through a three-tier distribution system. The system separates ownership and operations among (1) manufacturers; (2) wholesalers; and (3) retailers. The system authorizes manufacturers (tier one) to sell only to wholesalers (tier two); wholesalers only to retailers (tier three); and retailers only to consumers; however, there are some statutory exceptions. For example, certain breweries are authorized to distribute up to 3,000 barrels of their own beer if they obtain a Class 7 limited beer wholesaler’s license and meet other specified requirements. Generally in Maryland, the Comptroller issues statewide licenses to manufacturers and wholesalers, while each licensing jurisdiction issues licenses to retailers to operate within its boundaries.

In February 2019, there were (1) 48 Class 5 breweries; (2) 1 Class 6 pub-brewery; (3) 36 Class 7 micro-breweries; and (4) 20 Class 8 farm breweries. During that same month, 77 of these breweries had Class 7 limited beer wholesaler’s licenses.

Additional Information

Prior Introductions: SB 1043 of 2018, a similar bill, received a hearing in the Senate Finance Committee, but no further action was taken. Its cross file, HB 1222, received a hearing in the House Economic Matters Committee, but no further action was taken.

Cross File: SB 704 (Senator Feldman, *et al.*) - Education, Health, and Environmental Affairs.

Information Source(s): Comptroller's Office; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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