

Administrative Release

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AB-31

May 11, 2005

To: Maryland Wineries Who Hold a Class 4 Limited Winery License

Subject: 2005 Legislative Session - Pomace Brandy

The 2005 General Assembly saw the passage of numerous bills affecting Maryland's alcoholic beverage laws. A complete list of the statewide bills affecting alcoholic beverages can be found on the Division's website at <http://compnet.comp.state.md.us/red>.

Of immediate interest is the passage of Senate Bill 668 (copy attached), which was signed by the Governor and became Chapter 168 of the Acts of 2005. That bill, which takes effect July 1, 2005, will allow holders of the Maryland Limited Winery License to distill and bottle up to 200 gallons of pomace brandy per year. Pomace brandy is defined as brandy that is distilled from the pulpy residue of the wine press, and includes the skins, pips, and stalks of grapes.

In addition to limited distilling authority, the law will allow the limited winery license holder to:

- Sell and deliver the pomace brandy to any license holder in this state or person outside of this state authorized to receive it. Check to be sure that if you sell to a wholesaler or retailer that they hold a license that authorizes sales of distilled spirits.
- Sell the pomace brandy to a person at the winery who has participated in a guided tour of the facility. The purchase is limited to one quart per person for each brand, per year. The consumer must be of legal drinking age.
- Serve at no charge not more than six ounces of pomace brandy to persons participating in a guided tour or a promotional event held at the winery.

(Over)

In connection with the new pomace brandy authority, will be a requirement that if you manufacture pomace brandy, to report that activity and pay the state distilled spirits tax by filing a distilled spirit tax return. The state tax on distilled spirits is \$1.50 per gallon. Please call this office and request a supply of form 34 ATTB be sent out. If you already are using form 34 to report your wine sales, contact Denise Davis at 410-260-7321 for instructions on proper reporting.

Otherwise, should you have any questions or comments regarding this matter, please contact Christie Mattox at 410-260-7312.

Larry W. Tolliver
Director

Attachment

By: **Senators Harris and Jacobs**

Introduced and read first time: February 4, 2005

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2005

CHAPTER _____

1 AN ACT concerning

2 **Alcoholic Beverages - Limited Winery License - Pomace Brandy**

3 FOR the purpose of authorizing holders of a limited winery license to distill and bottle
 4 pomace brandy and to sell and deliver pomace brandy to certain persons under
 5 certain circumstances; authorizing the holders to serve at no charge a certain
 6 amount of pomace brandy under certain circumstances; establishing a certain
 7 production limit for distilling and bottling pomace brandy; exempting under
 8 certain circumstances the drinking of pomace brandy from a certain prohibition;
 9 defining a certain term; making a stylistic change; and generally relating to
 10 limited winery licenses and pomace brandy.

11 BY repealing and reenacting, with amendments,
 12 Article 2B - Alcoholic Beverages
 13 Section ~~2-205(a) and 12-107(b)(5)~~ 2-205 and 12-107(b)
 14 Annotated Code of Maryland
 15 (2001 Replacement Volume and 2004 Supplement)

16 ~~BY repealing and reenacting, without amendments,~~
 17 ~~Article 2B - Alcoholic Beverages~~
 18 ~~Section 12-107(b)(1)~~
 19 ~~Annotated Code of Maryland~~
 20 ~~(2001 Replacement Volume and 2004 Supplement)~~

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

1

Article 2B - Alcoholic Beverages

2 2-205.

3 (a) IN THIS SECTION, "POMACE BRANDY" MEANS BRANDY THAT IS DISTILLED
4 FROM THE PULPY RESIDUE OF THE WINE PRESS, INCLUDING THE SKINS, PIPS, AND
5 STALKS OF GRAPES.

6 (B) A Class 4 manufacturer's license:

7 (1) Is a limited winery license;

8 (2) Authorizes the holder to establish and operate in this State a plant
9 for fermenting and bottling wine AND DISTILLING AND BOTTLING POMACE BRANDY
10 made from Maryland agriculture products at the location described in the license,
11 unless the Secretary of Agriculture determines that there is insufficient supply
12 available of Maryland agriculture products; ~~and~~

13 (3) Permits the license holder to:

14 (i) Sell and deliver this wine AND POMACE BRANDY to any licensee
15 or permit holder in this State, or person outside of this State, authorized to acquire it;

16 (ii) Sell this wine AND POMACE BRANDY made at the plant to
17 persons participating in a guided tour of the facility. The purchase is limited to one
18 quart of each brand per person per year. Any person who has attained the Maryland
19 legal drinking age may purchase the wine. The licensee may operate only in one
20 location in the State;

21 (iii) Serve at no charge not more than 6 ounces of [wines] WINE
22 AND POMACE BRANDY made at the licensed facility to a person who is participating in
23 a guided tour of the facility, provided the person has attained the Maryland legal
24 drinking age;

25 (iv) Sell by the glass wine AND POMACE BRANDY produced by the
26 licensee to persons participating in a guided tour of the facility or attending a
27 scheduled promotional event or other organized activity at the licensed premises; and

28 (v) Store on its licensed premises, in a segregated area approved by
29 the Comptroller, the product of other Class 4 limited wineries to be used at bona fide
30 Maryland Winery Association promotional activities, provided records are maintained
31 and reports filed as may be required by the Comptroller; AND

32 (4) LIMITS THE LICENSE HOLDER TO DISTILLING AND BOTTLING NOT
33 MORE THAN 200 GALLONS OF POMACE BRANDY EACH YEAR.

34 [(b)] (C) In Frederick County the provisions regarding sales on Sundays of
35 this section are governed by § 11-511 of this article.

1 12-107.

2 (b) (1) IN THIS SUBSECTION, "POMACE BRANDY" MEANS BRANDY THAT IS
 3 DISTILLED FROM THE PULPY RESIDUE OF THE WINE PRESS, INCLUDING THE SKINS,
 4 PIPS, AND STALKS OF GRAPES.

5 (2) It shall be unlawful for any person to drink on the licensed premises
 6 of any license holder any alcoholic beverages not purchased from the license holder on
 7 said premises and not permitted by this article to be consumed on the premises; and
 8 it shall be unlawful for any license holder to permit any person to drink any alcoholic
 9 beverage not purchased from the said license holder on the premises covered by the
 10 license which he holds and not permitted by this article to be consumed on the
 11 premises.

12 ~~[(2)]~~ (3) This subsection does not apply to special or temporary licenses
 13 in Carroll County.

14 ~~[(3)]~~ (4) This subsection does not apply to licenses issued under §
 15 7-101(k) of this article for a dance or social event:

16 (i) Advertised as being "bring your own" (BYO); or

17 (ii) Held on the premises of the licensee by a member or by a guest
 18 of a member of the club, fire department, or other organization which is licensed.

19 ~~[(4)]~~ (5) Paragraph [(1)](2) of this subsection does not apply in Howard
 20 County to dances, weddings, fundraisers, or other social events held in a hall that is
 21 rented from and is located on the premises of a veterans organization which is
 22 licensed under this article. However, the veterans organization may not sell or
 23 otherwise provide alcoholic beverages to the attendees of the dance, wedding,
 24 fundraiser, or other social event.

25 ~~(5)~~ (6) Notwithstanding any other provision of this article, paragraph
 26 ~~(4)~~ (2) of this subsection does not apply to a Class 4 limited winery which brings wine
 27 AND POMACE BRANDY manufactured on its licensed premises onto a retail licensed
 28 premises under the following conditions:

29 (i) The product is being provided for a bona fide promotional
 30 activity conducted by the limited winery, retail licensee, alcoholic beverages trade
 31 association, or nonprofit organization;

32 (ii) A representative of the limited winery, or a trade association
 33 representing Maryland wineries, is present at all times during the period of the
 34 promotional activity;

35 (iii) Any unopened or partially consumed containers of wine AND
 36 POMACE BRANDY are removed from the retail licensed premises at the conclusion of
 37 the promotional activity;

1 (iv) The limited winery or winery trade association complies with
 2 any rules or regulations promulgated by the Comptroller pertaining to on-premise
 3 promotions and product sampling; and

4 (v) The limited winery or winery trade association has the advance
 5 written permission of the retail licensee to bring wine products on the retail licensed
 6 premises for purposes of the promotional activity.

7 ~~[(6)]~~ (7) This subsection does not apply to:

8 (i) Special licenses issued in St. Mary's County to any bona fide
 9 religious, fraternal, civic, veterans, hospital, or charitable organization under §
 10 7-101(r) of this article; or

11 (ii) A license issued in St. Mary's County that applies to an outdoor
 12 motor sports facility that is located in Mechanicsville or Budds Creek.

13 ~~[(7)]~~ (8) This subsection does not prevent residents and their guests in a
 14 continuing care retirement community in Prince George's County that holds a Class C
 15 (on-sale) beer, wine and liquor license from consuming wine not purchased from the
 16 continuing care retirement community, if:

17 (i) The wine is consumed with a meal in the dining room; and

18 (ii) The continuing care retirement community:

19 1. Is operated by a nonprofit organization for the continuing
 20 care retirement of persons at least 60 years old;

21 2. Has been incorporated for at least 1 year;

22 3. Has obtained a certificate of registration from the State
 23 Department of Aging under Article 70B, § 11 of the Code; and

24 4. Prepares and serves meals during regular operating hours
 25 to residents and their guests.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 27 July 1, 2005.