

**SENATE APPROPRIATIONS COMMITTEE
FISCAL NOTE**

BILL NO. House Bill 1690

PRINTER NO. 2653

AMOUNT

See Fiscal Impact

FUND

General Fund
State Stores Fund

DATE INTRODUCED

November 12, 2015

PRIME SPONSOR

Representative Turzai

DESCRIPTION AND PURPOSE OF BILL

House Bill 1690 makes the following changes to the Liquor Code:

Expanded Wine Permits – Provides for a restaurant and hotel licensee to obtain a wine expanded permit to sell up to 3,000 milliliters of wine (4 bottles) for off-premise consumption. Provides for a restaurant or hotel licensee to pay an initial permit fee of \$2,000 for a wine expanded permit and annual renewal fees based on 2% of the cost of wine purchased from the Board for off-premises consumption. Provides for the funds from the sale of the permits and renewal fees to be deposited in the State Store Fund and be transferred to the General Fund on June 1 each year.

Requires expanded permit holders to comply with the relevant provisions of the Tax Reform Code of 1971 (“TRC”) and continue to pay the sales tax when they purchase wine for resale. Provides that customers who purchase wine from permit holders for off-premises consumption are required to pay the State sales tax on the retail price of the wine purchased. Subsequently, a permit holder may file for a refund of any sales taxes previously paid up front when filing its required tax returns under Article II of the TRC, so long as sales taxes were collected and remitted on the resale of wine for off-premises consumption.

Flexible Pricing – Provides exceptions to the “proportional” pricing requirement for “best selling items” and “limited purchase items” and allows discounting of discontinued items. Provides that the price of any product must be uniform throughout the state.

Sunday/Holiday Sales – Eliminates the requirement that stores be closed on certain holidays and stores operate in a limited capacity on Sundays.

Lottery Sales – Allows the Board to be licensed as a lottery sales agent and use instant ticket vending machines, player-activated terminals and technologies for the self-service sale of lottery tickets.

License Surcharge – Requires retail licensees to pay a \$700 annual license surcharge.

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Casino Liquor License – Authorizes the Board to issue licenses to casinos for an initial fee of \$1 million and a renewal fee of \$1 million for the next four years. Thereafter, the renewal fee is set at \$250,000. The license would authorize sales 24 hours a day seven days a week. Provides for license and renewal fees to be deposited in the General Fund.

Auction of Expired Licenses – Allows a restaurant license that ceased to exist under law to be auctioned by the Board once a year to the highest bidder. The initial auction would include licenses that became available after December 31, 1999. The minimum bid for a license at auction is set at \$25,000. The auction is to take place on June 1 each year. Limits the amount of license available to auction to 50 per county per year.

Liquid Fuels – Prohibits the Board from licensing an area where liquid fuels or oil is sold. Provides that a licensee may not have an interior connection with a location that sells liquid fuels or oil unless it first receives permission from the Board regardless of whether the licensee or another party is selling the liquid fuels or oil. Codifies recent Board and court rulings.

Malt and Brewed Beverages Industry Promotion Board – Establishes the Pennsylvania Malt and Brewed Beverages Industry Promotion Board to make recommendations to the Board to provide grants to entities for the purpose of increasing the production of Pennsylvania-made malt and brewed beverages. Provides for grants to be allocated through a competitive grant review process and provides for \$1,000,000 to be allocated by the Board for the purpose of providing grant awards.

Licenses in Safekeeping – Reduces the initial term for a license to remain in safekeeping from three (3) to two (2) years. Provides for the safekeeping fee to increase in the first year after the initial 2-year term of safekeeping from \$5,000 to \$10,000 for a license in counties of the 1st through 4th the class and from \$2,500 to \$5,000 for a license in counties of the 5th through 8th class. Provides for the license fee to double over the amount charged in the previous year each subsequent year the license is held in safekeeping.

Special Occasion Permits – Amends the definition of “eligible entity” to allow for additional entities to receive special occasion permits. Allows special occasion permits to be used for six consecutive or nonconsecutive days or ten consecutive days. At present, a special occasion permit can only be used for six consecutive or nonconsecutive days.

Alcoholic Cider – Changes the definition of alcoholic cider to increase the alcohol by volume (ABV) for which it is allowed to be sold from 5.5% ABV to 8.5% ABV by importing distributors and distributors. Prohibits the Board from continuing to sell alcoholic cider after the current inventory is sold.

Mug Clubs – Allows mug clubs to be run by retail licensees and breweries.

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Performing Arts Centers – Decreases the number of seats required for a performing arts center to receive a license from 250 to 150.

College and University Wine Auctions – Allows any college or university which is a member of the Association of Independent Colleges and Universities of Pennsylvania to obtain a wine auction permit.

Groundhog Day – Provides that if Groundhog Day falls on a Sunday, a hotel or restaurant may sell liquor or malt and brewed beverages from 7:00 a.m. until 2:00 a.m. the following day.

Bed and Breakfasts – Allows bed and breakfasts to provide one bottle of Pennsylvania wine to a paying guests at check-in.

Airport Restaurants – Allows airport restaurants to sell alcohol within the airport terminal building and to serve alcohol after 5:00 a.m. and until 2:00 a.m. the following day.

Clubs – Permits a club which is issued a catering license to hold no more than twelve self-catered events on an annual basis with no more than one in any calendar month.

Responsible Alcohol Management – Provides that money or things of value may be exchanged for the purpose of the administration of a responsible alcohol management program (RAMP). Requires all alcoholic service personnel to complete seller server training within 6 months of being hired, unless the training was already completed.

Distributors and Importing Distributors – Provides for an importing distributor to be issued up to four storage facility licenses. Allows for franchise territories to be noncontiguous in contiguous counties.

Eating Place License Conversion – Allows for the conversion of an eating place license to a restaurant license for a fee of \$30,000, except in the City of Philadelphia.

Brewery Farmers Market and Expo Permits – Allows a brewery licensee to obtain a permit for \$250 to offer products for sale at farmers' market. Allows a brewery licensee to participate in food expos for a fee of \$30 per day for up to 100 days.

Economic Development Licenses – Reduces the amount of food and nonalcoholic beverages an economic development licensee must sell from 70% to 50% of gross sales.

Veteran's Organizations – Changes the membership requirement for Incorporated Units of National Veterans' Organizations Membership requirement – changes membership requirement from 100 to 50.

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Ski Resorts – Allows for a referendum not more than once every two years to determine the will of the electors with respect to the granting of a liquor licenses to ski resort facilities. Permits minors to frequent a ski resort which holds a retail liquor license, without a parent or legal guardian present.

Direct Wine Shipment – Allows a producer of wine licensed by the Board, another state, or country that obtains a direct wine shipper license to ship up to 36 cases of up to nine (9) liters per case in a calendar year to a resident of the Commonwealth who is at least 21 years of age for personal use and not for resale. Requires an applicant for a direct wine shipper license to pay a \$250 annual registration fee. Requires a direct wine shipper to pay the Department of Revenue all taxes due on sales to residents of the Commonwealth in the amount calculated as if the sales were made in the Commonwealth and be subject to sales and use tax and a wine excise tax of \$2.50 per gallon. Provides that a person who resells wine obtained under this section commits a misdemeanor of the second degree and is required to pay a fine of four (\$4) per fluid ounce for each container of wine found on the premises where the sale was made or attempted.

Pennsylvania Wine Marketing and Research Program Board – Adds four legislative appointees to the Pennsylvania Wine Marketing and Research Program Board. Provides for the Wine Marketing and Research Program Board to make recommendation to the Board to make grants to entities for the purpose of increasing the production of Pennsylvania wines and enhancing the industry. Provides for grants to be allocated through a competitive grant review process and provides for \$1,000,000 to be allocated by the Board for the purpose of providing grant awards.

Special Liquor Orders – Specifies that the board's current markup (30%), does not apply to special liquor orders and provides for a 10% markup for these orders. Provides that the licensee discount (10%) is not applicable to special liquor orders. Provides for a licensed importer or vendor to place special liquor orders on behalf of a customer and deliver the orders directly to the customer after payment for the order has been forwarded to the board and the board has authorized delivery. Provides that the board may not charge a handling fee on orders delivered directly to the customer. Provides the board may refuse to process a special liquor order if it appears similar to an item on its product list or it believes the demand is such that it should be made available.

Customer Relations Program – Allows the Board to offer coupons and operate a customer relations management program.

Off-Premises Catering Permits – Allows the Board discretion to issue a permit after the March 1 deadline to a licensee in good standing.

Limited Wineries – Allows a limited winery to sell malt and brewed beverages produced by a licensed brewery and liquor produced by a licensed distillery.

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Limited Distilleries – Allows a limited distillery to sell malt and brewed beverages produced by a licensed brewery and wine produced by a limited winery. Allows a limited distillery licensee to obtain a permit for \$250 to offer products for sale at farmers' market. Allows a limited distillery licensee to participate in food expos for a fee of \$30 per day for up to 100 days.

FISCAL IMPACT:

For FY 2015-2016 Senate Bill 1690 is estimated to result in a net increase in funds to the Commonwealth of \$96,464,131, \$56,636,546 to the State Stores Fund and \$39,827,584 to the General Fund.

For FY 2016-2017 is estimated to result in a net increase in funds to the Commonwealth of \$88,448,486, \$44,796,008 to the State Stores Fund and \$43,652,478 to the General Fund.

The sale of wine through existing restaurant and hotel licenses that obtain expanded wine permits is likely to result in an increase in retail wine sales. Assuming that for the remainder of FY 2015-2016, wine sales increase by 5% and the new expanded permit holders' account for 10% of the all retail sales of wine sold, there will be a reduction revenue to the State Store's Fund of \$2,554,200, due to the 10% licensee discount on wholesale purchases impacting profits and a \$3,235,320 increase in Liquor and Sales Tax to the General Fund due to the increase wine sale sales for a net increase in revenue of \$681,210. It is also estimated that the initial fees from the sale of expanded permits to eligible licensees will result in an additional \$17,788,000 in revenue to the General Fund. This assumes 75% (11,859) of the existing restaurant and hotel licensees. It assumes that 75% of the expired licenses sold at auction will also obtain permits.

Assuming for FY 2016-2017, wine sales increase by 10% and the new expanded permit holders' account for 20% of the all retail sales of wine sold, there will be a reduction revenue to the State Store's Fund of \$3,552,660, due to the 10% licensee discount on wholesale purchases impacting profits and a \$8,250,066 increase in Liquor and Sales Tax to the General Fund due to the increase wine sale sales for a net increase in revenue of \$4,697,406. It is also estimated that annual renewal fees based on 2% of the cost of wine purchased from the Board for off-premises consumption will generate \$2,963,180 in revenue for the General Fund.

The modernization provisions contained in the legislation will have the following impacts:

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In FY 2015-16, Sunday and holiday sales will result in an addition \$4,995,000 in net revenue, \$2,769,083 in profit to the State Stores Fund and \$2,225,197 in Liquor and Sales tax to the General Fund. In FY 2016-17, these provisions will result in an addition \$15,000,000 in net revenue, \$8,315,565 in profit to the State Stores Fund and \$6,648,453 in Liquor and Sales tax to the General Fund.

In FY 2015-16, flexible Pricing will result in an additional \$5,827,500 in net revenue, \$3,230,597 in profit to the State Stores Fund and \$2,596,903 in Liquor and Sales tax to the General Fund. In FY 2016-17, these provisions will result in an additional \$17,500,000 in net revenue, \$9,701,493 in profit to the State Stores Fund and \$7,798,507 in Liquor and Sales tax to the General Fund.

In FY 2015-16, marketing through the implementation of customer relation program will result in an additional \$3,330,000 in net revenue, \$1,846,055 in profit to the State Stores Fund and \$1,483,945 in Liquor and Sales tax to the General Fund. In FY 2016-17, these provisions will result in an additional \$10,000,000 in net revenue, \$5,543,710 in profit to the State Stores Fund and \$4,456,290 in Liquor and Sales tax to the General Fund.

In FY 2015-16, lottery sales will result in an additional \$1,665,000 in revenue being deposited in the General Fund. In FY 2016-17, these provisions will result in an additional \$5,000,000 in revenue being deposited in the General Fund.

In FY 2015-16, it is estimated that the sale of expired restaurant licenses at auction will result in an additional \$46,875,000 in revenue to the State Stores Fund. This assumes that the 100% (625) of the expired restaurant licenses available for auction are purchased at an average price of \$75,000. In FY 2016-17, it is estimated that the sale of expired restaurant licenses at auction will result in an additional \$15,000,000 in revenue to the State Stores Fund. This assumes that 200 more expired restaurant licenses are purchased at auction for an average price of \$75,000.

Based on the number of casinos (12) operating in the Commonwealth, it is estimated that the casino license provisions will generate an additional \$12,000,000 in revenue for the General Fund in FY 2015-16 and 2016-17.

It is estimated that the provisions that allow for the conversion of an eating place license to the restaurant license for a \$30,000 fee will result in \$2,730,000 in revenue to the State Stores Fund in FY 2015-2016 and 2016-2017. This assumes that 50% of the current eating place license are converted, 91 in FY 2015-16 and 91 in FY 2016-17

In FY 2015-16, the new \$700 license surcharge is estimated to result in an additional \$3,985,311 in revenue to the State Stores Fund. In FY 2016-2017, this provisions is estimated to result in an additional \$12,037,900 in revenue to the State Stores Fund

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Grants allocated by the Board related to wineries and breweries will result in a loss of \$2,000,000 to the State Stores Fund annually.

Doubling the fees for licensees in safe keeping is estimated to generate an additional \$945,000 to the State Stores Fund annually.

In FY 2015-2016, the provisions related to special liquor orders are estimated to result in a net loss of \$2,520,800, \$1,365,300 to the State Stores Fund and \$1,165,500 to the General Fund. In FY 2016-2017, the provisions related to special liquor orders are estimated to result in a net loss of \$7,600,000, \$4,100,000 to the State Stores Fund and \$3,500,000 to the General Fund. This loss is due to a reduction in markup and handling fees.

The provisions contained in the legislation related to the direct shipment of wine will result in increased revenue to the State Stores Fund annually. Based on the number of direct wine shippers operating in Maryland one year after the enactment of similar direct wine shipment legislation, it is assumed that 700 producers would purchase the direct shipper license. The fees amounting to \$175,000 from the new license would be deposited in the State Stores Fund. Additional revenues will accrue to the General Fund to the extent that wine sale increase the sale of wine in the Commonwealth and additional taxes are collected.