HB 1222

Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1222 (Delegate Krimm, *et al.*)
Economic Matters

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

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This bill reduces the number of days, from 180 days to 15 days, that a brewery that produces 300,000 barrels of beer or less each year must wait after notifying a distributor of its intent to terminate or refuse to renew a beer franchise agreement before terminating the agreement. The bill also makes a conforming change to the number of days that a distributor has to rectify any deficiencies after receiving such a notice and subsequently disallowing the termination or nonrenewal of the agreement. **The bill takes effect July 1, 2018.**

Fiscal Summary

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

Local Effect: None.

Small Business Effect: Meaningful.

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. "Small franchisor" means a beer manufacturer that, in conjunction with any affiliate, annually produces 300,000 barrels of beer or less in aggregate.

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 2018, there were (1) 41 Class 5 breweries; (2) 1 Class 6 pub-brewery; (3) 29 Class 7 micro-breweries; and (4) 20 Class 8 farm breweries. During that same month, 64 of these breweries had Class 7 limited beer wholesaler's licenses.

Small Business Effect: Under the bill, a small business brewery is able to terminate an agreement with a distributor significantly faster, which could positively affect the breweries business if there is a problem with the distributor. The bill is also likely to negatively affect small business distributors who are only guaranteed 15 days, instead of 180 days, to rectify any deficiencies before the termination of a franchise agreement.

Additional Information

Prior Introductions: None.

Cross File: SB 1043 (Senators Kagan and Reilly) - Education, Health, and Environmental Affairs.

Information Source(s): Comptroller's Office; Department of Legislative Services

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