

# HOUSE BILL 234

A1  
HB 716/10 – ECM

11r0519  
CF 11r0341

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By: **Delegates Ivey, Afzali, Alston, Anderson, Arora, Aumann, Barnes, Barve, Beidle, Bobo, Boteler, Branch, Busch, Cane, Cardin, Carr, Cluster, Conway, Costa, Cullison, Davis, Eckardt, Elliott, Feldman, Frank, Frick, Frush, Gaines, Gilchrist, Glenn, Griffith, Gutierrez, Haddaway–Riccio, Hammen, Harrison, Healey, Hixson, Holmes, Hubbard, Jacobs, Jameson, Kach, Kaiser, A. Kelly, Kipke, Krebs, Lafferty, Lee, Love, Luedtke, Malone, McDermott, McIntosh, A. Miller, Mitchell, Mizeur, Morhaim, Murphy, Myers, Niemann, Otto, Pena–Melnyk, Pendergrass, Ready, Reznik, S. Robinson, Rosenberg, Ross, Rudolph, Smigiel, Stein, Stocksdale, Stukes, Summers, Szeliga, Tarrant, F. Turner, V. Turner, Valderrama, Vallario, Waldstreicher, Washington, Wilson, and Zucker**

Introduced and read first time: January 28, 2011  
Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages – Direct Wine Shipper’s Permit**

3 FOR the purpose of repealing provisions that provide for a direct wine seller’s permit;  
4 establishing a direct wine shipper’s permit to be issued by the Office of the  
5 Comptroller; authorizing the Office of the Comptroller to issue a common  
6 carrier permit to certain persons; specifying a certain common carrier permit  
7 fee; requiring a person to be licensed before the person or the person’s agent  
8 may engage in shipping wine directly to a direct wine consumer in the State;  
9 requiring an applicant to meet certain qualifications for a shipper’s permit,  
10 submit an application and a copy of its current alcoholic beverages license or  
11 proof of the applicant’s status to the Office of the Comptroller, and pay a certain  
12 fee; specifying the term of a direct wine shipper’s permit; requiring a direct wine  
13 shipper to perform certain actions; prohibiting a direct wine shipper from  
14 shipping more than a certain amount of wine annually to any one consumer or  
15 make deliveries on Sunday; requiring a direct wine shipper to meet certain  
16 requirements to renew the permit; authorizing the Office of the Comptroller to  
17 deny a renewal application under certain circumstances; specifying certain  
18 requirements for receiving a direct shipment of wine; requiring a common  
19 carrier to make a certain report; allowing a shipment of wine to be ordered or  
20 purchased through electronic or other means; authorizing the Office of the

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Comptroller to adopt certain regulations; prohibiting a person without a permit  
2 from shipping wine directly to consumers in the State; requiring a certain  
3 security to be posted under certain circumstances; defining certain terms;  
4 making certain technical corrections; altering a certain definition; making the  
5 provisions of this Act severable; and generally relating to the establishment of a  
6 direct wine shipper's permit.

7 BY repealing

8 Article 2B – Alcoholic Beverages

9 Section 7.5–101 through 7.5–110 and the title “Title 7.5. Direct Wine Seller’s  
10 Permit”

11 Annotated Code of Maryland

12 (2005 Replacement Volume and 2010 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article 2B – Alcoholic Beverages

15 Section 2–101(b)(1)(i), 9–102(a), and 15–204(b)

16 Annotated Code of Maryland

17 (2005 Replacement Volume and 2010 Supplement)

18 BY adding to

19 Article 2B – Alcoholic Beverages

20 Section 2–101(y); and 7.5–101 through 7.5–113 to be under the new title “Title  
21 7.5. Direct Wine Shipper’s Permit”

22 Annotated Code of Maryland

23 (2005 Replacement Volume and 2010 Supplement)

24 BY repealing and reenacting, without amendments,

25 Article – Tax – General

26 Section 5–101(a)

27 Annotated Code of Maryland

28 (2010 Replacement Volume)

29 BY repealing and reenacting, with amendments,

30 Article – Tax – General

31 Section 5–101(f), 5–201(d), and 13–825(b)

32 Annotated Code of Maryland

33 (2010 Replacement Volume)

34 BY adding to

35 Article – Tax – General

36 Section 13–825(i)

37 Annotated Code of Maryland

38 (2010 Replacement Volume)

39 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
40 MARYLAND, That Section(s) 7.5–101 through 7.5–110 and the title “Title 7.5. Direct

1 Wine Seller's Permit" of Article 2B – Alcoholic Beverages of the Annotated Code of  
2 Maryland be repealed.

3 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
4 read as follows:

5 **Article 2B – Alcoholic Beverages**

6 2–101.

7 (b) (1) (i) The Office of the Comptroller shall collect a fee for the  
8 issuance or renewal of the following permits:

9 1. \$50 for a solicitor's permit, an individual storage  
10 permit, a nonresident winery permit, or a commercial nonbeverage permit;

11 2. \$75 for a public storage permit, a public  
12 transportation permit, or an import and export permit;

13 3. \$200 for a public storage and transportation permit, a  
14 nonresident dealer's permit, a resident dealer's permit, or a bulk transfer permit;

15 4. \$400 for a family beer and wine facility permit; and

16 5. ~~[\$10]~~ **\$100** for a direct wine [seller's permit]  
17 **SHIPPER'S PERMIT; AND**

18 **6. \$100 FOR A COMMON CARRIER PERMIT.**

19 **(Y) (1) THE OFFICE OF THE COMPTROLLER MAY ISSUE A COMMON**  
20 **CARRIER PERMIT TO A PERSON WHO MEETS THE DEFINITION OF A "COMMON**  
21 **CARRIER" UNDER § 7.5–101 OF THIS ARTICLE.**

22 **(2) THE HOLDER OF A COMMON CARRIER PERMIT MAY DELIVER**  
23 **WINE FROM A LOCATION INSIDE OR OUTSIDE THE STATE TO A CONSUMER IN**  
24 **THE STATE FOR THE CONSUMER'S PERSONAL USE.**

25 **TITLE 7.5. DIRECT WINE SHIPPER'S PERMIT.**

26 **7.5–101.**

27 **(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
28 **INDICATED.**

29 **(B) (1) "COMMON CARRIER" MEANS A BUSINESS ENTITY THAT HOLDS**  
30 **ITSELF OUT AS BEING AVAILABLE TO THE PUBLIC TO TRANSPORT IN**

1 INTERSTATE OR FOREIGN COMMERCE FOR COMPENSATION ANY CLASS OF  
2 PASSENGER OR PROPERTY.

3 (2) "COMMON CARRIER" DOES NOT INCLUDE A BUSINESS ENTITY  
4 THAT TRANSPORTS ONLY PROPERTY IT OWNS OR THAT IS CONSIGNED TO IT.

5 (C) "DIRECT WINE SHIPPER" MEANS THE HOLDER OF A DIRECT WINE  
6 SHIPPER'S PERMIT ISSUED UNDER THIS TITLE.

7 (D) "WINE" INCLUDES BRANDY THAT IS DISTILLED FROM THE PULPY  
8 RESIDUE OF THE WINE PRESS, INCLUDING THE SKINS, PIPS, AND STALKS OF  
9 GRAPES.

10 **7.5-102.**

11 A PERSON SHALL BE ISSUED A PERMIT BY THE OFFICE OF THE  
12 COMPTROLLER AS A DIRECT WINE SHIPPER BEFORE THE PERSON OR THE  
13 PERSON'S AGENT MAY ENGAGE IN SHIPPING WINE DIRECTLY TO A CONSUMER IN  
14 THE STATE.

15 **7.5-103.**

16 TO QUALIFY FOR A DIRECT WINE SHIPPER'S PERMIT, AN APPLICANT  
17 SHALL BE:

18 (1) A PERSON LICENSED OUTSIDE THE STATE TO ENGAGE IN THE  
19 MANUFACTURE OF WINE;

20 (2) AN AUTHORIZED BRAND OWNER OF WINE, A UNITED STATES  
21 IMPORTER OF WINE, OR A DESIGNATED MARYLAND AGENT OF A BRAND OWNER  
22 OR UNITED STATES IMPORTER;

23 (3) A HOLDER OF A CLASS 3 MANUFACTURER'S LICENSE OR A  
24 CLASS 4 MANUFACTURER'S LICENSE ISSUED UNDER THIS ARTICLE; OR

25 (4) A PERSON LICENSED BY THE STATE OR OUTSIDE THE STATE  
26 TO ENGAGE IN THE RETAIL SALE OF WINE FOR CONSUMPTION OFF THE  
27 PREMISES.

28 **7.5-104.**

29 (A) AN APPLICANT FOR A DIRECT WINE SHIPPER'S PERMIT SHALL:



1                   **(II) THE NAME AND ADDRESS OF THE CONSUMER WHO IS**  
2 **THE INTENDED RECIPIENT; AND**

3                   **(III) THE WORDS “CONTAINS ALCOHOL: SIGNATURE OF**  
4 **PERSON AT LEAST 21 YEARS OF AGE REQUIRED FOR DELIVERY”;**

5                   **(2) REPORT QUARTERLY TO THE OFFICE OF THE COMPTROLLER**  
6 **THE TOTAL AMOUNT OF WINE, BY TYPE, SHIPPED IN THE STATE, THE PRICE**  
7 **CHARGED, AND THE NAME AND ADDRESS OF EACH PURCHASER;**

8                   **(3) FILE A QUARTERLY TAX RETURN IN ACCORDANCE WITH §**  
9 **5-201(D) OF THE TAX – GENERAL ARTICLE;**

10                   **(4) PAY QUARTERLY TO THE OFFICE OF THE COMPTROLLER ALL**  
11 **SALES TAXES AND EXCISE TAXES DUE ON SALES TO CONSUMERS IN THE STATE,**  
12 **AND CALCULATE THE TAXES AS IF THE SALE WERE MADE AT THE DELIVERY**  
13 **LOCATION;**

14                   **(5) ALLOW THE OFFICE OF THE COMPTROLLER TO PERFORM AN**  
15 **AUDIT OF THE DIRECT WINE SHIPPER’S RECORDS ON REQUEST; AND**

16                   **(6) CONSENT TO THE JURISDICTION OF THE OFFICE OF THE**  
17 **COMPTROLLER OR OTHER STATE UNIT AND THE STATE COURTS CONCERNING**  
18 **ENFORCEMENT OF THIS SECTION AND ANY RELATED LAW.**

19                   **(B) A DIRECT WINE SHIPPER MAY NOT:**

20                   **(1) SHIP MORE THAN 24 9-LITER CASES OF WINE ANNUALLY TO**  
21 **ANY ONE CONSUMER; OR**

22                   **(2) CAUSE WINE TO BE DELIVERED ON SUNDAY TO AN ADDRESS**  
23 **IN THE STATE.**

24 **7.5-108.**

25                   **(A) A DIRECT WINE SHIPPER MAY ANNUALLY RENEW ITS PERMIT IF THE**  
26 **DIRECT WINE SHIPPER:**

27                   **(1) IS OTHERWISE ENTITLED TO HAVE A DIRECT WINE SHIPPER’S**  
28 **PERMIT;**

29                   **(2) PROVIDES TO THE OFFICE OF THE COMPTROLLER A COPY OF**  
30 **ITS CURRENT PERMIT; AND**

1           (3)    **PAYS TO THE OFFICE OF THE COMPTROLLER A RENEWAL FEE**  
2 **OF \$50.**

3           **(B) THE OFFICE OF THE COMPTROLLER MAY DENY A RENEWAL**  
4 **APPLICATION OF A DIRECT WINE SHIPPER WHO FAILS TO:**

5           (1)    **FILE A TAX RETURN REQUIRED UNDER THIS TITLE;**

6           (2)    **PAY A FEE OR TAX WHEN DUE; OR**

7           (3)    **AFTER RECEIVING NOTICE, COMPLY WITH A PROVISION OF**  
8 **THIS ARTICLE OR A REGULATION THAT THE OFFICE OF THE COMPTROLLER**  
9 **ADOPTS.**

10 **7.5-109.**

11           **(A) TO RECEIVE A DIRECT SHIPMENT OF WINE, A CONSUMER IN THE**  
12 **STATE SHALL BE AT LEAST 21 YEARS OLD.**

13           **(B) A PERSON WHO RECEIVES A SHIPMENT OF WINE SHALL USE THE**  
14 **SHIPMENT FOR PERSONAL CONSUMPTION ONLY AND MAY NOT RESELL IT.**

15 **7.5-110.**

16           **(A) A PERSON SHALL BE ISSUED A COMMON CARRIER PERMIT BEFORE**  
17 **THE PERSON MAY ENGAGE IN TRANSPORTING WINE FROM A DIRECT WINE**  
18 **SHIPPER TO A CONSUMER.**

19           **(B) TO COMPLETE DELIVERY OF A SHIPMENT, THE COMMON CARRIER**  
20 **SHALL REQUIRE FROM A CONSUMER AT THE ADDRESS LISTED ON THE SHIPPING**  
21 **LABEL:**

22           (1)    **THE SIGNATURE OF THE CONSUMER; AND**

23           (2)    **PHOTOGRAPHIC IDENTIFICATION SHOWING THAT THE**  
24 **CONSUMER IS AT LEAST 21 YEARS OLD.**

25           **(C) A COMMON CARRIER SHALL REFUSE DELIVERY WHEN THE**  
26 **INTENDED RECEIVING CONSUMER APPEARS TO BE UNDER 21 YEARS OLD OR**  
27 **REFUSES TO PRESENT VALID IDENTIFICATION.**

28 **7.5-111.**

1           **A COMMON CARRIER SHALL REPORT QUARTERLY TO THE OFFICE OF THE**  
2 **COMPTRROLLER:**

3           **(A) THE DATE OF EACH DELIVERY OF WINE IN THE STATE; AND**

4           **(B) THE NAME AND ADDRESS OF THE DIRECT WINE SHIPPER AND THE**  
5 **RECEIVING CONSUMER OF EACH DELIVERY.**

6 **7.5-112.**

7           **THE OFFICE OF THE COMPTRROLLER MAY ADOPT REGULATIONS TO CARRY**  
8 **OUT THIS TITLE.**

9 **7.5-113.**

10           **A BUSINESS ENTITY WITHOUT A DIRECT WINE SHIPPER'S PERMIT MAY**  
11 **NOT SHIP WINE DIRECTLY TO CONSUMERS IN THE STATE.**

12 **9-102.**

13           (a) No more than one license provided by this article, except by way of  
14 renewal or as otherwise provided in this section, shall be issued in any county or  
15 Baltimore City, to any person, or for the use of any partnership, corporation,  
16 unincorporated association, or limited liability company, in Baltimore City or any  
17 county of the State, and no more than one license shall be issued for the same  
18 premises except as provided in §§ 2-201 through 2-208, 2-301, [and] 6-701, **AND**  
19 **TITLE 7.5** of this article, and nothing herein shall be construed to apply to §  
20 6-201(r)(4), (15), (17), and (18), § 7-101(b) and (c), § 8-202(g)(2)(ii) and (iii), § 8-217(e),  
21 § 8-508, § 8-902, § 9-217(b-1), or § 12-202 of this article.

22 **15-204.**

23           (b) (1) Provided, that in Montgomery County no person, firm, or  
24 corporation shall keep for sale any alcoholic beverage not purchased from the  
25 Department of Liquor Control for Montgomery County, provided, however, that  
26 nothing in this subsection shall apply to a holder of a Class F license or a holder of a  
27 Class 1 beer, wine and liquor, Class 2 wine and liquor, Class 3 beer and wine, Class 4  
28 beer, or Class 5 wine wholesaler's license, who may not sell or deliver any alcoholic  
29 beverage in Montgomery County for resale except to a county liquor dispensary.

30           (2) Notwithstanding paragraph (1) of this subsection:

31                   (i) **1.** A holder of a Class 6 limited wine wholesaler's license  
32 or of a nonresident winery permit may sell or deliver wine directly to a county liquor  
33 dispensary, restaurant, or other retail dealer in Montgomery County; and





1 (ii) in an additional amount:

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

5 2. if the information for the preceding calendar year is  
6 not available or cannot be provided, equal to the amount that the Comptroller  
7 requires; AND

8 **(3) EXCEPT AS PROVIDED IN SUBSECTION (I) OF THIS SECTION, A**  
9 **HOLDER OF A DIRECT WINE SHIPPER'S PERMIT TO POST SECURITY FOR THE**  
10 **ALCOHOLIC BEVERAGE TAX IN AN AMOUNT NOT LESS THAN \$250.**

11 **(I) A PERSON NEED NOT POST SECURITY UNDER SUBSECTION (B)(3) OF**  
12 **THIS SECTION IF:**

13 **(1) THE PERSON IS A MANUFACTURER OR WHOLESALER THAT**  
14 **HAS POSTED SECURITY UNDER SUBSECTION (B)(2) OF THIS SECTION; OR**

15 **(2) NOT LATER THAN THE THIRD ANNIVERSARY OF ISSUING A**  
16 **PERMIT TO THE PERSON, THE COMPTROLLER:**

17 **(I) DETERMINES THAT THE PERSON HAS A SUBSTANTIAL**  
18 **RECORD OF TAX AND REPORTING COMPLIANCE; AND**

19 **(II) WAIVES THE SECURITY REQUIREMENT.**

20 SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this  
21 Act or the application thereof to any person or circumstance is held invalid for any  
22 reason in a court of competent jurisdiction, the invalidity does not affect other  
23 provisions or any other application of this Act which can be given effect without the  
24 invalid provision or application, and for this purpose the provisions of this Act are  
25 declared severable.

26 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 July 1, 2011.