



SPONSOR: Rep. Yearick & Rep. Spiegelman & Sen. Bushweller &
Sen. Richardson
Reps. Hensley, Hudson, Miro, D. Short, Wilson; Sen.
Pettyjohn

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 198

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOLIC BEVERAGES AND FARMERS' MARKETS AND OTHER AGRICULTURAL THEMED EVENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

1 Section 1. Add a new Section to Title 4 of the Delaware Code by making deletions as shown by strikethrough and
2 insertions as shown by underline as follows:

3 § 512G. Farmers' Markets and Other Agricultural Themed Events

4 Any entity licensed in this State as a Farm Winery, pursuant to § 512A of this Title, a Brewery-pub, pursuant to §
5 512B of this Title, a Microbrewery, pursuant to § 512C of this Title, a Craft Distillery, pursuant to § 512E of this Title, or
6 as an out of state supplier pursuant to § 501 of this Title who would meet the requirements of §§ 512A, 512B, 512C or
7 512E of this Title if it were located in this State, shall be eligible for a permit from the Commissioner to allow sales of
8 alcoholic beverages they manufacture at their licensed facility at Farmers' Markets and Agricultural Themed Events subject
9 to the following conditions:

10 a. The licensee must apply for a permit with the Commissioner setting forth the nature of its license and such other
11 information as the Commissioner may require;

12 b. The Commissioner shall determine if the licensee meets the requirements of §§ 512A, 512B, 512C or 512E of
13 this Title and is otherwise qualified for a permit pursuant to this section;

14 c. If the Commissioner determines the licensee is eligible, the Commissioner shall issue a permit to the licensee
15 who will be a "Permit Holder", said permit may only be used in the months of April through November;

16 d. The Secretary of Agriculture shall determine what events are "Farmers' Markets" and "Agricultural Themed
17 Events". The Secretary of Agriculture shall use the following definitions in making the Secretary's determination:

18 1. A "Farmers' Market" shall be defined as two or more farmer-producers that sell their own agricultural
19 products directly to the general public at a fixed location, including fresh fruits and vegetables, meat, dairy grains

and value-added products. Farmers' markets are seasonal and may take place indoors or outdoors, utilizing booths, stalls, tables or stands. Year-round retail markets which do not have farmer-producers selling directly to consumers or which sell a variety of items from other vendors including packaged foods and non-food products shall not be considered farmers' markets.

2. An "Agricultural Themed Event" shall be defined as an event open to the public which has as a central feature the promotion or celebration of a sector or sectors of Delaware agricultural production, held on a farm or at another location.

e. Permit Holders shall be permitted to transport alcoholic beverages made at their licensed facility to the Farmers' Market or Agricultural Themed Event and shall be permitted to:

1. have tastings of their product of up to one ounce of beer, mead, or wine and up to one-half ounce of spirits for no more than five samples per individual per day;

2. have sales of their product in closed containers for consumption off of the premises where sold, but a maximum per individual, per day, of:

a. Twelve (12) twelve (12) ounce bottles of beer or a growler containing no more than one hundred forty-four ounces of beer;

b. Three (3) liters of wine or mead;

c. one and one-half liters of spirits;

3. the total daily sales for Farmers' Market event for each Permit Holder shall be no more than:

a. one hundred (100) liters of beer;

b. eighty (80) liters of wine or mead;

c. sixty-five (65) liters of spirit;

4. the total daily sales for Agricultural Themed Event for each Permit Holder shall be no more than:

a. one hundred fifty (150) liters of beer;

b. one hundred (100) liters of wine or mead;

c. eighty (80) liters of spirit;

5. transport unsold product from the Farmers' Market or Agricultural Themed Event back to their licensed facility;

f. Permit Holders must have an employee of the Permit Holder at the premises who shall conduct all sales and tastings in accordance with this section and the other requirements of this Title, including that, notwithstanding exceptions

provided in Title 4 of the Delaware Code § 1202(d), all Permit Holder employees shall be in compliance with the provisions of the requirements of the responsible alcoholic beverage training program as found in Title 4, Chapter 12;

g. Permit Holders must convince the Commissioner that the host of the Farmers' Market or Agricultural Themed Event has approved of the sale of alcoholic beverages at the event;

h. Permit Holders must:

1. pay a biennial fee of \$100 for a permit under this section;

2. pay a fee of \$5 for each event it participates;

3. be limited to no more than five (5) Permit Holders participating at one time in a Farmers' Market and no more than eight (8) Permit Holders participating at one time in an Agricultural Themed Event. If more than the permitted Permit Holders apply for a given event, the Commissioner shall determine which Permit Holder is permitted based upon the time of filing of a completed request;

4. pay the excise tax required under § 581 of this Title and make reports required by the Division of Revenue and the Commissioner of the sales; and

i. The premises where the Permit Holder conducts sales and tastings shall be separated from vendors selling non-alcoholic products and clearly visible signage shall be placed at the entrance of the premises prohibiting persons under the age of 21 from entering the premises.

SYNOPSIS

Delaware law currently prohibits tasting and sale of craft beer, distilled spirits, and wine at Farmers' Markets or Agricultural Themed Events. The bill's intent is to allow tasting of products, offer limited purchase opportunities, and promote how local craft beverages benefit our agriculture industry and where to purchase the products year round. This bill allows holders of a "Farmers' Market Permit or Agricultural Themed Event Permit" to conduct tastings and sell craft beer, mead, cider, distilled spirits, and wine in sealed containers for off-premise consumption at retail prices at off-site farmers' markets or agricultural themed events during the months of April through November. This bill requires the Department of Agriculture to certify that the event is an Agricultural Themed Event or Farmers' Market. No more than 5 Permit Holders may sell at a Farmers' Market and no more than 8 Permit Holders may sell at Agricultural Themed Events.