

CHAPTER 22  
FORMERLY  
HOUSE BILL NO. 125  
AS AMENDED BY  
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO CRAFT ALCOHOLIC BEVERAGES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 512B(8): The provisions of § 506 of this title to the contrary notwithstanding, it shall be permitted to have an interest in, be affiliated with, operate, or own another supplier or manufacturer located outside the State and have an interest in a farm winery, microbrewery, and/or craft distillery licensed under this chapter and actually located in this State, provided that the total domestic sales of beer of all affiliated suppliers or manufacturers shall not exceed 6 million barrels, ~~the maximum amount currently specified by 27 C.F.R. Part 25, § 25.152(a)(2) or as hereafter amended.~~

“§ 512C Microbrewery.

(c) Notwithstanding any provision of this title to the contrary, a microbrewery license shall allow the licensee:

(6) The provisions of § 506 of this title to the contrary notwithstanding, to be permitted to have an interest in, be affiliated with, operate, or own another supplier or manufacturer located outside the State and have an interest in a farm winery, brewery-pub, and/or craft distillery licensed under this chapter and actually located in this State, provided that the total domestic sales of beer of all affiliated suppliers or manufacturers shall not exceed 6 million barrels, ~~the maximum amount currently specified in 27 C.F.R. Part 25, § 25.152(a)(2) or as hereafter amended.~~

§ 512G Shipment of alcoholic beverages between commonly-owned entities.

(a) Any entity licensed in this State pursuant to § 512A, § 512B, § 512C or § 512E of this title, or any out-of-state supplier licensed pursuant to § 501 of this title who, as determined by the Commissioner, would meet the requirements of § 512A, § 512B, § 512C or § 512E of this title if it were located in this State, is permitted to sell or ship alcoholic beverages they manufacture to an entity licensed in this State pursuant to § 512A, § 512B, § 512C or § 512E of this title subject to all of the following conditions:

(1) The shipping and receiving licensees must be under common ownership and control, the licensees' domestic sales of beer must be less than 6 million barrels in a calendar year, and must both apply for and receive a permit pursuant to this section.

(2) A licensee must apply for a permit with the Commissioner setting forth the nature of its license, naming the licensees or out-of-state suppliers that it desires to ship to directly or receive alcoholic beverages from directly, and such other information as the Commissioner may require.

(3) The Commissioner shall determine if a licensee meets the requirements of § 512A, § 512B, § 512C or § 512E of this title and is otherwise qualified for a permit pursuant to this section.

(4) If the Commissioner determines the licensee is eligible, the Commissioner shall issue a permit to the licensee.

(5) A permit holder under this section shall be permitted to sell product properly received under the terms of its permit as though it were manufactured at its premises, in accordance with the terms and conditions of its license, so long as it is permitted to manufacture that type of alcohol.

(6) If a licensee's total domestic sales of beer for all affiliated suppliers or manufacturers is between 2 million and 6 million barrels of beer, transfers authorized by this section from licensees pursuant to § 501 and § 512C of this title to commonly owned licensees pursuant to § 512B of this title for the purpose of sales to consumers for consumption on the brewery-pub premises may be made only if the brands transferred for on-premise consumption are produced under the same trade name approved by the Commissioner for the licensee pursuant to §512B of this title. Licensees pursuant to § 512B of this title may sell product to consumers produced by affiliated licensees under different trade names for consumption on the brewery premises if such product is purchased from a licensee pursuant to §522 of this title.

(7) For purposes of this section, trade name means a trade name approved by the Commissioner that is consistent with the definition in Title 6 § 3302(7) or a successor statute.

Section 2. Amend Chapter 7, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§721. Brewery.

No provision of this title shall prevent the Commissioner from authorizing any brewery to sell and to deliver beer to any person in this State who holds a license to receive and resell beer, if a duplicate bill of each sale is filed with or mailed to the Commissioner, provided that the Commissioner shall not authorize the resale and delivery of beer to licensees within this State by any brewery whose total domestic sales, when including all affiliated licenses whether in or out of this State, exceeds 6 million barrels of beer in a single calendar year.

Approved May 22, 2019