



SPONSOR: Rep. Baumbach & Rep. Michael Smith & Sen. Delcollo
& Sen. Sokola

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 326

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATED TO ALCOHOLIC LIQUORS.

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

1 Section 1. Amend §512C Title 4 of the Delaware Code my making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 512C Microbrewery.

4 (a) Upon proper application and subject to the applicable provisions, restrictions and prohibitions of this title, the
5 Commissioner may grant a license to any person who is the owner or lessee of a microbrewery to manufacture and sell
6 beer, mead and cider.

7 (b) For purposes of this section, “microbrewery” shall mean a single establishment in which beer, mead or cider is
8 manufactured and which is operated by the licensee in accordance with this ~~section~~ section, and establishments that
9 manufacture at a Host Microbrewery location but store and sell at a second location as provided in § 512C(i) of this title.

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

11 (1) To manufacture and sell on the licensed premises beer, mead or cider or a combination thereof, but the
12 licensee shall not manufacture or sell more than the maximum amount permitted by federal regulations to qualify for a
13 “reduced rate of tax for certain brewers” as currently found in the 27 C.F.R., Part 25, § 25.152(a)(2) or as hereafter
14 amended;

15 (2) To manufacture on the licensed premises beer, mead or cider for persons, other than the licensee, licensed
16 under this title or for persons outside this State;

17 (3) To sell beer, mead and cider manufactured on the licensed premises in labeled barrels, bottles or other
18 closed containers to importers licensed under this title for delivery by them to persons inside or outside the State;

19 (4) To sell at the licensed premises beer, mead and cider manufactured on the licensed premises for
20 consumption on or off the licensed premises. The amount of beer, mead and cider sold for off-premises consumption
21 shall be limited to a maximum of 5 cases per day to each retail customer;

(5) To purchase and store product from a Delaware licensed importer or retailer licensed under § 516 of this title, and sell said product to its retail customers for consumption on the premises where sold so long as the product is manufactured by an entity that holds a Delaware license pursuant to § 512A, § 512B, § 512C or § 512E of this title or the manufacturer, as determined by the Commissioner, would qualify for a license under said sections if it were physically located in the State; and

(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 in a calendar year.

(d) It shall be unlawful for a person to operate a microbrewery if:

(1) The license is denied, canceled, suspended or revoked for any of the grounds contained in § 543 or § 561 of this title;

(2) The establishment is moved to a location other than the licensed premises; or

(3) The licensee owns, operates or is affiliated with any importer of alcoholic liquor either in or without this State.

(e) A microbrewery licensee shall be exempt from the distance requirements for establishments licensed or to be licensed as contained in § 543(d) of this title, and such requirements shall not affect the granting of a microbrewery license.

(f) All beer, mead and cider sold by a microbrewery licensee for off-premise consumption shall be in containers which are securely sealed and have attached thereto a label setting forth such information as required by this title, Commissioner rules and laws of the State.

(g) Any microbrewery or brewery licensed by the Commissioner to manufacture beer, mead, or cider in this State may provide samples of the beer, mead, or cider manufactured at said premises in a manner approved by the Commissioner.

(h) The provisions of § 546 of this title to the contrary notwithstanding, the sale for off-premises consumption at a licensee licensed under this section and at up to 2 brewery-pubs licensed pursuant to § 512B of this title all owned or controlled by the same person shall be permitted.

(i) The Commissioner may grant a Microbrewery license to an "Alternating Premises" applicant upon proper application. An "Alternating Premises" is the portion of a Microbrewery's premises used at different times by two or more Microbreweries to brew beer, mead or cider. Such a license shall be subject to the restrictions as set forth in this section.

51 (1) The applicant must have an agreement with a Host Microbrewery whereby the Host Microbrewery agrees
52 to allow Tenant Microbrewery to utilize the Host Microbrewery's brewing equipment for specified periods of time to
53 produce beer, mead or cider. The compensation for the agreement may not be based upon the profit of the Tenant
54 Microbrewery and is subject to the approval of the Commissioner.

55 (2) The Tenant Microbrewery must retain title to its raw materials (except water), and act as the brewer of the
56 beer, mead or cider.

57 (3) The Tenant Microbrewery and the Host Microbrewery must have approval of the Federal Trade and Tax
58 Bureau ("TTB"), or its successor, as an Alternating Premises. If the TTB suspends the approval of the Host or Tenant
59 Microbrewery of the Alternating Premises, the Commissioner may suspend all licenses at the facility providing reasons
60 for and conditions of the suspension.

61 (4) Upon completion of the brewing process by the Tenant Microbrewery, the Tenant Microbrewery shall
62 remove all product from the Host Microbrewery's premises, and transport the product to the location approved by the
63 Commissioner for the Tenant Microbrewery to store and sell for on or off premises consumption. Nothing herein shall
64 prevent the Tenant Microbrewery from leasing space from the Host Microbrewery to satisfy this requirement, provided
65 that the Tenant Microbrewery's location must only store Tenant Microbrewery's brands.

66 (5) Upon termination of the agreement between the Host Microbrewery and the Tenant Microbrewery, the
67 Commissioner may suspend or revoke the license of the Tenant Microbrewery.

SYNOPSIS

This Bill would allow two Microbreweries to share brewing equipment and maintain their separate premises to sell their product to consumers and/or wholesalers.