



Maryland State Licensed Beverage Association

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2017 General Assembly Session Preview for Alcohol Beverage Retailers

By Steve Wise, MSLBA Lobbyist & Legal Counsel

A number of external forces will influence the dynamics of the upcoming 2017 General Assembly Session. First, the recent presidential election raises questions about federal spending, which has a disparate impact on our State given the number of federal government and government contractor jobs in the area. This will develop further once President-elect Trump takes office. Couple this unknown with the existing State budget shortfall and you can expect some robust discussion on the State's fiscal future.

Second, the turnover in the Maryland Senate will be unusually high for the third year of the four year term. Senator Catherine Pugh (Baltimore) will be replaced because she was elected Mayor of Baltimore, and Senator Raskin (Montgomery) will be replaced because he was elected to Congress. At one point, Senator Currie (Prince George's) had resigned but possibly rescinded that resignation, and there are rumors of other departures in the Senate and at least one in the House. Not only will these officials be replaced, but their departure will have a ripple effect on leadership roles and committee assignments. These changes will be announced subsequent to this writing, but retailers should stay alert as these may impact legislators with whom you have relationships.

The alcoholic beverage industry will have to be mindful of these changes as it confronts and seeks to have its voice heard on the issues outlined below. It cannot be stated often enough that it is your relationships with elected officials from your district that make the difference and have enabled MSLBA to have the success it has. Maintain those relationships, and make new ones in the year ahead, and you'll be doing your part.

Breweries and Saving the 3-Tier System

As I noted last year, the breweries in the State convinced the General Assembly a few years ago to allow them on-premise consumption privileges. The MSLBA did not support this idea, but argued that if it was to be allowed, the brewery had to obtain a Class D retail license, limit consumption to products produced by the brewer, and limit the amount that could be consumed on-premise to no more than 500 barrels per year. This equates to 438 12-oz. beers per day.

Despite this allowance the brewers pressed for more barrels in 2016. The MSLBA along with the MD Beer Wholesalers and Licensed Beverage Distributors opposed this effort on the basis that consumption at a brewery should be in amounts limited to marketing the product to brewery visitors, and not in amounts that turn a brewer/manufacturer into a bar. The bill did not pass. Expect a similar effort in 2017, but this time with the added dimension that Diageo has announced plans to refurbish its brewery in Relay. As a brewer, Diageo can now apply for and receive a Class 'D' license and sell its own beer, and according to their plans, they want to raise

the 500 barrel limit significantly.

At some point, and that point is likely now, the changes proposed by the brewers don't just blur the lines between the 3-tiers, they eviscerate it. We now have an international manufacturer wanting a retail presence. This is a tied house, plain and simple. We will call on our legislators and regulators to maintain the 3-tier system, because if such changes are allowed, the Legislature will have put back together the system which was taken apart in the 1920's, based on the hard-learned lessons of that period.

Chain Grocery Stores

Little needs to be said about this issue. It is a perennial one in Annapolis, and in one form or another, it will re-emerge in 2017. It could be as a "local" bill affecting one county or another, as we saw in 2016 with an effort to allow Costco in Montgomery County to obtain a license, or as an all-out effort to change the law statewide. The best preventative medicine for this is that in every encounter with a legislator, licensees should express their concern about the negative impact any change of this nature will have upon the small and locally owned businesses that currently comprise the retail sector. Our success depends on it.

Multiple Licenses

For at least the last 5 years, legislation has been introduced at the request of Total Wine & More that would allow a person to hold two licenses, rather than the current limit of one. This legislation has been defeated at every turn. This year it appears it will be introduced as a local bill, allowing the second license only in Montgomery County, where Total Wine is headquartered and wants to build another store. MSLBA will treat the bill as having the same adverse impact on small retailers as a statewide bill would have.

Dram Shop Legislation

This year we will surely see, once again, legislation that will impose liability upon a licensee if he serves a patron while the patron is under the influence, and the patron later causes a motor vehicle accident. This is commonly referred to as "dram shop" liability, which is not currently recognized under Maryland law. Maryland's Court of Appeals, the State's highest court, rejected the opportunity to adopt dram shop liability in 2013. And through the diligence of MSLBA and others, efforts to change the law via legislation have been defeated, dating most recently back to 2011.

However, over the summer of 2016 the Court of Appeals did adopt the sister doctrine to dram shop, known as "social host liability". As a result of its ruling, a homeowner who knowingly and willfully serves a minor can be held liable if that minor leaves the premises and causes injury to another person. In short, this is an active front within the law and, once again, the MSLBA will have to be vigilant to ensure that licensees are not unfairly held responsible for the actions of others.

Your participation with MSLBA is what makes the Association work. Please continue it, and bring a fellow retailer with you whenever you can.