



# Maryland State Licensed Beverage Association

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## 2023 General Assembly Session Preview

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Written Nov. 18, 2022*



With the 2022 General Election complete, Annapolis will be filled with a lot of newcomers for the 2023 General Assembly Session, set to begin on January 11th. The State has a new Governor in Wes Moore and Lieutenant Governor in Aruna Miller, a new Attorney General in former Delegate and Congressman Anthony Brown, and a new Comptroller in former Delegate Brooke Lierman.

There will also be many new members of the General Assembly. Some chose not to return and new candidates were elected to replace them, while others were turned away by the voters at the polls in November. Legislators old and new will all converge on Annapolis in January and attempt to put the politics behind them and start the business of legislating and governing our State. The House will remain overwhelmingly Democratic (102-39) as will the Senate (two Senate races were undecided at the time of this writing, but Democrats will hold at least 32 of 47 seats). Delegates and Senators will all be named to standing committees by the Speaker of the House, Adrienne Jones, and the President of the Senate, Bill Ferguson, who both return to their powerful posts.

The alcohol industry will have the important role of educating new members, especially those assigned to the committees that consider alcohol issues. The industry and its regulation have a unique place in American history and the law, and it takes time to understand, a job made more difficult when legislators are being bombarded with meeting requests and information from every interest group with a stake in legislation of all sorts. But our industry's grassroots reach is substantial, and we will hit the ground running.

There are always unexpected issues that will arise, especially following a campaign season, but here are a few issues we know these leaders will be asked to consider:

### 1) Direct Shipment of Alcohol

During the 2021 Session, legislation was adopted allowing Maryland's brewers and distillers to ship alcohol using third parties, a practice first allowed by Executive Order in the spring of 2020 at the beginning of the COVID-19 pandemic. The legislation will expire in the summer of 2023 if no further action is taken. We know that the brewers and distillers will seek legislation in 2023 to make this temporary privilege permanent.

Retailers and wholesalers maintain that enforcement of laws designed to prevent underage access to shipped alcohol are virtually non-existent, with common carriers regularly leaving product on the steps of residential customers without first obtaining proof of age. Further, there are no serious enforcement stings that have been conducted to even assess the extent of the problem. The opposite is true with brick-and-mortar licenses, who regularly see stings and enforcement actions and face fines and a loss of their license for violating the law. Until State and local government can provide the same level of underage enforcement with direct ship as they do with brick-and-mortar stores, the practice should not be allowed.

2) Delivery of Alcohol by Retailers

Along with the direct shipment privileges adopted for Maryland manufacturers in 2021, the Legislature also provided on-premise retailers with the ability to sell sealed alcohol as well as mixed drinks for carry out, and to deliver. MSLBA worked on this legislation and supported it, on a temporary basis, to help struggling on-premise retailers make it through the pandemic.

With the pandemic having subsided and on-premise retail recovering, the need to continue this temporary change, which altered longstanding license privileges among on and off-premise licenses, is in question. While legislation will likely be proposed to also make it permanent, MSLBA does not think the case has been made to do so.

3) Delivery by Third Parties

The issues of direct shipment, carry out and delivery tend to run together and are confusing enough standing alone, but now many states are seeing efforts by DoorDash and others to permit third parties to deliver alcohol on behalf of licensed retailers. Current Maryland law permits licensed retailers with off-premise privileges who receive permission from their local boards to deliver within their jurisdiction, with the licensee or an employee being the deliverer. While MSLBA has not yet taken a formal position on the use of third parties, we think it is critical for the retailer to continue to make the sale and for authority over deliveries to remain with local liquor boards.

4) Beer and Wine in Supermarkets

A perennial issue, this one will no doubt be back in 2023. The large supermarkets continue to want to repeal the prohibition on chain stores and supermarkets obtaining beer and wine licenses, and in recent years have argued that this is the way to solve the problem of “food deserts,” areas where there are not grocery retailers. However, legislators have not thus far been convinced that more alcohol outlets are a way to solve this problem, and the legislation has been defeated.

Whether the supermarkets will couch their pursuits in the same or some other form in 2023 remains to be seen, but rest assured they will continue to press the issue. The job of retailers remains the same that it always has been: Contact the legislators that represent your district, invite them out to your business, and share your concerns about this legislation.

5) Manufacturers Serving Products Other Than Their Own

In recent years, Maryland manufacturers have introduced legislation to establish a Class L license that can be obtained by any brewery, winery, or distillery to sell beer, wine, and liquor, regardless of whether it was made by the manufacturer at their location. This privilege essentially turns every brewery, winery, and distillery into a bar. Manufacturers should not be bars under the three-tier system, but that is exactly what these bills or the proposed amendments permit to happen.

Every year now for the better part of the last 15 years, the State's manufacturers have introduced bills that erode the three-tier system of alcohol distribution, under which manufacturers were prohibited from selling alcoholic beverages to customers at all. The erosion began with the offering of small samples of their own products on guided tours but continued with efforts to sell larger and larger amounts. These efforts were presented as a way for the manufacturers to better market their own products. But the biggest change came several years ago when the brewers obtained authority from the Legislature to operate tap rooms. MSLBA resisted this change because we knew what the next step was – manufacturers selling not just their own products but all alcoholic beverages, just like a bar. This legislation represents the predicted next step. This is no longer about marketing their own products, but about being a general retailer of all alcoholic beverages.

There will also be other, unanticipated bills that have statewide impact which our Legislative Committee will have to weigh during its weekly meetings. And the usual array of local bills will be introduced, requiring members from the affected jurisdiction to focus on those as well. Whatever issues may arise, the one common thread through the years has been our members' ability to reach out to their local legislators and convey our position on a given piece of legislation. If you have not established that type of relationship yet--again, DO IT TODAY!