

HOUSE BILL 268

A2, P1

11r0369

By: **Delegates Branch, Anderson, Carter, Conaway, Glenn, Haynes, Mitchell, Oaks, B. Robinson, Stukes, Tarrant, and Washington**

Introduced and read first time: January 31, 2011

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Board of Liquor License Commissioners for Baltimore City – Ethics, Open**
3 **Meetings, and Performance Audit**

4 FOR the purpose of prohibiting a commissioner of the Board of Liquor License
5 Commissioners for Baltimore City or an employee of the Board from having
6 certain interests in businesses or premises relating to the distribution of
7 alcoholic beverages; specifying that an action of a commissioner or employee of
8 the Board is subject to State requirements for open or public meetings;
9 requiring the Office of Legislative Audits to conduct, during a certain period of
10 time, performance audits of the Board to evaluate the management practices of
11 the Board; requiring the audit to focus on certain operations of the Board;
12 requiring the audits to occur at a certain frequency; authorizing the Office of
13 Legislative Audits to have access to and inspect the records of the Board;
14 requiring audit reports of the Board to be distributed to certain persons;
15 defining a certain term; making certain stylistic and conforming changes;
16 requiring the Office of Legislative Audits to initiate its first audit of the Board
17 on or before a certain date; and generally relating to the Board of Liquor
18 License Commissioners for Baltimore City and audits conducted by the Office of
19 Legislative Audits.

20 BY repealing and reenacting, without amendments,
21 Article 2B – Alcoholic Beverages
22 Section 15–112(d)(1)
23 Annotated Code of Maryland
24 (2005 Replacement Volume and 2010 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article 2B – Alcoholic Beverages
27 Section 15–112(d)(2)
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2005 Replacement Volume and 2010 Supplement)

2 BY adding to

3 Article 2B – Alcoholic Beverages

4 Section 15–112(d)(15)

5 Annotated Code of Maryland

6 (2005 Replacement Volume and 2010 Supplement)

7 BY adding to

8 Article – State Government

9 Section 2–1220(f)

10 Annotated Code of Maryland

11 (2009 Replacement Volume and 2010 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article – State Government

14 Section 2–1223(a)(3) and 2–1224

15 Annotated Code of Maryland

16 (2009 Replacement Volume and 2010 Supplement)

17 BY repealing and reenacting, without amendments,

18 Article – State Government

19 Section 2–1223(b)

20 Annotated Code of Maryland

21 (2009 Replacement Volume and 2010 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article 2B – Alcoholic Beverages**

25 15–112.

26 (d) (1) This subsection applies only in Baltimore City.

27 (2) A commissioner or employee of the Board:

28 (i) May not have any interest, direct or indirect, either
29 proprietary or by means of any loan, mortgage or lien, or in any other manner, in or on
30 any premises where alcoholic beverages are manufactured, **DISTRIBUTED**, or sold;

31 (ii) May not have any interest, direct or indirect, in any
32 business wholly or partially devoted to the manufacture, **DISTRIBUTION**, or sale of
33 alcoholic beverages; **[or]**

34 (iii) May not own any stock in any corporation which has any
35 interest, proprietary or otherwise, direct or indirect, in any premises where alcoholic

1 beverages are manufactured, **DISTRIBUTED**, or sold or in any business wholly or
2 partially devoted to the manufacture, **DISTRIBUTION**, or sale of alcoholic beverages;
3 **OR**

4 **(IV) MAY NOT RECEIVE ANY SALARY OR OTHER**
5 **COMPENSATION OR ANY OTHER THING OF VALUE FROM A BUSINESS ENGAGED**
6 **IN THE MANUFACTURE, DISTRIBUTIONS, OR SALE OF ALCOHOLIC BEVERAGES.**

7 **(15) AN ACTION OF A COMMISSIONER OR EMPLOYEE OF THE**
8 **BOARD IS SUBJECT TO STATE REQUIREMENTS FOR OPEN OR PUBLIC MEETINGS,**
9 **INCLUDING REQUIREMENTS FOR OPEN SESSIONS UNDER TITLE 10, SUBTITLE 5**
10 **OF THE STATE GOVERNMENT ARTICLE.**

11 **Article – State Government**

12 2–1220.

13 **(F) (1) AT LEAST ONCE EVERY 3 YEARS, THE OFFICE OF**
14 **LEGISLATIVE AUDITS SHALL CONDUCT A PERFORMANCE AUDIT OF THE BOARD**
15 **OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY TO EVALUATE**
16 **THE EFFECTIVENESS AND EFFICIENCY OF THE MANAGEMENT PRACTICES OF**
17 **THE BOARD AND OF THE ECONOMY WITH WHICH THE BOARD USES RESOURCES.**

18 **(2) THE PERFORMANCE AUDIT SHALL FOCUS ON OPERATIONS**
19 **RELATING TO LIQUOR INSPECTIONS, LICENSING, DISCIPLINARY PROCEDURES,**
20 **AND MANAGEMENT OVERSIGHT.**

21 2–1223.

22 (a) (3) The employees or authorized representatives of the Office of
23 Legislative Audits shall have access to and may inspect the records, including those
24 that are confidential by law, of:

25 **(I) any local school system to perform the audits authorized**
26 **under § 2–1220 of this subtitle or in accordance with a request for information as**
27 **provided in § 5–114(d) of the Education Article; AND**

28 **(II) THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR**
29 **BALTIMORE CITY TO PERFORM THE AUDITS AUTHORIZED UNDER § 2–1220(F)**
30 **OF THIS SUBTITLE.**

31 (b) Each officer or employee of the unit or body that is subject to examination
32 shall provide any information that the Legislative Auditor determines to be needed for
33 the examination of that unit or body, or of any matter under the authority of the Office

1 of Legislative Audits, including information that otherwise would be confidential
2 under any provision of law.

3 2–1224.

4 **(A) IN THIS SECTION, “UNIT” INCLUDES THE BOARD OF LIQUOR**
5 **LICENSE COMMISSIONERS FOR BALTIMORE CITY.**

6 **[(a)] (B)** Except with the written approval of the Legislative Auditor, an
7 employee or authorized representative of the Office of Legislative Audits shall submit
8 any report of findings only to the Legislative Auditor.

9 **[(b)] (C)** (1) On the completion of each examination, the Legislative
10 Auditor shall submit a full and detailed report to the Joint Audit Committee.

11 (2) A report shall include:

12 (i) the findings;

13 (ii) any appropriate recommendations for changes in record
14 keeping or in other conduct of the unit or body that is the subject of the report; and

15 (iii) any response of that unit or body, subject to procedures
16 approved by the Joint Audit Committee.

17 **[(c)] (D)** The Legislative Auditor shall send a copy of the report to:

18 (1) the President of the Senate and the Speaker of the House of
19 Delegates;

20 (2) the Chairmen of the Senate Budget and Taxation and House
21 Appropriations Committees;

22 (3) members of the General Assembly, subject to § 2–1246 of this
23 subtitle;

24 (4) the Governor;

25 (5) the Comptroller;

26 (6) the State Treasurer;

27 (7) the Attorney General;

28 (8) the unit or body that is the subject of the report;

29 (9) the Secretary of Budget and Management;

1 (10) the Executive Director; and

2 (11) any other person whom the Joint Audit Committee specifies.

3 **[(d)] (E)** In addition to the requirements of subsection **[(c)] (D)** of this
4 section, each report of:

5 **(1)** a local school system shall be distributed to the chair of the House
6 Ways and Means Committee and the cochairs of the Joint Committee on the
7 Management of Public Funds; **AND**

8 **(2) THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR**
9 **BALTIMORE CITY SHALL BE DISTRIBUTED TO THE CHAIR OF THE BALTIMORE**
10 **CITY DELEGATION AND THE CHAIR OF THE BALTIMORE CITY SENATORS.**

11 **[(e)] (F)** After the expiration of any period that the Joint Audit Committee
12 specifies, a report of the Legislative Auditor is available to the public under §§ 10–602
13 and 10–611 through 10–628 of this article.

14 **[(f)] (G)** (1) The Legislative Auditor shall review each unit's response
15 and advise the unit of the results of the review. The Legislative Auditor shall advise
16 the Joint Audit Committee when:

17 (i) a unit does not make a response to a recommendation;

18 (ii) a unit does not indicate action to be taken in response to a
19 recommendation;

20 (iii) a unit has not taken the action the unit indicated in its
21 response to a recommendation;

22 (iv) a unit requests a waiver from a recommendation; or

23 (v) the response by the unit is not considered appropriate to
24 carry out the recommendation.

25 (2) The Executive Director or the Joint Audit Committee may direct
26 the Legislative Auditor to undertake a review to determine the extent to which action
27 has been taken by a unit to implement a report recommendation.

28 (3) With respect to findings and recommendations of a
29 fiscal/compliance nature, the Committee may recommend to the Governor and the
30 Comptroller that the unit take the corrective action the unit indicates would be taken
31 or take action to correct the findings in the report or the Committee may grant a
32 waiver from the recommended action.

1 (4) Within 45 days after receipt of the recommendation the Governor
2 shall advise the Committee as to the action taken with respect to the recommendation.

3 (5) Without concurrence of the Comptroller, the Committee may not
4 waive a recommendation of the Legislative Auditor with respect to fiscal and financial
5 record keeping, a uniform system of accounting, or the submission of fiscal and
6 financial reports by the units.

7 (6) With respect to findings and recommendations of a performance
8 nature, the Committee may make recommendations to the Governor or propose
9 legislation after reviewing a unit's response to a recommended action.

10 (7) The Legislative Auditor shall review each local school system's
11 response to an audit conducted under § 2-1220(e) of this subtitle and advise the local
12 school system of the results of the review. The Legislative Auditor shall advise the
13 Joint Audit Committee when a local school system:

14 (i) does not make a response to a recommendation;

15 (ii) does not indicate action to be taken in response to a
16 recommendation;

17 (iii) has not taken the action the local school system indicated in
18 its response to a recommendation; or

19 (iv) responds in a manner that is not considered appropriate to
20 carry out the recommendation.

21 (8) The Executive Director or the Joint Audit Committee may direct
22 the Legislative Auditor to undertake a review to determine the extent to which action
23 has been taken by a local school system to implement a report recommendation.

24 (9) With respect to findings and recommendations made to a local
25 school system, the Joint Audit Committee may make recommendations to the
26 Governor, State Superintendent of Schools, the local school governing board, or local
27 school officials after reviewing a local school system's response to a recommended
28 action.

29 **[(g)] (H)** (1) The Governor and the Chief Judge of the Court of Appeals
30 shall implement systems and processes to monitor the efforts of the Executive
31 Departmental Units and the Judiciary, respectively, to correct audit findings reported
32 by the Office of Legislative Audits.

33 (2) Within 9 months of the most recent audit report, any unit **[of State**
34 **government]** that has five or more repeat audit findings shall report to the Office of
35 Legislative Audits for each finding in that audit report:

- 1 (i) the corrective actions taken; or
- 2 (ii) a schedule for when specific corrective actions will be
- 3 implemented.

4 (3) Each unit required to report to the Office of Legislative Audits
5 under paragraph (2) of this subsection shall continue to report to the Office of
6 Legislative Audits on a quarterly basis after the initial report until the actions
7 reported by the agency indicate that satisfactory progress has been made to address
8 all findings.

9 SECTION 2. AND BE IT FURTHER ENACTED, That the Office of Legislative
10 Audits shall initiate its first audit of the Board of Liquor License Commissioners for
11 Baltimore City under this Act on or before November 1, 2011.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2011.