

SENATE BILL 949

A2

3lr3034

By: **Senator Mathias**

Introduced and read first time: February 14, 2013

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 21, 2013

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 24, 2013

CHAPTER _____

1 AN ACT concerning

2 **Worcester County – Alcoholic Beverages**

3 FOR the purpose of authorizing a holder of a seven-day Class B beer, wine and liquor
4 license in Worcester County to sell beer, wine and liquor off-sale; creating a
5 Class EF (entertainment facility) beer, wine and liquor license; authorizing a
6 license holder to sell beer, wine, and liquor from one or more outlets in a certain
7 entertainment facility, for consumption anywhere throughout the
8 entertainment facility only; requiring a facility for which a license is issued to
9 have a certain amount of capital investment; authorizing the Board of License
10 Commissioners to issue one or more licenses for the same facility; specifying the
11 hours of sale and a certain license fee; authorizing a holder of a seven-day Class
12 D beer, wine and liquor license in Worcester County to sell beer, wine and liquor
13 off-sale; altering the maximum amount of a certain fine for certain violations in
14 Worcester County; applying certain provisions of law relating to certain alcohol
15 awareness programs to holders of certain alcoholic beverages licenses or certain
16 employees of certain license holders in Worcester County; making a certain
17 exception; ~~altering a certain date on which a licensee in the county may elect to~~
18 ~~purchase wine or liquor from a licensed wholesaler; authorizing the Director of~~
19 ~~the Department of Liquor Control to purchase or otherwise acquire wine and~~
20 ~~liquor from any source for resale, regardless of any other State law or regulation~~
21 ~~to the contrary, without a certain tax having been paid; providing that the wine~~
22 ~~and liquor may not be resold until a certain excise tax has been paid, acting as a~~
23 ~~wholesaler, to purchase wine and liquor under certain circumstances;~~
24 prohibiting the resale of certain wine and liquor until a certain excise tax has

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 been paid; authorizing the Department, acting as a retailer, to purchase wine
 2 and liquor under certain circumstances; making clarifying changes; and
 3 generally relating to alcoholic beverages in Worcester County.

4 BY repealing and reenacting, without amendments,
 5 Article 2B – Alcoholic Beverages
 6 Section 6–201(a)(1) and 6–401(a)(1)
 7 Annotated Code of Maryland
 8 (2011 Replacement Volume and 2012 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article 2B – Alcoholic Beverages
 11 Section 6–201(y), 6–401(y), 11–304(a), ~~and~~ 13–101, 15–204(e), and 15–205(l)
 12 Annotated Code of Maryland
 13 (2011 Replacement Volume and 2012 Supplement)

14 BY adding to
 15 Article 2B – Alcoholic Beverages
 16 Section 6–201(y)(9)
 17 Annotated Code of Maryland
 18 (2011 Replacement Volume and 2012 Supplement)

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

21 **Article 2B – Alcoholic Beverages**

22 6–201.

23 (a) (1) A Class B beer, wine and liquor license shall be issued by the
 24 license issuing authority of the county in which the place of business is located, and
 25 the license authorizes its holder to keep for sale and sell all alcoholic beverages at
 26 retail at any hotel or restaurant at the place described, for consumption on the
 27 premises or elsewhere, or as provided in this section.

28 (y) (1) This subsection applies only in Worcester County.

29 (2) The annual license fees for the following types of licenses are:

30 (i) Six–day licenses – \$1,750; and

31 (ii) Seven–day licenses – \$2,500.

32 (3) Hotels and restaurants are defined to be:

33 (i) For six–day license holders:

1 1. Bona fide hotels having at least 20 rooms and serving
2 meals regularly; or

3 2. Restaurants having a seating capacity at tables of at
4 least 70 people.

5 (ii) For seven-day license holders:

6 1. As required for six-day license holders, which are
7 incorporated by reference; and

8 2. A. Establishments for the accommodation of the
9 public which provide services found ordinarily in hotels, have a lobby with a
10 registration and mail desk and seating facilities, and an enclosed dining area which
11 serves full-course meals from menus at least twice daily; or

12 B. Establishments which have an enclosed dining area
13 which serves full-course meals from menus at least twice daily and have daily receipts
14 from the sale of food in excess of that from the sale of alcoholic beverages during the
15 effective period of the license.

16 (iii) A license may not be issued unless the hotel or restaurant is
17 operated in a clean and sanitary manner and is equipped with the proper restroom
18 facilities.

19 (4) Seven-day license holders may sell beer, wine and liquor ~~(on-sale~~
20 ~~OR OFF-SALE) and beer and light wine (off-sale) ON-SALE AND OFF-SALE.~~

21 (5) If the premises to be licensed by the provisions of this subsection
22 are within a municipal corporation, the license application may be subject to approval
23 by its mayor and town council and shall be approved by the licensing authority.

24 (6) All license fees shall go to the general funds of the county.
25 However, if the licensed premises are in a municipal corporation, 75 percent of the fees
26 shall go to that municipal corporation.

27 (7) (i) Except as provided in subparagraph (ii) of this paragraph,
28 all licensees shall purchase all wines and liquors, except light wine and beer, from the
29 Worcester County Department of Liquor Control. They shall be charged not more than
30 85 percent of the retail price or any special sale price or discount price, whichever is
31 lower, set by the Department for wines and liquors. All licensees may purchase beer
32 and light wine from licensed wholesalers.

33 (ii) Beginning on May 1, 2016, a licensee may elect to purchase
34 wine and liquor from a licensed wholesaler under § 15-204(e) of this article.

35 (8) The hours for sale are as provided in § 11-524 of this article.

1 **(9) (I) THERE IS A CLASS EF (ENTERTAINMENT FACILITY)**
 2 **BEER, WINE AND LIQUOR LICENSE.**

3 **(II) A CLASS EF LICENSE AUTHORIZES THE HOLDER TO**
 4 **SELL BEER, WINE, AND LIQUOR BY THE DRINK AND BY THE BOTTLE FROM ONE**
 5 **OR MORE OUTLETS IN THE ENTERTAINMENT FACILITY, FOR CONSUMPTION**
 6 **ANYWHERE THROUGHOUT THE ENTERTAINMENT FACILITY.**

7 **(III) A HOLDER OF A CLASS EF LICENSE MAY NOT SELL**
 8 **ALCOHOLIC BEVERAGES FOR OFF-SALE CONSUMPTION.**

9 **(IV) NOTWITHSTANDING § 8-208(B) OF THIS ARTICLE, THE**
 10 **BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS EF LICENSE ONLY IF**
 11 **THE APPLICANT HAS AN INITIAL CAPITAL INVESTMENT IN THE FACILITY FOR**
 12 **WHICH THE LICENSE IS SOUGHT OF AT LEAST \$45,000,000.**

13 **(V) THE BOARD MAY ISSUE ONE OR MORE CLASS EF**
 14 **LICENSES FOR THE SAME FACILITY.**

15 **(VI) A CLASS EF LICENSE AUTHORIZES THE SALE AND**
 16 **SERVING OF BEER, WINE, AND LIQUOR ANYWHERE THROUGHOUT THE**
 17 **ENTERTAINMENT FACILITY DURING THOSE DAYS THAT THE ENTERTAINMENT**
 18 **FACILITY IS OPEN FOR BUSINESS AND FROM 9:00 A.M. THROUGH 4:00 A.M. THE**
 19 **FOLLOWING DAY.**

20 **(VII) A CLASS EF LICENSE AUTHORIZES THE PLAYING OF**
 21 **MUSIC AND DANCING.**

22 **(VIII) THE ANNUAL LICENSE FEE IS \$15,000.**

23 6-401.

24 (a) (1) A Class D beer, wine and liquor license shall be issued by the
 25 license issuing authority of the county in which the place of business is located. It
 26 authorizes the holder to keep for sale and sell all alcoholic beverages at retail at the
 27 place described in it, for consumption on the premises or elsewhere. A license may not
 28 be issued for any drugstore.

29 (y) (1) This subsection applies only in Worcester County.

30 (2) (i) A Class D beer, wine and liquor license may be issued only
 31 within:

32 1. The corporate limits of Ocean City;

1 2. The boundary lines of the 10th taxing district;

2 3. The area bounded by U.S. Route 50 to the south,
3 Turville Creek and Herring Creek to the east, St. Martin River to the north, and
4 Maryland Route 589 to the west;

5 4. The area bounded by Maryland Route 589 to the
6 north and east, U.S. Route 50 to the south, and U.S. Route 113 to the west; and

7 5. From the intersection of Maryland Route 589 and
8 U.S. Route 50, an area bounded by a line that extends 1,500 feet south of U.S. Route
9 50, east to the boundary of the 10th taxing district, north along the 10th taxing
10 district boundary to U.S. Route 50, and west to the intersection of Maryland Route 589
11 and U.S. Route 50.

12 (ii) The annual license fee for the six-day license set by the
13 Worcester County Commissioners may not be less than \$3,000.

14 (iii) The annual license fee for the seven-day license set by the
15 Worcester County Commissioners may not be less than \$3,500.

16 (iv) Seven-day license holders may sell beer, wine and liquor
17 ~~(on sale OR OFF-SALE) and beer and light wine (off-sale)~~ ON-SALE AND OFF-SALE.

18 (v) All license fees shall go to the general funds of the county.
19 However, if the licensed premises are in a municipal corporation, 75 percent of the fees
20 shall go to that municipal corporation.

21 (vi) 1. Except as provided in subparagraph 2 of this
22 subparagraph, all licensees shall purchase all wines and liquors, except light wine and
23 beer, from the Worcester County Department of Liquor Control. They shall be charged
24 not more than 85 percent of the retail price or any special sale price or discount price,
25 whichever is lower, set by the Department for wines and liquors. All licensees may
26 purchase beer and light wine from licensed wholesalers.

27 2. Beginning on May 1, 2016, a licensee may elect to
28 purchase wine and liquor from a licensed wholesaler under § 15-204(e) of this article.

29 (vii) The hours for sale are as provided in § 11-524 of this article.

30 (viii) With respect to the Ocean City Convention Hall, only the
31 Convention Hall Commission and its successors may be issued an alcoholic beverages
32 license. The Commission may permit its vendors to dispense alcoholic beverages
33 pursuant to whatever license the Commission is granted. Further, the Commission
34 may contract to receive some proportion of the revenue derived from the vendor's sale
35 of alcoholic beverages. This license shall be subject to the following restrictions:

1 1. This monopoly may not impinge upon the provisions
2 of § 7–101(u)(5) of this article;

3 2. Only on–sale transactions shall be permitted; and

4 3. Consumption of alcoholic beverages shall be restricted
5 to the premises.

6 (3) (i) 1. A. The Board may issue a special 7–day Class D
7 beer, wine and liquor on–sale retail license to the Mayor of Ocean City for use on the
8 premises of the Ocean City municipal golf courses.

9 B. A separate license is required for each Ocean City
10 municipal golf course.

11 2. Prior to the issuance of any license under this
12 paragraph, the Mayor shall designate an individual to complete training in an alcohol
13 awareness program approved under § 13–101 of this article.

14 3. The individual designated by the Mayor shall:

15 A. Represent the concessionaire; and

16 B. Be directly involved with the management of the sale
17 of beer, wine, and liquor by the concessionaire.

18 (ii) The holder may contract with and permit a concessionaire to
19 keep for sale and sell beer, wine, and liquor for on premises consumption only.

20 (iii) The hours and days of sale under the license are the same as
21 a Class D beer, wine and liquor on–sale license under § 11–524 of this article or during
22 lesser hours specified by the holder.

23 (iv) A license shall be issued and renewed without charge or an
24 annual fee and may not be transferred.

25 11–304.

26 (a) (1) Between 2 a.m. and 6 a.m. on any day, a person may not consume
27 any alcoholic beverages on any premises open to the general public, any place of public
28 entertainment, or any place at which setups or other component parts of mixed
29 alcoholic drinks are sold under any license issued under the provisions of the Business
30 Regulation Article, and an owner, operator or manager of the premises or places may
31 not knowingly permit such consumption.

1 (iii) In Montgomery County, a holder of a caterer's license issued
2 under § 6-706.1 of this article; and

3 (iv) In Baltimore City, an establishment covered under §
4 20-102(a) of this article.

5 (2) This section does not apply to:

6 (i) Temporary alcoholic beverages licenses issued under §
7 7-101 of this article;

8 (ii) A Class E (on-sale) steamboat alcoholic beverages license;

9 (iii) A Class F (on-sale) railroad alcoholic beverages license; or

10 (iv) A Class G (on-sale) aircraft alcoholic beverages license.

11 (c) (1) A holder of any class of retail alcoholic beverages license or an
12 employee designated by the holder shall complete training in an approved alcohol
13 awareness program. The training shall be valid for a period of 4 years, and the holder
14 shall complete retraining in an approved program for each successive 4-year period.

15 (2) (i) This paragraph applies only in the following jurisdictions:

16 1. Howard County;

17 2. Montgomery County;

18 3. Kent County;

19 4. Washington County;

20 5. Caroline County; and

21 6. Except as provided in subparagraph (ii) of this
22 paragraph, Wicomico County **AND WORCESTER COUNTY**.

23 (ii) This paragraph does not apply to a licensee in Wicomico
24 County **OR WORCESTER COUNTY** with a Class C license.

25 (iii) The licensee or a person who is employed in a supervisory
26 capacity designated by the licensee:

27 1. Shall be certified by an approved alcohol awareness
28 program; and

1 2. Except as otherwise provided in subparagraph (iv) of
2 this paragraph, be present during the hours in which alcohol may be sold.

3 (iv) 1. In Howard County, Kent County, Washington County,
4 [and] Wicomico County, **AND WORCESTER COUNTY**, the person certified by an
5 approved alcohol awareness program may be absent from the licensed premises for a
6 bona fide personal or business reason or an emergency, if the absence lasts for not
7 more than 2 hours.

8 2. In Caroline County, the person certified by an
9 approved alcohol awareness program may be absent from the licensed premises for a
10 bona fide emergency, if the absence lasts for not more than 2 hours.

11 3. The Board of License Commissioners shall require the
12 licensee to keep a log book on the licensed premises that contains documentation of
13 each temporary absence, the length of time of the absence, and the reason for the
14 absence, in the form required by the Board of License Commissioners.

15 (3) (i) This paragraph applies only in Harford County.

16 (ii) The licensee or a person who is employed in a supervisory
17 capacity designated by the licensee shall be certified by an approved alcohol awareness
18 program and shall be present during the hours in which alcohol may be sold.

19 (4) (i) This paragraph applies only to an establishment covered
20 under § 20–102(a) of this article, in Baltimore City.

21 (ii) Any bottle club owner or a person who is employed in a
22 supervisory capacity designated by the owner shall be certified by an approved alcohol
23 awareness program and shall be present during the hours in which alcohol is served or
24 consumed.

25 (d) Any licensee who violates the provisions of subsection (c) of this section is
26 subject to:

27 (1) For the first offense, a \$100 fine; and

28 (2) For each subsequent offense, a fine not to exceed \$500 or a
29 suspension or revocation of the license or both.

30 (e) (1) The State Comptroller:

31 (i) Shall approve and certify each alcohol awareness program
32 that is in compliance with this section; and

33 (ii) May require recertification of the approved program to
34 insure compliance with any changes in the program.

1 (2) Any individual who is authorized or employed to teach an alcohol
2 awareness program must obtain an alcohol awareness instructor's permit.

3 (3) Each local licensing board is responsible for enforcing this section,
4 including the penalty provision.

5 (4) (i) A certificate of completion shall be issued for each
6 completion of a certified program and it shall be valid for 4 years from the date of
7 issuance.

8 (ii) An up-to-date valid certificate shall be presented to the
9 proper authority upon request.

10 (5) (i) Within 5 days after a licensee, bottle club owner, or an
11 employee of a licensee or bottle club owner is sent a certificate of completion, the
12 program provider shall inform the appropriate local licensing board of:

13 1. The individual's name, address, and certification date;
14 and

15 2. The name and address of the licensed establishment.

16 (ii) Any program provider who violates the provisions of this
17 subsection is subject to a decertification of the program by the State Comptroller.

18 (f) (1) This section may not be construed to create or enlarge any civil
19 cause of action or criminal proceeding against a licensee.

20 (2) Evidence of a violation of this section may not be introduced in any
21 civil or criminal proceeding, but may only be used as evidence before the local
22 licensing board in actions brought before the board for violations of this section.

23 (g) The Comptroller may issue regulations to set standards and
24 requirements pertaining to course content, course duration, course format and any
25 other course related activities the Comptroller may require.

26 (h) (1) This subsection applies only in Dorchester County.

27 (2) A certificate of completion of a certified alcohol awareness program
28 held by an employee or an employee's employer may not be used at more than one
29 licensed establishment.

30 15-204.

31 (e) (1) In this subsection, "Department" means the Worcester County
32 Department of Liquor Control.

1 (2) This subsection applies only in Worcester County.

2 (3) (i) Beginning on [May 1, 2016] **JULY 1, 2014**, a licensee in the
 3 county may elect to purchase wine or liquor from a licensed wholesaler by providing
 4 written notice of the licensee's intent to the Department at least 60 days before the
 5 date the purchasing activity is to start.

6 (ii) The notice shall contain:

7 1. The name of the licensee;

8 2. The name and address of the licensed premises; and

9 3. The date that the notice was sent to the Department.

10 (4) A licensee that meets the requirements of this subsection may
 11 purchase wine or liquor from a licensed wholesaler in addition to or instead of the
 12 Department.

13 (5) (i) The Department shall issue a letter of confirmation to a
 14 licensee that meets the requirements of this subsection.

15 (ii) The licensee shall display the letter conspicuously on the
 16 licensed premises.

17 15-205.

18 (1) (1) In Worcester County, subject to the approval of the County
 19 Commissioners, the Director of the Department of Liquor Control may purchase or
 20 otherwise acquire:

21 (1) (1) Real or personal property that the Director considers
 22 necessary to operate dispensaries, stores, or warehouses; and

23 (2) ~~Wine and liquor from any source for resale, REGARDLESS OF ANY~~
 24 ~~OTHER STATE LAW OR REGULATION TO THE CONTRARY, INCLUDING A~~
 25 ~~GOVERNMENT ALCOHOLIC BEVERAGE CONTROL DEPARTMENT OR AGENCY OF~~
 26 ~~ANOTHER STATE, ANY NONRESIDENT WHOLESALER WHETHER OR NOT~~
 27 ~~LICENSED IN THIS STATE, OR ACTING AS A WHOLESALER, FROM A LICENSED~~
 28 ~~WHOLESALER OR LIQUOR CONTROL BOARD WITHOUT THE TAX IMPOSED BY §~~
 29 ~~5-102 OF THE TAX GENERAL ARTICLE HAVING TO BE PAID, BUT MAY NOT BE~~
 30 ~~RESOLD UNTIL THE EXCISE TAX HAS BEEN PAID~~

31 (II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,
 32 WINE AND LIQUOR FROM ANY SOURCE FOR RESALE.

1 **(2) (i) 1. ACTING AS A WHOLESALER, THE DEPARTMENT OF**
 2 **LIQUOR CONTROL MAY PURCHASE WINE AND LIQUOR, ON WHICH THE EXCISE**
 3 **TAX HAS NOT BEEN PAID, FROM A LICENSED WHOLESALER.**

4 **2. THE DEPARTMENT OF LIQUOR CONTROL MAY**
 5 **ONLY RESELL THE WINE AND LIQUOR PURCHASED UNDER THIS SUBPARAGRAPH**
 6 **TO A NONDISPENSARY, LICENSED RETAILER AND ONLY AFTER THE EXCISE TAX**
 7 **HAS BEEN PAID.**

8 **(ii) ACTING AS A RETAILER, THE DEPARTMENT OF LIQUOR**
 9 **CONTROL MAY PURCHASE WINE AND LIQUOR, ON WHICH THE EXCISE TAX HAS**
 10 **BEEN PAID, FROM A LICENSED WHOLESALER FOR RETAIL SALE IN DISPENSARY**
 11 **STORES.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 13 July 1, 2013.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.