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April 28, 2014

The Honorable Martin O'Malley
Governor of Maryland
State House
100 State Circle
Annapolis, Maryland 21401-1991

RE: House Bill 1170, "Harford County – Alcoholic Beverages – Residency Requirements"

Dear Governor O'Malley:

We have reviewed House Bill 1170, "Harford County - Alcoholic Beverages - Residency Requirements," for constitutionality and legal sufficiency. Because House Bill 1170 relaxes existing residency requirements, and thus does not increase any unconstitutionality of the current law, we do not recommend veto of the bill.

Under current law, an applicant for an alcoholic beverages license in Harford County must be a resident of the County for at least one year prior to the filing of the application and must remain a resident as long as the license is in effect. House Bill 1170 changes this requirement for an applicant who acts on behalf of a partnership, an association, a limited liability company, a sole proprietorship, or a club or corporation, whether incorporated or unincorporated, requiring an applicant for a Class B restaurant or Class D Tavern license to be a resident of the State for at least one year before the filing of the application and to remain a resident as long as the license is in effect, and further requiring that the applicant reside within a 100-mile radius of the Town of Bel Air. An applicant for a license other than a Class B restaurant or Class D tavern license must be a resident of Harford County for one year before the filing of the application and must remain a resident as long as the license is in effect, and also must reside within a 100-mile radius of the Town of Bel Air. These provisions expand the area in which an applicant for a Class B restaurant or Class D tavern license may reside, but has no affect on applicants for other licenses, as there is no part of Harford County that is not within 100 miles of Bel Air. House Bill 1170 also amends a provision that requires that one

The Honorable Martin O'Malley

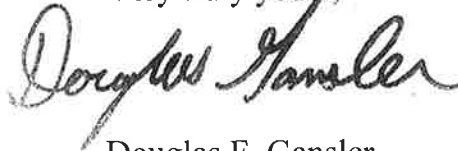
April 28, 2014

Page 2

applicant on behalf of a corporation or limited liability company be a responsible operator of the licensed establishment who has been a resident of the County and remain a resident of the County as long as the license is in effect. The amendment requires that the person be and remain a resident of the State and reside within a 100-mile radius of the Town of Bel Air. This provision also expands the current permissible area of residency.

In recent years, this office has noted a trend in which courts have rejected residency requirements for alcoholic beverages and other licenses. Bill Review Letter on House Bill 482 and Senate Bill 656 of 2006; Letter to the Honorable Jamie Raskin dated March 24, 2014; Letter to the Honorable Brian E. Frosh dated August 26, 2009. While it continues to be our view that it is entirely possible that residency requirements such as the ones in this bill will be found to be unconstitutional in the future, we cannot yet say that they are clearly unconstitutional. Furthermore, because House Bill 1170 expands the area where an applicant may reside in some circumstances, it does not increase any unconstitutionality of current law, and, therefore, we would not recommend veto of this bill.

Very truly yours,

A handwritten signature in cursive script that reads "Douglas F. Gansler". The signature is written in dark ink and is positioned above the printed name and title.

Douglas F. Gansler
Attorney General

DFG/KMR/kk

cc: The Honorable John P. McDonough
Jeanne D. Hitchcock
Karl Aro