

# HOUSE BILL 142

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CF 4r1755

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By: **Montgomery County Delegation**

Introduced and read first time: January 13, 2014

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County – Proportion of Food and Alcoholic Beverages Sales –**  
3 **Class B Licenses and Class B–BWL (H–M) Licenses**

4 **MC 14–14**

5 FOR the purpose of altering the proportion of future food and alcoholic beverages sales  
6 to which an applicant for a Class B beer, wine and liquor license in Montgomery  
7 County is required to attest, based on gross receipts, as a prerequisite to  
8 obtaining the license; altering the proportion of future food and alcoholic  
9 beverages sales to which an applicant for a Class B beer, wine and liquor license  
10 in the county is required to attest, based on gross receipts from sales during a  
11 certain period of time, as a prerequisite to renewing the license; altering a  
12 requirement regarding the proportion of food and alcoholic beverages sales,  
13 based on gross receipts, for a Class B–BWL (H–M) establishment in the county;  
14 making a stylistic change; and generally relating to alcoholic beverages in  
15 Montgomery County.

16 BY repealing and reenacting, without amendments,  
17 Article 2B – Alcoholic Beverages  
18 Section 6–201(a)  
19 Annotated Code of Maryland  
20 (2011 Replacement Volume and 2013 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article 2B – Alcoholic Beverages  
23 Section 6–201(q)  
24 Annotated Code of Maryland  
25 (2011 Replacement Volume and 2013 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article 2B – Alcoholic Beverages**

2 6–201.

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

8 (2) The annual fee for this license is payable to the local collecting  
9 agent before any license is issued, for distribution as provided in this article.

10 (3) (i) Except in Montgomery County or in the case of a contrary  
11 provision in this subtitle, this license shall be issued, on approval of the application by  
12 the board of license commissioners in any county in which a license may be issued for  
13 the sale of beer, wine, and liquor, to the owner of any hotel which meets the following  
14 minimum provisions:

15 1. The hotel building shall be originally constructed for  
16 hotel purposes; be at least three stories in height; and contain at least one passenger  
17 elevator;

18 2. The hotel shall contain no less than 100 rooms for the  
19 accommodation of the public;

20 3. The hotel shall contain a dining room with facilities  
21 for preparing and serving regular meals for at least 125 persons at one seating; and

22 4. The capital investment in the hotel facility may not be  
23 less than \$500,000.

24 (ii) The annual fee for this license is \$2,000.

25 (q) (1) (i) This subsection applies only in Montgomery County.

26 (ii) 1. In this subsection the following words have the  
27 meanings indicated.

28 2. “Board” means the Board of License Commissioners.

29 3. “Dining area” means the area occupied by patrons for  
30 the consumption of food and includes a cocktail area where food need not be served if  
31 there is no separate outdoor entrance to the cocktail area.

1                   (2)   (i)   1.    The Board may issue this license only to the owner of  
2 any restaurant or hotel.

3                                   2.    The restaurant shall be located in the second, third,  
4 fourth, sixth, seventh, eighth, ninth, tenth, or thirteenth election districts.

5                                   3.    The licensee may not be located in the Towns of  
6 Poolesville, Takoma Park, and Kensington.

7                                   (ii) 1.   As a prerequisite for the initial issuance of a license  
8 under this subsection, the owner shall attest in a sworn statement that gross receipts  
9 from food sales in the restaurant or hotel will be at least equal to **40% OF** the gross  
10 receipts from the sale of **FOOD AND** alcoholic beverages.

11                                   2.   As a prerequisite for each renewal of a license issued  
12 under this subsection, the owner shall attest in a sworn statement that the gross  
13 receipts from food sales in the restaurant or hotel for the 12-month period  
14 immediately preceding the application for renewal have been at least equal to **40% OF**  
15 the gross receipts from the sale of **FOOD AND** alcoholic beverages.

16                                   3.   The Board by regulation shall provide for periodic  
17 inspection of the premises and for audits to determine the ratio of gross receipts from  
18 the sale of food to gross receipts from the sale of alcoholic beverages.

19                                   4.   Any regulations adopted by the Board shall include a  
20 requirement of at least monthly physical inspections of the premises during the initial  
21 license year of any licensee and the submission by the licensee to the Board, during  
22 the initial license year, of monthly statements showing gross receipts from the sale of  
23 food and gross receipts from the sale of alcoholic beverages for the immediately  
24 preceding month.

25                                   5.   In the event that a licensee, during the initial license  
26 year, fails to maintain the sales ratio requirement provided in this paragraph for a  
27 period of three consecutive months or after the initial license year for each license or  
28 calendar year, the Board, in its discretion, may revoke the license. The Board may  
29 require any licensee to provide supporting data as it, in its discretion, deems  
30 necessary, in order to establish that the requirements of this section relating to the  
31 ratio of gross receipts from the sale of food to those from the sale of alcoholic beverages  
32 have been met.

33                                   (iii) A license issued under this subsection authorizes its holder  
34 to keep for sale and sell alcoholic beverages for consumption on the premises only, and  
35 alcoholic beverages may not be served to patrons or consumed at any bar, counter  
36 without seats, or other room but in the dining area. However, the seats in the cocktail  
37 area may not exceed **[25 percent] 25%** of the seats normally available for the general  
38 public in the dining area, including the cocktail area portion, but excluding special  
39 banquet and private party facilities.

1 (iv) Signs visible from the exterior of the building, advertising  
2 the sale of alcoholic beverages, are not permitted in connection with any restaurant or  
3 hotel holding a license issued under the provisions of this section except for the display  
4 of the menu then in use by the licensee.

5 (v) 1. The annual license fee is \$2,500.

6 2. For the third license that is not restricted by location  
7 and is obtained by a licensee under § 9–102.1 of this article, the annual fee is \$5,000.

8 (3) (i) There is a special Class B license known as Class B–BWL  
9 (H–M) which shall be issued only for hotels and motels that meet the minimum  
10 requirements set forth in subsection (a)(3) of this section. All of the privileges and  
11 restrictions provided for in paragraph (2) of this subsection are applicable to this  
12 special Class B license except that [the gross receipts from the sale of alcoholic  
13 beverages may not exceed the gross receipts from the sale of food, and] registered  
14 guests may be served in their rooms. In any instance where there is more than one  
15 licensed establishment within the hotel or motel, the foregoing sales ratio shall be  
16 applicable only to one license and that shall be the one that provides the food and  
17 beverage service to the conventions, banquets and other groups that utilize facilities  
18 within the hotel or motel.

19 (ii) The annual license fee is \$2,500.

20 (4) (i) In this paragraph, “performing arts facility” means a facility  
21 that is used for artistic, corporate, and community related activities.

22 (ii) There is a special Class B–BWL (performing arts facility)  
23 license.

24 (iii) The Board of License Commissioners may issue a special  
25 Class B–BWL (performing arts facility) license to apply only to a performing arts  
26 facility that has:

27 1. A minimum capital investment, not including real  
28 property, of \$1,000,000;

29 2. A minimum capacity of 1,500 persons; and

30 3. A food service facility permit and 40 seats in a food  
31 service area.

32 (iv) The Board may issue a special Class B–BWL (performing  
33 arts facility) license for use by a not–for–profit partnership, limited liability company,  
34 corporation, or other entity that leases the performing arts facility to host artistic,  
35 corporate, and community related activities.

1                   (v) 1. A special Class B–BWL (performing arts facility)  
2 license authorizes the holder to sell beer, wine, and liquor by the drink from one or  
3 more outlets on the licensed premises for consumption on the licensed premises.

4                   2. A holder of a special Class B–BWL (performing arts  
5 facility) license may only exercise the privileges under the license from 10:00 a.m. on  
6 any day until 2:00 a.m. the following day.

7                   3. A holder of a special Class B–BWL (performing arts  
8 facility) license may not sell alcoholic beverages at:

9                   A. A high school graduation held on the licensed  
10 premises; or

11                   B. A community meeting held, without food service, on  
12 the licensed premises.

13                   (vi) The Board may impose conditions on the issuance or  
14 renewal of a special Class B–BWL (performing arts facility) license that establish the  
15 areas in the performing arts facility where beer, wine, and liquor may be sold, served,  
16 possessed, or consumed.

17                   (vii) The Board may not approve the transfer of a special Class  
18 B–BWL (performing arts facility) license to another location.

19                   (viii) The annual license fee for a special Class B–BWL  
20 (performing arts facility) license is \$1,000.

21                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 July 1, 2014.