

HOUSE BILL 144

A2

4r0561
CF 4r1754

By: **Montgomery County Delegation**

Introduced and read first time: January 13, 2014

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County – Alcoholic Beverages – Class B Beer, Wine and Liquor**
3 **Licenses**

4 **MC 12-14**

5 FOR the purpose of removing certain geographic restrictions for Class B beer, wine
6 and liquor licenses issued in Montgomery County; altering the license fee for
7 certain Class B beer, wine and liquor licenses obtained in Montgomery County;
8 authorizing the Montgomery County Board of License Commissioners to issue a
9 Class B beer, wine and liquor license in certain locations; prohibiting the Board
10 from imposing on a holder of a Class B beer, wine and liquor license a limit on
11 the number of additional licenses of the same class and type that the holder
12 may apply for and be eligible to receive; repealing provisions of law allowing
13 certain holders of a Class B beer, wine and liquor license to obtain an additional
14 license or additional licenses, under certain circumstances; making a
15 conforming change; and generally relating to alcoholic beverages licenses in
16 Montgomery County.

17 BY repealing and reenacting, without amendments,
18 Article 2B – Alcoholic Beverages
19 Section 6-201(q)(1) and 8-216(a)(1)
20 Annotated Code of Maryland
21 (2011 Replacement Volume and 2013 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article 2B – Alcoholic Beverages
24 Section 6-201(q)(2), 8-216(a)(2), 9-102(a), and 9-102.1
25 Annotated Code of Maryland
26 (2011 Replacement Volume and 2013 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article 2B – Alcoholic Beverages**

4 6–201.

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

6 (ii) 1. In this subsection the following words have the
7 meanings indicated.

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

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

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

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

16 3. The licensee may not be located in the Towns of
17 Poolesville, Takoma Park, and Kensington.]

18 (ii) 1. As a prerequisite for the initial issuance of a license
19 under this subsection, the owner shall attest in a sworn statement that gross receipts
20 from food sales in the restaurant or hotel will be at least equal to the gross receipts
21 from the sale of alcoholic beverages.

22 2. As a prerequisite for each renewal of a license issued
23 under this subsection, the owner shall attest in a sworn statement that the gross
24 receipts from food sales in the restaurant or hotel for the 12–month period
25 immediately preceding the application for renewal have been at least equal to the
26 gross receipts from the sale of alcoholic beverages.

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

30 4. Any regulations adopted by the Board shall include a
31 requirement of at least monthly physical inspections of the premises during the initial
32 license year of any licensee and the submission by the licensee to the Board, during
33 the initial license year, of monthly statements showing gross receipts from the sale of

1 food and gross receipts from the sale of alcoholic beverages for the immediately
2 preceding month.

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

11 (iii) A license issued under this subsection authorizes its holder
12 to keep for sale and sell alcoholic beverages for consumption on the premises only, and
13 alcoholic beverages may not be served to patrons or consumed at any bar, counter
14 without seats, or other room but in the dining area. However, the seats in the cocktail
15 area may not exceed 25 percent of the seats normally available for the general public
16 in the dining area, including the cocktail area portion, but excluding special banquet
17 and private party facilities.

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

22 (v) [1.] The annual license fee is \$2,500.

23 [2. For the third license that is not restricted by location
24 and is obtained by a licensee under § 9–102.1 of this article, the annual fee is \$5,000.]
25 8–216.

26 (a) (1) In this subsection “place of business” does not include:

27 (i) A country club; or

28 (ii) A restaurant located within the country inn zone of
29 Montgomery County where alcoholic beverages are sold for consumption on the
30 premises only; provided that a maximum of 2 (two) such alcoholic beverages licenses
31 may be issued in any election district identified in paragraph (2) of this subsection.

32 (2) (i) Except as provided in subparagraphs (ii), (iii), (iv), (v), and
33 (vi) of this paragraph and in subsection (f) of this section, in Montgomery County, a
34 license for the sale of alcoholic beverages authorized by this article may not be issued
35 for any place of business located in Damascus (12th election district), and in the towns
36 of Barnesville, Kensington, Laytonsville, Washington Grove and the City of Takoma
37 Park.

1 (ii) In the town of Barnesville, the Montgomery County Board of
2 License Commissioners may issue:

3 1. **A CLASS B BEER, WINE AND LIQUOR LICENSE; OR**

4 2. [a] A special 7-day on-sale beer, wine and liquor
5 license to any bona fide religious, fraternal, civic, or charitable organization.

6 (iii) In the town of Kensington, the Montgomery County Board of
7 License Commissioners may issue:

8 1. **A CLASS B BEER, WINE AND LIQUOR LICENSE; OR**

9 2. [a] A special 2-day on-sale beer and wine license or a
10 special 2-day on-sale beer, wine and liquor license to any bona fide religious,
11 fraternal, civic, or charitable organization holding an event on municipal property
12 located at 3710 Mitchell Street, Kensington, Maryland.

13 (iv) 1. In the town of Kensington, the Montgomery County
14 Board of License Commissioners may issue a special B-K beer and wine license or a
15 special B-K beer, wine and liquor license for use on the premises of a restaurant
16 located in the following commercial areas:

17 A. The west side of Connecticut Avenue between
18 Knowles Avenue and Perry Avenue;

19 B. The east side of Connecticut Avenue between Knowles
20 Avenue and Dupont Street and between University Boulevard and Perry Avenue;

21 C. The west side of University Boulevard West;

22 D. Dupont Avenue, west of Connecticut Avenue;

23 E. Plyers Mill Road, west of Metropolitan Avenue;

24 F. Summit Avenue between Knowles Avenue and
25 Howard Avenue;

26 G. Detrick Avenue between Knowles Avenue and
27 Howard Avenue;

28 H. The southwest side of Metropolitan Avenue between
29 North Kensington Parkway and Plyers Mill Road;

30 I. East Howard Avenue;

1 J. Armory Avenue between Howard Avenue and
2 Knowles Avenue;

3 K. Montgomery Avenue between Howard Avenue and
4 Kensington Parkway; or

5 L. Kensington Parkway and Frederick Avenue, from
6 Montgomery Avenue to Silver Creek.

7 2. A special B–K beer, wine and liquor license or a
8 special B–K beer and wine license authorizes the holder to keep for sale and sell
9 alcoholic beverages for consumption on the premises only.

10 3. A licensee shall maintain average daily receipts from
11 the sale of food, not including carryout food, of at least 50% of the overall average daily
12 receipts.

13 4. In addition to the restrictions in subsubparagraphs 2
14 and 3 of this subparagraph, the holder of a special B–K beer and wine license or a
15 special B–K beer, wine and liquor license in the commercial areas specified in
16 subsubparagraph 1I, J, K, and L of this subparagraph may not serve alcoholic
17 beverages after 11 p.m.

18 (v) 1. In the town of Kensington, the Montgomery County
19 Board of License Commissioners may issue:

20 A. Not more than three Class A (off–sale) beer and light
21 wine licenses for use in the commercial areas specified in subparagraph (iv)1 of this
22 paragraph; and

23 B. Subject to subsubparagraphs 5 and 6 of this
24 subparagraph, not more than three beer and wine sampling or tasting (BWST)
25 licenses for holding tastings or samplings of beer and wine.

26 2. A Class A beer and light wine license authorizes the
27 holder to keep for sale and sell beer or light wine for consumption off the premises 7
28 days a week, from 10 a.m. to 8 p.m. daily.

29 3. A holder of a Class A beer and light wine license may
30 not:

31 A. Sell single bottles or cans of beer;

32 B. Sell refrigerated products; or

1 C. On a side, door, or window of the building of the
2 licensed premises, place a sign or other display that advertises alcoholic beverages in a
3 publicly visible location.

4 4. The annual license fee is \$250.

5 5. The Montgomery County Board of License
6 Commissioners may issue a beer and wine sampling or tasting (BWST) license
7 established under § 8–408.2 of this title to a holder of a Class A license under this
8 subparagraph for holding tastings or samplings of beer and wine.

9 6. A beer and wine sampling or tasting (BWST) license
10 issued under this subparagraph is subject to the fee, serving limits, and other license
11 requirements established under § 8–408.2 of this title.

12 (vi) In Damascus (12th election district), the Montgomery
13 County Board of License Commissioners may issue:

14 1. **A CLASS B BEER, WINE AND LIQUOR LICENSE; OR**

15 2. **[a] A special 7–day Class C on–sale beer, wine and**
16 **liquor license to any bona fide volunteer fire department.**

17 **(VII) IN WASHINGTON GROVE, THE MONTGOMERY COUNTY**
18 **BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS B BEER, WINE AND**
19 **LIQUOR LICENSE.**

20 9–102.

21 (a) (1) No more than one license provided by this article, except by way of
22 renewal or as otherwise provided in this section, shall be issued in any county or
23 Baltimore City, to any person, or for the use of any partnership, corporation,
24 unincorporated association, or limited liability company, in Baltimore City or any
25 county of the State.

26 (2) No more than one license shall be issued for the same premises
27 except as provided in §§ 2–201 through 2–208, 2–301, and 6–701 and Title 7.5 of this
28 article.

29 (3) This subsection may not be construed to apply to § 6–201(r)(4),
30 (15), (17), and (18), § 7–101(b) and (c), § 8–202(g)(2)(ii) and (iii), § 8–217(e), § 8–508, §
31 8–902, **§ 9–102.1**, § 9–217(b–1), or § 12–202 of this article.

32 9–102.1.

33 (a) This section applies only in Montgomery County.

1 (b) (1) In this section the following words have the meanings indicated.

2 (2) “Board” means the Board of License Commissioners.

3 [(3) “Enterprise zone” has the meaning stated in § 5–701 of the
4 Economic Development Article.]

5 [(4) (3) “License” means a Class B beer, wine and liquor on–sale
6 only license.

7 [(5) (4) “Original license” means a Class B license as set forth in §
8 6–201(q) of this article.

9 (c) (1) **THE BOARD MAY NOT IMPOSE ON A HOLDER OF A CLASS B
10 BEER, WINE AND LIQUOR LICENSE A LIMIT ON THE NUMBER OF ADDITIONAL
11 LICENSES OF THE SAME CLASS AND TYPE THAT THE HOLDER MAY APPLY FOR
12 AND BE ELIGIBLE TO RECEIVE.**

13 (2) After making an application and paying the fees, the holder of an
14 original license may obtain the additional license or licenses authorized by this
15 section.

16 (d) (1) A licensee may obtain additional licenses for premises operated as
17 a public hotel.

18 (2) An applicant for this additional license shall:

19 (i) Meet the minimum requirements set forth in § 6–201(a)(3) of
20 this article. If the capital investment in the hotel exceeds \$3,000,000, the building
21 height and elevator requirements required by that section do not apply; and

22 (ii) Have a minimum restaurant seating capacity, as specified in
23 § 6–201(a)(3) of this article, of 100 persons.

24 [(e) (1) A licensee may obtain one additional license for premises which
25 meet the qualifications specified in this subsection. For identification purposes, the
26 additional license may be referred to as a “1–year” license.

27 (2) An applicant for this additional license shall:

28 (i) Have the applicant’s place of business located in this State;

29 (ii) Have been the holder of a license for at least 1 year; and

1 (iii) Operate a restaurant, as defined by regulations of the
2 Board.

3 (3) This is an on-sale license only.

4 (f) (1) A licensee may obtain not more than two additional licenses for
5 premises which meet the qualifications specified in this subsection. For identification
6 purposes, this additional license may be referred to as an enterprise zone license.

7 (2) Each restaurant shall be located within one of two designated
8 enterprise zones, with not more than one restaurant in each enterprise zone.

9 (3) The requirement that the holder have been a licensee for 1 year
10 does not apply to this subsection.

11 (4) A licensee may obtain an additional license for a premises in a
12 designated enterprise zone, even after the incentives and initiatives for a business
13 entity in the designated enterprise zone are eliminated or reduced.

14 (g) (1) A licensee may obtain one additional license for premises which
15 meet the qualifications specified in this subsection. For identification purposes, this
16 additional license may be referred to as a "Rockville" license.

17 (2) The restaurant shall be located within the Rockville Town Center
18 zoned property.

19 (3) The requirement that the holder have been a licensee for 1 year
20 does not apply to this subsection.

21 (h) (1) A licensee may obtain one additional license for premises that meet
22 the qualifications specified in this subsection. For identification purposes, each
23 additional license may be referred to as a "Germantown" license.

24 (2) The restaurant shall be located within the Germantown Town
25 Center district.

26 (3) The requirement that the holder have been a licensee for 1 year
27 does not apply to this subsection.

28 (i) (1) A licensee may obtain up to one additional license for premises
29 that meet the qualifications specified in this subsection. For identification purposes,
30 each additional license may be referred to as a "Gaithersburg" license.

31 (2) The restaurant shall be located within the City of Gaithersburg.

32 (3) The requirement that the holder have been a licensee for 1 year
33 does not apply to this subsection.

1 (j) (1) A licensee may obtain up to one additional license for premises
2 that meet the qualifications specified in this subsection. For identification purposes,
3 each additional license may be referred to as a “Montgomery Village” license.

4 (2) The restaurant shall be located within the town sector zoned area
5 called Montgomery Village.

6 (3) The requirement that the holder have been a licensee for 1 year
7 does not apply to this subsection.

8 (k) (1) A licensee may obtain one additional license for premises that meet
9 the qualifications specified in this subsection. For identification purposes, each
10 additional license may be referred to as an “East County” license.

11 (2) The restaurant shall be located in an area bounded by the Howard
12 County–Montgomery County line on the north, the Prince George’s
13 County–Montgomery County line on the east, the Capital Beltway (I–495) on the
14 south, and a line 3,000 feet west of the center of Columbia Pike on the west.

15 (3) The requirement that the holder have been a licensee for 1 year
16 does not apply to this subsection.

17 (l) (1) A licensee may obtain a maximum of two additional licenses for
18 premises which meet the qualifications specified in this subsection. For identification
19 purposes, each additional license may be referred to as an “incentive” license.

20 (2) An applicant for an additional license shall:

21 (i) Have the applicant’s place of business located in this State;

22 (ii) Operate a restaurant, as defined by regulations of the
23 Board; and

24 (iii) Hold an enterprise zone license, a Rockville license, a
25 Germantown license, a Gaithersburg license, a Montgomery Village license, or an East
26 County license.

27 (3) A maximum of one incentive license may be issued for each
28 enterprise zone license, Rockville license, Germantown license, Gaithersburg license,
29 Montgomery Village license, or East County license.

30 (4) The requirement that the holder have been a licensee for 1 year
31 does not apply to this subsection.

32 (5) This is an on–sale license only.

1 (m) (1) A licensee may obtain one additional license for premises which
2 meet the qualifications specified in this subsection. For identification purposes, the
3 additional license may be referred to as a “5–year” license.

4 (2) An applicant for an additional license shall:

5 (i) Have the applicant’s place of business located in this State;

6 (ii) Have been for at least 5 years the holder of two licenses
7 under this section that are not restricted by location; and

8 (iii) Operate a restaurant, as defined by regulations of the
9 Board.

10 (3) This is an on–sale license only.

11 (n) (1) Subsection (o) of this section excludes additional licenses issued
12 pursuant to subsection (d) of this section, which relates to public hotels.

13 (2) This section does not permit the issuance to a person or for the use
14 of any partnership, corporation, unincorporated association, or limited liability
15 company of more than the number of licenses specified.

16 (o) (1) A licensee that holds an original license, may obtain a maximum of
17 9 additional licenses and may not hold more than 10 licenses altogether.

18 (2) Subject to the requirements of subsections (e) through (m) of this
19 section, a licensee may hold any combination of the following licenses:

20 (i) One 1–year license under subsection (e) of this section;

21 (ii) One 5–year license under subsection (m) of this section;

22 (iii) One enterprise zone license in each of two enterprise zones
23 under subsection (f) of this section;

24 (iv) One Rockville license under subsection (g) of this section;

25 (v) One Germantown license under subsection (h) of this
26 section;

27 (vi) One Gaithersburg license under subsection (i) of this section;

28 (vii) One Montgomery Village license under subsection (j) of this
29 section;

- 1 (viii) One East County license under subsection (k) of this section;
- 2 and
- 3 (ix) Two incentive licenses under subsection (l) of this section.]

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