HOUSE BILL 144

A2 4lr0561
CF SB 307

By: **Montgomery County Delegation**
Introduced and read first time: January 13, 2014
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 7, 2014

CHAPTER _____

AN ACT concerning

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

MC 12–14

FOR the purpose of ~~removing certain geographic restrictions for Class B beer, wine and liquor licenses issued in Montgomery County;~~ authorizing the Montgomery County Board of License Commissioners to issue a Class B beer, wine and liquor license to an operator of a restaurant or hotel; requiring, as a prerequisite for the initial issuance of a Class B beer, wine and liquor license, an operator of a restaurant or hotel to attest to a certain proportion of future food and alcoholic beverage sales based on gross receipts; requiring, as a prerequisite for each renewal of a Class B beer, wine and liquor license, an operator of a restaurant or hotel to attest to a certain proportion of food and alcoholic beverage sales based on gross receipts from sales during a certain period of time; repealing a prohibition on the serving or consumption of alcoholic beverages at any bar, counter without seats, or certain other areas of a restaurant or hotel for which a Class B beer, wine and liquor license is issued; repealing a certain limit on the number of seats in a cocktail area of a restaurant or hotel for which a Class B beer, wine and liquor license is issued; repealing a prohibition on the display of certain signs in connection with a restaurant or hotel for which a Class B beer, wine and liquor license is issued; altering the license fee for certain Class B beer, wine and liquor licenses obtained in Montgomery County; ~~authorizing the Montgomery County Board of License Commissioners to issue a Class B beer, wine and liquor license in certain locations; prohibiting the Board from~~

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.

~~imposing on a holder of a Class B beer, wine and liquor license a limit on the number of additional licenses of the same class and type that the holder may apply for and be eligible to receive~~ authorizing a person to hold a certain maximum number of Class B beer, wine and liquor licenses, with an exception allowing a licensee to obtain an additional license for a public hotel under certain conditions; repealing provisions of law allowing certain holders of a Class B beer, wine and liquor license to obtain an additional license or additional licenses, under certain circumstances; repealing certain definitions; making a conforming change; clarifying language; and generally relating to alcoholic beverages licenses in Montgomery County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6–201(q)(1) and ~~8–216(a)(1)~~ 8–216(a)(1), (d)(1), (e), and (f)
Annotated Code of Maryland
(2011 Replacement Volume and 2013 Supplement)

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

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

Article 2B – Alcoholic Beverages

6–201.

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

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

2. "Board" means the Board of License Commissioners.

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

(2) (i) ~~[~~1.~~]~~ The Board may issue this license only to the owner **OR OPERATOR** of any restaurant or hotel.

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

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

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

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

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

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

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

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

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

~~(v)~~ **(IV)** **[**1.**]** The annual license fee is $2,500.

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

8–216.

(a) (1) In this subsection "place of business" does not include:

(i) A country club; or

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

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

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

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

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

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

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

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

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

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

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

C. The west side of University Boulevard West;

D. Dupont Avenue, west of Connecticut Avenue;

E. Plyers Mill Road, west of Metropolitan Avenue;

F. Summit Avenue between Knowles Avenue and Howard Avenue;

G. Detrick Avenue between Knowles Avenue and Howard Avenue;

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

I. East Howard Avenue;

J. Armory Avenue between Howard Avenue and Knowles Avenue;

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

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

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

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

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

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

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

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

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

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

A. Sell single bottles or cans of beer;

B. Sell refrigerated products; or

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

4. The annual license fee is $250.

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

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

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

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

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

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

(d) (1) The Montgomery County Board of License Commissioners may issue, renew, and transfer and otherwise provide for 8 classes of alcoholic beverages licenses in the City of Takoma Park as follows:

(i) Class B (on–sale) beer and light wine, hotel and restaurant licenses;

(ii) Class H (on–sale) beer and light wine, hotel and restaurant licenses;

(iii) Class B (on–sale) beer, wine and liquor, hotel and restaurant licenses;

(iv) Class H–TP (on–sale) beer license;

(v) Class D–TP (on– and off–sale) beer and light wine license;

(vi) Class A–TP (off–sale) beer, wine and liquor license;

(vii) Class C–TP (on–sale) beer, wine and liquor license; and

(viii) Beer and wine sampling or tasting (BWST) licenses issued under § 8–408.2 of this title.

(e) The Board of License Commissioners may issue, renew, and transfer and otherwise provide a maximum of 2 Class H (on–sale) beer and light wine, hotel and restaurant licenses for use in the town of Laytonsville provided that:

(1) No license may be issued to any restaurant in which pool tables, billiard tables, shuffleboards, dart boards, video games, pinball machines, or recreational devices are used; and

(2) Alcoholic beverages served by a licensee may only be consumed by patrons while patrons are seated.

(f) The Montgomery County Board of License Commissioners may issue, renew, and transfer and otherwise provide Class H (on–sale) beer and light wine, hotel, and restaurant licenses for use in Damascus (12th election district) provided that:

(1) A license may not be issued to any restaurant in which pool tables, billiard tables, shuffleboards, dart boards, video games, pinball machines, or recreational devices are used; and

(2) Alcoholic beverages served by a licensee may be consumed by a patron only while the patron is seated.

9–102.

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

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

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

9–102.1.

(a) This section applies only in Montgomery County.

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

(2) "Board" means the Board of License Commissioners.

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

[(4)**] (3)** "License" means a Class B beer, wine and liquor on–sale only license.

~~**[**(5)**] (4)** "Original license" means a Class B license as set forth in § 6–201(q) of this article.~~

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

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

~~(d)~~ ~~(1)~~ **(C)** **(1)** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY HOLD A MAXIMUM OF 10 LICENSES.**

(2) **(I)** A licensee may obtain additional licenses for premises operated as a public hotel.

~~(2)~~ **(II)** An applicant for this additional license shall:

~~(i)~~ **1.** Meet the minimum requirements set forth in § 6–201(a)(3) of this article. If the capital investment in the hotel exceeds $3,000,000, the building height and elevator requirements required by that section do not apply; and

~~(ii)~~ **2.** Have a minimum restaurant seating capacity, as specified in § 6–201(a)(3) of this article, of 100 persons.

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

(2) An applicant for this additional license shall:

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

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

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

(3) This is an on–sale license only.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) An applicant for an additional license shall:

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

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

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

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

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

(5) This is an on–sale license only.

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

(2) An applicant for an additional license shall:

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

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

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

(3) This is an on–sale license only.

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

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

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

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

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

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

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

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

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

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

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

(viii) One East County license under subsection (k) of this section; and

(ix) Two incentive licenses under subsection (l) of this section.**]**

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.