

# HOUSE BILL 95

A2

5lr0832

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By: **Montgomery County Delegation**

Introduced and read first time: January 23, 2015

Assigned to: Economic Matters

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Committee Report: Favorable

House action: Adopted

Read second time: March 3, 2015

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **City of Gaithersburg – Licensed Alcoholic Beverages Restaurants – Distance**  
3 **from Churches or Other Places of Worship**

4 **MC 23–15**

5 FOR the purpose of authorizing the Montgomery County Board of License Commissioners  
6 by unanimous vote to approve an application for a Class B beer, wine and liquor  
7 license for a restaurant located in the City of Gaithersburg in Montgomery County  
8 that meets certain requirements, including a requirement concerning the distance of  
9 the restaurant from a church or other place of worship; specifying that the Class B  
10 beer, wine and liquor license authorizes the license holder to keep for sale and sell  
11 alcoholic beverages for consumption on the premises only; and generally relating to  
12 alcoholic beverages licenses in the City of Gaithersburg in Montgomery County.

13 BY repealing and reenacting, with amendments,  
14 Article 2B – Alcoholic Beverages  
15 Section 9–216  
16 Annotated Code of Maryland  
17 (2011 Replacement Volume and 2014 Supplement)

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

20 **Article 2B – Alcoholic Beverages**

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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 9–216.

2 (a) (1) Except as provided in paragraph (3) of this subsection, the Montgomery  
3 County Board of License Commissioners may not issue any license to sell alcoholic  
4 beverages within 750 feet of any secondary or elementary school, church or other place of  
5 worship, or youth center sponsored or conducted by any governmental agency.

6 (2) Measurement of the required distance shall be made from the nearest  
7 point of the building of the proposed establishment for which the license is requested to the  
8 nearest point of the building of the school, church or other place of worship, or youth center.

9 (3) The Montgomery County Board of License Commissioners may by  
10 majority vote approve the application for any license to sell alcoholic beverages more than  
11 300 feet from any elementary or secondary school, church or other place of worship, or youth  
12 center sponsored or conducted by any governmental agency provided that the land upon  
13 which the building is situated in which the licensee would operate is classified in a  
14 commercial or industrial zone under the applicable zoning ordinance and is adjacent or  
15 contiguous to other land which is similarly classified under the zoning ordinance.

16 (4) Nothing in this section shall apply to or affect or prohibit, in any  
17 manner, the renewal, transfer, or reissuance of a prior license of any license of any  
18 establishment where subsequent to the original granting of the license a school, church or  
19 other place of worship, or youth center was erected within 750 feet of the establishment.

20 (5) For the purposes of this section, reissuance shall be limited to a new  
21 license for the establishment issued within 1 year from the date of expiration or revocation  
22 of a prior license provided the revocation did not result from acts of the owner of the  
23 establishment.

24 (6) This subsection does not apply to a special culinary school license issued  
25 under § 8–216.3 of this article.

26 (b) (1) In this subsection, “Takoma Park Transit Impact Area” means the  
27 Takoma Park Transit Impact Area as approved and adopted in the sector plan for Takoma  
28 Park, Montgomery County, Maryland.

29 (2) Notwithstanding the provisions of subsection (a) of this section, the  
30 Montgomery County Board of License Commissioners by unanimous vote may approve an  
31 application for an alcoholic beverages license of an applicant for a restaurant establishment  
32 which is located on land classified in or near a CBD zone (central business district zone), in  
33 or near the Rockville Town Center Performance District, in or near the Takoma Park  
34 Transit Impact Area, or in or near the Kensington commercial areas specified in §  
35 8–216(a)(2)(iv)1 of this article, if the following conditions are satisfied:

36 (i) 1. If the restaurant building is outside the respective zone,  
37 district, or area the measurement of the distance of the nearest point of the restaurant

1 building to the nearest boundary line of the respective zone, district, or area is 500 feet or  
2 less; or

3                                   2. The restaurant building is entirely contained in land  
4 classified in the respective zone, district, or area;

5                                   (ii) The issuance of the requested license will not adversely affect  
6 nearby schools, churches, youth centers or the nearest residential community; and

7                                   (iii) Except for the distance restrictions provided in subsection (a) of  
8 this section, the restaurant otherwise qualifies under this article for the issuance of the  
9 license requested.

10                               (3) Any license issued under this subsection authorizes its holder to keep  
11 for sale and sell alcoholic beverages for consumption on the premises only.

12                               (c) (1) Notwithstanding the provisions of subsection (a) of this section, the  
13 Montgomery County Board of License Commissioners by unanimous vote may approve an  
14 application for an alcoholic beverages license of an applicant for a restaurant that is in  
15 existence as of June 1, 2004, and located in the Rockshire Planned Residential Unit  
16 development of the City of Rockville, if the following conditions are satisfied:

17                                   (i) The restaurant building is entirely contained on land located  
18 within the Rockshire Planned Residential Unit development area;

19                                   (ii) The issuance of the license will not adversely affect nearby  
20 schools, churches, youth centers, or the nearest residential community; and

21                                   (iii) Except for the distance restrictions provided in subsection (a) of  
22 this section, the restaurant otherwise qualifies under this article for the issuance of the  
23 license requested.

24                               (2) Any license under this subsection authorizes its holder to keep for sale  
25 and sell alcoholic beverages for consumption on the premises only.

26                               (d) (1) In this subsection, "Burtonsville Town Square" means the shopping  
27 center located in Montgomery County at the northwest corner of MD 198 and US 29a.

28                               (2) Notwithstanding the provisions of subsection (a) of this section, the  
29 Montgomery County Board of License Commissioners by unanimous vote may approve an  
30 application for an alcoholic beverages license of an applicant for a restaurant that is located  
31 in Burtonsville Town Square if the following conditions are satisfied:

32                                   (i) The issuance of the license will not adversely affect nearby  
33 schools, churches, youth centers, or the nearest residential community; and

1                   (ii) Except for the distance restrictions provided in subsection (a) of  
2 this section, the restaurant otherwise qualifies under this article for the issuance of the  
3 license requested.

4                   (3) Any license under this subsection authorizes its holder to keep for sale  
5 and sell alcoholic beverages for consumption on the premises only.

6           (e)   (1) In this subsection, "Hillandale Shopping Center" means the shopping  
7 center located in Montgomery County at the northeast corner of MD 650 and Interstate  
8 495.

9                   (2) Notwithstanding the provisions of subsection (a) of this section, the  
10 Montgomery County Board of License Commissioners by unanimous vote may approve an  
11 application for an alcoholic beverages license of an applicant for a restaurant that is located  
12 in the Hillandale Shopping Center if the following conditions are satisfied:

13                   (i) The issuance of the license will not adversely affect nearby  
14 schools, churches, youth centers, or the nearest residential community; and

15                   (ii) Except for the distance restrictions provided in subsection (a) of  
16 this section, the restaurant otherwise qualifies under this article for the issuance of the  
17 license requested.

18                   (3) Any license under this subsection authorizes its holder to keep for sale  
19 and sell alcoholic beverages for consumption on the premises only.

20           (f)   (1) In this subsection, "Rock Spring Centre" means the mixed use center  
21 located in Montgomery County bordered by Rock Spring Drive, Rockledge Drive, Interstate  
22 270, and Old Georgetown Road in Bethesda.

23                   (2) Notwithstanding the provisions of subsection (a) of this section, the  
24 Montgomery County Board of License Commissioners by unanimous vote may approve an  
25 application for an alcoholic beverages license of an applicant for an establishment that is  
26 located in the Rock Spring Centre if the following conditions are satisfied:

27                   (i) The issuance of the license will not adversely affect nearby  
28 schools, churches, youth centers, or the nearest residential community; and

29                   (ii) Except for the distance restrictions provided in subsection (a) of  
30 this section, the establishment otherwise qualifies under this article for the issuance of the  
31 license requested.

32                   (3) Any license under this subsection authorizes its holder to keep for sale  
33 and sell alcoholic beverages for consumption on the premises only.

34           **(G)   (1) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (A) OF THIS**  
35 **SECTION, THE MONTGOMERY COUNTY BOARD OF LICENSE COMMISSIONERS BY**

1 MAJORITY VOTE MAY APPROVE AN APPLICATION FOR A RESTAURANT FOR A CLASS  
2 B BEER, WINE AND LIQUOR LICENSE IF THE FOLLOWING CONDITIONS ARE  
3 SATISFIED:

4 (I) THE RESTAURANT IS LOCATED IN A SHOPPING CENTER IN  
5 THE CITY OF GAITHERSBURG IN MONTGOMERY COUNTY THAT IS BORDERED BY  
6 MARYLAND ROUTE 355, CENTRAL AVENUE, POPLARWOOD PLACE, AND NORTH  
7 WESTLAND DRIVE;

8 (II) THE RESTAURANT IS LOCATED MORE THAN 275 FEET FROM  
9 ANY CHURCH OR OTHER PLACE OF WORSHIP; AND

10 (III) A PRIOR OWNER OR TENANT AT THE SITE OF THE  
11 RESTAURANT HELD AN ALCOHOLIC BEVERAGES LICENSE.

12 (2) THE CLASS B BEER, WINE AND LIQUOR LICENSE UNDER THIS  
13 SUBSECTION AUTHORIZES ITS HOLDER TO KEEP FOR SALE AND SELL ALCOHOLIC  
14 BEVERAGES FOR CONSUMPTION ON THE PREMISES ONLY.

15 [(g)](H) (1) Subject to the provisions of paragraph (2) of this subsection, the  
16 Montgomery County Board of License Commissioners may not issue any class of alcoholic  
17 beverages license for use in a business establishment that sells motor vehicle fuel to  
18 motorists from a fuel pump that is located on the premises.

19 (2) The Montgomery County Board of License Commissioners may renew  
20 an alcoholic beverages license that has been issued for use in a business establishment that  
21 sells motor vehicle fuel to motorists from a fuel pump that is located on the premises if the  
22 license was in existence on January 1, 1989.

23 [(h)](I) (1) The Montgomery County Board of License Commissioners may  
24 issue and renew an alcoholic beverages license that the board previously issued for  
25 premises on which a lawful nonconforming use exists.

26 (2) The Board of License Commissioners may not issue a license that is less  
27 restrictive than any license that the board previously issued for the premises.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
29 1, 2015.