

HOUSE BILL 95

A2

5lr0832

By: **Montgomery County Delegation**

Introduced and read first time: January 23, 2015

Assigned to: Economic Matters

A BILL ENTITLED

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**

21 9–216.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

4 (3) The Montgomery County Board of License Commissioners may by
5 majority vote approve the application for any license to sell alcoholic beverages more than
6 300 feet from any elementary or secondary school, church or other place of worship, or youth
7 center sponsored or conducted by any governmental agency provided that the land upon
8 which the building is situated in which the licensee would operate is classified in a
9 commercial or industrial zone under the applicable zoning ordinance and is adjacent or
10 contiguous to other land which is similarly classified under the zoning ordinance.

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

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

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

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

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

31 (i) 1. If the restaurant building is outside the respective zone,
32 district, or area the measurement of the distance of the nearest point of the restaurant
33 building to the nearest boundary line of the respective zone, district, or area is 500 feet or
34 less; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (e) (1) In this subsection, "Hillandale Shopping Center" means the shopping
2 center located in Montgomery County at the northeast corner of MD 650 and Interstate
3 495.

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

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

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

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

15 (f) (1) In this subsection, "Rock Spring Centre" means the mixed use center
16 located in Montgomery County bordered by Rock Spring Drive, Rockledge Drive, Interstate
17 270, and Old Georgetown Road in Bethesda.

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

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

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

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

29 **(G) (1) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (A) OF THIS**
30 **SECTION, THE MONTGOMERY COUNTY BOARD OF LICENSE COMMISSIONERS BY**
31 **MAJORITY VOTE MAY APPROVE AN APPLICATION FOR A RESTAURANT FOR A CLASS**
32 **B BEER, WINE AND LIQUOR LICENSE IF THE FOLLOWING CONDITIONS ARE**
33 **SATISFIED:**

34 **(I) THE RESTAURANT IS LOCATED IN A SHOPPING CENTER IN**
35 **THE CITY OF GAITHERSBURG IN MONTGOMERY COUNTY THAT IS BORDERED BY**

1 **MARYLAND ROUTE 355, CENTRAL AVENUE, POPLARWOOD PLACE, AND NORTH**
2 **WESTLAND DRIVE;**

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

5 **(III) A PRIOR OWNER OR TENANT AT THE SITE OF THE**
6 **RESTAURANT HELD AN ALCOHOLIC BEVERAGES LICENSE.**

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

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

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

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

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

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
24 1, 2015.