

**HB0617/263891/1**

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL 617

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Commissioners, and” and substitute “Salaries,”; in line 3, after “Inspectors” insert “, and Bottle Clubs”; in line 5, after “of” insert “altering in Prince George’s County a certain requirement that must be included in certain regulations that define a catering establishment for the purpose of a certain license;”; in the same line, strike “in Prince George’s County”; in line 7, strike the first “or” and substitute a comma; strike beginning with the semicolon in line 7 down through “a” in line 8 and substitute a comma; strike beginning with “, unless” in line 9 down through “licenses” in line 11; strike beginning with the second “repealing” in line 12 down through “privilege;” in line 16 and substitute “providing that certain provisions of law prohibiting a license from being granted to sell alcoholic beverages in buildings within a certain distance of places of worship and schools do not apply to a certain license;”; in line 16, strike “and” and substitute a comma; in the same line, after “chairman” insert “, and the attorney”; in line 18, after “inspector;” insert “providing that inspectors have the authority to order that a bottle club be closed under a certain provision of this Act; authorizing the Board or an inspector to order that a bottle club be closed immediately under certain circumstances; requiring, under certain circumstances, the Board or a certain inspector to give the owner or operator of a certain bottle club certain notice; requiring the Board to hold a certain hearing within a certain time period; requiring the Board at a certain hearing to determine whether a certain threat continues to exist; authorizing, except under certain circumstances, the Board, after making a certain determination, to order a certain bottle club to permanently close or impose certain conditions for reopening the bottle club; requiring, under certain circumstances, the Board to order a certain bottle club to be permanently closed; authorizing the Board to impose a certain fine on a certain person; authorizing an owner or operator of a bottle club who is aggrieved by a certain decision to petition for judicial review to a circuit court;”; in line 19, after “changes;” insert “providing for the application of a certain”

(Over)

provision of this Act;”; in line 23, after “Section” insert “6-201(r)(8).”; in the same line, strike “9-217(f)(5), (j), and (l)” and substitute “9-217(f)(3)”; in the same line, strike “15-109(r)(2), and” and substitute “15-109(r).”; in the same line, after “15-112(r)(3)” insert “, and 20-108.1”; in line 28, after “9-217(a)” insert “, (f)(5), and (j)”; and in the same line, strike “, 15-109(r)(1).”.

On page 2, after line 2, insert:

“BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 9–217(e)

Annotated Code of Maryland

(2011 Replacement Volume and 2014 Supplement)

(As enacted by Chapter 144 of the Acts of the General Assembly of 2013)”.

AMENDMENT NO. 2

On page 2, after line 5, insert:

“6–201.

(r) (8) (i) There is a Class BCE license.

(ii) The annual license fee is \$3,630.

(iii) The Board may issue a special Class B on–sale beer, wine and liquor license to be known as Class BCE which shall be issued only to catering establishments.

(iv) A catering establishment shall be defined by the regulations of the Board which shall require that:

1. The catering establishment have a minimum capital investment of [~~\$500,000~~] **\$1,000,000** for dining room facilities and kitchen equipment. This sum may not include the cost of land, buildings, or a lease; and

2. A minimum seating capacity of 150 persons.

(v) The Board shall prescribe regulations pertaining to the hours and days of sale.

(vi) Food shall be served with alcoholic beverages.

(vii) A Class BCE license is limited and restricted to the purpose of providing alcoholic beverages for consumption on the licensed premises by participants of catered events only, and off-sale privileges may not be exercised.”;

in lines 20 and 26, in each instance, strike the bracket; and in line 23, strike “Prince George’s County” and substitute “**THE STATE**”.

On page 3, in lines 5, 7, 9, 11, 13, and 17, in each instance, strike the bracket; in line 5, strike “**(4)**”; in lines 7 and 8, strike “Prince George’s County” and substitute “**STATE**”; in lines 11 and 13, strike “**(II)**” and “**(III)**”, respectively; in line 23, before “(7)” insert an opening bracket; after line 26, insert:

“(e) (1) (i) Except as provided in subparagraphs (ii), (iii), and (iv) of this paragraph, a license may not be granted to sell alcoholic beverages in any building located within 1,000 feet of a school building, or within 500 feet of a place of worship. The 1,000 feet, or the 500 feet, as the case may be, is to be measured from the front door or main entrance, whichever is nearest the street abutting the premises, of the proposed licensed establishment along the nearest usual pedestrian route to the door closest to the licensed premises which is used as an entrance or exit to any school, or to the main entrance of the place of worship.

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(ii) In the part of the Gateway Arts and Entertainment District located in the City of Hyattsville, as designated by the Secretary of Business and Economic Development, the front door or main entrance of an establishment for which a Class D beer and wine license is issued may be used if the door or entrance is at least 350 feet from a place of worship.

(iii) In the City of College Park, a license may be granted to sell alcoholic beverages in a building located more than 400 feet from a school building if the land on which the proposed licensed establishment is located is in a commercial district.

(iv) In the City of Laurel, a license may be granted to sell alcoholic beverages in any building regardless of its distance from a place of worship.

(2) This restriction does not apply in the case of a place of worship if the governing body of the place of worship concerned consents in writing to the granting of the license. The consent shall be filed with the application. The license of any person or persons or for the use of a corporation or unincorporated association issued for any building located within the requisite distance from a place of worship or school building may be renewed or extended for the same building.

(3) This restriction does not apply to any transfer or assignment of a license located within the distance of 1,000 feet to another place of business within the specified distance or to an assignee of the license within the distance of the same place of worship or school building.

(4) This does not apply to the issuance of a license for a place of business, not having an alcoholic beverage license, to which an alcoholic beverage license had been issued and was in force and effect on June 1, 1965, as to a license of the same class which was in force and effect as of that date, applied for in the place of business nor to a renewal of a license of any establishment where, subsequent to the original granting of the license a school building or place of worship was erected within 1,000 feet.

(5) This subsection does not apply to any license issued under § 6–201(r)(3), (4), (6), (8), (15), (16), or (18) or § 7–101 of this article.

(6) This restriction does not apply in the case of a private kindergarten or nursery school.

(f) (3) Notwithstanding other provisions of this subsection or other provisions of this article, the Board of License Commissioners may permit an individual, partnership, or corporation to hold or have an interest in [not more than four] AN UNLIMITED NUMBER OF BH licenses.”;

and in line 27, strike “(f)”.

On page 5, in lines 3, 5, 8, and 9, in each instance, strike the bracket; and in line 9, strike “RESERVED”.

On pages 5 through 11, strike in their entirety the lines beginning with line 10 on page 5 through line 2 on page 11, inclusive.

On page 11, after line 8, insert:

“(3) The Board shall meet at least two times per month.

(4) (i) The administrator of the Board shall be appointed by and serve at the will of the Board and shall devote full time and attention to the duties of the Board.

(ii) The administrator may receive an annual salary of \$40,705 as determined by the Board of License Commissioners after a performance evaluation.

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(5) (i) The attorney for the Board shall be appointed by, and serve at the will of, the Board.

(ii) The attorney shall receive an annual salary of ~~[\$15,500]~~ **\$18,500.**

(iii) In addition to the annual salary designated in subparagraph (ii) of this paragraph, the County Council shall pay to the attorney for the Board:

1. All court costs and expenses incurred therein by the attorney to the Board; and

2. Legal fees that the Board approves for representing the Board in court.

(iv) The Board shall establish the fee rate for representing the Board in court.

(6) (i) The County Council shall pay for all expenses of the Board of License Commissioners upon the submission of an annual budget.

(ii) In that budget, the salary of the members of the Board, the salary of the attorney for the Board, and any additional compensation for legal fees for the attorney for the Board, shall be approved as hereinbefore set forth.

(iii) Except as provided in subparagraph (iv) of this paragraph, all other expenses, including, but not restricted to, the salary of the administrator as limited herein, compensation of other personnel, who shall be qualified and employed under the county merit system, printing, supplies, and office space, shall be at the discretion of the County Council.

(7) (i) Members of the Board of Alcoholic Beverages License Commissioners and the attorney for the Board are eligible for:

1. All county health benefits; and
2. Membership in and retirement benefits of the State Employees' Pension System.

(ii) The health benefits under this paragraph include:

1. Hospitalization;
2. Vision care;
3. Prescriptions;
4. Dental care;
5. Life insurance; and
6. Expense reimbursement.

(iii) The administrator of the Board of License Commissioners is eligible to participate in the County's supplemental retirement plan.

(iv) The County Executive and the County Council may not adopt, either through public local law or personnel law, any policy contrary to the provisions of subparagraph (i) or (iii) of this paragraph.”.

AMENDMENT NO. 3

On page 11, in line 19, strike “and”; after line 19, insert:

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**“5. HAVE THE AUTHORITY TO ORDER THAT A BOTTLE CLUB BE CLOSED IMMEDIATELY UNDER § 20-108.1 OF THIS ARTICLE; AND”;**

in line 20, strike “5.” and substitute “6.”; and after line 31, insert:

“20-108.1.

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

(2) (i) “Bottle club” means a premises or establishment that:

1. Is subject to any license issued by the State or Prince George’s County; and

2. A. Serves, gives, dispenses, keeps, or allows to be consumed by a patron alcoholic beverages from supplies that the patron purchased, reserved, or otherwise brought to the premises or establishment; or

B. Serves, gives, dispenses, or allows to be consumed by a patron paying admission alcoholic beverages from supplies purchased or otherwise brought to the premises or establishment by an owner or operator or an agent of an owner or operator.

(ii) “Bottle club” includes a restaurant, hotel, club, room, dance studio, disco, place of public entertainment, or other place open to the public.

(iii) “Bottle club” does not include any establishment for which a license for the premises has been issued under the provisions of this article.

(3) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display prohibited under § 10-405 of this article.

(4) “Setups” includes drinking containers and ice.

(b) This section applies only in Prince George’s County.

(c) (1) A person may not serve or dispense setups or serve, dispense, keep, or allow to be consumed any alcoholic beverages or other component parts of mixed alcoholic drinks in a place of public entertainment.

(2) An owner or operator of a bottle club may not:

(i) Evade the alcoholic beverage license laws in the county, including laws governing the hours of operation; and

(ii) Sell, give, serve, dispense, keep, or allow to be consumed in the bottle club any alcoholic beverage, setups, or other component parts of mixed alcoholic drinks.

**(D) (1) THE BOARD OR AN INSPECTOR OF THE BOARD MAY ORDER THAT A BOTTLE CLUB BE CLOSED IMMEDIATELY IF THE BOARD OR THE INSPECTOR DETERMINES THAT THE PUBLIC HEALTH, SAFETY, OR WELFARE REQUIRES EMERGENCY ACTION.**

**(2) IF AN IMMEDIATE CLOSURE IS ORDERED, THE BOARD OR THE INSPECTOR WHO ORDERED THE CLOSURE SHALL GIVE THE OWNER OR OPERATOR OF THE BOTTLE CLUB:**

**(I) WRITTEN NOTICE OF AND THE REASONS FOR THE CLOSURE; AND**

(II) WRITTEN NOTICE OF A HEARING ON THE CLOSURE AT WHICH THE OWNER OR OPERATOR MAY BE HEARD AND PRESENT EVIDENCE.

(3) THE BOARD SHALL HOLD THE HEARING WITHIN 3 BUSINESS DAYS AFTER THE CLOSURE.

(4) (I) AT THE HEARING, THE BOARD SHALL DETERMINE WHETHER THE THREAT TO THE PUBLIC HEALTH, SAFETY, OR WELFARE CAUSING THE CLOSURE CONTINUES TO EXIST.

(II) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, IF THE BOARD DETERMINES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT THE THREAT CONTINUES, THE BOARD MAY:

1. ORDER THE PERMANENT CLOSURE OF THE BOTTLE CLUB; OR

2. IMPOSE CONDITIONS UNDER WHICH THE BOTTLE CLUB MAY REOPEN.

(III) THE BOARD SHALL ORDER THE BOTTLE CLUB TO BE PERMANENTLY CLOSED IF:

1. THE CLOSURE UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR WHICH THE HEARING IS BEING HELD IS THE THIRD CLOSURE IN A 2-YEAR PERIOD; AND

2. THE PREVIOUS TWO CLOSURES UNDER PARAGRAPH (1) OF THIS SUBSECTION WERE NOT OVERTURNED BY THE BOARD OR ON JUDICIAL REVIEW.

(5) THE BOARD MAY IMPOSE A FINE OF NOT MORE THAN \$12,500 PER VIOLATION ON A PERSON WHO THE BOARD FINDS HAS VIOLATED THIS SECTION.

(6) THE BOARD SHALL ISSUE A DECISION WITHIN 3 BUSINESS DAYS AFTER A HEARING IS HELD UNDER PARAGRAPH (4) OF THIS SUBSECTION.

(7) AN OWNER OR OPERATOR WHO IS AGGRIEVED BY A DECISION OF THE BOARD MAY PETITION FOR JUDICIAL REVIEW TO A CIRCUIT COURT.

[(d)](E) [A] IN ADDITION TO ANY OTHER PENALTY AUTHORIZED BY LAW, A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding \$10,000 or both.

SECTION 2. AND BE IT FURTHER ENACTED, That § 6-201(r)(8)(iv)1 of Article 2B of the Annotated Code of Maryland, as enacted by Section 1 of this Act, shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to a Class BCE license issued before the effective date of this Act.”.

On page 12, in line 1, strike “2.” and substitute “3.”.