

## Chapter 750

## (Senate Bill 118)

AN ACT concerning

**Baltimore City – ~~Alcoholic Beverages – Waivers –~~ Board of License Commissioners – New Licenses, Waivers, and License Transfers**

FOR the purpose of requiring that an appointment to the Board of License Commissioners for Baltimore City made when the Senate is not in session be subject to the advice and consent of the Senate when the Senate next convenes; authorizing the Board to issue a Class D beer, wine, and liquor license to a certain applicant; providing that a certain Class D beer, wine, and liquor license may be transferred only to a certain license holder; authorizing the Board of License Commissioners of Baltimore City to waive the minimum capital investment requirement and the minimum seating requirement for an additional licensed restaurant under certain circumstances; authorizing the transfer of certain alcoholic beverages licenses from certain areas in Baltimore City to other areas in Baltimore City; specifying that a certain license is considered unexpired until a certain date for a certain purpose; specifying that, unless transferred to another location, a certain license expires not later than a certain date; making this Act an emergency measure; and generally relating to alcoholic beverages licenses issued in Baltimore City.

BY repealing and reenacting, without amendments,  
 Article – Alcoholic Beverages  
 Section 12-102 and 12-202(a)(1)  
 Annotated Code of Maryland  
 (2016 Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Alcoholic Beverages  
 Section 12-202(a)(2), 12-1604, 12-1609, and 12-1706(b)  
 Annotated Code of Maryland  
 (2016 Volume and 2017 Supplement)

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

**Article – Alcoholic Beverages**

12-102.

This title applies only in Baltimore City.

12-202.

(a) (1) The Mayor shall appoint two regular members to the Board and the President of the City Council shall appoint one regular member and one substitute member to the Board.

(2) The appointments shall be made:

(i) if the Senate is in session, with the advice and consent of the Senate; or

(ii) if the Senate is not in session, by the Mayor or President of the City Council [alone] **SUBJECT TO THE ADVICE AND CONSENT OF THE SENATE WHEN THE SENATE NEXT CONVENES.**

12-1604.

(a) This section applies only to the 46th alcoholic beverages district, which at all times is coterminous with the 46th legislative district in the Legislative Districting Plan of 2002 as ordered by the Maryland Court of Appeals on June 21, 2002.

(b) Except as provided in [subsection (c)] **SUBSECTIONS (C) AND (D)** of this section, the Board may not issue a new license in the 46th alcoholic beverages district.

(c) (1) The Board may issue:

(i) a 1-day license; and

(ii) except as provided in paragraph (2) of this subsection, and subject to paragraphs (3) and (4) of this subsection, a Class B beer, wine, and liquor license for use by a restaurant if the average daily receipts from the sale of food are at least 51% of the total daily receipts of the restaurant.

(2) The Board may issue a Class B beer, wine, and liquor license:

(i) for a restaurant in ward 26, precinct 8, ward 4, precinct 1, or ward 3, precinct 3 that has:

1. seating for more than 150 individuals;

2. a minimum capital investment of \$700,000; and

3. subject to paragraph (3) of this subsection, average daily receipts from the sale of food that are at least 65% of the total daily receipts of the restaurant;

(ii) for a restaurant in ward 4, precinct 1, or ward 22, precinct 1, if the restaurant has:

1. seating for more than 75 individuals;
2. a minimum capital investment of \$700,000;
3. average daily receipts from the sale of food that are at least 65% of the total daily receipts of the restaurant; and
4. except as provided in paragraph (5) of this subsection, no sales for off-premises consumption;

(iii) for not more than three restaurants in a residential planned unit development for Silo Point as approved by the Mayor and City Council of Baltimore City in Ordinance 04-697 on June 23, 2004, if each restaurant has:

1. a minimum capital investment of \$700,000;
2. seating for more than 75 individuals;
3. average daily receipts from the sale of food that are at least 65% of the total daily receipts of the restaurant; and
4. except as provided in paragraph (5) of this subsection, no sales for off-premises consumption;

(iv) for not more than three restaurants in a business planned unit development in ward 24, precinct 5, if each restaurant:

1. has a minimum capital investment of \$700,000;
2. has seating for more than 75 individuals, but not more than 150 individuals;
3. has average daily receipts from the sale of food that are at least 51% of the total daily receipts of the restaurant; and
4. except as provided in paragraph (5) of this subsection, may not sell for off-premises consumption; and

(v) for a restaurant in the area that is commonly known as Port Covington, bounded on the north by Interstate 95, on the east by the South Locust Point Terminal, and on the south and west by the Patapsco River, and that has:

1. seating for more than 150 individuals;
2. a minimum capital investment of \$700,000; and

3. subject to paragraph (3) of this subsection, average daily receipts from the sale of food that are at least 60% of the total daily receipts of the restaurant.

(3) When a license is renewed, the license holder shall file with the Board a statement of average daily receipts and an affidavit of a licensed certified public accountant that verify that the license holder has met the requirement under paragraph (1)(ii) or (2)(i)3 or (v)3 of this subsection.

(4) (i) A license may not be issued under paragraph (1)(ii) of this subsection for use in an establishment that is a fast-food-style restaurant.

(ii) A license issued under paragraph (1)(ii) of this subsection may not be transferred from the location of its first issuance.

(5) A license specified under this subsection, including a license that does not allow sales for off-premises consumption, may include an off-sale privilege for sales of refillable containers under a refillable container license issued in accordance with § 12-1102 of this title.

**(D) (1) THE BOARD MAY ISSUE A CLASS D BEER, WINE, AND LIQUOR LICENSE TO AN APPLICANT WHO HOLDS OR HAS APPLIED FOR A CLASS 9 LIMITED DISTILLERY LICENSE.**

**(2) A CLASS D BEER, WINE, AND LIQUOR LICENSE ISSUED UNDER THIS SUBSECTION MAY BE TRANSFERRED ONLY TO A HOLDER OF A CLASS 9 LIMITED DISTILLERY LICENSE.**

**[(d)] (E) The Board may issue:**

(1) a Class C beer, wine, and liquor license in the 200 block of Holliday Street in ward 3, precinct 3;

(2) a Class C beer, wine, and liquor license in the 200 block of South Central Avenue in ward 3, precinct 3; and

(3) subject to subsection [(e)] (F) of this section, a Class D beer license for the area in ward 24, precinct 5 that is bounded by East Fort Avenue on the north, the CSX access way on the east, East McComas Street on the south, and Whetstone Way on the west.

**[(e)] (F) A Class D beer license may be transferred into the area specified under subsection [(d)(3)] (E)(3) of this section if originally issued for another area.**

**[(f)] (G) Notwithstanding subsection (c)(1) and (2) of this section, the Board may not issue a Class B beer, wine, and liquor restaurant license in:**

(1) the area covered by the Key Highway East Industrial Area Urban Renewal Plan, as adopted by the Mayor and City Council of Baltimore City in Ordinance 986 on June 29, 1987;

(2) the area covered by the Key Highway Urban Renewal Plan, as adopted by the Mayor and City Council of Baltimore City in Ordinance 622 on March 12, 1986;

(3) (i) ward 1, precinct 4 or 5;

(ii) ward 23, precinct 1; and

(iii) ward 24, precinct 5; and

(4) the area known as Pen Lucy, ward 9, precincts 1 and 2.

[(g)] (H) (1) Except as provided in paragraphs (2) and (3) of this subsection, the Board may not issue a license for:

(i) ward 1, precincts 4 and 5;

(ii) ward 23, precinct 1; or

(iii) ward 24, precinct 5.

(2) The Board may issue not more than two Class B beer, wine, and liquor licenses, so that the cumulative number of licenses issued or transferred is two, into the area of 829 through 919 E. Fort Avenue only if the Board:

(i) has executed a memorandum of understanding between the community associations in Riverside and Locust Point regarding the nature of the establishment; and

(ii) enforces the memorandum of understanding against any license holder that obtains a license under this paragraph and seeks to renew or transfer the license.

(3) (i) The Board may issue not more than a combined total of five Class B beer, wine, and liquor licenses for use by establishments on the north side of the 900 block of East Fort Avenue and on the west side of the 1400 block of Lawrence Street.

(ii) A license issued for an establishment in these areas may not be transferred to another establishment.

12-1609.

(a) The Board may:

(1) subject to subsection (c) of this section, issue an additional Class B (on-sale — hotels and restaurants) beer, wine, and liquor license for premises used as a restaurant that meets the requirements of subsection (b) of this section to the holder of a Class B (on-sale — hotels and restaurants) beer, wine, and liquor license; and

(2) define “restaurant” by regulation.

(b) (1) [A] EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A restaurant under this section is required to have:

(i) a minimum capital investment of \$500,000 for restaurant facilities; and

(ii) a minimum seating capacity of 125 individuals.

(2) The capital investment described in paragraph (1)(i) of this subsection may not include the cost of land or buildings.

(c) The Board may not issue more than five licenses under this section to or for the use of the same person.

(d) Additional licenses shall be limited to providing alcoholic beverages for on-premises consumption.

**(E) THE BOARD MAY WAIVE THE MINIMUM CAPITAL INVESTMENT REQUIREMENT AND THE MINIMUM SEATING CAPACITY REQUIREMENT UNDER SUBSECTION (B)(1) OF THIS SECTION FOR AN ADDITIONAL RESTAURANT THAT A LICENSE HOLDER SEEKS UNDER THIS SECTION IF THE BOARD:**

**(1) HOLDS A PUBLIC MEETING AT WHICH THE BOARD REVIEWS THE BUSINESS PRACTICE OF THE LICENSE HOLDER; AND**

**(2) DETERMINES THAT THE LICENSE HOLDER IS IN GOOD STANDING AND HAS A REPUTABLE BUSINESS PRACTICE.**

12-1706.

(b) (1) Except as provided in paragraphs (2) [and], (3), AND (4) of this subsection, the Board may not transfer a license into:

(i) ward 1, precincts 4 and 5;

(ii) ward 23, precinct 1; or

(iii) ward 24, precinct 5.

(2) The Board may allow the transfer of one Class D license into the residential planned unit development for Silo Point located in ward 24, precinct 5 that was enacted by the Mayor and City Council of Baltimore City in Ordinance 04–697 on June 23, 2004, if the Class D license holder operates the establishment in accordance with the provisions of Ordinance 04–697.

(3) **THE BOARD MAY ALLOW THE TRANSFER OF:**

(I) **A CLASS B–D–7 BEER, WINE, AND LIQUOR LICENSE FROM AN AREA IN WARD 1, PRECINCT 4 BOUNDED ON THE NORTH BY ELLIOTT STREET, ON THE WEST BY SOUTH ROBINSON STREET, ON THE SOUTH BY TOONE STREET, AND ON THE EAST BY SOUTHEAST AVENUE INTO AN AREA IN WARD 1, PRECINCT 5 BOUNDED ON THE NORTH BY FAIT AVENUE, ON THE WEST BY SOUTH KENWOOD AVENUE, ON THE SOUTH BY HUDSON STREET, AND ON THE EAST BY SOUTH STREEPER STREET; AND**

(II) **A CLASS D BEER, WINE, AND LIQUOR LICENSE FROM AN AREA IN WARD 1, PRECINCT 5 BOUNDED ON THE NORTH BY FAIT AVENUE, ON THE WEST BY SOUTH KENWOOD AVENUE, ON THE SOUTH BY HUDSON STREET, AND ON THE EAST BY SOUTH STREEPER STREET INTO AN AREA IN WARD 1, PRECINCT 4 BOUNDED ON THE NORTH BY ELLIOTT STREET, ON THE WEST BY SOUTH ROBINSON STREET, ON THE SOUTH BY TOONE STREET, AND ON THE EAST BY SOUTHEAST AVENUE.**

(4) (i) The Board may allow the transfer of not more than two Class B beer, wine, and liquor licenses, so that the cumulative number of licenses issued or transferred is two, into the area of 829 through 919 E. Fort Avenue only if:

1. the Board has executed a memorandum of understanding between the community associations in Riverside and Locust Point regarding the nature of the proposed establishment; and

2. the Board enforces the memorandum of understanding against any license holder that obtains a license under § 12–1604 of this title and seeks to transfer the license.

(ii) The Board may not allow a license to be transferred out of the area described in subparagraph (i) of this paragraph and into any other area of ward 24, precinct 5.

SECTION 2. AND BE IT FURTHER ENACTED, That, a Class D (7–day) beer and light wine license issued for a premises in the 600 block of South Montford Avenue in ward 1, precinct 3:

(1) shall be considered to be unexpired until the end of July 1, 2019, for purposes of being transferred to another owner and location, notwithstanding § 12-1706(d)(1)(i) of the Alcoholic Beverages Article; and

(2) if not transferred to another owner and location by the end of July 1, 2019, shall be considered to have expired.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, May 15, 2018.**