

Chapter 673

(House Bill 616)

AN ACT concerning

Montgomery County – Department of Liquor Control – Renaming

MC 2–19

FOR the purpose of renaming the Department of Liquor Control for Montgomery County to be the Alcohol Beverage Services for Montgomery County; specifying that the Alcohol Beverage Services is the successor to the Department of Liquor Control; specifying that in certain documents the name “Department of Liquor Control” means “Alcohol Beverage Services”; providing for the continuity of certain terms of office of certain individuals; providing for the continuity of transactions and employment status affected by certain changes of nomenclature or certain statutes; providing for the continuity of certain units, properties, appropriations, credits, assets, liabilities, and obligations; requiring the publisher of the Annotated Code of Maryland, in consultation with the Department of Legislative Services, to make certain corrections in a certain manner; and generally relating to the renaming of the Department of Liquor Control for Montgomery County.

BY repealing and reenacting, with amendments,

Article – Alcoholic Beverages

Section 1–309 and 25–202(c)(3); 25–301 through 25–312 to be under the amended subtitle “Subtitle 3. Alcohol Beverage Services”; and 25–402, 25–404, 25–405(d), 25–1005(c), 25–1007(d), 25–1011.1(e), 25–1201(e), 25–1302, and 25–1905

Annotated Code of Maryland

(2016 Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,

Article – Alcoholic Beverages

Section 25–102

Annotated Code of Maryland

(2016 Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings

Section 5–504

Annotated Code of Maryland

(2013 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,

Article – Tax – General

Section 5–101(a)

Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 5–101(l) and (n)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

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

Article – Alcoholic Beverages

1–309.

The Comptroller shall enforce the provisions of this article and provisions of the Tax – General Article relating to alcoholic beverages applicable to:

(1) the purchase or importation of alcoholic beverages by a department of liquor control [or], a liquor control board, **OR THE ALCOHOL BEVERAGE SERVICES FOR MONTGOMERY COUNTY**; and

(2) the sale of alcoholic beverages to a wholesaler or retail dealer by a department of liquor control [or], a liquor control board, **OR THE ALCOHOL BEVERAGE SERVICES FOR MONTGOMERY COUNTY**.

25–102.

This title applies only in Montgomery County.

25–202.

(c) (3) (i) Subject to the Montgomery County public ethics law and subparagraph (ii) of this paragraph, a member of the Board may be an employee of the federal, State, or local government.

(ii) A member of the Board may not be an employee of the County [Department of Liquor Control] **ALCOHOL BEVERAGE SERVICES**.

Subtitle 3. [Department of Liquor Control] **ALCOHOL BEVERAGE SERVICES**.

25–301.

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

[(b) “Department” means the County Department of Liquor Control.]

[(c) (B) “Director” means the Director of the [Department] **SERVICES**.

[(d) (C) “Dispensary” means a store established and maintained by the [Department] **SERVICES** for the sale of alcoholic beverages.

(D) “SERVICES” MEANS THE COUNTY ALCOHOL BEVERAGE SERVICES.

25–302.

There is [a Department of Liquor Control] **THE ALCOHOL BEVERAGE SERVICES** in the county government, which functions as a liquor control board.

25–303.

(a) There is a Director of the [Department] **SERVICES**, who shall be the chief administrative officer of and exercise general supervision over the [Department] **SERVICES**.

(b) The County Executive shall appoint the Director with the consent of the County Council.

(c) The County Executive shall determine the qualifications of the Director.

(d) The Director:

(1) serves at the pleasure of the County Executive; and

(2) shall devote full time to the duties of the [Department] **SERVICES**.

(e) The County Executive shall set the salary of the Director with the approval of the County Council.

25–304.

(a) (1) With the approval of the County Executive, the Director may appoint employees necessary to operate the dispensary system, set employee compensation, and require a bond for the faithful performance of employee duties.

(2) Except for the Director, each [Department] **SERVICES** employee shall be appointed and employed in accordance with regulations of the Merit System Protection Board.

(b) The Office of the County Attorney shall provide legal services to the

[Department] SERVICES.

25–305.

(a) A member of the County Council or the County Executive may not have a direct or indirect financial interest in the sale, manufacture, blending, brewing, distilling, rectifying, or wholesaling of any alcoholic beverage purchased or sold under this article.

(b) Except as provided in subsection (c) of this section, an employee of the **[Department] SERVICES** may not:

(1) have a direct or indirect financial interest in the sale, manufacture, blending, brewing, distilling, rectifying, or wholesaling of any alcoholic beverage purchased or sold under this article;

(2) have an interest in a license;

(3) directly or indirectly solicit or receive any fee, commission, gratuity, emolument, remuneration, reward, present, or alcoholic beverage sample, and any other consideration from:

(i) a person who sells, manufactures, blends, brews, distills, rectifies, wholesales, or distributes alcoholic beverages; or

(ii) a license holder; or

(4) derive any profit or remuneration from the purchase or sale of alcoholic beverages other than the salary paid by the county for the discharge of the employee's duties.

(c) Subject to the County Public Ethics Law, the **[Department] SERVICES** may allow a **[Departmental] SERVICES** employee to be employed by a license holder if the employment directly relates to the performing arts.

(d) (1) Except as provided in subsection (e) of this section, a person listed in paragraph (2) of this subsection may not directly or indirectly offer, pay, or give a fee, reward, present, commission, gift, or sample of alcoholic beverages to an employee of the **[Department] SERVICES**, a member of the County Council, or the County Executive.

(2) This subsection applies to:

(i) a license holder or an employee of a license holder; or

(ii) a person or an agent or employee of a person engaged in the manufacture, sale, blending, brewing, distilling, rectifying, wholesaling, or distribution of alcoholic beverages.

(e) (1) This section does not prohibit a manufacturer, brewer, wholesaler, or dealer that sells or attempts to sell alcoholic beverages to the [Department] **SERVICES** from providing samples of alcoholic beverages to the [Department] **SERVICES**.

(2) A person that provides samples of alcoholic beverages to the [Department] **SERVICES** shall obtain a receipt, signed by the Director, stating in detail the amount and a description of the samples.

(3) When received, samples of alcoholic beverages provided under this subsection shall be inventoried and sold in the same manner as other beverages that the [Department] **SERVICES** purchases.

(f) A person that violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 12 years or a fine not exceeding \$5,000 or both.

25–306.

(a) There is an Advisory Board in the [Department] **SERVICES**.

(b) The Advisory Board consists of the following eight members:

(1) the Director;

(2) the Director of the County Department of Police;

(3) the Chair of the Board of License Commissioners; and

(4) five members who are county residents appointed by the County Executive with the consent of the County Council.

(c) Of the members of the Advisory Board appointed under subsection (b)(4) of this section:

(1) only one shall be a holder of a Class B or a Class C beer, wine, and liquor license in the county; and

(2) only one shall be a holder of a license of any other class in the county.

(d) (1) This subsection applies to members of the Advisory Board appointed under subsection (b)(4) of this section.

(2) The term of a member is 4 years.

(3) A member appointed after a term has begun serves only for the remainder of the term.

(4) The terms of the members are staggered as required by the terms provided for members on July 1, 2016.

(e) With the consent of the County Council, the County Executive may remove a member whom the County Executive appointed to the Advisory Board.

(f) The Advisory Board shall report at least quarterly to the County Executive on recommendations for the improvement of:

(1) the alcoholic beverages control and enforcement activities of the county;
and

(2) the operations of the dispensary and distribution systems from the standpoint of efficiency, service provided, and convenience to the public.

(g) A member of the Advisory Board:

(1) may not receive compensation; but

(2) is entitled to necessary expenses in connection with the performance of the duties of the Advisory Board.

25–307.

(a) This section does not apply to a holder of a Class F license.

(b) (1) Except as provided in paragraphs (2) through (8) of this subsection:

(i) the [Department] **SERVICES** has a monopoly on the wholesale distribution of beer, wine, and liquor and retail distribution of off-sale liquor in the county, subject to § 1–309 of this article; and

(ii) a person may sell only alcoholic beverages that are purchased from the [Department] **SERVICES**.

(2) The holders of the following wholesaler’s licenses may sell or deliver alcoholic beverages for resale to a dispensary:

(i) a Class 1 beer, wine, and liquor license;

(ii) a Class 2 wine and liquor license;

(iii) a Class 3 beer and wine license;

(iv) a Class 4 beer license; or

(v) a Class 5 wine license.

(3) The holder of a Class 6 limited wine wholesaler's license or nonresident winery permit may sell or deliver wine directly to a dispensary, restaurant, or other retail dealer in the county.

(4) The holder of a Class 7 limited beer wholesaler's license or nonresident brewery permit may sell or deliver its own beer to a dispensary, restaurant, or other retail dealer in the county.

(5) The holder of a Class 8 liquor wholesaler's license or nonresident distillery permit may sell or deliver its own liquor to a dispensary, restaurant, or other retail dealer authorized to sell liquor in the county.

(6) A holder of a direct wine shipper's permit may ship wine directly to a consumer in the county.

(7) A dispensary, restaurant, or other retail dealer in the county may purchase wine directly from a holder of a Class 6 limited wine wholesaler's license or of a nonresident winery permit.

(8) A dispensary, restaurant, or other retail dealer in the county may purchase beer directly from a holder of a Class 7 limited beer wholesaler's license or of a nonresident brewery permit.

(9) A dispensary, restaurant, or other retail dealer authorized to sell liquor in the county may purchase liquor directly from a holder of a Class 8 liquor wholesaler's license or of a nonresident distillery permit.

(10) A holder of a charity wine auction permit in the county may receive and sell wine obtained from any source listed under § 2–137 of this article.

25–308.

(a) The [Department] **SERVICES** may enter into an agreement with a holder of a per diem license to deliver beer on the effective date of the per diem license and accept returns on the same day.

(b) The agreement entered into under subsection (a) of this section shall include the type of equipment, services, personnel, and supplies required to dispense draft beer.

25–309.

(a) With the approval of the County Executive and subject to § 1–309 of this article, the Director may:

(1) purchase from a holder of a wholesaler's license or manufacturer's license alcoholic beverages that the [Department] **SERVICES** is authorized to sell and on which the excise tax imposed by § 5–102 of the Tax – General Article is paid;

(2) purchase from a holder of a resident or nonresident dealer's permit and import for resale alcoholic beverages that the [Department] **SERVICES** is authorized to sell, and resell the alcoholic beverages once the excise tax is paid;

(3) sell alcoholic beverages in sealed containers at prices that it determines and that are uniform in all dispensaries;

(4) refuse to sell alcoholic beverages to a person that, in the [Department's] **SERVICES'** judgment, is not suitable to purchase or consume the alcoholic beverages;

(5) restrict by any method the quantity of alcoholic beverages that may be sold to an individual consumer or license holder at or during any time;

(6) enter into a contract or adopt regulations necessary or desirable to carry out this article;

(7) sell and ship outside of the county a container or package of alcoholic beverages kept for sale in a dispensary, if not prohibited by law in the place where the shipment is consigned; and

(8) establish the hours of sale for dispensaries, outside of which a dispensary may not remain open.

(b) (1) With the approval of the County Executive, the Director, by rental, lease, purchase, or otherwise, may acquire:

(i) real or personal property determined by the Director to be necessary to operate dispensaries, stores, or warehouses; and

(ii) alcoholic beverages from any source for resale.

(2) Except for purchases of merchandise for resale, the [Department] **SERVICES** shall make all purchases through the County Office of Procurement.

25–310.

(a) With the approval of the County Executive, the Director may establish a dispensary at one or more locations that the Director determines.

(b) (1) The [Department] **SERVICES** may sell its inventory through:

(i) dispensaries selling at wholesale and retail; and

(ii) subject to subsection (c) of this section, retail outlets operated by individuals with whom the [Department] **SERVICES** contracts.

(2) Notwithstanding any other law, the Director may sell at wholesale or retail alcoholic beverages in whole cases or in individual bottles through dispensaries to a license holder in the county.

(3) The [Department] **SERVICES** may not sell alcoholic beverages at different prices to different license holders or classes of license holders.

(c) (1) The Director may not contract with a person to operate:

(i) a dispensary; or

(ii) except as provided in paragraph (2) of this subsection, a retail outlet for the sale of beer, wine, and liquor.

(2) The Director may enter into a contract with a person to operate a retail outlet for the sale of liquor for off-premises consumption if the person holds any license for off-premises consumption or for on- and off-premises consumption.

(3) The [Department] **SERVICES** shall establish criteria for contracting with retail outlets.

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

(ii) “Beer” includes draft beer in refillable and nonrefillable containers.

(iii) “Wine” includes wine in refillable containers.

(2) A dispensary:

(i) may sell only:

1. except as provided for in subsection (e) of this section, for off-premises consumption, nonchilled beer, wine, and liquor;

2. ice;

3. bottled water; and

4. items commonly associated with the serving or consumption of alcoholic beverages, including bottle openers, corkscrews, drink mixes, and lime juice; and

(ii) may not sell snack foods or soft drinks.

(e) (1) A dispensary may sell any product in the dispensary's inventory for the purpose of:

(i) holding tastings of beer, wine, and liquor on the premises of the dispensary only;

(ii) serving, for tasting, beer, wine, and liquor; and

(iii) allowing the consumption of beer, wine, and liquor by an individual for tasting in a quantity of not more than:

1. one-half ounce from each offering of liquor;
2. 1.5 ounces from all offerings of liquor in a day;
3. 1 ounce from each offering of wine;
4. 4 ounces from all offerings of wine in a day;
5. 3 ounces from each offering of beer; and
6. 12 ounces from all offerings of beer in a day.

(2) Once opened, a bottle used for beer, wine, or liquor tasting shall be marked that it is to be used for that purpose only.

(f) The [Department] **SERVICES** may sell or deliver alcoholic beverages to a retail license holder from 6 a.m. to midnight on every day except Sunday.

(g) A manager of a dispensary, an individual who contracts to operate a retail outlet as authorized under subsection (c) of this section, or an employee of a dispensary or retail outlet who commits a prohibited act related to the sale or providing of alcoholic beverages to individuals under the age of 21 years under this article or the Criminal Law Article is subject to:

(1) any penalty authorized by law, including a civil citation issued under § 10-119 of the Criminal Law Article; and

(2) a fine and suspension or revocation of employment by the Board in the same manner as a license holder or employee of a license holder would be subject to a fine

and suspension or revocation of the license for the violation.

- (h) Title 4, Subtitle 2 of this article does not apply to this section.

25–311.

- (a) Revenue derived from the sale of alcoholic beverages shall be:

(1) deposited in a bank located in the county in the name of Montgomery County, Maryland; and

(2) disbursed by the Director of Finance in the same manner as other county funds.

(b) (1) There is [a Liquor Control] **AN ALCOHOL BEVERAGE SERVICES** Fund in the county.

(2) The proceeds derived from the sale of alcoholic beverages shall be credited into the [Liquor Control] **ALCOHOL BEVERAGE SERVICES** Fund to maintain an adequate balance of working capital, as determined by the Director and the Director of Finance and subject to the approval of the County Executive, for the continued operation of the dispensary system.

(3) After providing adequate working capital for the [Liquor Control] **ALCOHOL BEVERAGE SERVICES** Fund, the net proceeds shall be deposited to the general fund of the county.

25–312.

The [Department] **SERVICES** shall have the immunity from liability established under § 5–504 of the Courts Article.

25–402.

A holder of a manufacturer's license may sell or deliver alcoholic beverages to the [Department of Liquor Control] **ALCOHOL BEVERAGE SERVICES** from 6 a.m. to midnight on every day except Sunday.

25–404.

- (a) This section applies to a Class 6 pub–brewery license in the county.

- (b) Section 2–208(d) of this article does not apply in the county.

(c) A holder of the license shall enter into a written agreement with the [Department of Liquor Control] **ALCOHOL BEVERAGE SERVICES** for the sale and resale

of malt beverages brewed under the license.

25–405.

(d) A holder of the license shall enter into a written agreement with the [Department of Liquor Control] **ALCOHOL BEVERAGE SERVICES** for the sale and resale of malt beverages brewed under the license.

25–1005.

(c) The license authorizes the license holder to sell, at retail at the place described in the license, beer, wine, and liquor:

- (1) purchased from the [Department of Liquor Control] **ALCOHOL BEVERAGE SERVICES** for the county;
- (2) for on–premises consumption; and
- (3) to a member or a guest accompanied by a member.

25–1007.

(d) The license authorizes the license holder to sell beer, wine, and liquor purchased from the [Department of Liquor Control] **ALCOHOL BEVERAGE SERVICES** for on–premises consumption by:

- (1) a country club member;
- (2) a member of the immediate family of a country club member;
- (3) an individual residing temporarily in the clubhouse of the country club;

or

(4) a guest of a country club member, including an individual who attends a recognized national or regional athletic event held on the premises of the license holder if:

- (i) the license holder has applied to the Board to sell alcoholic beverages to individuals attending the event;
- (ii) the application has been made at least 60 days before the date that the event is to take place; and
- (iii) the Board has approved the application.

25–1011.1.

(e) All beer and wine intended for consumption at the stadium shall be purchased from the [Department of Liquor Control] **ALCOHOL BEVERAGE SERVICES** for the county.

25–1201.

(e) The license holder shall:

(1) contract for and provide food for consumption at a catered event;

(2) meet the same ratio of gross receipts between food and alcoholic beverage sales as a holder of a Class B beer, wine, and liquor license; and

(3) purchase all alcoholic beverages from the [Department of Liquor Control] **ALCOHOL BEVERAGE SERVICES**.

25–1302.

A holder of a Class C per diem beer license, a Class C per diem beer and wine license, or a Class C per diem beer, wine, and liquor license may purchase alcoholic beverages from:

(1) a County [Department of Liquor Control] **ALCOHOL BEVERAGE SERVICES** warehouse;

(2) a dispensary;

(3) a manufacturer with a self–distribution license or permit under § 25–307 of this title; or

(4) a retail dealer licensed to sell alcoholic beverages for off–premises consumption.

25–1905.

A license holder may sell only alcoholic beverages purchased from the [Department of Liquor Control] **ALCOHOL BEVERAGE SERVICES** for the county if the holder’s license is:

(1) a Class A, Class B, Class H, Class C, or Class D beer license;

(2) a Class B, Class C, or Class D beer and wine license; or

(3) a Class A–TP, Class B, or Class C beer, wine, and liquor license.

Article – Courts and Judicial Proceedings

5-504.

The [Department of Liquor Control] **ALCOHOL BEVERAGE SERVICES** for Montgomery County shall be:

- (1) Immune from all suits for damages; and
- (2) Subject to suit only for the enforcement of contracts made by the [Department of Liquor Control] **ALCOHOL BEVERAGE SERVICES** for Montgomery County.

Article – Tax – General

5-101.

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

(l) (1) “Retail dealer” means a person who buys an alcoholic beverage for sale to a consumer.

(2) “Retail dealer” includes a county department of liquor control [or], A liquor control board, **OR THE ALCOHOL BEVERAGE SERVICES FOR MONTGOMERY COUNTY** that operates a dispensary.

(n) (1) “Wholesaler” means a person who buys or imports an alcoholic beverage for sale to another person for resale.

(2) “Wholesaler” includes a county department of liquor control [or], A liquor control board, **OR THE ALCOHOL BEVERAGE SERVICES FOR MONTGOMERY COUNTY** that operates a wholesale dispensary.

SECTION 2. AND BE IT FURTHER ENACTED, That, as provided in this Act:

(1) the Alcohol Beverage Services for Montgomery County is the successor of the Department of Liquor Control for Montgomery County; and

(2) in every ordinance, order, rule, regulation, policy, or document created by a county official, employee, or unit, the name “Department of Liquor Control” means “Alcohol Beverage Services”.

SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act affects the term of office of a member of any commission, office, agency, or other county unit. An individual who is a member of a county unit on the effective date of this Act shall remain for the balance of the term, unless the member sooner dies, resigns, or is removed under provisions of law.

SECTION 4. AND BE IT FURTHER ENACTED, That any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended by this Act and validly entered into or existing before the effective date of this Act and every right, duty, or interest flowing from a statute amended by this Act remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended by this Act as though the amendment had not occurred.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(1) the continuity of every commission, office, agency, or other Montgomery County unit is retained; and

(2) the personnel records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of the Montgomery County unit are continued as the personnel records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the Montgomery County unit under the laws enacted by this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act. The publisher shall adequately describe any correction made in an editor's note following the section affected.

SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 25, 2019.