## **HOUSE BILL 902**

A1, A2 0lr2213 CF SB 765

By: Delegate Dumais

Introduced and read first time: February 5, 2020

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 3, 2020

CHAPTER

1 AN ACT concerning

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## 2 Alcoholic Beverages – License Applications – Durational Residency 3 Requirements

- FOR the purpose of repealing certain requirements that a person be a resident for a certain period of time, a taxpayer, or a registered voter to be issued certain statewide alcoholic beverages licenses and permits; requiring that a person, to be issued certain statewide licenses and permits, remain a resident for the duration of time that certain licenses and permits are in effect; repealing certain requirements that a person be a resident for a certain period of time to be issued certain local alcoholic beverages licenses; making conforming changes; declaring the intent of the General Assembly; and generally relating to alcoholic beverages licenses.
- 12 BY repealing and reenacting, without amendments,
- 13 Article Alcoholic Beverages
- 14 Section 2-125(a), 4-104(a), 12-102, 13-102, 14-102, 19-102, 20-102, 21-102,
- 15 22–102, 23–102, 25–102, 25–1011.1(a), 26–102, 26–1405(b), 26–1406(b),
- 16 26–1704, 26–1808, 26–2102(d)(1), 27–102, 28–102, 31–102,
- 17 31–1312(a), and 32–102
- 18 Annotated Code of Maryland
- 19 (2016 Volume and 2019 Supplement)
- 20 BY repealing and reenacting, with amendments,
- 21 Article Alcoholic Beverages
- Section 2–125(b), 2–211, 3–102, 3–104(b), 3–105(b), 3–106(a), 4–103, 4–104(b),
- 23 4-105(a), 4-109(a)(4), 12-1405, 13-1403, 14-1704, 19-1402, 20-1404(a),

## EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.

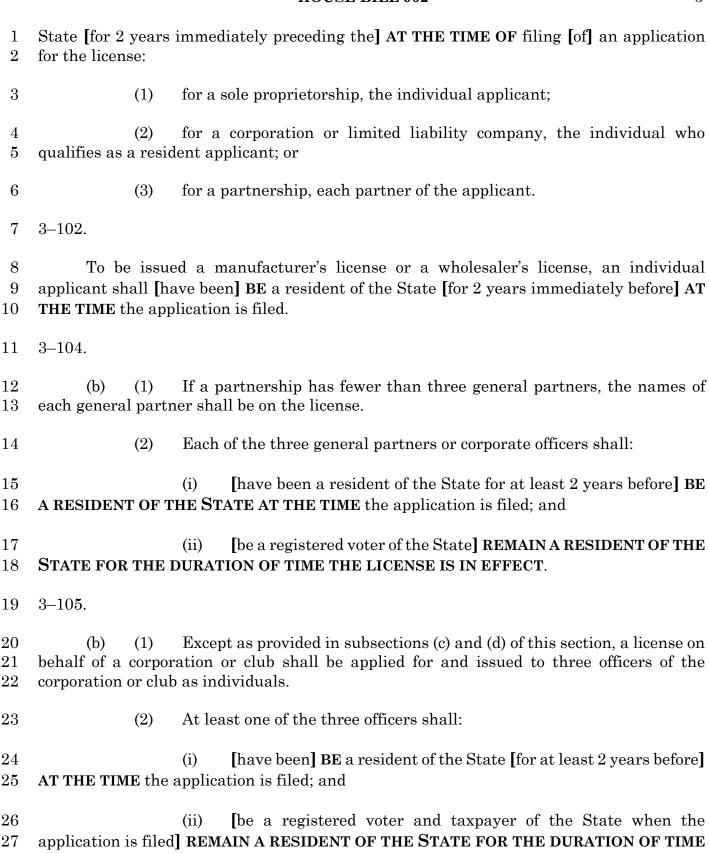


1 2 3 4 5	$21-1401,\ 22-1402,\ 23-1404(d)(2),\ 23-1406,\ 25-1011.1(b),\ 25-1405,\ 25-1406,\\ 26-1405(c),\ \ 26-1406(c),\ \ 27-1402,\ \ 27-1403(a)(1),\ \ 28-1409,\ \ 31-1312(e)(2),\\ 31-1402,\ 32-1403(b),\ 32-1405(a),\ 32-1502,\ and\ 32-1503\\ Annotated\ Code\ of\ Maryland\ (2016\ Volume\ and\ 2019\ Supplement)$
6 7 8 9 10	BY repealing Article – Alcoholic Beverages Section 21–1405.1 and 25–1407 Annotated Code of Maryland (2016 Volume and 2019 Supplement)
11 12	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
13	Article – Alcoholic Beverages
14	2-125.
15	(a) There is a resident dealer's permit.
16 17	(b) (1) Subject to paragraph (2) of this subsection, the Comptroller may issue the permit to:
18 19	(i) an importer of beer, wine, or distilled spirits produced outside the United States that:
20 21	1. purchases directly from the brand owner or from a sales agent of a bottler, brewer, distiller, manufacturer, rectifier, vintner, or winery;
22	2. is authorized by the brand owner to sell in the State; and
23 24	3. provides proof of the sales agency relationship to the Comptroller; or
25 26	(ii) an American sales agent of an importer under item (i) of this paragraph, on presentation of proof of the sales agency relationship to the Comptroller.
27 28 29 30 31	(2) An individual applicant, an applicant qualifying as a resident applicant for a corporation, or each applicant for a partnership is not eligible for the permit unless the individual [has been] IS a resident of the State [for at least 2 years immediately before applying for] AT THE TIME THE APPLICATION IS FILED AND REMAINS A RESIDENT FOR THE DURATION OF TIME the permit IS IN EFFECT.

32 2–211.

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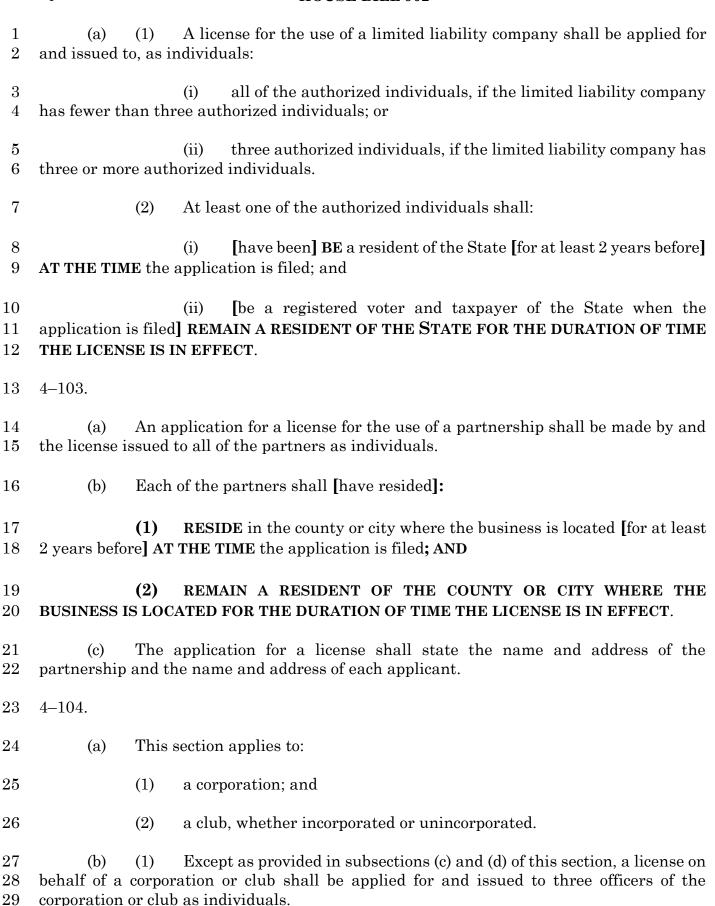
To be issued a manufacturer's license, the following individuals shall reside in the

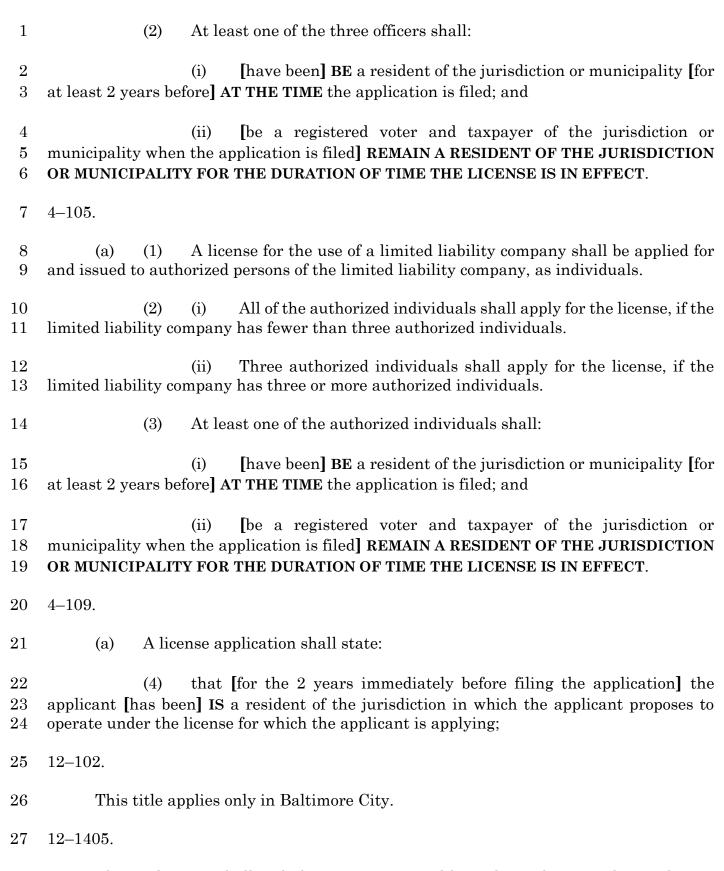


29 3–106.

THE LICENSE IS IN EFFECT.

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The application shall include a petition signed by at least three residents who are owners of real property and registered voters in the City stating that:

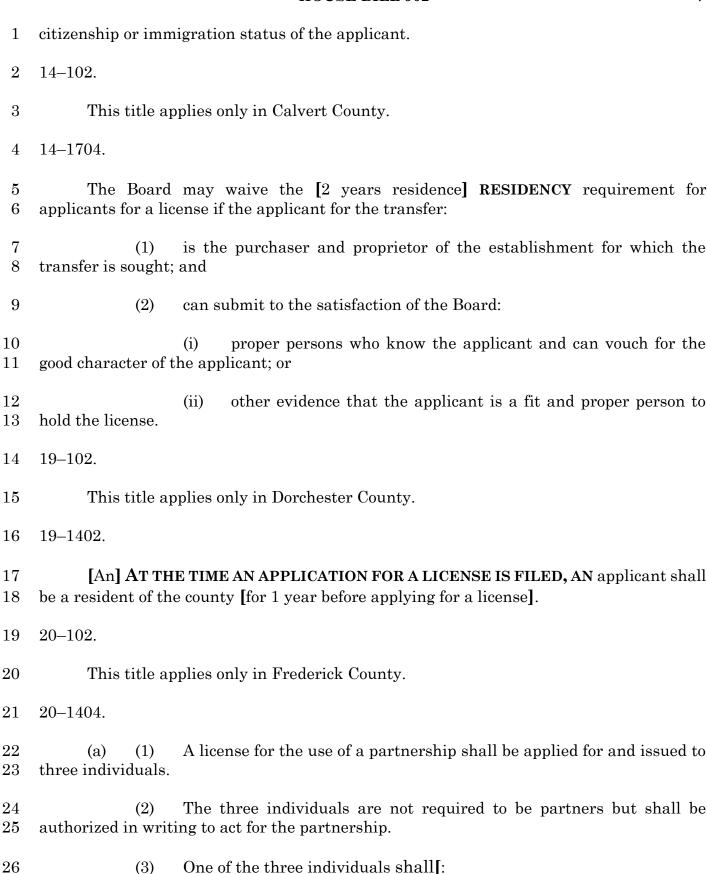
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1 (1) the applicant: 2 is personally known to the signers of the petition; and (i) 3 (ii) Thas been a resident or taxpayer of the City for 2 years and a 4 resident of the State for 2 years preceding the presentation of IS A RESIDENT OR TAXPAYER OF THE CITY AT THE TIME THE APPLICANT PRESENTS the application to 5 6 the signers of the petition; 7 (2)if the applicant is a corporation, at least one of the applicants: 8 (i) is personally known to the signers of the petition; 9 (ii) Thas been a resident or taxpayer of the City for 2 years and a 10 resident of the State for 2 years preceding the presentation of IS A RESIDENT OR 11 TAXPAYER OF THE CITY AT THE TIME THE APPLICANT PRESENTS the application to 12 the signers of the petition; and 13 is a registered voter in the State; and (iii) 14 if the applicant is a partnership, all members of the partnership [have 15 been residents or taxpayers of the City for 2 years and residents of the State for 2 years 16 preceding the presentation of ARE RESIDENTS OF THE CITY AT THE TIME THE APPLICANTS PRESENT the application to the signers of the petition. 17 13-102.18 19 This title applies only in Baltimore County. 13-1403. 20 21An applicant for a license in the county shall include on the application: (a) 22(1)a statement whether the applicant is a natural-born citizen or a 23 naturalized citizen; or 24if the applicant is not a natural-born citizen or a naturalized 25citizen, information or documentation required by the Board to show proof of immigration 26status; and 27 (2)a statement that the applicant [has been for 2 years immediately before 28the filing of the application IS a resident of the State AT THE TIME THE APPLICATION IS 29FILED.

The Board may obtain information from the Social Security Administration

and the Department of Homeland Security — Immigration and Customs to verify the



have been BE a resident AND REGISTERED VOTER of the

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(i)

- 1 county [for at least 2 years before the application is filed; and
- 2 (ii) be a registered voter of the county before and] at the time the
- 3 application is filed.
- 4 (4) The names of each partner shall be stated on the application.
- 5 21-102.
- 6 This title applies only in Garrett County.
- 7 21-1401.
- 8 (a) The following sections of Title 4, Subtitle 1 ("Applications for Local Licenses")
- 9 of Division I of this article apply in the county without exception or variation:
- 10 (1) § 4–102 ("Applications to be filed with local licensing board");
- 11 (2) § 4–103 ("Application on behalf of partnership");
- 12 (3) § 4–104 ("Application on behalf of corporation or club");
- 13 (4) § 4–105 ("Application on behalf of limited liability company");
- 14 (5) § 4–106 ("Payment of notice expenses");
- 15 (6) § 4–108 ("Application form required by Comptroller");
- 16 (7) § 4–109 ("REQUIRED INFORMATION ON APPLICATION IN
- 17 GENERAL);
- 18 (8) § 4–110 ("Required information on application Petition of support");
- 19 [(8)] (9) § 4–113 ("Refund of license fees"); and
- 20 [(9)] **(10)** § 4–114 ("Fees for licenses issued for less than 1 year").
- 21 (b) The following sections of Title 4, Subtitle 1 ("Applications for Local Licenses")
- 22 of Division I of this article apply in the county:
- 23 (1) § 4–107 ("Criminal history records check"), subject to §§ 21–1402
- 24 through 21–1405 of this subtitle:
- 25 (2) [§ 4–109 ("Required information on application In general"), subject
- 26 to § 21–1405.1 of this subtitle;

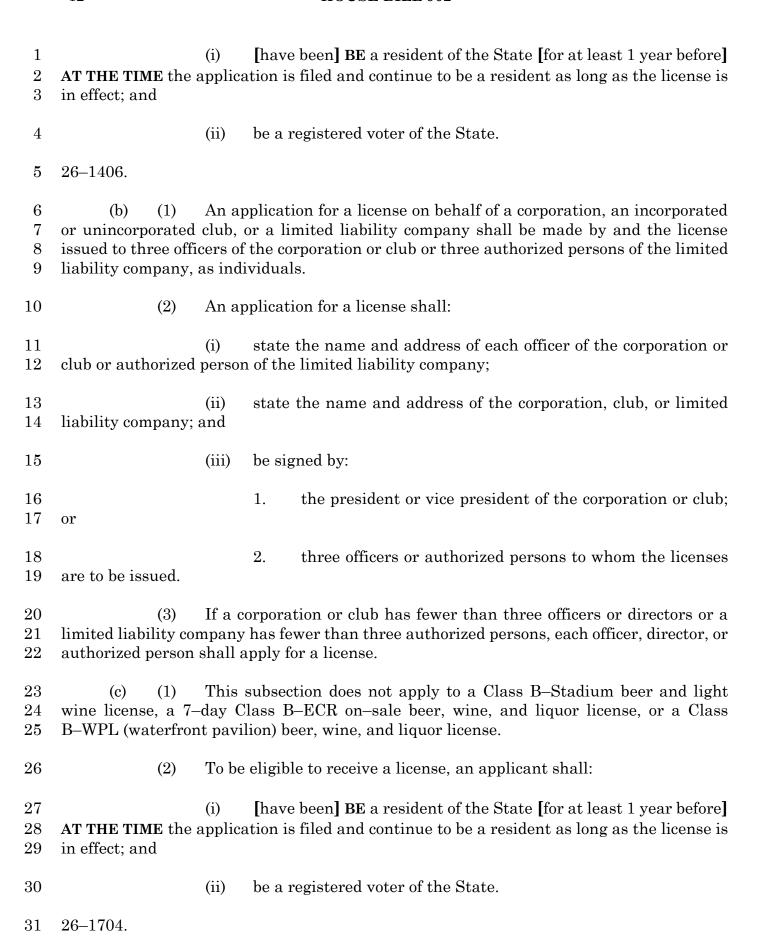
- 1 (3)] § 4–111 ("Payment of license fees"), subject to § 21–1406 of this subtitle;
- 2 and
- 3 [(4)] (3) § 4–112 ("Disposition of license fees"), subject to § 21–1407 of this
- 4 subtitle.
- 5 **[**21–1405.1.
- An individual who is a resident of the county for 1 year immediately before filing the
- 7 license application meets the residency requirements under § 4–109(a)(4) of this article.]
- 8 22–102.
- 9 This title applies only in Harford County.
- 10 22-1402.
- 11 (a) (1) To be issued a license for the applicant's individual use, the applicant
- shall be a resident of the county [for at least 1 year before filing] AT THE TIME the
- 13 application IS FILED.
- 14 (2) The license holder is required to remain a resident of the county for as
- 15 long as the license is in effect.
- 16 (b) An applicant under this section is not required to be a registered voter.
- 17 23–102.
- This title applies only in Howard County.
- 19 23-1404.
- 20 (d) (2) A continuing care retirement community license shall be issued to:
- 21 (i) a manager or supervisor; and
- 22 (ii) two officers, one of whom shall [have been] BE a resident of the
- county [for at least 2 years before the application is filed and be], a registered voter, and A
- 24 taxpayer of the county [when] AT THE TIME the application is filed.
- 25 23–1406.
- 26 (a) At least one of the applicants shall include with the application a petition of
- 27 support signed by at least three residents who are owners of real property and registered
- 28 voters in the district where the business is to be conducted stating that the applicant:

- 1 (1) is known personally to the residents; and 2 subject to subsection (b) of this section, [has been] IS a resident of the (2)3 county [for 2 years immediately preceding the presentation of] AT THE TIME THE **APPLICANT PRESENTS** the application to the residents. 4 5 (b) The Board may waive the [2-year] residency requirement for an applicant if 6 the applicant: 7 is the purchaser of a business already in operation; or (1) 8 (2)has owned the premises for which a license is sought for at least 2 years 9 immediately preceding the filing of the application. 10 25-102.11 This title applies only in Montgomery County. 12 25-1011.1. 13 There is a sports stadium license. (a) (b) 14 Subject to paragraph (2) of this subsection, the Board may issue the 15 license to three individuals serving on the board of directors for a corporation, partnership, 16 or limited liability company that operates a stadium that: 17 (i) has a minimum capital investment of \$2,000,000, not including 18 the cost of land; 19 serves as a venue for professional sports events; and (ii) 20 (iii) has a seating capacity of 2,000 persons, as established by the Fire 21Marshal for the county. 22(2)At least one of the individuals to whom the license is issued shall [have 23been] BE a resident of the State [for at least the 2 years immediately preceding the issuance of the license] AT THE TIME THE APPLICATION IS FILED. 242525-1405. 26 Except as provided in paragraph (2) of this subsection, a license on 27 behalf of a corporation or club shall be applied for and issued to three officers of the 28corporation or club, as individuals.
- 29 (2) If a corporation or club has fewer than three officers, each officer shall apply for a license.

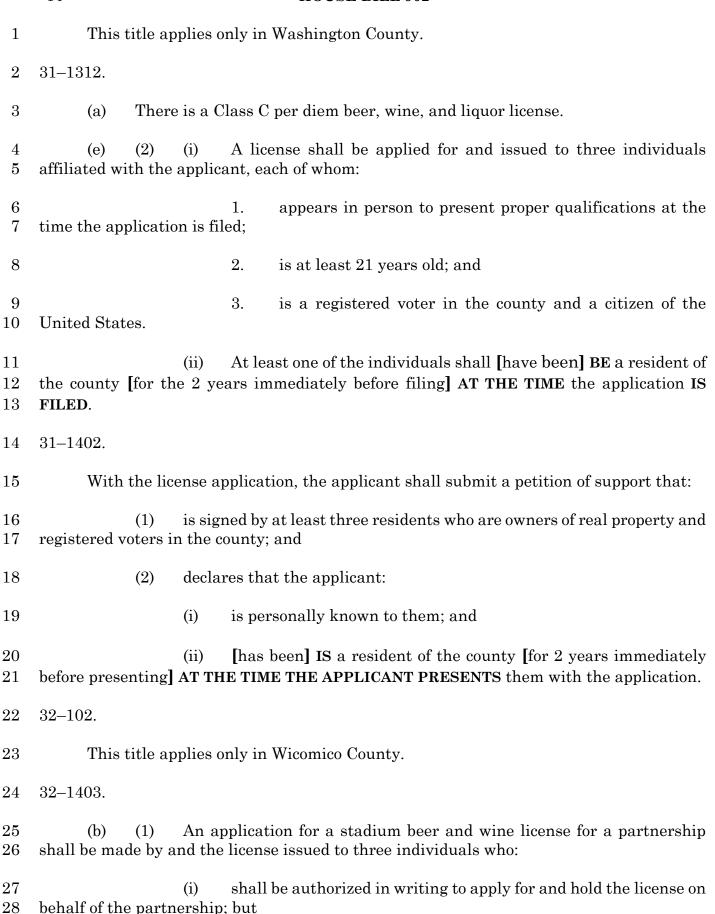
- 1 (b) An officer who is a resident of the State AT THE TIME THE APPLICATION IS 2 FILED meets the [voter, taxpayer, and] residency requirements under § 4–104 of this article.
- 4 25–1406.
- 5 (a) [(1)] Except as provided in [paragraph (2) of this subsection] SUBSECTION 6 (B) OF THIS SECTION, a license on behalf of a limited liability company shall be applied 7 for BY and issued to three authorized persons of the limited liability company, as individuals.
- 9 **[(2)] (B) (1)** If a limited liability company has fewer than three authorized persons, each authorized person shall apply for a license.
- [(b)] (2) An individual who is a resident of the State AT THE TIME THE APPLICATION IS FILED meets the [registered voter, taxpayer, and] residency requirements under § 4–105 of this article.
- 14 **[**25–1407.
- An individual who is a resident of the State meets the residency requirements under 4-109(a)(4) of this article.
- 17 26–102.
- This title applies only in Prince George's County.
- 19 26–1405.

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- 20 (b) (1) An application for a license for a proprietorship shall state the name 21 and address of the proprietorship and the name and address of the applicant.
- 22 (2) An application for a license for a partnership shall:
- 23 (i) be made by and the license issued to each partner as an 24 individual; and
- 25 (ii) state the name and address of the partnership and the names 26 and addresses of each applicant.
- 27 (c) (1) This subsection does not apply to a Class B-Stadium beer and light wine license, a 7-day Class B-ECR on-sale beer, wine, and liquor license, or a Class B-WPL (waterfront pavilion) beer, wine, and liquor license.
  - (2) To be eligible to receive a license, a partner shall:



- The residency requirements under § 26–1406(c) of this title apply to a transfer of a license.
- 3 26–1808.
- Except for a Class B–WPL (waterfront pavilion) beer, wine, and liquor license, the residency requirements under § 26–1406(c) of this title apply to a renewal of a license.
- 6 26–2102.
- 7 (d) (1) If a license holder has not complied with the residency requirements 8 specified in § 4–103, § 4–104, or § 4–105 of this article or Subtitle 14 of this title, the Board
- 9 may revoke or suspend the license.
- 10 27–102.
- This title applies only in Queen Anne's County.
- 12 27–1402.
- An applicant on behalf of a partnership may not be issued a Class A beer, wine and
- 14 liquor license unless the owners of 75% of the interest in the partnership [have been] ARE
- residents of the county [for 2 years immediately before] AT THE TIME THE application is
- 16 filed.
- 17 27–1403.
- (a) (1) An individual on behalf of a corporation or limited liability company
- may not be issued a Class A beer, wine, and liquor license unless the owners of 75% of the
- 20 total issued capital stock or interest in the corporation or limited liability company [have
- 21 been ARE residents of the county [for 2 years immediately before] AT THE TIME the
- 22 application is filed.
  - 23 28–102.
  - This title applies only in St. Mary's County.
  - 25 28-1409.
  - A license may not be issued for the use of a corporation unless the owners of at least
  - 27 15% of the total stock of the corporation [have resided] ARE RESIDENTS in the county [for
  - 28 6 months immediately before the AT THE TIME THE application for the license IS FILED.
  - 29 31–102.



1 (ii) are not required to be partners. 2 One of the three individuals who applies for a license shall: **(2)** 3 (i) have been BE a resident AND REGISTERED VOTER of the county [for at least 2 years before] AT THE TIME the application is filed[; and 4 5 (ii) have been a registered voter of the county for at least 1 year 6 immediately before the application is filed]. 7 The name of each partner shall be stated on the application. (3)8 32-1405.9 Except as provided in subsection (b) of this section, the Board may not issue a (a) 10 license to a corporation or limited liability company unless the individual qualifying under 11 this article: 12 (1)[has been] IS a registered voter, taxpayer, and resident of the county If or at least 2 years before the AT THE TIME OF submission of the application; and 13 14 owns at least 20% of the total issued capital stock of the corporation or 15 20% of the total interests of the limited liability company. 16 32 - 1502. 17 The prohibitions against one person being issued more than one license under § 18 4–203 of this article do not apply to: 19 a Class 6 pub-brewery license issued under § 2-208 of this article or a 20 Class 7 micro-brewery license issued under § 2–209 of this article; or 21 (2)a Class B beer, wine, and liquor license issued under § 32–902 of this 22article if: 23the resident applicant [has been] IS a resident of the county [for at least 2 years before the AT THE TIME OF application; and 2425 the minimum capital investment in the premises is at least (ii) 26 \$200,000 or the premises have a fair market value of at least \$200,000. 27 32 - 1503. 28Section 4–205 of this article does not apply to a license issued under:

§ 2-208 or § 2-209 (regarding pub-brewery and micro-brewery

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(1)

1	licenses) of this article; or
2 3	$\ $ (2) § 32–902 (regarding Class B beer, wine, and liquor licenses) of this article if:
4 5	(i) the resident applicant [has been] IS a resident of the county [for at least 2 years before the] AT THE TIME OF application; and
6 7	(ii) the minimum capital investment in the premises is at least \$200,000 or the premises have a fair market value of at least \$200,000.
8 9 10 11 12 13	SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that this Act be applied and interpreted to comport with the holding of the U.S. Supreme Court in Tennessee Wine and Spirits Retailers Assn. v. Russel F. Thomas, Executive Director of the Tennessee Alcoholic Beverage Commission, et al., 139 S. Ct. 2449 (2019), which held that durational—residency requirements for an alcoholic beverages license was facially discriminatory, in violation of the dormant Commerce Clause of the U.S. Constitution.
15 16	SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020.
	Approved:
	Governor.
	Speaker of the House of Delegates.
	President of the Senate.