



BRANDON M. SCOTT
MAYOR

*100 Holliday Street, Room 250
Baltimore, Maryland 21202*

February 15, 2024

The Honorable C.T. Wilson, Chair
Economic Matters Committee
House Office Building – Room 231
Annapolis, Maryland 21401

Re: HB 1089 – Request for Favorable Report with Minor Amendment

Chair Wilson and Members of the Committee:

I write to advocate for the passage of legislation to relax the requirements for obtaining a Class B (restaurant) liquor license within Baltimore City's downtown area, specifically outlined in HB 1089. This initiative is a critical component of our broader Downtown RISE action plan, aimed at revitalizing our central business district during a challenging economic period and before significant developments, such as Harborplace, come to fruition.

Our current liquor licensing requirements impose significant barriers to entry for new and existing restaurants. Specifically, the high thresholds for capital investment and seating capacity, coupled with stringent food sales ratios, disproportionately affect smaller establishments and those looking to occupy previously used spaces without the need for substantial investment in infrastructure.


By relaxing these requirements, we aim to foster a more vibrant, diverse, and economically resilient downtown area. This will not only help fill vacant storefronts, thereby enhancing the urban fabric, but also stimulate job creation, increase tax revenues, and improve the overall quality of life for our residents and visitors alike.

The proposed legislation is carefully crafted to sunset after four years, allowing us to assess its effectiveness and make necessary adjustments moving forward. This temporary measure is a thoughtful response to the immediate needs of our downtown area, reflecting our commitment to adaptive, responsive governance.

I urge you to consider the positive impacts this legislation will have on Baltimore's economic development and community vitality. Together, we can create a more inclusive, dynamic downtown that serves as a beacon of growth and opportunity.

Thank you for your attention to this matter and your ongoing support for the City of Baltimore.

Sincerely,



Justin A. Williams
Deputy Mayor for Community & Economic Development

A minor/technical amendment is requested so that language in HB 1089 is identical to SB 904, which will result in the reducing the area from the larger Downtown Management District to just Ward 4, Precincts 1 and 2. The Downtown Management District extends into the Mount Vernon neighborhood and we were unable to consult with community stakeholders in the neighborhood, so propose to reduce the impacted area to include what would be considered the traditional downtown/central business district (Ward 4, Precincts 1 and 2).

Proposed Language Below

Proposed to House Economic Matters Committee

Amendment to HB 1089

First Reader

(To be offered in Economic Matters Committee)

On page 2, strike in their entirety lines 1 and 2; and in line 5, strike “**THE DOWNTOWN MANAGEMENT DISTRICT**” and substitute “**WARD 4, PRECINCTS 1 AND 2**”.



MEMORANDUM
OFFICE OF THE MAYOR

To: Baltimore City Delegation
From: Justin Williams, Deputy Mayor for Community & Economic Development
Date: 1/19/24
Re: Request for Legislation to Relax Threshold Requirements for Restaurants Seeking to Obtain a Class B Liquor License in Downtown

As outlined below, the request is to enact legislation that would relax threshold requirements for restaurants located in the central business district (defined as Ward 4, Precincts 1 and 2) to apply for Class B-(BWL) beer, wine, and liquor licenses, with the ultimate goal of making it easier to fill vacant storefronts downtown.

This request is part of a broader action plan for downtown, referred to as Downtown RISE, which is being developed to help stabilize the area through a period in which the office market is predicted to experience further downturn and before Harborplace is developed. Because it is targeted to focus on downtown during a period of economic uncertainty, this bill is proposed to be drafted to sunset after 4 years.

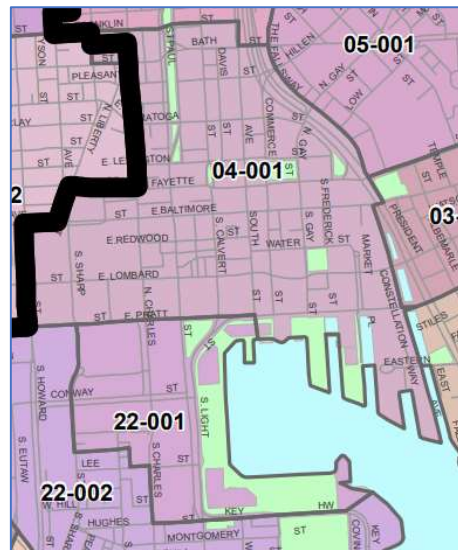
BACKGROUND

- In Baltimore, generally, a food establishment seeking to sell alcoholic beverages can apply to the Baltimore City Liquor Board to obtain a new Class B (restaurant) BWL (beer, wine, and liquor) license provided it satisfies certain threshold requirements for: minimum seating, capital investment, food sales.
- If a prospective food establishment **cannot** satisfy these requirements, the only other way to obtain a liquor license would be to buy an existing Class D or BD-7 license from an existing establishment within the same senate district and then apply to the Liquor Board for approval of the transfer of location and ownership.
- Costs for licenses vary based on supply and demand. In the 46th District, these licenses can cost up to \$150,000, which is a large upfront cost for a new restaurant.

- **Threshold Requirements for Obtaining a Class B License:** Generally, in 46th District,¹ a restaurant seeking a new Class B license must have:
 - (i) capital investment of at least \$500,000 for restaurant facilities, not including the cost of the land and building
 - (ii) average daily receipts from the sale of food that are at least 51% of the total daily receipts of the restaurant; and
 - (iii) seating for 75 but not more than 150 individuals.²
- However, in certain wards/precincts, **including those located Downtown**, the threshold requirements for obtaining a Class B license **are even higher**.

- **In ward 4, precinct 1,³** the requirements to obtain a new Class B license are:

- (i) capital investment of at least **\$700,000** for restaurant facilities, not including the cost of the land and building;
- (ii) average daily receipts from the sale of food that are at least **65%** of the total daily receipts of the restaurant; and
- (iii) seating for more than 75 individuals.⁴



Map of the Downtown Wards/Precincts

- This higher threshold arguably hinders the ability of restaurants to open/locate Downtown with alcoholic beverages service for a couple reasons:
- **First**, certain restaurants are in spaces that don't have sufficient interior space to provide 75 seats.
 - For example, Puerto 511 at 102 W. Clay Street has fewer than 50 seats

¹ For comparison, in the other City senate districts that aren't the 46th District, the minimum capital investment required is only \$200,000.

² Per BLLC custom, the only "seats" that count toward this total are seats that are interior to the restaurant and that aren't at a bar counter.

³ This requirement also applies to ward 22, precinct 1.

⁴ For a restaurant in ward 4, precinct 1, with more than 150 seats, the restaurant would be eligible to have sales for off-premises consumption (i.e., privilege to sell for carryout). §12-1604(c)(2)(i).



Interior of Puerto 511, which operate with BYOB privilege because it has fewer than 50 seats

- **Secondly**, certain restaurants taking over spaces that were formerly restaurants are unable to demonstrate the minimum required capital investment necessary to qualify for a new Class B License.
 - For example, Hoodfellas Bistro, at 7. N Calvert Street, took over space formerly operated by Argosy Café. Because that space had already been devoted for restaurant use, the Hoodfellas Bistro operators did not need to expend >\$700,000 on items like kitchen vents and refrigerators.
 - As a result, the establishment's owner was forced to purchase a Class D License from an existing tavern, and then obtain Liquor Board approval to transfer the license's ownership and location.
 - This Class D License only allows sales of alcohol 6 days a week, and as a result, it is closed on Sundays. The proprietors indicated they'd otherwise like to offer Sunday brunch service.



Interior of Hoodfellas Bistro, which was forced to buy a Class D (Tavern) License, despite being a restaurant, because it did not meet minimum threshold capital investment requirement for a Class B License in Ward 4, Precinct 1.

PROBLEM

- These high threshold requirements for obtaining a Class B License make it harder for restaurants to flourish downtown.
- The ability to sell alcohol, which comes at higher margins and is often non-perishable, makes it easier for restaurants to be profitable.

SOLUTION/SUMMARY OF REQUESTED LEGISLATION

- To make it easier for restaurants to fill vacant space in the central business district (as defined by Ward 4, Precincts 1 & 2), the requested legislation would **remove the threshold** requirements on seating⁵ and capital investment,⁶ and instead just make the test that the establishment have a *bona fide* kitchen, by virtue of obtaining the required license from the Baltimore City Health Department.
- As a safeguard to ensure that the prospective establishments seeking a license under the proposed provision are good operators, the restaurant seeking a would be required to enter into a memorandum of understanding with the Downtown Partnership of Baltimore (DPOB), which operates in the Downtown Management Authority area.⁷
- An existing threshold requirement on minimum food sales would remain, which would serve as an additional safeguard.
 - As part of their annual renewal, all Class B license holders in the 46th District have to submit a food sales form signed by a CPA that confirms that the 51% food sales requirement is met (this ensures that the establishment isn't just a token restaurant that is functioning as a night club or a dive bar).
 - Restaurants in Ward 4, Precinct 2 (in the 40th District) utilizing this provision will need to comply with this food sales requirement as well.

⁵ Section 12-1604(C)(7) contains a precedent for not applying a seating requirement for a Class B License: "A license issued under paragraph (2)(vii) of this subsection: (i) is not required to have a minimum amount of seating for patrons or a minimum amount of food sales to maintain licensure; and (ii) may not be transferred from the location of its first issuance.

⁶ Section 12-1604(c)(5) contains a precedent for not requiring any capital investment for a Class B License that meets the other tests set forth in that subsection.

⁷ Section 12-1604(i) contains precedent for requiring an applicant seeking a Class B license to enter into an MOU with a neighborhood association: "The Board may issue a Class D beer and light wine license for an establishment in ward 26, precinct 8 on the west side of the 1200 block of South Haven Street that has executed a memorandum of understanding with Brewer's Hill Neighbors, Inc." See also, Section 12-903(f)(2), which allows a license to be exchanged if: "the applicant executes a memorandum of understanding with the Mount Vernon-Belvedere Improvement Association."

PROPOSED DRAFT LANGUAGE

ALL REFERENCES TO ALC. BEVERAGES & CANNABIS ARTICLE

§ 12-903. Class B beer, wine, and liquor license

- (a) There is a Class B beer, wine, and liquor license.
- (b) The license authorizes the license holder to sell beer, wine, and liquor at a hotel or restaurant at the place described in the license, for on- or off-premises consumption.

...

§ 12-1606. [Reserved] CLASS B LICENSES IN THE CENTRAL BUSINESS DISTRICT

- (A) THE BOARD MAY ISSUE A CLASS B BEER, WINE, AND LIQUOR LICENSE FOR USE BY A RESTAURANT IN WARD 4, PRECINCTS 1 AND 2 THAT:
 - (1) HAS AVERAGE DAILY RECEIPTS FROM THE SALE OF FOOD THAT ARE AT LEAST 51% OF THE TOTAL DAILY RECEIPTS OF THE RESTAURANT;
 - (2) HAS BEEN CLASSIFIED BY THE BALTIMORE CITY HEALTH DEPARTMENT AS EITHER OF THE FOLLOWING PRIORITY ASSESSMENT CATEGORIES:
 - A. A HIGH PRIORITY FOOD SERVICE FACILITY; OR
 - B. A MODERATE PRIORITY FOOD SERVICE FACILITY; AND⁸
 - (3) EXCEPT AS PROVIDED IN SUBSECTION (C), NO SALES FOR OFF-PREMISES CONSUMPTION; AND
 - (4) HAS EXECUTED A MEMORANDUM OF UNDERSTANDING WITH THE DOWNTOWN PARTNERSHIP OF BALTIMORE.
- (B) A LICENSE SPECIFIED UNDER THIS SECTION 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.
- (C) A LICENSE ISSUED UNDER THIS SECTION MAY NOT BE TRANSFERRED FROM THE LOCATION OF ITS FIRST ISSUANCE.
- (D) WHEN A LICENSE ISSUED UNDER THIS SECTION 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 SUBSECTION (B) (1) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2024. It shall remain effective for a period of 4 year(s) and, at the end of June 30, 2028, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

⁸ This is attempting to mandate that the restaurant have a bona fide kitchen; there may be a better provision to cite to. The types of establishments and priorities are referenced in Title 6, Subtitles 2 and 3 of the Baltimore City Health Code, which also references relevant COMAR provisions at COMAR 10.15.03.33.

WARD 4, PRECINCTS 1 AND 2

