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By: Senator Currie

Introduced and read first time: February 5, 1997

Assigned to: Rules

Re-referred to: Economic and Environmental Affairs, February 14, 1997

Committee Report: Favorable

Senate action: Adopted

Read second time: March 19, 1997

CHAPTER ____

1 AN ACT concerning

2 **Alcoholic Beverages - Retail Stores**
3 **(Size Limitation)**

4 FOR the purpose of imposing a statewide limitation on the amount of floor space that a
5 retail alcoholic beverages licensee may devote to the sale of alcoholic beverages;
6 providing restrictions and exceptions; deleting a current requirement that is
7 operable only in Prince George's County; and generally relating to the sale of
8 alcoholic beverages.

9 BY repealing and reenacting, without amendments,
10 Article 2B - Alcoholic Beverages
11 Section 9-217(a)
12 Annotated Code of Maryland
13 (1996 Replacement Volume)

14 BY repealing
15 Article 2B - Alcoholic Beverages
16 Section 9-217(m)
17 Annotated Code of Maryland
18 (1996 Replacement Volume)

19 BY adding to
20 Article 2B - Alcoholic Beverages
21 Section 9-108
22 Annotated Code of Maryland
23 (1996 Replacement Volume)

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

3 **Article 2B - Alcoholic Beverages**

4 9-217.

5 (a) This section applies only in Prince George's County.

6 [(m) (1) (i) In this section the following words have the meanings indicated.

7 (ii) "Board" means the Board of License Commissioners.

8 (iii) "Food stores" includes supermarkets.

9 (iv) "Off-sale" means the sale of alcoholic beverages that are to be
10 consumed off the licensed premises.

11 (v) "On-sale" means the sale of alcoholic beverages that are to be
12 consumed only on the licensed premises.

13 (2) Without regard to its class of license, a licensee may not devote more
14 than 10,000 square feet of floor space to off-sale use.

15 (3) Except as to food stores that had an alcoholic beverages license on or
16 before January 1, 1995, floor space shall be considered the space devoted to the retail sale
17 of alcoholic beverages for off-sale consumption which, in the case of all licenses without
18 on-premises consumption privileges, is located within the four walls of the building from
19 which the licensed business operates or, in the case of licenses with on-sale and off-sale
20 privileges, is actually used for the sale, display or storage of those beverages. In all cases,
21 floor space includes:

22 (i) Basements on licensed premises; and

23 (ii) Whatever other area off the licensed premises upon which the
24 beverages are at any time lawfully stored.

25 (4) (i) This subsection does not prohibit the renewal or transfer of
26 ownership or location of a license issued in conjunction with any business that on or
27 before January 1, 1995, has in excess of 10,000 square feet devoted to off-sale use.

28 (ii) The square footage of floor space used for the sale, display, or
29 storage of the beverages may not be expanded beyond 10,000 square feet.

30 (iii) Food stores having an alcoholic beverages license on or before
31 January 1, 1995, may not expand the actual square footage of their alcoholic beverages
32 departments, including sales, display, and storage areas, beyond a total of 10,000 square
33 feet. This size shall be determined without regard to the total area available within the
34 four walls of the business premises.

35 (iv) There is no presumption in favor of or which otherwise requires
36 the Board to approve requests by licensees to expand the amount of space devoted to the
37 retail sale of beverages for off-sale consumption up to 10,000 square feet unless the
38 Board finds, based upon the evidence presented to them, that:

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1 1. The expansion is necessary to accommodate the public; and

2 2. The licensee otherwise continues to meet the criteria for
3 issuance or transfer of a license and whatever other conditions are imposed by the
4 Board.]

5 9-108.

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (2) "BOARD" MEANS THE BOARD OF LICENSE COMMISSIONERS OF EACH
9 COUNTY AND BALTIMORE CITY.

10 (3) "FOOD STORES" INCLUDES SUPERMARKETS.

11 (4) "OFF-SALE" MEANS THE SALE OF ALCOHOLIC BEVERAGES THAT
12 ARE TO BE CONSUMED OFF THE LICENSED PREMISES.

13 (5) "ON-SALE" MEANS THE SALE OF ALCOHOLIC BEVERAGES THAT ARE
14 TO BE CONSUMED ONLY ON THE LICENSED PREMISES.

15 (B) WITHOUT REGARD TO ITS CLASS OF LICENSE, A LICENSEE MAY NOT
16 DEVOTE MORE THAN 10,000 SQUARE FEET OF FLOOR SPACE TO OFF-SALE USE.

17 (C) EXCEPT AS TO FOOD STORES THAT HAD AN ALCOHOLIC BEVERAGES
18 LICENSE ON OR BEFORE OCTOBER 1, 1997, FLOOR SPACE SHALL BE CONSIDERED THE
19 SPACE DEVOTED TO THE RETAIL SALE OF ALCOHOLIC BEVERAGES FOR OFF-SALE
20 CONSUMPTION WHICH, IN THE CASE OF ALL LICENSES WITHOUT ON-PREMISES
21 CONSUMPTION PRIVILEGES, IS LOCATED WITHIN THE FOUR WALLS OF THE
22 BUILDING FROM WHICH THE LICENSED BUSINESS OPERATES OR, IN THE CASE OF
23 LICENSES WITH ON-SALE AND OFF-SALE PRIVILEGES, IS ACTUALLY USED FOR THE
24 SALE, DISPLAY, OR STORAGE OF THOSE BEVERAGES. IN ALL CASES, FLOOR SPACE
25 INCLUDES:

26 (1) BASEMENTS ON LICENSED PREMISES; AND

27 (2) WHATEVER OTHER AREA OFF THE LICENSED PREMISES UPON
28 WHICH THE BEVERAGES ARE AT ANY TIME LAWFULLY STORED.

29 (D) (1) THIS SECTION DOES NOT PROHIBIT THE RENEWAL OR TRANSFER OF
30 OWNERSHIP OR LOCATION OF A LICENSE ISSUED IN CONJUNCTION WITH ANY
31 BUSINESS THAT ON OR BEFORE OCTOBER 1, 1997, HAS IN EXCESS OF 10,000 SQUARE
32 FEET DEVOTED TO OFF-SALE USE.

33 (2) THE SQUARE FOOTAGE OF FLOOR SPACE USED FOR THE SALE,
34 DISPLAY, OR STORAGE OF THE BEVERAGES MAY NOT BE EXPANDED BEYOND 10,000
35 SQUARE FEET.

36 (3) FOOD STORES HAVING AN ALCOHOLIC BEVERAGES LICENSE ON OR
37 BEFORE OCTOBER 1, 1997, MAY NOT EXPAND THE ACTUAL SQUARE FOOTAGE OF
38 THEIR ALCOHOLIC BEVERAGES DEPARTMENTS, INCLUDING SALES, DISPLAY, AND
39 STORAGE AREAS, BEYOND A TOTAL OF 10,000 SQUARE FEET. THIS SIZE SHALL BE

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1 DETERMINED WITHOUT REGARD TO THE TOTAL AREA AVAILABLE WITHIN THE
2 FOUR WALLS OF THE BUSINESS PREMISES.

3 (4) THERE IS NO PRESUMPTION IN FAVOR OF OR WHICH OTHERWISE
4 REQUIRES THE BOARD TO APPROVE REQUESTS BY LICENSEES TO EXPAND THE
5 AMOUNT OF SPACE DEVOTED TO THE RETAIL SALE OF BEVERAGES FOR OFF-SALE
6 CONSUMPTION UP TO 10,000 SQUARE FEET, UNLESS THE BOARD FINDS, BASED UPON
7 THE EVIDENCE PRESENTED TO IT, THAT:

8 (I) THE EXPANSION IS NECESSARY TO ACCOMMODATE THE
9 PUBLIC; AND

10 (II) THE LICENSEE OTHERWISE CONTINUES TO MEET THE
11 CRITERIA FOR ISSUANCE OR TRANSFER OF A LICENSE AND WHATEVER OTHER
12 CONDITIONS ARE IMPOSED BY THE BOARD.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 1997.