
By: **Howard County Delegation**

Introduced and read first time: January 29, 1998

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Howard County - Alcoholic Beverage Act of 1998**

3 FOR the purpose of establishing that the County Council for Howard County on a
4 permanent basis constitutes ex officio the Board of License Commissioners for
5 Howard County; establishing an Appointed Alcoholic Beverage Hearing Board in
6 Howard County; providing for the appointment of members of the Hearing
7 Board; requiring that, except as provided in this Act, the Liquor Board delegate
8 to the Hearing Board its authority to act in certain ways; providing for the
9 membership, powers, and duties of the Hearing Board; providing for the
10 compensation of the Hearing Board; requiring that Hearing Board members not
11 have interests in certain premises except under certain circumstances; requiring
12 that Hearing Board members not receive or solicit a commission, remuneration,
13 or gift from certain persons; providing for the payment and staffing of the
14 Liquor Board and the Hearing Board; requiring the chief of the Howard County
15 Police Department to provide a sworn member of the Police Department as an
16 inspector to assist the Liquor Board and the Hearing Board; requiring the
17 Liquor Board and the Hearing Board to propose certain regulations and submit
18 them to the County Council for approval; providing for the annual budget of the
19 Liquor Board and the Hearing Board; establishing procedures for the Liquor
20 Board to conduct hearings and make final decisions on certain cases; requiring
21 the Hearing Board to give the Liquor Board regular and prompt notice of certain
22 filings; prohibiting certain acts; establishing a certain penalty for a violation of
23 this Act; defining certain terms; making technical and stylistic changes; and
24 generally relating to the regulation of alcoholic beverage licensees in Howard
25 County.

26 BY repealing

27 Article 2B - Alcoholic Beverages
28 Section 15-101(o), 15-109(o), and 15-112(o)
29 Annotated Code of Maryland
30 (1996 Replacement Volume and 1997 Supplement)

31 BY repealing and reenacting, with amendments,

32 Article 2B - Alcoholic Beverages

1 Section 15-105(a)
2 Annotated Code of Maryland
3 (1996 Replacement Volume and 1997 Supplement)

4 BY adding to
5 Article 2B - Alcoholic Beverages
6 Section 15-107.1
7 Annotated Code of Maryland
8 (1996 Replacement Volume and 1997 Supplement)

9 BY renumbering
10 Article 2B - Alcoholic Beverages
11 Section 15-101(p) through (y), 15-109(p) through (y), and 15-112(p) through (y),
12 respectively
13 to be Section 15-101(o) through (x), 15-109(o) through (x), and 15-112(o)
14 through (x), respectively
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 1997 Supplement)

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

19 **Article 2B - Alcoholic Beverages**

20 15-101.

21 [(o) The provisions of § 15-105 of this article apply in Howard County.]

22 15-105.

23 (a) The respective Boards of County Commissioners shall ex officio constitute
24 the Boards of License Commissioners in Dorchester and Kent Counties. [In Howard
25 County, the County Council shall ex officio constitute the Board of License
26 Commissioners.]

27 15-107.1.

28 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
29 INDICATED.

30 (2) "COUNTY" MEANS HOWARD COUNTY.

31 (3) "COUNTY COUNCIL" MEANS THE COUNTY COUNCIL FOR HOWARD
32 COUNTY.

33 (4) "HEARING BOARD" MEANS THE APPOINTED ALCOHOLIC BEVERAGE
34 HEARING BOARD IN HOWARD COUNTY.

1 (5) "HEARING BOARD MEMBER" MEANS A MEMBER OF THE APPOINTED
2 ALCOHOLIC BEVERAGE HEARING BOARD IN HOWARD COUNTY.

3 (6) "LIQUOR BOARD" MEANS THE BOARD OF LICENSE COMMISSIONERS
4 FOR HOWARD COUNTY.

5 (B) THE COUNTY COUNCIL FOR HOWARD COUNTY SHALL EX OFFICIO
6 CONSTITUTE ON A PERMANENT BASIS THE BOARD OF LICENSE COMMISSIONERS FOR
7 HOWARD COUNTY.

8 (C) (1) THERE IS AN APPOINTED ALCOHOLIC BEVERAGE HEARING BOARD IN
9 HOWARD COUNTY.

10 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE LIQUOR
11 BOARD SHALL DELEGATE TO THE HEARING BOARD ITS AUTHORITY TO CONDUCT
12 HEARINGS AND RENDER DECISIONS ON CASES INVOLVING ALCOHOLIC BEVERAGE
13 LICENSEES IN THE COUNTY.

14 (3) THE HEARING BOARD CONSISTS OF FIVE MEMBERS, ONE FROM
15 EACH COUNCILMANIC DISTRICT.

16 (4) (I) NOT MORE THAN THREE MEMBERS SHALL BE REGISTERED
17 WITH THE SAME POLITICAL PARTY.

18 (II) EACH POLITICAL PARTY THAT POLLED AT LEAST 25% OF THE
19 TOTAL VOTE CAST FOR ALL CANDIDATES FOR THE OFFICE OF COUNTY EXECUTIVE IN
20 THE MOST RECENT GENERAL ELECTION SHALL HAVE AT LEAST ONE
21 REPRESENTATIVE ON THE HEARING BOARD.

22 (III) IF A POLITICAL PARTY THAT POLLED AT LEAST 25% OF THE
23 TOTAL VOTE CAST FOR ALL CANDIDATES FOR THE OFFICE OF COUNTY EXECUTIVE IN
24 THE MOST RECENT GENERAL ELECTION DOES NOT HAVE AT LEAST ONE
25 REPRESENTATIVE ON THE HEARING BOARD, THE NEXT VACANCY ON THE HEARING
26 BOARD SHALL BE FILLED WITH AN INDIVIDUAL REGISTERED WITH THAT PARTY.

27 (5) (I) EACH MEMBER OF THE COUNTY COUNCIL SHALL NOMINATE TO
28 THE COUNTY EXECUTIVE THREE INDIVIDUALS WHO LIVE IN THE DISTRICT OF THE
29 MEMBER OF THE COUNTY COUNCIL.

30 (II) THE COUNTY EXECUTIVE SHALL APPOINT TO THE HEARING
31 BOARD ONE INDIVIDUAL FROM THE LIST OF NOMINEES THAT EACH MEMBER OF THE
32 COUNTY COUNCIL SUBMITS.

33 (III) THE COUNTY COUNCIL BY RESOLUTION SHALL CONFIRM THE
34 APPOINTMENT OF HEARING BOARD MEMBERS.

35 (6) TO QUALIFY FOR APPOINTMENT AS A HEARING BOARD MEMBER, AN
36 INDIVIDUAL SHALL BE:

37 (I) OF GOOD MORAL CHARACTER AND INTEGRITY;

1 (II) A REGISTERED VOTER OF THE COUNTY IMMEDIATELY PRIOR
2 TO THE APPOINTMENT; AND

3 (III) AT LEAST 21 YEARS OF AGE.

4 (D) (1) A HEARING BOARD MEMBER MAY NOT HOLD ANOTHER PUBLIC
5 OFFICE OR BE EMPLOYED BY A PUBLIC BODY.

6 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
7 PARAGRAPH, A HEARING BOARD MEMBER MAY NOT HAVE A DIRECT OR INDIRECT
8 INTEREST IN ANY PREMISES WHERE ALCOHOLIC BEVERAGES ARE MANUFACTURED
9 OR SOLD, OR IN ANY BUSINESS WHOLLY OR PARTIALLY DEVOTED TO THE
10 MANUFACTURE OR SALE OF ALCOHOLIC BEVERAGES.

11 (II) A HEARING BOARD MEMBER MAY BE A HOLDER OF A 1-DAY OR
12 2-DAY ALCOHOLIC BEVERAGE LICENSE.

13 (3) A HEARING BOARD MEMBER IS REQUIRED TO BE A REGISTERED
14 VOTER OF THE COUNTY DURING THE HEARING BOARD MEMBER'S TERM OF OFFICE.

15 (4) (I) EXCEPT FOR THE TERMS OF SOME OF THE INITIAL HEARING
16 BOARD MEMBERS, THE TERM OF A BOARD MEMBER IS 5 YEARS.

17 (II) THE TERMS OF HEARING BOARD MEMBERS ARE STAGGERED AS
18 REQUIRED BY THE TERMS PROVIDED FOR HEARING BOARD MEMBERS ON OCTOBER 1,
19 1998.

20 (5) A HEARING BOARD MEMBER WHO IS APPOINTED TO FILL A VACANCY
21 SHALL SERVE THE REMAINDER OF THE UNEXPIRED TERM.

22 (6) A HEARING BOARD MEMBER WHOSE TERM HAS EXPIRED AND WHO
23 HAS SERVED 8 OR MORE CONSECUTIVE YEARS ON THE BOARD IS NOT ELIGIBLE FOR
24 IMMEDIATE REAPPOINTMENT TO THE HEARING BOARD.

25 (7) THE COUNTY COUNCIL MAY REMOVE A HEARING BOARD MEMBER
26 FOR INCOMPETENCE, MISCONDUCT, NEGLIGENCE OF A DUTY REQUIRED BY LAW,
27 UNPROFESSIONAL CONDUCT, DISHONORABLE CONDUCT, A VIOLATION OF ANY OF
28 THE PROVISIONS OF SUBSECTION (I) OF THIS SECTION OR FAILURE TO MEET THE
29 QUALIFICATIONS OF SUBSECTION (C)(1), (2), OR (3) OF THIS SECTION.

30 (E) (1) FROM AMONG ITS MEMBERS, THE HEARING BOARD SHALL ELECT A
31 CHAIRPERSON.

32 (2) (I) A MAJORITY OF THE MEMBERS THEN SERVING ON THE
33 HEARING BOARD IS A QUORUM.

34 (II) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE
35 HEARING BOARD IS NEEDED TO TAKE ACTION.

1 (3) THE HEARING BOARD SHALL MEET AT LEAST ONCE EACH MONTH
2 AND MAY MEET MORE OFTEN IF NEEDED.

3 (F) THE COMPENSATION OF THE HEARING BOARD MEMBERS FOR THE
4 PERFORMANCE OF THEIR DUTIES SHALL BE:

5 (1) (I) FOR THE CHAIRPERSON, \$55 PER MEETING ATTENDED, NOT TO
6 EXCEED \$1,300 IN A FISCAL YEAR REGARDLESS OF THE NUMBER OF MEETINGS
7 ATTENDED; AND

8 (II) FOR OTHER HEARING BOARD MEMBERS, \$50 PER MEETING
9 ATTENDED, NOT TO EXCEED \$1,200 IN A FISCAL YEAR REGARDLESS OF THE NUMBER
10 OF MEETINGS ATTENDED; AND

11 (2) THE COMPENSATION OF THE LIQUOR BOARD MEMBERS FOR THE
12 PERFORMANCE OF THEIR DUTIES SHALL BE:

13 (I) FOR THE CHAIRPERSON, \$55 PER MEETING ATTENDED, NOT TO
14 EXCEED \$1,300 IN A FISCAL YEAR REGARDLESS OF THE NUMBER OF MEETINGS
15 ATTENDED; AND

16 (II) FOR OTHER HEARING BOARD MEMBERS, \$50 PER MEETING
17 ATTENDED, NOT TO EXCEED \$1,200 IN A FISCAL YEAR REGARDLESS OF THE NUMBER
18 OF MEETINGS ATTENDED.

19 (G) (1) THE DIRECTOR OF THE COUNTY DEPARTMENT OF INSPECTIONS,
20 LICENSES, AND PERMITS SHALL PROVIDE A SINGLE ADMINISTRATOR TO SERVE
21 BOTH THE HEARING BOARD AND THE LIQUOR BOARD, AND MAY PROVIDE OTHER
22 STAFFING TO THE BOARDS AS NECESSARY TO CARRY OUT THE DUTIES OF THE
23 BOARDS.

24 (2) THE CHIEF OF THE COUNTY POLICE DEPARTMENT SHALL PROVIDE A
25 SWORN MEMBER OF THE COUNTY POLICE DEPARTMENT AS AN INSPECTOR TO
26 ASSIST THE HEARING BOARD AND THE LIQUOR BOARD IN CARRYING OUT THEIR
27 RESPONSIBILITIES AND IN ENFORCING THE LAW.

28 (H) THE HEARING BOARD SHALL PROPOSE REASONABLE REGULATIONS TO
29 ENABLE IT TO DISCHARGE ITS DUTIES, INCLUDING THE ISSUANCE OF ALCOHOLIC
30 BEVERAGE LICENSES, AND SHALL SUBMIT PROPOSED REGULATIONS TO THE LIQUOR
31 BOARD FOR APPROVAL.

32 (I) (1) THE HEARING BOARD AND THE LIQUOR BOARD SHALL SUBMIT AN
33 ANNUAL BUDGET REQUEST TO THE COUNTY COUNCIL NOT LATER THAN JANUARY 15
34 IN EACH YEAR FOR THE ENSUING FISCAL YEAR.

35 (2) A BUDGET REQUEST SHALL INCLUDE:

36 (I) SALARIES OF THE CHAIRPERSON AND HEARING BOARD
37 MEMBERS;

1 (II) COMPENSATION OF PERSONNEL ASSIGNED TO THE HEARING
2 BOARD; AND

3 (III) EXPENSES FOR OFFICE SUPPLIES, EQUIPMENT, AND SERVICES
4 NECESSARY FOR CARRYING OUT THE RESPONSIBILITIES OF THE HEARING BOARD.

5 (3) (I) THE COUNTY COUNCIL SHALL REVIEW THE BUDGET REQUESTS
6 AND SHALL SUBMIT BUDGETS FOR THE HEARING BOARD AND THE LIQUOR BOARD TO
7 THE COUNTY EXECUTIVE IN THE AMOUNTS THAT THE COUNTY COUNCIL
8 DETERMINES ARE ADEQUATE TO SUPPORT THE DUTIES AND RESPONSIBILITIES OF
9 THE HEARING BOARD AND THE LIQUOR BOARD.

10 (II) THE COUNTY EXECUTIVE SHALL INCLUDE THE BUDGET FOR
11 THE HEARING BOARD AND THE LIQUOR BOARD AS SUBMITTED BY THE COUNTY
12 COUNCIL IN THE COUNTY BUDGET THAT IS PREPARED IN ACCORDANCE WITH
13 ARTICLE VI OF THE HOWARD COUNTY CHARTER.

14 (J) A MEMBER OR EMPLOYEE OF THE HEARING BOARD AND THE LIQUOR
15 BOARD IS SUBJECT TO THE PUBLIC ETHICS LAWS OF THE COUNTY.

16 (K) (1) AFTER THE HEARING BOARD PROPOSES A DECISION REGARDING
17 ANY CASE BEFORE IT, A PARTY OR OTHER PARTICIPANT IN THE CASE OR OTHER
18 PERSON WHO WOULD BE AGGRIEVED BY THE DECISION MAY REQUEST THE LIQUOR
19 BOARD TO CONDUCT A HEARING AND MAKE A FINAL DECISION ON THE CASE.

20 (2) A PERSON THAT MAKES A REQUEST TO THE LIQUOR BOARD MUST:

21 (I) MAKE THE REQUEST IN WRITING;

22 (II) INCLUDE A COPY OF THE PROPOSED DECISION AND ORDER;

23 (III) STATE THE REASONS WHY THE PERSON BELIEVES THAT THE
24 PROPOSED DECISION IS WRONG; AND

25 (IV) SEND A COPY OF THE REQUEST AND ACCOMPANYING
26 MATERIALS TO ALL OTHER PARTIES IN THE CASE.

27 (3) IF A REQUEST IS SUBMITTED TO THE LIQUOR BOARD, THE PROPOSED
28 DECISION OF THE HEARING BOARD IS STAYED.

29 (4) AFTER A REQUEST FOR A HEARING IS SUBMITTED TO THE LIQUOR
30 BOARD, ANY OTHER PARTY TO THE PROCEEDING MAY SUBMIT TO THE LIQUOR
31 BOARD A RESPONSE STATING WHY THE PROPOSED DECISION BY THE HEARING
32 BOARD SHOULD BE UPHELD.

33 (L) AFTER THE PERIOD TO FILE A RESPONSE ENDS, THE LIQUOR BOARD
34 SHALL:

35 (1) SCHEDULE A PUBLIC MEETING TO DECIDE WHETHER TO HEAR THE
36 CASE; AND

1 (2) NOTIFY THE PARTIES OF THE MEETING DATE.

2 (M) THE PROPOSED DECISION OF THE HEARING BOARD BECOMES FINAL IF:

3 (1) NO REQUEST FOR A HEARING IS SUBMITTED TO THE LIQUOR BOARD
4 WITHIN THE TIME ALLOTTED FOR A REQUEST; OR

5 (2) THE LIQUOR BOARD DECIDES NOT TO HEAR THE CASE.

6 (N) (1) AFTER DECIDING TO HEAR A CASE, THE LIQUOR BOARD SHALL:

7 (I) SCHEDULE A HEARING DE NOVO AT WHICH THE LIQUOR
8 BOARD MAY HEAR WITNESSES; AND

9 (II) NOTIFY THE PARTIES OF THE HEARING DATE.

10 (2) AFTER THE CLOSE OF THE HEARING RECORD, THE LIQUOR BOARD
11 SHALL ISSUE TO THE PARTIES A FINAL DECISION.

12 (O) THE HEARING BOARD SHALL GIVE THE LIQUOR BOARD REGULAR AND
13 PROMPT NOTICE OF THE FILING OF:

14 (1) EACH APPLICATION FOR AN ALCOHOLIC BEVERAGE LICENSE OR
15 CHANGE IN LICENSE; AND

16 (2) EACH PETITION ALLEGING THAT A VIOLATION OF AN ALCOHOLIC
17 BEVERAGE LAW OR REGULATION HAS OCCURRED.

18 (P) BY GIVING NOTICE TO THE HEARING BOARD AND THE APPLICANT OR THE
19 AFFECTED LICENSEE, THE LIQUOR BOARD MAY:

20 (1) ASSUME INITIAL JURISDICTION OF ANY MATTER BEFORE THE
21 HEARING BOARD; AND

22 (2) HEAR THE CASE IN THE FIRST INSTANCE WHEN THE LIQUOR BOARD
23 DETERMINES THAT EXERCISING INITIAL JURISDICTION IS DESIRABLE AND IN THE
24 PUBLIC INTEREST.

25 (Q) (1) A HOLDER OF A LICENSE, A PERSON APPLYING FOR AN ALCOHOLIC
26 BEVERAGE LICENSE, OR A PERSON ENGAGED IN THE MANUFACTURE OR SALE OF
27 ALCOHOLIC BEVERAGES MAY NOT DIRECTLY OR INDIRECTLY OFFER TO PAY A
28 COMMISSION, PROFIT, OR REMUNERATION OR MAKE A GIFT OF MORE THAN
29 NOMINAL VALUE TO:

30 (I) A MEMBER OF THE HEARING BOARD OR OF THE LIQUOR BOARD;

31 (II) AN EMPLOYEE OF THE MEMBER OF THE HEARING BOARD OR
32 OF THE LIQUOR BOARD; OR

1 (III) AN AGENT ACTING ON BEHALF OF A MEMBER OF THE HEARING
2 BOARD OR OF THE LIQUOR BOARD OR EMPLOYEE ASSIGNED TO THE HEARING BOARD
3 OR THE LIQUOR BOARD.

4 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
5 MISDEMEANOR AND SUBJECT TO A FINE OF NOT MORE THAN \$1,000.

6 15-109.

7 [(o) In Howard County, the annual reimbursement for expenses incurred in the
8 performance of the duties of the Board of License Commissioners is as follows:

9 (1) Chairman - \$55 per meeting attended; and

10 (2) Other members - \$50 per meeting attended.]

11 15-112.

12 [(o) (1) This subsection applies only in Howard County.

13 (2) The Board may employ inspectors as necessary at a compensation as
14 the County Council budgets. The inspectors shall:

15 (i) Be known as "alcoholic beverages inspectors for Howard
16 County";

17 (ii) Each have all the powers of a peace officer or a constable or
18 sheriff of this State;

19 (iii) Make oath to faithfully perform the duties entrusted to them, as
20 provided in Article I, § 9 of the Constitution of this State; and

21 (iv) Have the duties prescribed by the Board.

22 (3) The services of the bureau of inspection and licenses, the office of the
23 County solicitor, and other County departments and offices shall be made available to
24 the Board.

25 (4) A commissioner may not:

26 (i) Have any interest, direct or indirect, either proprietary or by
27 means of any loan, mortgage or lien, or in any other manner, in or to any premises
28 where alcoholic beverages are manufactured or sold;

29 (ii) Have any interest, direct or indirect, in any business wholly or
30 partially devoted to the manufacture or sale of alcoholic beverages;

31 (iii) Own any stock in any corporation which has any interest,
32 proprietary or otherwise, direct or indirect, in any premises where alcoholic beverages
33 are manufactured or sold or in any business wholly or partially devoted to the
34 manufacture or sale of alcoholic beverages; or

1 (iv) Hold any other public office or employment.

2 (5) (i) A commissioner or County employee or Board employee may not
3 solicit or receive directly or indirectly, any commission, remuneration or gift
4 whatsoever from any person, or corporation engaged in the manufacture or sale of
5 beer or other alcoholic beverages, nor from any agent or employee of such person or
6 corporation, or from any licensee, licensed under the provisions of this article.

7 (ii) A person or corporation engaged in the manufacture or sale of
8 beer or other alcoholic beverages, nor any agent or employee of that person or
9 corporation, and a licensee licensed under the provisions of this article, either directly
10 or indirectly, may not offer to pay any commission, profit or remuneration or make
11 any gift to any commissioner or County or Board employee or to anyone on behalf of
12 the commissioners or County or Board employee.

13 (iii) Any person violating any of the provisions of this subsection is
14 guilty of a misdemeanor and upon conviction may be fined not more than \$1,000.]

15 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 15-101(p)
16 through (y), 15-109(p) through (y), and 15-112(p) through (y), respectively, of Article
17 2B - Alcoholic Beverages of the Annotated Code of Maryland be renumbered to be
18 Section(s) 15-101(o) through (x), 15-109(o) through (x), and 15-112(o) through (x),
19 respectively.

20 SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial
21 members of the Appointed Alcoholic Beverage Hearing Board in Howard County shall
22 expire as follows:

23 (1) in 1999, the member to be nominated by the Council member representing
24 the First Councilmanic District;

25 (2) in 2000, the member to be nominated by the Council member representing
26 the Second Councilmanic District;

27 (3) in 2001, the member to be nominated by the Council member representing
28 the Third Councilmanic District;

29 (4) in 2002, the member to be nominated by the Council member representing
30 the Fourth Councilmanic District; and

31 (5) in 2003, the member to be nominated by the Council member representing
32 the Fifth Councilmanic District.

33 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 1998.