
By: **Senators Madden, McCabe, and Kasemeyer**
Introduced and read first time: February 6, 1998
Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Howard County - Board of License Commissioners**

3 FOR the purpose of establishing a Board of License Commissioners in Howard
4 County, appointed by the County Council for Howard County; providing for the
5 membership, powers, and duties of the Board; providing for the compensation of
6 the chairperson and other Board members; requiring that Board members not
7 have interests in certain premises except under certain circumstances; requiring
8 that Board members not receive or solicit a commission, remuneration, or gift
9 from certain persons; providing for the compensation of the chairperson and
10 other members of the Board; providing for a quorum of the Board and a certain
11 number of Board members to take action; requiring the County Council for
12 Howard County to employ an administrator for the Board; requiring the chief of
13 the Howard County Police Department to provide a sworn member of the Police
14 Department as an inspector to assist the Board; authorizing the County Council
15 to provide other County employees to the Board; requiring the Board to propose
16 certain regulations and submit them to the County Council for approval;
17 requiring the Board to submit an annual budget request by a certain date to the
18 County Council; requiring the County Council to review the budget request and
19 submit a budget for the Board to the County Executive; establishing procedures
20 for the County Council to conduct hearings and make final decisions on certain
21 cases; providing for appeals to the circuit court under certain circumstances;
22 prohibiting a holder of a license, a person applying for a license, or a person
23 engaged in the manufacture or sale of alcoholic beverages from offering to pay a
24 commission, profit, or remuneration or make a gift to certain persons; providing
25 a certain penalty for a violation of a certain penalty; defining certain terms;
26 repealing certain obsolete provisions from the Code; and generally relating to
27 the establishment of the Board of License Commissioners in Howard County.

28 BY repealing
29 Article 2B - Alcoholic Beverages
30 Section 15-101(o), 15-109(o), and 15-112(o)
31 Annotated Code of Maryland
32 (1996 Replacement Volume and 1997 Supplement)

33 BY repealing and reenacting, with amendments,

1 Article 2B - Alcoholic Beverages
2 Section 15-105(a)
3 Annotated Code of Maryland
4 (1996 Replacement Volume and 1997 Supplement)

5 BY adding to
6 Article 2B - Alcoholic Beverages
7 Section 15-107.1
8 Annotated Code of Maryland
9 (1996 Replacement Volume and 1997 Supplement)

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

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

18 **Article 2B - Alcoholic Beverages**

19 15-101.

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

21 15-105.

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

26 15-107.1.

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

29 (2) "BOARD" MEANS THE BOARD OF LICENSE COMMISSIONERS IN
30 HOWARD COUNTY.

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

33 (4) "COUNTY" MEANS HOWARD COUNTY.

1 (5) "BOARD MEMBER" MEANS A MEMBER OF THE BOARD OF LICENSE
2 COMMISSIONERS IN HOWARD COUNTY.

3 (B) (1) THERE IS A BOARD OF LICENSE COMMISSIONERS IN HOWARD
4 COUNTY.

5 (2) THE BOARD CONSISTS OF FIVE MEMBERS, ONE FROM EACH
6 COUNCILMANIC DISTRICT.

7 (3) (I) NOT MORE THAN THREE MEMBERS SHALL BE REGISTERED
8 WITH THE SAME POLITICAL PARTY.

9 (II) EACH POLITICAL PARTY THAT POLLED AT LEAST 25% OF THE
10 TOTAL VOTE CAST FOR ALL CANDIDATES FOR THE OFFICE OF COUNTY EXECUTIVE IN
11 THE MOST RECENT GENERAL ELECTION SHALL HAVE AT LEAST ONE
12 REPRESENTATIVE ON THE BOARD.

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

18 (4) (I) EACH MEMBER OF THE COUNTY COUNCIL SHALL NOMINATE TO
19 THE COUNTY EXECUTIVE THREE INDIVIDUALS WHO LIVE IN THE DISTRICT OF THE
20 MEMBER OF THE COUNTY COUNCIL.

21 (II) THE COUNTY EXECUTIVE SHALL APPOINT TO THE BOARD ONE
22 INDIVIDUAL FROM THE LIST OF NOMINEES THAT EACH MEMBER OF THE COUNTY
23 COUNCIL SUBMITS.

24 (III) THE COUNTY COUNCIL BY RESOLUTION SHALL CONFIRM THE
25 APPOINTMENT OF BOARD MEMBERS.

26 (5) TO QUALIFY FOR APPOINTMENT AS A BOARD MEMBER, AN
27 INDIVIDUAL SHALL BE:

28 (I) OF GOOD MORAL CHARACTER AND INTEGRITY;

29 (II) A REGISTERED VOTER OF THE COUNTY IMMEDIATELY PRIOR
30 TO THE APPOINTMENT; AND

31 (III) AT LEAST 21 YEARS OF AGE.

32 (C) (1) A BOARD MEMBER MAY NOT HOLD ANOTHER PUBLIC OFFICE OR BE
33 EMPLOYED BY A PUBLIC BODY.

34 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
35 PARAGRAPH, A BOARD MEMBER MAY NOT HAVE A DIRECT OR INDIRECT INTEREST IN
36 ANY PREMISES WHERE ALCOHOLIC BEVERAGES ARE MANUFACTURED OR SOLD, OR

1 IN ANY BUSINESS WHOLLY OR PARTIALLY DEVOTED TO THE MANUFACTURE OR SALE
2 OF ALCOHOLIC BEVERAGES.

3 (II) A BOARD MEMBER MAY BE A HOLDER OF A 1-DAY OR 2-DAY
4 ALCOHOLIC BEVERAGES LICENSE.

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

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

9 (II) THE TERMS OF BOARD MEMBERS ARE STAGGERED AS
10 REQUIRED BY THE TERMS PROVIDED FOR BOARD MEMBERS ON OCTOBER 1, 1998.

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

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

16 (7) THE COUNTY COUNCIL MAY REMOVE A MEMBER FOR
17 INCOMPETENCE, MISCONDUCT, NEGLECT OF A DUTY REQUIRED BY LAW,
18 UNPROFESSIONAL CONDUCT, DISHONORABLE CONDUCT, A VIOLATION OF ANY OF
19 THE PROVISIONS OF SUBSECTION (I) OF THIS SECTION OR FAILURE TO MEET THE
20 QUALIFICATIONS OF SUBSECTION (C)(1), (2), OR (3) OF THIS SECTION.

21 (D) (1) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A
22 CHAIRPERSON.

23 (2) (I) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD
24 IS A QUORUM.

25 (II) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE BOARD
26 IS NEEDED TO TAKE ACTION.

27 (3) THE BOARD SHALL MEET AT LEAST ONCE EACH MONTH AND MAY
28 MEET MORE OFTEN IF NEEDED.

29 (E) THE COMPENSATION OF THE BOARD MEMBERS FOR THE PERFORMANCE
30 OF THEIR DUTIES SHALL BE:

31 (1) FOR THE CHAIRPERSON, \$55 PER MEETING ATTENDED, NOT TO
32 EXCEED \$1,300 IN A FISCAL YEAR REGARDLESS OF THE NUMBER OF MEETINGS
33 ATTENDED; AND

34 (2) FOR OTHER BOARD MEMBERS, \$50 PER MEETING ATTENDED, NOT TO
35 EXCEED \$1,200 IN A FISCAL YEAR REGARDLESS OF THE NUMBER OF MEETINGS
36 ATTENDED.

1 (F) (1) THE COUNTY COUNCIL SHALL EMPLOY AN ADMINISTRATOR FOR THE
2 BOARD WHO SHALL BE IN THE CLASSIFIED SERVICE OF THE COUNTY.

3 (2) THE CHIEF OF THE HOWARD COUNTY POLICE DEPARTMENT SHALL
4 PROVIDE A SWORN MEMBER OF THE HOWARD COUNTY POLICE DEPARTMENT AS AN
5 INSPECTOR TO ASSIST THE BOARD IN CARRYING OUT ITS RESPONSIBILITIES AND IN
6 ENFORCING THE LAW.

7 (3) THE COUNTY COUNCIL MAY PROVIDE OTHER COUNTY EMPLOYEES
8 TO THE BOARD IF THE COUNTY COUNCIL DETERMINES THAT ADDITIONAL STAFF IS
9 NECESSARY FOR THE BOARD TO CARRY OUT ITS RESPONSIBILITIES.

10 (G) THE BOARD SHALL PROPOSE REASONABLE REGULATIONS TO ENABLE IT
11 TO DISCHARGE ITS DUTIES, INCLUDING THE ISSUANCE OF ALCOHOLIC BEVERAGES
12 LICENSES, AND SHALL SUBMIT PROPOSED REGULATIONS TO THE COUNTY COUNCIL
13 FOR APPROVAL.

14 (H) (1) THE BOARD SHALL SUBMIT AN ANNUAL BUDGET REQUEST TO THE
15 COUNTY COUNCIL NOT LATER THAN JANUARY 15 IN EACH YEAR FOR THE ENSUING
16 FISCAL YEAR.

17 (2) A BUDGET REQUEST SHALL INCLUDE:

18 (I) SALARIES OF THE CHAIRPERSON AND BOARD MEMBERS;

19 (II) COMPENSATION OF PERSONNEL ASSIGNED TO THE BOARD;
20 AND

21 (III) EXPENSES FOR OFFICE SUPPLIES, EQUIPMENT, AND SERVICES
22 NECESSARY FOR CARRYING OUT THE RESPONSIBILITIES OF THE BOARD.

23 (3) (I) THE COUNTY COUNCIL SHALL REVIEW THE BUDGET REQUEST
24 AND SHALL SUBMIT A BUDGET FOR THE BOARD TO THE COUNTY EXECUTIVE IN THE
25 AMOUNT THAT THE COUNTY COUNCIL DETERMINES IS ADEQUATE TO SUPPORT THE
26 DUTIES AND RESPONSIBILITIES OF THE BOARD.

27 (II) THE COUNTY EXECUTIVE SHALL INCLUDE THE BUDGET FOR
28 THE BOARD AS SUBMITTED BY THE COUNTY COUNCIL IN THE COUNTY BUDGET THAT
29 IS PREPARED IN ACCORDANCE WITH ARTICLE VI OF THE HOWARD COUNTY CHARTER.

30 (I) A MEMBER OR EMPLOYEE OF THE BOARD IS SUBJECT TO THE PUBLIC
31 ETHICS LAWS OF THE COUNTY.

32 (J) (1) WITHIN 30 DAYS AFTER THE BOARD PROPOSES A DECISION
33 REGARDING ANY CASE BEFORE IT, A PARTY OR OTHER PARTICIPANT IN THE CASE OR
34 OTHER PERSON WHO WOULD BE AGGRIEVED BY THE DECISION MAY REQUEST THE
35 COUNCIL TO CONDUCT A HEARING AND MAKE A FINAL DECISION ON THE CASE.

36 (2) A PERSON THAT MAKES A REQUEST TO THE COUNCIL MUST:

1 (I) MAKE THE REQUEST IN WRITING;
2 (II) INCLUDE A COPY OF THE PROPOSED DECISION AND ORDER;
3 (III) STATE THE REASONS WHY THE PERSON BELIEVES THAT THE
4 PROPOSED DECISION IS WRONG; AND

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

7 (3) IF A REQUEST IS SUBMITTED TO THE COUNCIL, THE PROPOSED
8 DECISION OF THE BOARD IS STAYED.

9 (4) WITHIN 10 DAYS AFTER A REQUEST FOR A HEARING IS SUBMITTED
10 TO THE COUNCIL, ANY OTHER PARTY TO THE PROCEEDING MAY SUBMIT TO THE
11 COUNCIL A RESPONSE STATING WHY THE PROPOSED DECISION BY THE BOARD
12 SHOULD BE UPHELD.

13 (K) WITHIN 15 DAYS AFTER THE PERIOD TO FILE A RESPONSE ENDS, THE
14 COUNCIL SHALL:

15 (1) SCHEDULE A PUBLIC MEETING TO DECIDE WHETHER TO HEAR THE
16 CASE; AND

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

18 (L) THE PROPOSED DECISION OF THE BOARD BECOMES FINAL IF:

19 (1) NO REQUEST FOR A HEARING IS SUBMITTED TO THE COUNCIL
20 WITHIN THE TIME ALLOTTED FOR A REQUEST; OR

21 (2) THE COUNCIL DECIDES NOT TO HEAR THE CASE.

22 (M) (1) WITHIN 60 DAYS AFTER DECIDING TO HEAR A CASE, THE COUNCIL
23 SHALL:

24 (I) SCHEDULE A HEARING DE NOVO AT WHICH THE COUNCIL MAY
25 HEAR WITNESSES; AND

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

27 (2) WITHIN 30 DAYS AFTER THE CLOSE OF THE HEARING RECORD, THE
28 COUNCIL SHALL ISSUE TO THE PARTIES A FINAL DECISION.

29 (N) A PARTY MAY TAKE AN APPEAL FROM A FINAL DECISION OF THE COUNCIL
30 TO CIRCUIT COURT IN ACCORDANCE WITH § 10-222 OF THE STATE GOVERNMENT
31 ARTICLE.

32 (O) (1) A HOLDER OF A LICENSE, A PERSON APPLYING FOR AN ALCOHOLIC
33 BEVERAGES LICENSE, OR A PERSON ENGAGED IN THE MANUFACTURE OR SALE OF
34 ALCOHOLIC BEVERAGES MAY NOT DIRECTLY OR INDIRECTLY OFFER TO PAY A

1 COMMISSION, PROFIT, OR REMUNERATION OR MAKE A GIFT OF MORE THAN
2 NOMINAL VALUE TO:

3 (I) A COMMISSIONER;

4 (II) AN EMPLOYEE OF THE BOARD; OR

5 (III) AN AGENT ACTING ON BEHALF OF A COMMISSIONER OR
6 EMPLOYEE ASSIGNED TO THE BOARD.

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

9 15-109.

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

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

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

14 15-112.

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

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

18 (i) Be known as "alcoholic beverages inspectors for Howard
19 County";

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

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

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

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

28 (4) A commissioner may not:

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

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

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

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

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

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

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

21 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 15-101(p)
22 through (y) and 15-109(p) through (y), respectively, of Article 2B - Alcoholic
23 Beverages of the Annotated Code of Maryland be renumbered to be Section(s)
24 15-101(o) through (x) and 15-109(o) through (x), respectively.

25 SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial
26 members of the Board of License Commissioners of Howard County shall expire as
27 follows:

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

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

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

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

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

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