
By: **Senators Madden, McCabe, and Kasemeyer**
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Assigned to: Economic and Environmental Affairs

Committee Report: Favorable
Senate action: Adopted
Read second time: March 11, 1998

CHAPTER _____

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.

1 BY repealing

2 Article 2B - Alcoholic Beverages
3 Section 15-101(o), 15-109(o), and 15-112(o)
4 Annotated Code of Maryland
5 (1996 Replacement Volume and 1997 Supplement)

6 BY repealing and reenacting, with amendments,

7 Article 2B - Alcoholic Beverages
8 Section 15-105(a)
9 Annotated Code of Maryland
10 (1996 Replacement Volume and 1997 Supplement)

11 BY adding to

12 Article 2B - Alcoholic Beverages
13 Section 15-107.1
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 1997 Supplement)

16 BY renumbering

17 Article 2B - Alcoholic Beverages
18 Section 15-101(p) through (y) and 15-109(p) through (y), respectively
19 to be Section 15-101(o) through (x) and 15-109(o) through (x), respectively
20 Annotated Code of Maryland
21 (1996 Replacement Volume and 1997 Supplement)

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

24 **Article 2B - Alcoholic Beverages**

25 15-101.

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

27 15-105.

28 (a) The respective Boards of County Commissioners shall ex officio constitute
29 the Boards of License Commissioners in Dorchester and Kent Counties. [In Howard
30 County, the County Council shall ex officio constitute the Board of License
31 Commissioners.]

32 15-107.1.

33 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
34 INDICATED.

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

3 (3) "COUNTY COUNCIL" MEANS THE COUNTY COUNCIL FOR HOWARD
4 COUNTY.

5 (4) "COUNTY" MEANS HOWARD COUNTY.

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

8 (B) (1) THERE IS A BOARD OF LICENSE COMMISSIONERS IN HOWARD
9 COUNTY.

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

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

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

18 (III) IF A 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 DOES NOT HAVE AT LEAST ONE
21 REPRESENTATIVE ON THE BOARD, THE NEXT VACANCY ON THE BOARD SHALL BE
22 FILLED WITH AN INDIVIDUAL REGISTERED WITH THAT PARTY.

23 (4) (I) EACH MEMBER OF THE COUNTY COUNCIL SHALL NOMINATE TO
24 THE COUNTY EXECUTIVE THREE INDIVIDUALS WHO LIVE IN THE DISTRICT OF THE
25 MEMBER OF THE COUNTY COUNCIL.

26 (II) THE COUNTY EXECUTIVE SHALL APPOINT TO THE BOARD ONE
27 INDIVIDUAL FROM THE LIST OF NOMINEES THAT EACH MEMBER OF THE COUNTY
28 COUNCIL SUBMITS.

29 (III) THE COUNTY COUNCIL BY RESOLUTION SHALL CONFIRM THE
30 APPOINTMENT OF BOARD MEMBERS.

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

33 (I) OF GOOD MORAL CHARACTER AND INTEGRITY;

34 (II) A REGISTERED VOTER OF THE COUNTY IMMEDIATELY PRIOR
35 TO THE APPOINTMENT; AND

36 (III) AT LEAST 21 YEARS OF AGE.

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (E) THE COMPENSATION OF THE BOARD MEMBERS FOR THE PERFORMANCE
35 OF THEIR DUTIES SHALL BE:

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

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

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

9 (2) THE CHIEF OF THE HOWARD COUNTY POLICE DEPARTMENT SHALL
10 PROVIDE A SWORN MEMBER OF THE HOWARD COUNTY POLICE DEPARTMENT AS AN
11 INSPECTOR TO ASSIST THE BOARD IN CARRYING OUT ITS RESPONSIBILITIES AND IN
12 ENFORCING THE LAW.

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

16 (G) THE BOARD SHALL PROPOSE REASONABLE REGULATIONS TO ENABLE IT
17 TO DISCHARGE ITS DUTIES, INCLUDING THE ISSUANCE OF ALCOHOLIC BEVERAGES
18 LICENSES, AND SHALL SUBMIT PROPOSED REGULATIONS TO THE COUNTY COUNCIL
19 FOR APPROVAL.

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

23 (2) A BUDGET REQUEST SHALL INCLUDE:

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

25 (II) COMPENSATION OF PERSONNEL ASSIGNED TO THE BOARD;
26 AND

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

29 (3) (I) THE COUNTY COUNCIL SHALL REVIEW THE BUDGET REQUEST
30 AND SHALL SUBMIT A BUDGET FOR THE BOARD TO THE COUNTY EXECUTIVE IN THE
31 AMOUNT THAT THE COUNTY COUNCIL DETERMINES IS ADEQUATE TO SUPPORT THE
32 DUTIES AND RESPONSIBILITIES OF THE BOARD.

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

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

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

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

6 (I) MAKE THE REQUEST IN WRITING;

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

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

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

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

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

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

20 (1) SCHEDULE A PUBLIC MEETING TO DECIDE WHETHER TO HEAR THE
21 CASE; AND

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

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

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

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

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

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

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

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

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

4 (O) (1) A HOLDER OF A LICENSE, A PERSON APPLYING FOR AN ALCOHOLIC
5 BEVERAGES LICENSE, OR A PERSON ENGAGED IN THE MANUFACTURE OR SALE OF
6 ALCOHOLIC BEVERAGES MAY NOT DIRECTLY OR INDIRECTLY OFFER TO PAY A
7 COMMISSION, PROFIT, OR REMUNERATION OR MAKE A GIFT OF MORE THAN
8 NOMINAL VALUE TO:

9 (I) A COMMISSIONER;

10 (II) AN EMPLOYEE OF THE BOARD; OR

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

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

15 15-109.

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

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

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

20 15-112.

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

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

24 (i) Be known as "alcoholic beverages inspectors for Howard
25 County";

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

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

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

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

1 (4) A commissioner may not:

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

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

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

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

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

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

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

25 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 15-101(p)
26 through (y) and 15-109(p) through (y), respectively, of Article 2B - Alcoholic
27 Beverages of the Annotated Code of Maryland be renumbered to be Section(s)
28 15-101(o) through (x) and 15-109(o) through (x), respectively.

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

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

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

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

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

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

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