
By: **Prince George's County Delegation**
Introduced and read first time: February 6, 2002
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 **Prince George's County - Alcoholic Beverages - Restaurants Under**
3 **Franchise or Licensing Agreements**
4 **PG 304-02**

5 FOR the purpose of authorizing the Board of License Commissioners for Prince
6 George's County to issue or transfer, in accordance with certain limitations, a
7 Class B beer (on-sale) license or a Class B beer and wine (on-sale) license for
8 use by a franchisee that operates a restaurant or by a person who operates a
9 restaurant under a certain licensing agreement, regardless of whether the
10 Board has issued or transferred certain other alcoholic beverages licenses to
11 certain other franchisees or persons; making this Act inapplicable to restaurants
12 in certain locations; prohibiting a certain licensee from holding a certain
13 additional license except under certain circumstances; prohibiting a certain
14 licensor or franchisor from having an ownership interest in a certain licensee;
15 authorizing certain agreements to require a certain licensee to pay a certain fee;
16 defining a certain term; and generally relating to alcoholic beverages licenses in
17 Prince George's County.

18 BY repealing and reenacting, without amendments,
19 Article 2B - Alcoholic Beverages
20 Section 9-217(a)
21 Annotated Code of Maryland
22 (1998 Replacement Volume and 2001 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article 2B - Alcoholic Beverages

1 Section 9-217(f)
2 Annotated Code of Maryland
3 (1998 Replacement Volume and 2001 Supplement)

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

6 **Article 2B - Alcoholic Beverages**

7 9-217.

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

9 (f) (1) (i) A person, whether acting on that person's behalf or on the
10 behalf of another person or entity, corporation, association, partnership, limited
11 partnership or other combination of persons (natural or otherwise) for whatever
12 reason formed, may not have an interest in more than one license authorizing the
13 retail or wholesale sale of alcoholic beverages.

14 (ii) An interest shall be conclusively presumed to exist between 2
15 licensees or a licensee and an applicant for a license if any of the following conditions
16 exist between them:

- 17 1. A franchise agreement;
- 18 2. A licensing agreement;
- 19 3. A concession agreement;
- 20 4. Where both are part of a chain of businesses commonly
21 owned and operated and so portrayed to the public;
- 22 5. Any sharing of directors or stockholders or any sharing of
23 directors or stockholders of parents or subsidiaries;
- 24 6. Common direct or indirect sharing of profit from the sale
25 of alcoholic beverages; or
- 26 7. Sharing of a common trade name, trademark, logo or
27 theme, or mode of operation identifiable by the public, except hotels and motels.

28 (iii) The Board of License Commissioners shall make
29 determinations under this subsection without regard to whether a particular licensee
30 or proposed licensee is or may be an independent contractor for purposes other than
31 the application of this subsection.

32 (iv) A holder of a wholesale alcoholic beverages license is considered
33 a licensee for purposes of this subsection and may not hold or have an interest,
34 directly or indirectly, in an alcoholic beverages license of any class that authorizes
35 retail sale of alcoholic beverages in Prince George's County.

1 (2) This subsection does not apply to licenses issued under the provisions
2 of § 6-201(r)(2), (3), (5), (7), or (10), § 7-101, or § 8-505 of this article or to club
3 licenses.

4 (3) Notwithstanding other provisions of this subsection or other
5 provisions of this article, the Board of License Commissioners may permit an
6 individual, partnership, or corporation to hold or have an interest in not more than
7 four BH licenses.

8 (4) If the Board of License Commissioners determines after a hearing
9 that an interest exists in more than one license, the Board shall refuse to issue a new
10 license or shall revoke an existing license, unless the license is operational and
11 complied with law applicable at the time of its issuance.

12 (5) (i) This paragraph does not apply to a licensed premises located in
13 a chain store, supermarket, discount house, drug store, or convenience store.

14 (ii) Notwithstanding any other provision of this article, the Board of
15 License Commissioners may allow an individual, partnership, corporation,
16 unincorporated association, or limited liability company to hold or have an interest in
17 more than one Class B beer, wine and liquor license, if the restaurant for which the
18 license is sought is located within any of the following areas that are underserved by
19 restaurants:

20 1. Suitland business district, consisting of properties
21 fronting on or having access to Silver Hill Road between Suitland Parkway and
22 Sunset Lane, and on Suitland Road between Arnold Road and Eastern Lane;

23 2. Part of the Port Towns business district, consisting of
24 properties fronting on or having access to Rhode Island Avenue, Bladensburg Road,
25 Annapolis Road, or 38th Street, in legislative district 22; or

26 3. Largo area, consisting of properties within the area
27 bounded by the Capital Beltway (I-495) on the west, Central Avenue and Landover
28 Road on the south and southeast, Campus Way North on the east and Route 214 and
29 Landover Road on the north and northwest.

30 (iii) 1. Except as provided in sub-subparagraphs 2 and 3 of this
31 subparagraph, a license holder may not hold more than 4 Class B beer, wine and
32 liquor licenses within all of the underserved areas described in subparagraph (ii) of
33 this paragraph.

34 2. A license holder may be issued or transferred a fifth Class
35 B beer, wine and liquor license only if the date of the application for the fifth license
36 is at least 1 year after the date the license holder was issued or transferred the fourth
37 license.

38 3. A license holder may be issued or transferred a sixth Class
39 B beer, wine and liquor license only if the date of the application for the sixth license

1 is at least 1 year after the date the license holder was issued or transferred the fifth
2 license.

3 (iv) An individual, partnership, corporation, unincorporated
4 association, or limited liability company that holds or has an interest in a license
5 located in an underserved area described in subparagraph (ii) of this paragraph may
6 not hold or have an interest in more than one license located outside of all the
7 underserved areas.

8 (v) The annual license fee for a Class B license obtained under this
9 paragraph is \$2,500.

10 (vi) A Class B license obtained under this paragraph does not confer
11 off-sale privileges.

12 (vii) The residency requirements under § 9-101 of this title apply to
13 an applicant for a Class B license under this paragraph.

14 (viii) The limit on the maximum number of Class B beer, wine and
15 liquor licenses in the county under subsection (b) of this section applies to the
16 issuance of licenses under this paragraph.

17 (6) (I) IN THIS PARAGRAPH, "BUSINESS LICENSING AGREEMENT"
18 MEANS AN AGREEMENT THAT AUTHORIZES A PERSON, IN THE OPERATION OF A
19 RESTAURANT, TO USE A TRADEMARK, TRADE NAME, OR OTHER IDENTIFYING
20 SYMBOL OWNED BY A LICENSOR.

21 (II) THIS PARAGRAPH DOES NOT APPLY TO A RESTAURANT
22 LOCATED IN A CHAIN STORE, SUPERMARKET, DISCOUNT HOUSE, DRUG STORE, OR
23 CONVENIENCE STORE.

24 (III) IN ACCORDANCE WITH THE ALCOHOLIC BEVERAGES LICENSE
25 QUOTA LIMITATIONS UNDER SUBSECTION (B) OF THIS SECTION, THE BOARD OF
26 LICENSE COMMISSIONERS MAY ISSUE OR TRANSFER A CLASS B BEER (ON-SALE)
27 LICENSE OR A CLASS B BEER AND WINE (ON-SALE) LICENSE FOR USE BY:

28 1. A FRANCHISEE WHO OPERATES A RESTAURANT UNDER A
29 FRANCHISE AGREEMENT WITH A FRANCHISOR; OR

30 2. A PERSON WHO OPERATES A RESTAURANT UNDER A
31 BUSINESS LICENSING AGREEMENT WITH A LICENSOR.

32 (IV) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION OR
33 OTHER PROVISIONS OF THIS ARTICLE, THE BOARD MAY ISSUE OR TRANSFER A
34 LICENSE UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH REGARDLESS OF
35 WHETHER A CLASS B BEER (ON-SALE) LICENSE OR CLASS B BEER AND WINE
36 (ON-SALE) LICENSE HAS BEEN ISSUED OR TRANSFERRED FOR USE BY:

37 1. ANOTHER FRANCHISEE OPERATING A RESTAURANT
38 UNDER A FRANCHISE AGREEMENT WITH THE SAME FRANCHISOR; OR

