

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 151 (Senator Della)
Education, Health, and Environmental Affairs

Baltimore City - Board of Liquor License Commissioners - Appeals

This bill requires the circuit court in Baltimore City, in a petition for judicial review, to affirm a decision of the Baltimore City Board of Liquor License Commissioners if: (1) following a public hearing, the board imposes a fine on or revokes or suspends an alcoholic beverages license or adult-entertainment license for a violation of alcoholic beverages law, board rules, or adult-entertainment rules; and (2) the circuit court finds sufficient evidence of the violation in the record of the public hearing.

The bill is effective June 1, 2002.

Fiscal Summary

State Effect: None.

Local Effect: Requiring the circuit court to affirm the decisions of the Baltimore City Board of License Commissioners would not directly impact Baltimore City finances.

Small Business Effect: None.

Analysis

Current Law: The circuit court in Baltimore City is required to affirm, modify, or reverse an appeal of a board decision within 90 days after the board has filed the record. On appeal, the court is required to presume that the board's decision is proper and best serves the public interest. The burden of proof is on the petitioner to show that the board's decision is: (1) against the public interest; (2) a result of the board not exercising

its discretion honestly or fairly; (3) arbitrary, procured by fraud, or unsupported by substantial evidence; (4) unreasonable; or (5) beyond the board's authority. The court may hear additional testimony if: (1) needed to determine the question presented to the court; (2) a qualified litigant has been deprived of the opportunity to present evidence; or (3) the interest of justice require that the court hear further evidence. In Baltimore City the court may remand the proceedings to the board.

Background: There is no State statutory provision that requires the board to include specific findings of fact in a board decision. The Baltimore City circuit court, however, recently reversed a board decision in part because the board included insufficient findings of fact. See *Emery v. Board of License Commissioners for Baltimore City*, Case No. 24-C-99-005685 (July 17, 2000). According to the board, requiring sufficient findings of fact in a board decision is inconsistent with past board practice and would be a large administrative burden. In addition, the decision in *Emery* casts a doubt over many of the board's past decisions. This bill seeks to address these concerns by requiring the court to affirm a board decision if there is sufficient supporting evidence in the public hearing record, thus obviating the need for the board to include specific findings of fact in a board decision.

Additional Information

Prior Introductions: An identical bill, SB 424, was introduced in the 2001 session. The Senate refused to concur with House amendments and a House conference committee was not appointed.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Baltimore City, Department of Legislative Services

Fiscal Note History: First Reader - January 23, 2002
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