

SENATE BILL 616

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A1

2003 Regular Session  
3r1972  
CF 3r2450

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By: **Senator Exum**

Introduced and read first time: February 7, 2003

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages - Business Enterprise Act of 2003**

3 FOR the purpose of authorizing the issuance, renewal, and transfer of Class A  
4 (off-sale) beer licenses and Class A (off-sale) beer and light wine licenses to  
5 certain food stores, pharmacies, gasoline service stations, and other business  
6 enterprises; authorizing multiple licenses to be issued to business enterprises  
7 when application is made for certain Class A licenses; defining certain terms;  
8 making technical corrections; and generally relating to Class A (off-sale) beer  
9 licenses and Class A (off-sale) beer and light wine licenses and business  
10 enterprises.

11 BY adding to

12 Article 2B - Alcoholic Beverages  
13 Section 1-102(a)(3-1), 3-101(a)(3), and 5-101(a)(3)  
14 Annotated Code of Maryland  
15 (2001 Replacement Volume and 2002 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article 2B - Alcoholic Beverages  
18 Section 3-101(q), (u), and (x), 4-204, 5-101(q), (u), and (x), 8-212(b), 8-217(a)(5)  
19 and (d), 9-102(a), (a-1), and (b-3), 9-107(a), 9-211(d), 9-213(e) and (f),  
20 9-216(c), 9-217(f)(2) and (h), 9-301, 10-503(r)(5), and 18-101  
21 Annotated Code of Maryland  
22 (2001 Replacement Volume and 2002 Supplement)

23 BY repealing and reenacting, without amendments,

24 Article 2B - Alcoholic Beverages  
25 Section 8-212(a)  
26 Annotated Code of Maryland  
27 (2001 Replacement Volume and 2002 Supplement)

1 Preamble

2 WHEREAS, The General Assembly declares that it is the intent of this Act to  
3 promote fairness in giving business enterprises the opportunity to obtain Class A beer  
4 licenses or Class A beer and light wine licenses throughout the State; and

5 WHEREAS, Business enterprises constitute Maryland's foremost retail  
6 merchants, businesses without whose goods and services life in the Free State could  
7 not exist as we know it; and

8 WHEREAS, It is also the intent of the General Assembly to level the playing  
9 field and give an opportunity to business enterprises that is equal to that of other  
10 businesses to seek Class A beer licenses and Class A beer and light wine licenses  
11 without artificial and unfair restrictions; and

12 WHEREAS, It is the intent of the General Assembly to give the Maryland  
13 consumer a greater choice in selecting from which businesses the consumer wishes to  
14 purchase selected alcoholic beverages; and

15 WHEREAS, It is the intent of the General Assembly that all local regulations  
16 adopted by individual alcoholic beverages licensing boards remain in effect other than  
17 those that clearly violate the spirit and intent of this Act; and

18 WHEREAS, It is the intent of the General Assembly that fair retailing practices  
19 be implemented for business enterprises that wish to acquire Class A beer licenses or  
20 Class A beer and light wine licenses; now, therefore,

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

23 **Article 2B - Alcoholic Beverages**

24 1-102.

25 (a) (3-1) "BUSINESS ENTERPRISE" MEANS A STORE OR PART OF A STORE  
26 THAT SERVES THE GENERAL PUBLIC AND IS COMMONLY KNOWN AS A FOOD STORE,  
27 PHARMACY, DRUGSTORE, CHAIN STORE, SUPERMARKET, GASOLINE SERVICE  
28 STATION, GENERAL STORE, GENERAL STORE CLUB, OR CONVENIENCE STORE.

29 3-101.

30 (a) (3) IN THE JURISDICTIONS IN WHICH THE LICENSE IS AUTHORIZED, A  
31 LICENSE ISSUING AUTHORITY MAY ISSUE A LICENSE TO A BUSINESS ENTERPRISE AS  
32 DEFINED IN § 1-102 OF THIS ARTICLE.

33 (q) (1) In Montgomery County the annual license fee is \$200.

34 (2) (i) In this paragraph (2), "establishment" means a bowling alley,  
35 billiard hall, [or drugstore] or a restaurant located within these businesses.

1 (ii) A license may not be issued to, or for use in conjunction with, or  
2 upon the premises of any establishment or for use upon any premises which has a  
3 door, archway, opening or other passageway providing direct public access to any  
4 establishment.

5 (u) (1) This subsection applies in Somerset County.

6 (2) The annual license fee for a 6 day license is \$100.

7 (3) The annual license fee for a 7 day license is \$125.

8 [(4) A person may not hold a license under the provisions of this section  
9 upon any premises having any direct or indirect connection with any drug or  
10 pharmaceutical dispensing business, or other business establishments of a type  
11 commonly known as or referred to as drugstore.]

12 (x) (1) This subsection applies in Wicomico County.

13 (2) The annual license fee for a six day license is \$175.

14 (3) The annual license fee for a seven day license is \$275.

15 [(4) A person may not hold a license under the provisions of this  
16 subsection upon any premises having any direct or indirect connection with any drug  
17 or pharmaceutical, or other business establishments of a type commonly known as or  
18 referred to as drugstore.]

19 4-204.

20 (a) This section applies only in Kent County.

21 (b) The Board of License Commissioners may issue a Class A light wine  
22 license which authorizes the licensee, INCLUDING A BUSINESS ENTERPRISE AS  
23 DEFINED IN § 1-102 OF THIS ARTICLE, to keep for sale, and to sell, light wines at  
24 retail, in any quantity to any consumer, at the place described in the license. The light  
25 wine may be delivered in a sealed package or container, which package or container  
26 may not be opened or its contents consumed on the premises where sold.

27 (c) The annual license fee is \$150 and shall be paid to the Board before any  
28 license is issued.

29 5-101.

30 (a) (3) IN THE JURISDICTIONS IN WHICH THE LICENSE IS AUTHORIZED, A  
31 LICENSE ISSUING AUTHORITY MAY ISSUE A LICENSE TO A BUSINESS ENTERPRISE AS  
32 DEFINED IN § 1-102 OF THIS ARTICLE.

33 (q) (1) In Montgomery County the annual license fee is \$250.

34 (2) (i) In this paragraph, "establishment" means a bowling alley,  
35 billiard hall, [or drugstore] or a restaurant located within these businesses.

1 (ii) Except as otherwise provided in this subsection, this license  
2 may not be issued to, or for use in conjunction with, or upon the premises of any  
3 establishment or for use upon any premises which has a door, archway, opening or  
4 other passageway providing direct public access to any establishment.

5 (3) Paragraph (2) of this subsection does not apply to the renewal of this  
6 license for use on the premises of a supermarket that:

7 (i) Includes a drugstore; and

8 (ii) Holds a license under § 9-102(a-1) of this article.

9 (u) (1) This subsection applies only in Somerset County.

10 (2) The annual license fee for a 6 day license is \$150.

11 (3) The annual license fee for a 7 day license is \$175.

12 [(4) A person may not hold a license under the provisions of this  
13 subsection upon any premises having any direct or indirect connection with any drug  
14 or pharmaceutical, or other business establishments of a type commonly known as or  
15 referred to as drugstore.]

16 (x) (1) This subsection applies only in Wicomico County.

17 (2) The annual license fee for a six day license is \$275.

18 (3) The annual license fee for a seven day license is \$350.

19 [(4) A person may not hold a license under the provisions of this  
20 subsection upon any premises having any direct or indirect connection with any drug  
21 or pharmaceutical, or other business establishments of a type commonly known as or  
22 referred to as drugstore.]

23 8-212.

24 (a) This section applies only in Garrett County.

25 (b) (1) A BUSINESS ENTERPRISE AS DEFINED IN § 1-102 OF THIS ARTICLE  
26 MAY NOT BE GRANTED A LICENSE ISSUED UNDER THIS SECTION.

27 (2) To sell draft beer, any establishment regularly licensed to sell beer  
28 shall obtain a special license from the Board of License Commissioners and the fee for  
29 the license is \$75. The issuing fee for new licenses, in addition to the annual fee, is  
30 \$75.

31 [(2)] (3) (i) To sell draft beer, a licensee who holds a Class B-resort  
32 license shall obtain a special license from the Board of License Commissioners.

33 (ii) The annual license fees are:

1 1. Two facilities, \$150; and

2 2. Each additional facility, \$75.

3 (iii) The Board of License Commissioners shall charge an issuing fee  
4 for new licenses in an amount equal to the annual license fee.

5 8-217.

6 (a) (5) Notwithstanding any other provisions of this section, a person shall  
7 be entitled to enter or remain upon any portion of the premises of the holder of a  
8 license granted under this article regardless of age[, provided that there is operated  
9 thereon] IF:

10 (I) [a] A bona fide bowling alley IS OPERATED ON THE PREMISES  
11 and that [such] bowling alley is then in use; OR

12 (II) THE PREMISES IS A BUSINESS ENTERPRISE AS DEFINED IN §  
13 1-102 OF THIS ARTICLE.

14 (d) (1) Notwithstanding any other law to the contrary, EXCEPT AS  
15 PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, the Prince George's County  
16 Board of License Commissioners may not issue any class of alcoholic beverages  
17 license for use in a business establishment with a commercial fuel pump located on  
18 the premises that is used by the general public for the purchase of fuel.

19 (2) A CLASS A BEER LICENSE OR A CLASS A BEER AND LIGHT WINE  
20 LICENSE MAY BE ISSUED TO A BUSINESS ENTERPRISE AS DEFINED IN § 1-102 OF THIS  
21 ARTICLE.

22 9-102.

23 (a) (1) THIS SUBSECTION DOES NOT APPLY TO A BUSINESS ENTERPRISE AS  
24 DEFINED IN § 1-102 OF THIS ARTICLE.

25 (2) No more than one license provided by this article, except by way of  
26 renewal or as otherwise provided in this section, shall be issued in any county or  
27 Baltimore City, to any person, or for the use of any partnership, corporation,  
28 unincorporated association, or limited liability company, in Baltimore City or any  
29 county of the State, and no more than one license shall be issued for the same  
30 premises except as provided in §§ 2-201 through 2-208, 2-301, and 6-701, and  
31 nothing herein shall be construed to apply to subsections (b) and (c) of § 7-101 or to §  
32 12-202 (pertaining to special music or dancing licenses for Anne Arundel County) of  
33 this article.

34 (a-1) A Class A BEER, WINE AND LIQUOR LICENSE OR A Class B[,] or CLASS D  
35 beer license, beer and wine license, or beer, wine and liquor license, except by way of  
36 renewal, may not be granted, transferred, or issued to, or for use in conjunction with,  
37 or upon the premises of any business establishment of the type commonly known as  
38 chain stores, supermarkets, or discount houses. This subsection does not apply to or

1 affect any business establishment already holding such a license or the possibility of  
 2 such licensee having the license transferred to a similar type of business  
 3 establishment. Discount houses do not include licensees who sell at discount prices.

4 (b-3) (1) In Anne Arundel County, a Class A BEER, WINE AND LIQUOR  
 5 LICENSE, or Class D beer, beer and light wine, or beer, wine and liquor license may  
 6 not be issued except by way of renewal to a person, corporation, or limited liability  
 7 company holding an alcoholic beverage license in any other state, or Washington, D.C.

8 (2) In Baltimore City, a Class A BEER, WINE AND LIQUOR LICENSE or  
 9 Class D beer, beer and light wine, or beer, wine and liquor license may not be issued  
 10 except by way of renewal to a person, corporation, or limited liability company holding  
 11 an alcoholic beverage license in any other state.

12 (3) In Baltimore County, a Class A BEER, WINE AND LIQUOR LICENSE or  
 13 Class D beer, beer and light wine, or beer, wine and liquor license may not be issued,  
 14 except by way of renewal, to a person, corporation, or limited liability company  
 15 holding an alcoholic beverages license in any other state or in Washington, D.C.

16 9-107.

17 (a) (1) [Except by way of renewal] THIS SUBSECTION DOES NOT APPLY TO:

18 (I) [or as provided in] RENEWALS;

19 (II) § 9-102(j)(4) of this subtitle[,]; OR

20 (III) RESTRICTING THE LICENSING OF A BUSINESS ENTERPRISE AS  
 21 DEFINED IN § 1-102 OF THIS ARTICLE.

22 (2) [no] NOT more than one alcoholic beverage license provided by this  
 23 article that is a Class A BEER, WINE AND LIQUOR LICENSE, OR A Class C, or Class D  
 24 license may be issued in this State to any individual for the use of:

25 [(1)] (I) That individual in this State; or

26 [(2)] (II) For the use of any partnership, corporation, unincorporated  
 27 association, or limited liability company in this State.

28 9-211.

29 (d) A Class A BEER, WINE AND LIQUOR alcoholic beverage license may not be  
 30 granted, transferred, issued to, or for use in conjunction with, or upon the premises of,  
 31 or upon premises having any drug or pharmaceutical, or other business  
 32 establishment of the type commonly known as chain stores, supermarkets, franchised  
 33 establishments, or discount houses. "Franchised establishment" means premises  
 34 operated under an agreement permitting the sale of a product or service under a  
 35 name or mark under which the franchisee undertakes to conduct a business or sell a  
 36 product or service in accordance with the methods and procedures prescribed by the

1 franchisor in the agreement and the franchisor undertakes to assist the franchisee  
2 through advertising, promotion, or other services.

3 9-213.

4 (e) (1) THIS SECTION DOES NOT APPLY TO A CLASS A BEER AND TO A CLASS  
5 A BEER AND LIGHT WINE LICENSE THAT IS HELD BY A BUSINESS ENTERPRISE AS  
6 DEFINED IN § 1-102 OF THIS ARTICLE.

7 (2) Except as provided in subsection (j) of this section, in Harford County,  
8 a person, franchiser, franchisee, chain store operation, partnership, firm or  
9 corporation may not have interest in more than one license, whether held or  
10 controlled by direct or indirect ownership, by franchise operation, by stock ownership,  
11 interlocking directors or interlocking stock ownership, or in any other manner,  
12 directly or indirectly. It is the intention of this section to prohibit any person,  
13 franchiser, franchisee, chain store operation, firm, partnership or corporation from  
14 having any interest, directly or indirectly, in more than one license. This section does  
15 not apply to licenses issued under the provisions of § 7-101 of this article or to club  
16 licenses.

17 (f) (1) THIS SUBSECTION DOES NOT APPLY TO A CLASS A BEER LICENSE  
18 AND A CLASS A BEER AND LIGHT WINE LICENSE.

19 (2) In Harford County an alcoholic beverages license with an off-sale  
20 privilege of any class, except by way of renewal, may not be transferred, or issued to  
21 any business establishment of the type commonly known as chain stores,  
22 supermarkets, discount houses or their franchisors, and franchisees or  
23 concessionaires of every kind and description. Those establishments holding an  
24 alcoholic beverages license on July 1, 1976 may continue to hold that license, or apply  
25 to upgrade to Class A-1 or A-2.

26 [(2)] (3) (i) Those establishments that held an off-sale alcoholic  
27 beverages license issued before July 1, 1975, and continued to hold the license as of  
28 July 1, 1996, but which license was later canceled or voluntarily surrendered, may  
29 reacquire a license of the same class as though it was held on or before July 1, 1975,  
30 notwithstanding any of the provisions to the contrary of this article and the  
31 regulations of the Harford County Board of License Commissioners.

32 (ii) An application to reacquire a license under subparagraph (i) of  
33 this paragraph shall be submitted to the Harford County Board of License  
34 Commissioners by March 1, 1999.

35 9-216.

36 (c) (1) THIS SUBSECTION DOES NOT APPLY TO A BUSINESS ENTERPRISE AS  
37 DEFINED IN § 1-102 OF THIS ARTICLE THAT SEEKS TO OBTAIN A CLASS A BEER  
38 LICENSE OR A CLASS A BEER AND LIGHT WINE LICENSE.

39 (2) Subject to the provisions of paragraph [(2)] (3) of this subsection, the  
40 Montgomery County Board of License Commissioners may not issue any class of

1 alcoholic beverages license for use in a business establishment that sells motor  
2 vehicle fuel to motorists from a fuel pump that is located on the premises.

3           [(2)]   (3)    The Montgomery County Board of License Commissioners may  
4 renew an alcoholic beverages license that has been issued for use in a business  
5 establishment that sells motor vehicle fuel to motorists from a fuel pump that is  
6 located on the premises if the license was in existence on January 1, 1989.

7 9-217.

8       (f)    (2)    This subsection does not apply to [licenses]:

9                   (I)    LICENSES issued under the provisions of § 6-201(r)(2), (3), (5),  
10 (7), or (10), § 7-101, or § 8-505 of this article or to club licenses; AND

11                   (II)   CLASS A BEER LICENSES AND CLASS A BEER AND LIGHT WINE  
12 LICENSES ISSUED TO BUSINESS ENTERPRISES AS DEFINED BY § 1-102 OF THIS  
13 ARTICLE.

14       (h)    (1)    THIS SUBSECTION DOES NOT APPLY TO A BUSINESS ENTERPRISE AS  
15 DEFINED IN § 1-102 OF THIS ARTICLE THAT HOLDS A CLASS A BEER LICENSE OR A  
16 CLASS A BEER AND LIGHT WINE LICENSE.

17           (2)    An alcoholic beverage license with an off-sale privilege of any class,  
18 except by way of renewal, may not be transferred or issued to any business  
19 establishment of the type commonly known as chain stores, supermarkets, discount  
20 houses or their franchisors and franchisees or concessionaires. However, those  
21 establishments holding an alcoholic beverage license at the time of enactment of this  
22 section may continue to hold such license, and may, at the discretion of the Board of  
23 License Commissioners, change the classification of their license.

24 9-301.

25       (A)    THIS SECTION DOES NOT APPLY TO A BUSINESS ENTERPRISE AS DEFINED  
26 IN § 1-102 OF THIS ARTICLE THAT HOLDS A CLASS A BEER LICENSE OR A CLASS A  
27 BEER AND LIGHT WINE LICENSE.

28       (B)    In the enumerated subdivisions below, a person, partnership, firm or  
29 corporation, except by way of renewal, may not have an interest in more than one  
30 license, whether held or controlled by direct or indirect ownership, by stock  
31 ownership, interlocking directors or interlocking stock ownership, or in any other  
32 manner, directly or indirectly. It is the intention of this section to prohibit any person,  
33 firm, partnership or corporation from having any interest, directly or indirectly, in  
34 more than one license.

35           (1)    In Baltimore County:

36                   (i)    1.    Except that the provisions of this section do not apply to  
37 licenses issued for premises operated as a motel or motor court having 100 rooms or  
38 more; and





1 (i) 1. Except for renewals, a person, partnership, firm, or  
 2 corporation may not have an interest in more than one alcoholic beverages license in  
 3 Howard County whether held or controlled by direct or indirect ownership, by stock  
 4 ownership, interlocking directors or interlocking stock ownership, or in any other  
 5 manner, directly or indirectly; and

6 2. Except for renewals, it is the intention of this paragraph to  
 7 prohibit any person, firm, partnership, or corporation from having any interest,  
 8 directly or indirectly, in more than one license.

9 (ii) The prohibitions in this subsection do not apply to the number  
 10 of licenses authorized under § 8-408.1 or § 9-102(o) of this article.

11 (III) THE PROHIBITIONS IN THIS SUBSECTION DO NOT APPLY TO A  
 12 CLASS A BEER LICENSE AND A CLASS A BEER AND LIGHT WINE LICENSE APPLIED FOR  
 13 OR HELD BY A BUSINESS ENTERPRISE AS DEFINED IN § 1-102 OF THIS ARTICLE.

14 (5) (i) In Baltimore City, except as authorized by § 9-102 of this title,  
 15 a person, franchisor, franchisee, chain store operation, partnership, firm or  
 16 corporation, except by way of renewal, may not have any interest in more than one  
 17 Class A BEER, WINE AND LIQUOR license, whether held or controlled by direct or  
 18 indirect ownership, by franchise operation, by chain store operation, by stock  
 19 ownership, interlocking stock ownership, or in any other manner directly or  
 20 indirectly. It is the intention of this subsection to prohibit any such persons,  
 21 franchisor, franchisee, chain store operation, firm, partnership, or corporation from  
 22 having any interest, directly or indirectly, in more than one Class A BEER, WINE AND  
 23 LIQUOR license.

24 (II) Nothing in this [subsection] PARAGRAPH applies to or affects:

25 1. [any] ANY such type of business establishment already  
 26 holding such a license or the possibility of such licensee having the license transferred  
 27 to a similar type of business establishment; OR

28 2. A CLASS A BEER LICENSE OR A CLASS A BEER AND LIGHT  
 29 WINE LICENSE APPLIED FOR OR HELD BY A BUSINESS ENTERPRISE AS DEFINED IN §  
 30 1-102 OF THIS ARTICLE.

31 [(ii)] (III) This subsection is intended:

32 1. To regulate alcoholic beverages licenses for the use in  
 33 franchised operations in Baltimore City; and

34 2. To be in addition to the provisions of § 9-102 of this article.  
 35 10-503.

36 (r) (5) (I) THIS PARAGRAPH DOES NOT APPLY TO A BUSINESS  
 37 ENTERPRISE AS DEFINED IN § 1-102 OF THIS ARTICLE THAT SEEKS TO OBTAIN A  
 38 CLASS A BEER LICENSE OR A CLASS A BEER AND LIGHT WINE LICENSE.

1 (II) The Board may not transfer any class of alcoholic beverages  
2 license for use in a business establishment with a commercial fuel pump located on  
3 the premises that is used by the general public for the purchase of fuel.

4 18-101.

5 (a) The Talbot County [Commissioners] COUNCIL shall regulate the retail  
6 sale of alcoholic beverages within Talbot County.

7 (b) Any law enacted by the Talbot County [Commissioners] COUNCIL  
8 pursuant to § 3(ee) of Article 25 shall prevail over any provision of the Code of Public  
9 General Laws of Maryland regulating the retail sale of alcoholic beverages. However,  
10 unless and until the Talbot County [Commissioners enact] COUNCIL ENACTS a law  
11 which is contrary to a provision of the Code of Public General Laws regulating the  
12 retail sale of alcoholic beverages, the provisions of the Code of Public General Laws  
13 shall remain in effect.

14 (C) THE COUNTY COUNCIL MAY NOT PROHIBIT ANY BUSINESS ENTERPRISE  
15 AS DEFINED IN § 1-102 OF THIS ARTICLE FROM OBTAINING A LICENSE THAT IS THE  
16 EQUIVALENT OF A CLASS A BEER LICENSE OR A CLASS A BEER AND LIGHT WINE  
17 LICENSE AS PROVIDED IN THIS ARTICLE.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
19 effect October 1, 2003.