

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 832 (Senator Gladden)
Education, Health, and Environmental Affairs

Baltimore City - Alcoholic Beverages - Unexpired Licenses

This bill authorizes the Baltimore City Board of Liquor License Commissioners to determine the time during which an alcoholic beverages license may be deemed to be unexpired. Procedures by which the holder of an unexpired license may request an extension of the license as a result of an undue hardship are also altered. Individuals who held an alcoholic beverages license that expired are authorized to petition the board for a hearing on whether an undue hardship caused the expiration.

Fiscal Summary

State Effect: None.

Local Effect: Baltimore City revenues from alcoholic beverages license fees would be maintained to the extent that current alcoholic beverages licenses do not expire. Revenues would increase minimally due to expired alcoholic beverages licenses that are returned to a status deemed to be unexpired. Expenditures would increase minimally due to the bill's notice provisions.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill authorizes the board to determine the time during which an alcoholic beverages license is deemed to be unexpired under specified circumstances including, but not limited to, the licensed premises having been destroyed by fire or other natural disaster, litigation having started concerning the ownership of the license, and condemnation proceedings of the licensed premises having begun. A secured creditor

who takes possession of a license under one of these circumstances is required to sell the license within one year. The final action of the board regarding the license determines the time period for calculating the expiration date of the license.

The board is required to provide written notice by certified mail to licensees within 30 days of the closing of a business or cessation of alcoholic beverages business on the procedures regarding unexpired licenses. The licensee is authorized to make a written request to the board for an extension of the license due to an undue hardship. The board is required to hold a hearing on each request, and if the board finds that an undue hardship exists, it may grant an extension for the time that it determines. If a licensee does not make a written request for an undue hardship extension, the license expires 150 days after receipt of the notice.

The board is required to give notice by certified mail to any holder of a license that is deemed to have expired on or before September 30, 2004 that the holder has 30 days after receipt of the notice to make a written request for a board hearing on whether an undue hardship caused the license to expire. If the board finds that undue hardship caused the expiration, it is required to determine whether the license should be deemed unexpired and the terms and conditions of its unexpired status.

Current Law: In Baltimore City, an alcoholic beverages license expires 180 days after the holder of any license has closed the business or has ceased active alcoholic beverages business operations unless an application for approval of a transfer to another location or an application for assignment to another person is approved or pending, an application for assignment to another person due to the death of a licensee has been approved or is pending, or a written request for a hardship extension was filed within the 180-day period.

The licensee or other appropriate interested party may make a written request to the board for an extension due to undue hardship after closing or cessation of alcoholic beverages operation. After a hearing on the written request for extension and if the board has determined that an undue hardship exists, the board may grant an extension so that the license may be deemed to be unexpired for up to 360 total days.

Background: The Baltimore City Board of Liquor License Commissioners is charged with the responsibility for limiting and/or restricting the number of establishments selling alcoholic beverages in the city. The board has had a moratorium on the granting of new licenses since 1968 except for the issuance of new Class B restaurant licenses, arena and/or hotel licenses, and other new licenses as on occasion specifically authorized by State law.

Chapter 56 of 2000, among other things, provided that an alcoholic beverages license in Baltimore City for an establishment that closed the business or ceased active alcoholic beverages business operations after July 1, 2000 expired (*i.e.*, became null and void) unless specified action was taken by the licensee. Before Chapter 56 of 2000 became effective, persons who held alcoholic beverages licenses could keep their licenses even when the business had ceased operations as long as they paid the annual license fee. The city advises that most of the licenses that have expired since July 1, 2000 are Class A (off-sale) retail licenses and Class BD7 (7-day) on-sale beer, wine, and liquor licenses; the annual license fees for these licenses are \$110 for a Class A beer and light wine license; \$715 for a Class A beer, wine, and liquor license; and \$1,320 for a Class BD7 beer, wine, and liquor license.

Local Fiscal Effect: The Baltimore City Board of Liquor License Commissioners advises that any license that can remain unexpired as a result of undue hardship under the bill's provisions would result in maintaining license revenue for the city. However, any impact cannot be reliably estimated at this time.

A person whose license expired between July 1, 2000 and September 30, 2004 may make a written request to the board to consider whether an undue hardship caused the expiration. The city advises that approximately 100 alcoholic beverages licenses have expired since July 1, 2000. The city further advises that it anticipates no more than 20 of these approximately 100 licensees to request a hearing to determine if an undue hardship caused the license to expire. The city advises that, if a decision is made that an undue hardship caused the expiration, it would require the individual with the expired license to pay license fees retroactive to the license's expired status. Accordingly, the city advises that any additional revenue that would be gained from retroactive license fees and future license fees is difficult to quantify at this time.

Small Business Effect: Small businesses in Baltimore City that hold an alcoholic beverages license could be positively affected by the altered procedures and flexibility under the board's conditions to reestablish business operations before their alcoholic beverages license expires. Small businesses in the city that held an alcoholic beverages license that has expired since July 1, 2000 could be positively impacted by reestablishing business operations or selling their license to an individual who wishes to provide alcoholic beverages at a new or existing business.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City, Department of Legislative Services

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mh/ljm

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