

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

House Bill 778

(Delegate Cane, *et al.*)

Economic Matters

Education, Health, and Environmental
Affairs

Wicomico County - Alcoholic Beverages - Licenses and Open Containers

This bill makes several changes pertaining to alcoholic beverages laws in Wicomico County.

The bill takes effect June 1, 2004.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to cases heard in the District Court for violations of open container laws.

Local Effect: Wicomico County revenues would increase by \$550 for each caterer's license issued and by \$50 for each day that a special beer festival license is issued. Expenditures would not be affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill authorizes the Wicomico County Board of License Commissioners to issue a caterer's license to the holder of a Class B (restaurant or hotel) beer and light wine license. Catered events may be held off the licensed premises, food and alcoholic beverages must be provided, and catering privileges may only be exercised during the days and hours of sale permitted for a Class B (restaurant or hotel) beer and light wine license. The bill also specifies that a Class B (restaurant or hotel) beer and

light wine licensee may hold catered events on the licensed premises covered by the Class B license without a caterer's license.

This bill authorizes the Wicomico County Board of License Commissioners to issue a special beer festival license to the holder of an existing Class 5 brewery, Class 6 pub-brewery, or Class 7 micro-brewery manufacturer's license. The bill provides that beer festival licensees are only allowed to display and sell beer owned and manufactured by the licensee and that beer may be displayed and sold on the festival premises only on the hours and days designated for the festival. The Board of License Commissioners may designate the number of times a festival license may be issued. The daily license fee is \$50.

The bill also prohibits, unless authorized in writing by the owner of an establishment, the possession of an open container of any alcoholic beverage in specified areas including shopping centers, retail establishments, and any parked vehicle at a shopping center or retail establishment.

The bill also provides that alcoholic beverages licenses may not be subject to writs of execution by a judgment creditor of a licensee or distraint for rent.

Current Law: In Wicomico County, only a Class B (restaurant or hotel) beer, wine, and liquor licensee is authorized to hold a caterer's license. Catered events may be held off the licensed premises, food and alcoholic beverages must be provided, and catering privileges must be exercised only during the days and hours of sale permitted for a Class B (restaurant or hotel) beer, wine, and liquor license.

There is no special beer festival license in Wicomico County.

In Allegany, Baltimore, Calvert, Caroline, Carroll, Cecil, Charles, Dorchester, Frederick, Garrett, Harford, Howard, Montgomery, St. Mary's, and Somerset counties it is illegal to possess in an open container any alcoholic beverage while in specified areas. A violator (without written consent) is guilty of a misdemeanor and upon conviction is subject to a fine not to exceed \$100. If the individual is under 18, the individual will be prosecuted as a juvenile. If the individual is 18 or over, the individual will be prosecuted as an adult in District Court. The vast majority of alcoholic beverages violations (for persons at least 18 years old) are adjudicated in the District Court.

Generally, alcoholic beverages licenses may not be considered to be property or to confer any property rights. In Harford, Howard, and Prince George's counties, in addition to other provisions, alcoholic beverages licenses are not subject to a writ of execution by a judgment creditor of a licensee or a distraint for rent.

Background: The caterer's license in Wicomico County was created by Chapter 49 of 1987. The hours and days of sale for a Class B (restaurant or hotel) beer, wine, and liquor license are Monday through Saturday from 10 a.m. to 2 a.m. the following day and Sunday from 12:30 p.m. to 12 midnight.

Distrain is generally defined as the right of a landlord to seize the property of a tenant in the premises being rented as collateral against a tenant that has not paid the rent or has otherwise defaulted on the lease. Wicomico County advises that judicial decisions have awarded alcoholic beverages licenses issued in Wicomico County to creditors against alcoholic beverages licensees.

Local Fiscal Effect: Wicomico County revenues would increase by \$550 for each caterer's license issued. Wicomico County advises that there are currently 15 Class B (restaurant or hotel) beer and light wine licensees that would be eligible to obtain a caterer's license. However, the county anticipates only four Class B (on-sale) beer and light wine licensed establishments to apply for and obtain a caterer's license. Accordingly, county revenues could increase by \$2,200 annually.

The county advises that it expects no more than two beer festivals to be held each year. However, the county advises that at this time it is difficult to predict the level of participation by breweries, pub-breweries, and micro-breweries at beer festivals held in the county. In any event, Wicomico County revenues would increase by \$50 for each day that a brewery, pub-brewery, or micro-brewery participates in a beer festival.

Wicomico County advises that the prohibition against open containers could be enforced with existing resources.

Small Business Effect: Wicomico County's 75 Class A (off-sale) licensed establishments could benefit from the prohibition against open containers due to less loitering in front of retail off-sale establishments. All of the county's 161 licensed alcoholic beverages establishments would benefit from protection against court decisions to award an alcoholic beverages license to creditors to satisfy debts or unpaid rent.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Wicomico County, Department of Legislative Services

Fiscal Note History: First Reader - March 4, 2004
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