
By: **Montgomery County Delegation**

Introduced and read first time: February 1, 2005

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County - Alcoholic Beverages - Extension of Sunset**
3 **MC 503-05**

4 FOR the purpose of extending the termination date of certain Class B alcoholic
5 beverage license fees; providing for the effective date of certain provisions of this
6 Act; providing for the termination of certain provisions of this Act; making
7 certain provisions of this Act subject to a certain contingency; making this Act
8 an emergency measure; and generally relating to alcoholic beverages in
9 Montgomery County.

10 BY repealing and reenacting, without amendments,
11 Article 2B - Alcoholic Beverages
12 Section 6-201(q)
13 Annotated Code of Maryland
14 (2001 Replacement Volume and 2004 Supplement)

15 BY repealing and reenacting, with amendments,
16 Chapter 91 of the Acts of the General Assembly of 2001
17 Section 2

18 BY repealing and reenacting, with amendments,
19 Article 2B - Alcoholic Beverages
20 Section 6-201(q)
21 Annotated Code of Maryland
22 (2001 Replacement Volume and 2004 Supplement)
23 (As enacted by Chapter 91 of the Acts of the General Assembly of 2001)

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

Article 2B - Alcoholic Beverages

1 6-201.

2 (q) (1) (i) This subsection applies only in Montgomery County.

3 (ii) 1. In this subsection the following words have the meanings
4 indicated.

5 2. "Board" means the Board of License Commissioners.

6 3. "Dining area" means the area occupied by patrons for the
7 consumption of food and includes a cocktail area where food need not be served if
8 there is no separate outdoor entrance to the cocktail area.

9 (2) (i) 1. The Board may issue this license only to the owner of any
10 restaurant or hotel.

11 2. The restaurant shall be located in the second, third,
12 fourth, sixth, seventh, eighth, ninth, tenth, or thirteenth election districts.

13 3. The licensee may not be located in the Towns of
14 Poolesville, Takoma Park, and Kensington.

15 (ii) 1. As a prerequisite for the initial issuance of a license under
16 this subsection, the owner shall attest in a sworn statement that gross receipts from
17 food sales in the restaurant or hotel will be at least equal to the gross receipts from
18 the sale of alcoholic beverages.

19 2. As a prerequisite for each renewal of a license issued
20 under this subsection, the owner shall attest in a sworn statement that the gross
21 receipts from food sales in the restaurant or hotel for the 12-month period
22 immediately preceding the application for renewal have been at least equal to the
23 gross receipts from the sale of alcoholic beverages.

24 3. The Board by regulation shall provide for periodic
25 inspection of the premises and for audits to determine the ratio of gross receipts from
26 the sale of food to gross receipts from the sale of alcoholic beverages.

27 4. Any regulations adopted by the Board shall include a
28 requirement of at least monthly physical inspections of the premises during the initial
29 license year of any licensee and the submission by the licensee to the Board, during
30 the initial license year, of monthly statements showing gross receipts from the sale of
31 food and gross receipts from the sale of alcoholic beverages for the immediately
32 preceding month.

33 5. In the event that a licensee, during the initial license year,
34 fails to maintain the sales ratio requirement provided in this paragraph for a period
35 of three consecutive months or after the initial license year for each license or
36 calendar year, the Board, in its discretion, may revoke the license. The Board may
37

1 require any licensee to provide supporting data as it, in its discretion, deems
2 necessary, in order to establish that the requirements of this section relating to the
3 ratio of gross receipts from the sale of food to those from the sale of alcoholic
4 beverages have been met.

5 (iii) A license issued under this subsection authorizes its holder to
6 keep for sale and sell alcoholic beverages for consumption on the premises only, and
7 alcoholic beverages may not be served to patrons or consumed at any bar, counter
8 without seats, or other room but in the dining area. However, the seats in the cocktail
9 area may not exceed 25 percent of the seats normally available for the general public
10 in the dining area, including the cocktail area portion, but excluding special banquet
11 and private party facilities.

12 (iv) Signs visible from the exterior of the building, advertising the
13 sale of alcoholic beverages, are not permitted in connection with any restaurant or
14 hotel holding a license issued under the provisions of this section except for the
15 display of the menu then in use by the licensee.

16 (v) 1. The annual license fee is \$2,500.

17 2. For the third license that is not restricted by location and
18 is obtained by a licensee under § 9-102.1 of this article, the annual fee is \$5,000.

19 (3) (i) There is a special Class B license known as Class B-BWL
20 (H-M) which shall be issued only for hotels and motels that meet the minimum
21 requirements set forth in subsection (a)(3) of this section. All of the privileges and
22 restrictions provided for in paragraph (2) of this subsection are applicable to this
23 special Class B license except that the gross receipts from the sale of alcoholic
24 beverages may not exceed the gross receipts from the sale of food, and registered
25 guests may be served in their rooms. In any instance where there is more than one
26 licensed establishment within the hotel or motel, the foregoing sales ratio shall be
27 applicable only to one license and that shall be the one that provides the food and
28 beverage service to the conventions, banquets and other groups that utilize facilities
29 within the hotel or motel.

30 (ii) The annual license fee is \$2,500.

31 (4) (i) In this paragraph, "performing arts facility" means a facility
32 that is used for artistic, corporate, and community related activities.

33 (ii) There is a special Class B-BWL (performing arts facility)
34 license.

35 (iii) The Board of License Commissioners may issue a special Class
36 B-BWL (performing arts facility) license to apply only to a performing arts facility
37 that has:

38 1. A minimum capital investment, not including real
39 property, of \$1,000,000;

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7 3. "Dining area" means the area occupied by patrons for the
8 consumption of food and includes a cocktail area where food need not be served if
9 there is no separate outdoor entrance to the cocktail area.

10 (2) (i) 1. The Board may issue this license only to the owner of any
11 restaurant or hotel.

12 2. The restaurant shall be located in the second, third,
13 fourth, sixth, seventh, eighth, ninth, tenth, or thirteenth election districts.

14 3. The licensee may not be located in the Towns of
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30 license year of any licensee and the submission by the licensee to the Board, during
31 the initial license year, of monthly statements showing gross receipts from the sale of
32 food and gross receipts from the sale of alcoholic beverages for the immediately
33 preceding month.

34 5. In the event that a licensee, during the initial license year,
35 fails to maintain the sales ratio requirement provided in this paragraph for a period
36 of three consecutive months or after the initial license year for each license or
37 calendar year, the Board, in its discretion, may revoke the license. The Board may

1 require any licensee to provide supporting data as it, in its discretion, deems
2 necessary, in order to establish that the requirements of this section relating to the
3 ratio of gross receipts from the sale of food to those from the sale of alcoholic
4 beverages have been met.

5 (iii) A license issued under this subsection authorizes its holder to
6 keep for sale and sell alcoholic beverages for consumption on the premises only, and
7 alcoholic beverages may not be served to patrons or consumed at any bar, counter
8 without seats, or other room but in the dining area. However, the seats in the cocktail
9 area may not exceed 25 percent of the seats normally available for the general public
10 in the dining area, including the cocktail area portion, but excluding special banquet
11 and private party facilities.

12 (iv) Signs visible from the exterior of the building, advertising the
13 sale of alcoholic beverages, are not permitted in connection with any restaurant or
14 hotel holding a license issued under the provisions of this section except for the
15 display of the menu then in use by the licensee.

16 (v) 1. The annual license fee is [~~\$2,000~~] \$2,500.

17 2. For the third license that is not restricted by location and
18 is obtained by a licensee under § 9-102.1 of this article, the annual fee is \$5,000.

19 (3) (i) There is a special Class B license known as Class B-BWL
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21 requirements set forth in subsection (a)(3) of this section. All of the privileges and
22 restrictions provided for in paragraph (2) of this subsection are applicable to this
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24 beverages may not exceed the gross receipts from the sale of food, and registered
25 guests may be served in their rooms. In any instance where there is more than one
26 licensed establishment within the hotel or motel, the foregoing sales ratio shall be
27 applicable only to one license and that shall be the one that provides the food and
28 beverage service to the conventions, banquets and other groups that utilize facilities
29 within the hotel or motel.

30 (ii) The annual license fee is [~~\$2,000~~] \$2,500.

31 (4) (i) In this paragraph, "performing arts facility" means a facility
32 that is used for artistic, corporate, and community related activities.

33 (ii) There is a special Class B-BWL (performing arts facility)
34 license.

35 (iii) The Board of License Commissioners may issue a special Class
36 B-BWL (performing arts facility) license to apply only to a performing arts facility
37 that has:

38 1. A minimum capital investment, not including real
39 property, of \$1,000,000;

- 1 2. A minimum capacity of 2,000 persons; and
2
3 3. A food service facility permit and 40 seats in a food service
4 area.

4 (iv) The Board may issue a special Class B-BWL (performing arts
5 facility) license for use by a not-for-profit partnership, limited liability company,
6 corporation, or other entity that leases the performing arts facility to host artistic,
7 corporate, and community related activities.

8 (v) 1. A special Class B-BWL (performing arts facility) license
9 authorizes the holder to sell beer, wine, and liquor by the drink from one or more
10 outlets on the licensed premises for consumption on the licensed premises.

11 2. A holder of a special Class B-BWL (performing arts
12 facility) license may only exercise the privileges under the license from 10:00 a.m. on
13 any day until 2:00 a.m. the following day.

14 3. A holder of a special Class B-BWL (performing arts
15 facility) license may not sell alcoholic beverages at:

16 A. A high school graduation held on the licensed premises; or

17 B. A community meeting held, without food service, on the
18 licensed premises.

19 (vi) The Board may impose conditions on the issuance or renewal of
20 a special Class B-BWL (performing arts facility) license that establish the areas in
21 the performing arts facility where beer, wine, and liquor may be sold, served,
22 possessed, or consumed.

23 (vii) The Board may not approve the transfer of a special Class
24 B-BWL (performing arts facility) license to another location.

25 (viii) The annual license fee for a special Class B-BWL (performing
26 arts facility) license is \$1,000.

27 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
28 remain effective through June 30, 2010, and, at the end of June 30, 2010, with no
29 further action required by the General Assembly, Section 2 of this Act shall be
30 abrogated and of no further force and effect.

31 SECTION 4. AND BE IT FURTHER ENACTED, That Sections 2 and 3 of this
32 Act are contingent on the failure of Section 1 of this Act to take effect on or before
33 April 9, 2005. If Section 1 of this Act takes effect on or before April 9, 2005, Sections
34 2 and 3 of this Act shall be null and void without the necessity of further action by the
35 General Assembly.

36 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions
37 of Section 4 of this Act, this Act is an emergency measure, is necessary for the

- 1 immediate preservation of the public health or safety, has been passed by a yea and
- 2 nay vote supported by three-fifths of all the members elected to each of the two
- 3 Houses of the General Assembly, and shall take effect from the date it is enacted.