
By: **Montgomery County Delegation**

Introduced and read first time: February 1, 2005

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 15, 2005

CHAPTER_____

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)

1 (As enacted by Chapter 91 of the Acts of the General Assembly of 2001)

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

4 **Article 2B - Alcoholic Beverages**

5 6-201.

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

7 (ii) 1. In this subsection the following words have the meanings
8 indicated.

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

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

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

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

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

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

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

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

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

1 5. In the event that a licensee, during the initial license year,
2 fails to maintain the sales ratio requirement provided in this paragraph for a period
3 of three consecutive months or after the initial license year for each license or
4 calendar year, the Board, in its discretion, may revoke the license. The Board may
5 require any licensee to provide supporting data as it, in its discretion, deems
6 necessary, in order to establish that the requirements of this section relating to the
7 ratio of gross receipts from the sale of food to those from the sale of alcoholic
8 beverages have been met.

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

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

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

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

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

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

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

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

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

- 1
2 property, of \$1,000,000;
- 3
4
5 area.
1. A minimum capital investment, not including real
 2. A minimum capacity of 2,000 persons; and
 3. A food service facility permit and 40 seats in a food service

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

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

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

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

- 18 A. A high school graduation held on the licensed premises; or
- 19 B. A community meeting held, without food service, on the
20 licensed premises.

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

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

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

29

Chapter 91 of the Acts of 2001

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
31 measure, is necessary for the immediate preservation of the public health and safety,
32 has been passed by a ye and nay vote supported by three-fifths of all the members
33 elected to each of the two Houses of the General Assembly, and shall take effect from
34 the date it is enacted. It shall remain effective [for a period of 4 years] THROUGH
35 JUNE 30, 2010, and, at the end of [the 4-year period] JUNE 30, 2010, with no further
36 action required by the General Assembly, this Act shall be abrogated and of no further
37 force and effect.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article 2B - Alcoholic Beverages**

4 6-201.

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

6 (ii) 1. In this subsection the following words have the meanings
7 indicated.

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

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

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

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

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

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

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

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

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

1 5. In the event that a licensee, during the initial license year,
2 fails to maintain the sales ratio requirement provided in this paragraph for a period
3 of three consecutive months or after the initial license year for each license or
4 calendar year, the Board, in its discretion, may revoke the license. The Board may
5 require any licensee to provide supporting data as it, in its discretion, deems
6 necessary, in order to establish that the requirements of this section relating to the
7 ratio of gross receipts from the sale of food to those from the sale of alcoholic
8 beverages have been met.

9 (iii) A license issued under this subsection authorizes its holder to
10 keep for sale and sell alcoholic beverages for consumption on the premises only, and
11 alcoholic beverages may not be served to patrons or consumed at any bar, counter
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13 area may not exceed 25 percent of the seats normally available for the general public
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15 and private party facilities.

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

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

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

23 (3) (i) There is a special Class B license known as Class B-BWL
24 (H-M) which shall be issued only for hotels and motels that meet the minimum
25 requirements set forth in subsection (a)(3) of this section. All of the privileges and
26 restrictions provided for in paragraph (2) of this subsection are applicable to this
27 special Class B license except that the gross receipts from the sale of alcoholic
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29 guests may be served in their rooms. In any instance where there is more than one
30 licensed establishment within the hotel or motel, the foregoing sales ratio shall be
31 applicable only to one license and that shall be the one that provides the food and
32 beverage service to the conventions, banquets and other groups that utilize facilities
33 within the hotel or motel.

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

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

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39 (iii) The Board of License Commissioners may issue a special Class
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25 (vii) The Board may not approve the transfer of a special Class
26 B-BWL (performing arts facility) license to another location.

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

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

33 SECTION 4. AND BE IT FURTHER ENACTED, That Sections 2 and 3 of this
34 Act are contingent on the failure of Section 1 of this Act to take effect on or before
35 April 9, 2005. If Section 1 of this Act takes effect on or before April 9, 2005, Sections
36 2 and 3 of this Act shall be null and void without the necessity of further action by the
37 General Assembly.

1 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions
2 of Section 4 of this Act, this Act is an emergency measure, is necessary for the
3 immediate preservation of the public health or safety, has been passed by a yea and
4 nay vote supported by three-fifths of all the members elected to each of the two
5 Houses of the General Assembly, and shall take effect from the date it is enacted.