

DOUGLAS F. GANSLER
ATTORNEY GENERAL

DAN FREEDMAN
Counsel to the General Assembly

KATHLEEN WINDORRE
Chief Deputy Attorney General

SANDRA BENSON BRANTLEY
BONNIE A. KIRKLAND
KATHRYN M. ROWE
Assistant Attorneys General

JOHN B. HOWARD, JR.
Deputy Attorney General



THE ATTORNEY GENERAL OF MARYLAND
OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

April 14, 2008

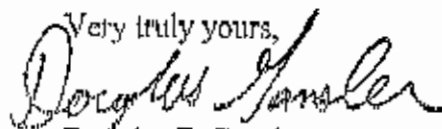
The Honorable Martin J. O'Malley
Governor of Maryland
State House
Annapolis, Maryland 21401-1991

RE: *HB 203*
SB 157

House Bill 203 and Senate Bill 157 are identical bills that are approved for constitutionality, but create a statutory conflict that will require special advice or subsequent corrective legislation. House Bill 203 at page 8, line 8 and Senate Bill 157 at page 8, line 6, add a new subsection Article 2B § 12-104(e)(5), relating to Class 6 (pub brewery) and Class 7 (micro-brewery) licenses. New subsection (II) states that:

(II) SUBJECT TO SUBPARAGRAPHS (III) AND (IV) OF THIS PARAGRAPH, THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE ONE CLASS 6 PUB-BREWERY LICENSE OR ONE CLASS 7 MICRO-BREWERY LICENSE, BUT NOT BOTH, TO A PERSON THAT HOLDS NOT MORE THAN THREE CLASS B BEER, WINE AND LIQUOR LICENSES.

This provision is in conflict with other detailed provisions of the Alcoholic Beverage Article that empower the Comptroller (rather than the local licensing authority) to issue Class 6 and Class 7 licenses, Art. 2B §§ 2-207 and 2-208. It is doubtful that the bills were intended to relocate this power to the local licensing authority, particularly because the bills specifically reenact both provisions. Precise application of the new section will be the subject of detailed advice to the Comptroller and the Wicomico County liquor board but this issue does not affect the constitutionality of the legislation.

Very truly yours,

Douglas F. Gansler
Attorney General

DFG/DF/kk

cc: John K. Barry
Assistant Attorney General