

# HOUSE BILL 437

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By: **Harford County Delegation**

Introduced and read first time: January 29, 2008

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Harford County - Alcoholic Beverages - Repeal of Class BDR Licenses -**  
3 **Additional Class B Licenses**

4 FOR the purpose of repealing in Harford County the Class BDR (deluxe restaurant)  
5 beer, wine and liquor license and all of the privileges, location restrictions,  
6 requirements, and other provisions associated with the Class BDR license;  
7 specifying when an indirect ownership interest is presumed to exist for certain  
8 purposes; increasing the maximum number of Class B licenses that may be  
9 issued to an individual for the use of certain persons; and generally relating to  
10 alcoholic beverages licenses in Harford County.

11 BY repealing and reenacting, without amendments,  
12 Article 2B – Alcoholic Beverages  
13 Section 6–201(n)(1)  
14 Annotated Code of Maryland  
15 (2005 Replacement Volume and 2007 Supplement)

16 BY repealing  
17 Article 2B – Alcoholic Beverages  
18 Section 6–201(n)(6)  
19 Annotated Code of Maryland  
20 (2005 Replacement Volume and 2007 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article 2B – Alcoholic Beverages  
23 Section 9–101(k)(7)(ii) and 9–213(e) and (j)  
24 Annotated Code of Maryland  
25 (2005 Replacement Volume and 2007 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



**Article 2B – Alcoholic Beverages**

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6–201.

(n) (1) This subsection applies only in Harford County.

[(6) (i) There is a special 7–day Class B (on–sale) license known as the Class BDR (deluxe restaurant) beer, wine and liquor license.

(ii) The license may be issued only in accordance with the provisions of this paragraph.

(iii) There may be a total of 2 Class BDR licenses issued in accordance with the provisions of this paragraph.

(iv) A current holder of any type of Class B alcoholic beverages license issued in Harford County may apply for and be issued a Class BDR (beer, wine and liquor) license only if the restaurant for which the Class BDR license is sought is located within one of the following areas of Harford County:

1. All of election district 1, precincts 1, 3, 4, 5, 6, 10, 16, and 1–45, as that election district and those precincts existed on January 1, 2001;

2. That area of election district 1, precinct 2, as that election district and that precinct existed on January 1, 2001, that is south of a line that runs along the center of Philadelphia Road beginning at the Harford County–Baltimore County boundary line and ending at the intersection with Old Mountain Road;

3. That area of election district 1, precinct 7, as that election district and that precinct existed on January 1, 2001, that is south of a line that runs along the center of Philadelphia Road beginning at Old Mountain Road and ending at Winter’s Run, which is the creek that forms the eastern boundary of precinct 7 of election district 1; or

4. The area within the corporate limits of the municipality of Aberdeen.

(v) Subject to the provisions of subparagraph (vi) of this paragraph, a person that does not currently hold any type of Class B alcoholic beverages license in Harford County may apply for and be issued a maximum of two Class BDR licenses as follows:

1. A Class BDR license, regardless of the location of the restaurant in Harford County; and

1                   2.     One additional Class BDR license, but only if the  
2 license sought is for a restaurant that is located within one of the following areas in  
3 Harford County:

4                   A.     All of election district 1, precincts 1, 3, 4, 5, 6, 10, 16,  
5 and 1–45, as that election district and those precincts existed on January 1, 2001;

6                   B.     That area of election district 1, precinct 2, as that  
7 election district and that precinct existed on January 1, 2001, that is south of a line  
8 that runs along the center of Philadelphia Road beginning at the Harford  
9 County–Baltimore County line and ending at the intersection with Old Mountain  
10 Road;

11                  C.     That area of election district 1, precinct 7, as that  
12 election district and that precinct existed on January 1, 2001, that is south of a line  
13 that runs along the center of Philadelphia Road beginning at Old Mountain Road and  
14 ending at Winter’s Run, which is the creek that forms the eastern boundary of precinct  
15 7 of election district 1; or

16                  D.     The area within the corporate limits of the  
17 municipality of Aberdeen.

18                   (vi)   A person that has obtained a Class BDR license under  
19 subparagraph (v)1 of this paragraph may not apply for and obtain any other Class B  
20 license other than a license obtained in accordance with subparagraph (v)2 of this  
21 paragraph.

22                   (vii)   This license may only be issued to restaurants that:

23                   1.     Meet the definition requirements of “restaurant”  
24 established under the regulations of the Liquor Control Board;

25                   2.     Have a cocktail lounge or bar area seating capacity  
26 not exceeding 25% of the seating capacity for dining; and

27                   3.     Subject to subparagraph (viii) of this paragraph, have  
28 a minimum capital investment of \$800,000 exclusive of the cost of the land.

29                   (viii)   For purposes of subparagraph (vii) of this paragraph:

30                   1.     “Capital investment” means the amount paid to  
31 acquire property:

32                   A.     For a useful life of greater than 1 year; or

33                   B.     For a permanent improvement or betterment of the  
34 property that has a useful life greater than 1 year;

- 1   2.     “Cost of land” includes:
- 2   A.     The purchase price, taxes, and fees incidental to the  
3 purchase, including costs related to obtaining appropriate zoning and licensing;
- 4   B.     The costs of site grading, preparation, paving,  
5 sidewalks, gutters, curbs, and landscaping; and
- 6   C.     The cost of construction and installation of all  
7 utilities.

8   (ix)    1.     If the applicant purchases or leases an existing  
9 building, the capital investment attributable to the cost of the land and improvements  
10 shall be based on the assessed value of the land and improvements in accordance with  
11 the records of the State Department of Assessments and Taxation at the time of  
12 purchase.

13    2.     The capital investment in other than land or building  
14 shells shall also be evaluated at the fair market value at the time of purchase.

15   (x)     The annual license fee is \$5,000.

16   (xi)    The hours and days that a holder may exercise the privileges  
17 of sale under this license are the same as a Class B (on-sale) beer, wine and liquor  
18 license.

19   (xii)  A Class BDR license may be issued in addition to any other  
20 alcoholic beverages license that the applicant holds.

21   (xiii) The Liquor Control Board shall adopt regulations to issue  
22 the Class BDR license.]

23    9–101.

24   (k)     In Harford County, if the application is made for a corporation, whether  
25 incorporated or unincorporated or for a limited liability company:

26   (7)    (ii)   Stock ownership requirements do not apply to an applicant  
27 for a Class B hotel or restaurant beer, wine and liquor license[,] **OR** a Class BNR beer,  
28 wine and liquor license[, or a Class BDR (on-sale) beer, wine and liquor license] in  
29 which:

30    1.     A majority of the shares of stock are owned or  
31 controlled either directly or indirectly by 1 or more corporations whose shares of stock  
32 are authorized for sale by the Securities and Exchange Commission of the United  
33 States;

1                   2.     At least 1 of the licensees is a resident operator of the  
2 business conducted on the licensed premises and that same individual is responsible  
3 for the day to day operation of the license;

4                   3.     All licensees, including the resident applicant, are  
5 named officers of the corporation; and

6                   4.     The residency requirement in effect at the time the  
7 license is issued remains in effect as long as the license is in effect.

8 9-213.

9           (e)   (1)   Except as provided in subsection (j) of this section, in Harford  
10 County, a person, franchiser, franchisee, chain store operation, partnership, firm or  
11 corporation may not have interest in more than one license, whether held or controlled  
12 by direct or indirect ownership, by franchise operation, by stock ownership,  
13 interlocking directors or interlocking stock ownership, or in any other manner, directly  
14 or indirectly. It is the intention of this section to prohibit any person, franchiser,  
15 franchisee, chain store operation, firm, partnership or corporation from having any  
16 interest, directly or indirectly, in more than one license. This section does not apply to  
17 licenses issued under the provisions of § 7-101 of this article or to club licenses.

18                   (2)   **AN INDIRECT OWNERSHIP INTEREST IS PRESUMED TO EXIST**  
19 **BETWEEN ANY COMBINATION OF INDIVIDUALS, CORPORATIONS, LIMITED**  
20 **LIABILITY COMPANIES, PARTNERSHIPS, LIMITED PARTNERSHIPS, JOINT**  
21 **VENTURES, ASSOCIATIONS, OR OTHER PERSONS IF ANY OF THE FOLLOWING**  
22 **CONDITIONS EXIST BETWEEN THEM:**

23                           (I)   **A COMMON PARENT COMPANY;**

24                           (II)   **A FRANCHISE AGREEMENT;**

25                           (III)   **A LICENSING AGREEMENT;**

26                           (IV)   **A CONCESSION AGREEMENT;**

27                           (V)   **DUAL MEMBERSHIP IN A CHAIN OF BUSINESSES**  
28 **COMMONLY OWNED AND OPERATED;**

29                           (VI)   **A SHARING OF DIRECTORS, STOCKHOLDERS,**  
30 **PARTNERS, OR MEMBERS, OR A SHARING OF DIRECTORS, STOCKHOLDERS,**  
31 **PARTNERS, OR MEMBERS OF PARENTS OR SUBSIDIARIES;**

32                           (VII)   **COMMON DIRECT OR INDIRECT SHARING OF PROFIT**  
33 **FROM THE SALE OF ALCOHOLIC BEVERAGES; OR**

1                   **(VIII) A SHARING OF A COMMON TRADE NAME, TRADEMARK,**  
2 **LOGO OR THEME, OR MODE OF OPERATION IDENTIFIABLE BY THE PUBLIC.**

3           (j)     [(1) Subject to the provisions of paragraph (2) of this subsection, in  
4 Harford County, the Liquor Control Board may issue additional Class BDR (deluxe  
5 restaurant) licenses (on-sale only) to an individual for the use of a sole proprietorship,  
6 partnership, corporation, unincorporated association, or limited liability company in  
7 the county.

8                   (2)] The maximum number of Class B[, including Class BDR,] licenses  
9 that may be issued by the Liquor Control Board to an individual for the use of a sole  
10 practitioner, partnership, corporation, unincorporated association, or limited liability  
11 company in the county is [two] **9**.

12           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 July 1, 2008.