

HOUSE BILL 437

A2

8lr0652

By: **Harford County Delegation**

Introduced and read first time: January 29, 2008

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 4, 2008

CHAPTER _____

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)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2005 Replacement Volume and 2007 Supplement)

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

5 **Article 2B – Alcoholic Beverages**

6 6–201.

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

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

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

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

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

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

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

25 3. That area of election district 1, precinct 7, as that
26 election district and that precinct existed on January 1, 2001, that is south of a line
27 that runs along the center of Philadelphia Road beginning at Old Mountain Road and
28 ending at Winter’s Run, which is the creek that forms the eastern boundary of precinct
29 7 of election district 1; or

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

32 (v) Subject to the provisions of subparagraph (vi) of this
33 paragraph, a person that does not currently hold any type of Class B alcoholic

1 beverages license in Harford County may apply for and be issued a maximum of two
2 Class BDR licenses as follows:

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

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

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

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

15 C. That area of election district 1, precinct 7, as that
16 election district and that precinct existed on January 1, 2001, that is south of a line
17 that runs along the center of Philadelphia Road beginning at Old Mountain Road and
18 ending at Winter’s Run, which is the creek that forms the eastern boundary of precinct
19 7 of election district 1; or

20 D. The area within the corporate limits of the
21 municipality of Aberdeen.

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

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

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

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

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

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

34 1. “Capital investment” means the amount paid to
35 acquire property:

- 1 A. For a useful life of greater than 1 year; or
- 2 B. For a permanent improvement or betterment of the
3 property that has a useful life greater than 1 year;
- 4 2. “Cost of land” includes:
- 5 A. The purchase price, taxes, and fees incidental to the
6 purchase, including costs related to obtaining appropriate zoning and licensing;
- 7 B. The costs of site grading, preparation, paving,
8 sidewalks, gutters, curbs, and landscaping; and
- 9 C. The cost of construction and installation of all
10 utilities.
- 11 (ix) 1. If the applicant purchases or leases an existing
12 building, the capital investment attributable to the cost of the land and improvements
13 shall be based on the assessed value of the land and improvements in accordance with
14 the records of the State Department of Assessments and Taxation at the time of
15 purchase.
- 16 2. The capital investment in other than land or building
17 shells shall also be evaluated at the fair market value at the time of purchase.
- 18 (x) The annual license fee is \$5,000.
- 19 (xi) The hours and days that a holder may exercise the privileges
20 of sale under this license are the same as a Class B (on-sale) beer, wine and liquor
21 license.
- 22 (xii) A Class BDR license may be issued in addition to any other
23 alcoholic beverages license that the applicant holds.
- 24 (xiii) The Liquor Control Board shall adopt regulations to issue
25 the Class BDR license.]
- 26 9–101.
- 27 (k) In Harford County, if the application is made for a corporation, whether
28 incorporated or unincorporated or for a limited liability company:
- 29 (7) (ii) Stock ownership requirements do not apply to an applicant
30 for a Class B hotel or restaurant beer, wine and liquor license[,] **OR** a Class BNR beer,
31 wine and liquor license[, or a Class BDR (on-sale) beer, wine and liquor license] in
32 which:

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

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

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

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

12 9-213.

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

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

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

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

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

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

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

1 (VI) A SHARING OF DIRECTORS, STOCKHOLDERS,
 2 PARTNERS, OR MEMBERS, OR A SHARING OF DIRECTORS, STOCKHOLDERS,
 3 PARTNERS, OR MEMBERS OF PARENTS OR SUBSIDIARIES;

4 (VII) COMMON DIRECT OR INDIRECT SHARING OF PROFIT
 5 FROM THE SALE OF ALCOHOLIC BEVERAGES; OR

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

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.