

HOUSE BILL 731

A2

9lr0568

By: **Howard County Delegation**

Introduced and read first time: February 10, 2009

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Howard County - Alcoholic Beverages Licenses - Application Requirements -**
3 **Citizenship Status**

4 **Ho. Co. 8-09**

5 FOR the purpose of altering certain provisions of law that apply to Howard County
6 with regard to certain required information on an application for an alcoholic
7 beverages license that relates to the citizenship of the applicant; making
8 stylistic changes; and generally relating to applications for alcoholic beverages
9 licenses in Howard County.

10 BY repealing and reenacting, with amendments,
11 Article 2B - Alcoholic Beverages
12 Section 10-103(b)
13 Annotated Code of Maryland
14 (2005 Replacement Volume and 2008 Supplement)

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

17 **Article 2B - Alcoholic Beverages**

18 10-103.

19 (b) Except as otherwise provided in this subtitle, every new application for a
20 license shall be made to the Board of License Commissioners [upon] **ON** forms
21 prescribed by the Comptroller and sworn to by the applicant. Every application for a
22 license shall contain the following [statements]:

23 (1) The class of license desired;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) The name and residence of the applicant and how long he has
2 resided at that address;

3 (3) Except in Baltimore [and Howard counties] **COUNTY**, a statement
4 that the applicant is a citizen of the United States;

5 **(3-A) (I) IN HOWARD COUNTY, A STATEMENT WHETHER THE**
6 **APPLICANT IS A NATURAL-BORN CITIZEN OR A NATURALIZED CITIZEN AND, IF**
7 **THE APPLICANT IS NOT A NATURAL-BORN CITIZEN OR A NATURALIZED CITIZEN,**
8 **THE APPLICANT SHALL PROVIDE THE INFORMATION OR DOCUMENTATION**
9 **REQUIRED BY THE BOARD OF LICENSE COMMISSIONERS OF HOWARD COUNTY**
10 **TO SHOW PROOF OF ALIEN STATUS.**

11 **(II) THE BOARD MAY OBTAIN INFORMATION FROM THE**
12 **SOCIAL SECURITY ADMINISTRATION AND THE DEPARTMENT OF HOMELAND**
13 **SECURITY - IMMIGRATION AND CUSTOMS TO VERIFY THE APPLICANT'S**
14 **CITIZENSHIP OR ALIEN STATUS.**

15 (4) (i) Except as provided in subparagraph (ii) of this paragraph, a
16 statement that the applicant has been for two years next preceding the filing of [his]
17 **THE** application a resident of the county or of the City of Baltimore in which [he] **THE**
18 **APPLICANT** proposes to operate under the license applied for. The Board of License
19 Commissioners of Prince George's County shall apply the residency requirements as
20 specified in § 9-101 of this article;

21 (ii) In Dorchester County the residency requirement is 1 year;

22 (iii) In Carroll County, in addition to the applicant's residential
23 statement required under this section, the license shall remain valid only for as long
24 as the resident applicant remains a resident of the county;

25 (5) The age and sex of the applicant;

26 (6) Except in Baltimore [and Howard counties] **COUNTY**, the place of
27 birth of the applicant, and if a naturalized citizen, when and where [he] **THE**
28 **APPLICANT** was naturalized;

29 (7) The particular place for which a license is desired, designating the
30 same by street and number if practicable; if not, by such other apt description as
31 definitely locates it and also a description of the portion of the building in which the
32 business will be conducted;

33 (8) The name of the owner of the premises upon which the business
34 sought to be licensed is to be carried on;

1 (9) (i) A statement that the applicant has never been convicted of a
2 felony and a further statement as to whether he has ever been adjudged guilty of
3 violating the laws governing the sale of alcoholic beverages or for the prevention of
4 gambling in the State of Maryland;

5 (ii) In Worcester County a statement that the applicant has
6 never offered a plea of nolo contendere to a felony indictment which was accepted by a
7 court;

8 (iii) In Somerset and Wicomico counties, a statement that the
9 applicant consents to the Board investigating the applicant's criminal record; and

10 (iv) 1. In Prince George's and Worcester counties, a signed
11 statement by the applicant that the applicant has not been convicted of a felony or if
12 the application is being made for the use of a corporation, that the applicant and none
13 of the stockholders of that corporation have been convicted of a felony;

14 2. In Worcester County, that the owner of the
15 corporation has not been convicted of a felony; and

16 3. In Charles County, a signed statement by the
17 applicant that the applicant has not been convicted of a felony, or, except for an
18 applicant for a Class B beer, wine and liquor (BLX) luxury restaurant license, if the
19 application is being made for the use of a corporation, that the applicant and none of
20 the stockholders of that corporation have been convicted of a felony;

21 (v) 1. A. In this subparagraph the following words have
22 the meanings indicated.

23 B. "Applicant" means an applicant for a new alcoholic
24 beverages license or for a transfer of an existing alcoholic beverages license.

25 C. "Board" means the Board of License Commissioners of
26 Somerset County.

27 2. This subparagraph applies only in Somerset County.

28 3. The Board shall:

29 A. Require an applicant to be fingerprinted;

30 B. Forward the fingerprints to the Criminal Justice
31 System Central Repository in the Department of Public Safety and Correctional
32 Services; and

33 C. Request from the Central Repository a State and
34 national criminal history records check of the applicant.

1 4. The Board may not disseminate information from
2 criminal records to the public but may make information from criminal records
3 available to members of the Board and their designees.

4 5. The Board shall charge an applicant a fee to cover the
5 cost of fingerprinting and performing a State and national criminal history records
6 check.

7 6. The Board may exempt from this subparagraph a
8 license holder who seeks to renew an alcoholic beverages license.

9 (10) A statement that the applicant has a pecuniary interest in the
10 business to be conducted under said license;

11 (11) A statement that the applicant has not had a license for the sale of
12 alcoholic beverages revoked;

13 (12) A statement that the applicant, or person on behalf of whom the
14 application is filed, is not pecuniarily interested in any other place of business in said
15 county or City of Baltimore where or for which a license has been applied for, granted
16 or issued under this article, except as otherwise permitted in this article;

17 (13) (i) 1. A statement as to whether the applicant has ever
18 been adjudged guilty of any offense against the laws of the State or of the United
19 States.

20 2. The respective boards shall destroy the records
21 obtained under subparagraphs (ii), (iv), (v), (vi), (vii), (viii), (ix), and (xii) of this
22 paragraph upon completion of its necessary use of the records;

23 (ii) 1. The provisions of this subparagraph (ii) apply in the
24 following:

25 A. Anne Arundel County;

26 B. Harford County;

27 C. Prince George's County;

28 D. St. Mary's County;

29 E. Worcester County; and

30 F. Howard County.

31 2. The county board of license commissioners or the
32 liquor control board may obtain criminal records on alcoholic beverages license
33 applicants and their agents in its respective county from the Criminal Justice

1 Information System Central Repository of the Department of Public Safety and
2 Correctional Services and county police.

3 (iii) The Worcester County Board of License Commissioners also
4 may obtain criminal records pursuant to the provisions of subparagraph (ii) of this
5 paragraph on the stockholders which hold at least 10% interest in the corporation and
6 owners of a corporation when the application is being made for the use of the
7 corporation;

8 (iv) In Montgomery County:

9 1. The Board of License Commissioners shall:

10 A. Obtain criminal records of alcoholic beverages license
11 applicants from the Criminal Justice Information System Central Repository of the
12 Department of Public Safety and Correctional Services and Montgomery County
13 Police;

14 B. Require applicants for alcoholic beverages licenses in
15 the county to be fingerprinted; and

16 C. Forward the fingerprints through the Criminal
17 Justice Information System Central Repository of the Department of Public Safety and
18 Correctional Services for transmittal to the Federal Bureau of Investigation for a
19 national criminal history records check; and

20 2. Applicants for license renewal may be subject to these
21 provisions.

22 (v) In Frederick County:

23 1. The Board of License Commissioners shall:

24 A. Obtain criminal records of alcoholic beverages license
25 applicants from the Criminal Justice Information System Central Repository of the
26 Department of Public Safety and Correctional Services;

27 B. Require applicants for alcoholic beverages licenses in
28 the county to be fingerprinted; and

29 C. Forward the fingerprints through the Criminal
30 Justice Information System Central Repository of the Department of Public Safety and
31 Correctional Services for transmittal to the Federal Bureau of Investigation for a
32 national criminal history records check; and

33 2. Applicants for license renewal may not be subject to
34 these provisions.

1 (vi) 1. The provisions of this subparagraph apply only in
2 Cecil County, Charles County, Dorchester County, and Kent County.

3 2. The Boards of License Commissioners shall:

4 A. Obtain criminal records of new alcoholic beverages
5 license applicants from the Criminal Justice Information System Central Repository of
6 the Department of Public Safety and Correctional Services;

7 B. Require applicants for new alcoholic beverages
8 licenses to be fingerprinted; and

9 C. Forward the fingerprints through the Criminal
10 Justice Information System Central Repository of the Department of Public Safety and
11 Correctional Services for transmittal to the Federal Bureau of Investigation (F.B.I.) for
12 a national criminal history records check. Applications for license renewal are not
13 subject to these provisions.

14 3. The County Commissioners may set a fee to cover the
15 cost of obtaining the fingerprints and the Maryland and national criminal history
16 records check.

17 4. Except as provided in sub-subparagraph 6 of this
18 subparagraph, the Boards shall keep all criminal records in a sealed envelope
19 available only to the members of the Boards and the clerks to the Boards.

20 5. The hearing for a new applicant and the issuance of a
21 license may not be delayed due to the failure of the F.B.I. to provide the requested
22 criminal history records check by the date of the scheduled hearing.

23 6. The Kent County Board of License Commissioners
24 shall:

25 A. Keep all criminal records in a sealed envelope
26 available only to the members of the Board and their designees; and

27 B. Adopt regulations to further preserve the
28 confidentiality of information obtained under this subparagraph.

29 (vii) 1. The provisions of this subparagraph apply only in
30 Wicomico County.

31 2. The Board of License Commissioners shall:

32 A. Obtain criminal records of license applicants from the
33 Criminal Justice Information System Central Repository of the Department of Public
34 Safety and Correctional Services;

1 B. Require applicants for licenses to be fingerprinted;
2 and

3 C. Forward the fingerprints through the Department of
4 Public Safety and Correctional Services for transmittal to the Federal Bureau of
5 Investigation for a national criminal history records check;

6 (viii) In Harford County:

7 1. The Liquor Control Board shall:

8 A. Obtain criminal records of alcoholic beverages license
9 applicants from the Criminal Justice Information System Central Repository of the
10 Department of Public Safety and Correctional Services;

11 B. Require applicants for alcoholic beverages licenses in
12 the county to be fingerprinted; and

13 C. Forward the fingerprints through the Criminal
14 Justice Information System Central Repository of the Department of Public Safety and
15 Correctional Services for transmittal to the Federal Bureau of Investigation for a
16 national criminal history records check; and

17 2. Applicants for license renewal may not be subject to
18 these provisions.

19 (ix) In Carroll County:

20 1. The Board of License Commissioners shall:

21 A. Obtain criminal records of alcoholic beverages license
22 applicants from the Criminal Justice Information System Central Repository of the
23 Department of Public Safety and Correctional Services;

24 B. Require applicants for alcoholic beverages licenses in
25 the county to be fingerprinted; and

26 C. Forward the fingerprints through the Criminal
27 Justice Information System Central Repository of the Department of Public Safety and
28 Correctional Services for transmittal to the Federal Bureau of Investigation for a
29 national criminal history records check; and

30 2. Applicants for license renewal may not be subject to
31 these provisions.

32 (x) 1. This subparagraph applies only in Garrett County.

33 2. In this subparagraph, “applicant” includes:

1 A. An applicant for renewal of an alcoholic beverages
2 license; and

3 B. A shareholder, member, partner, owner, or other
4 person with an ownership interest in a business entity that applies for an alcoholic
5 beverages license.

6 3. The Board of License Commissioners may:

7 A. Obtain criminal records of an alcoholic beverages
8 license applicant from the Criminal Justice Information System Central Repository of
9 the Department of Public Safety and Correctional Services and from other law
10 enforcement agencies;

11 B. Require an applicant to be fingerprinted;

12 C. Forward the fingerprints through the Central
13 Repository for transmittal to the Federal Bureau of Investigation for a national
14 criminal records check; and

15 D. Set a fee to cover the cost of obtaining the fingerprints
16 and State and national criminal records.

17 4. Criminal records shall be kept in a sealed envelope
18 accessible only by Board members and their clerks, and the criminal records shall be
19 destroyed on completion of their necessary use.

20 (xi) 1. In Calvert County, for each application for a new
21 alcoholic beverages license or for a transfer of an existing alcoholic beverages license,
22 the Board of License Commissioners shall:

23 A. Obtain criminal records of the license applicant from
24 the Criminal Justice Information System Central Repository of the Department of
25 Public Safety and Correctional Services;

26 B. Require a license applicant to be fingerprinted; and

27 C. Forward the fingerprints through the Criminal
28 Justice Information System Central Repository of the Department of Public Safety and
29 Correctional Services for transmittal to the Federal Bureau of Investigation for a
30 national criminal history records check.

31 2. This subparagraph does not apply to an alcoholic
32 beverages license renewal applicant.

33 (xii) In Howard County:

1 1. The Board of License Commissioners shall:

2 A. Obtain criminal records of alcoholic beverages license
3 applicants from the Criminal Justice Information System Central Repository of the
4 Department of Public Safety and Correctional Services and from the Federal Bureau
5 of Investigation;

6 B. Require applicants for alcoholic beverages licenses in
7 the county to be fingerprinted; and

8 C. Forward the fingerprints through the Criminal
9 Justice Information System Central Repository of the Department of Public Safety and
10 Correctional Services for transmittal to the Federal Bureau of Investigation for a
11 national criminal history records check.

12 2. Applicants for license renewal may be subject to this
13 subparagraph.

14 3. The Board shall:

15 A. Keep all criminal records confidential; and

16 B. Make all criminal records in its possession available
17 only to members, clerks, administrators, and inspectors of the Board of License
18 Commissioners and to members, clerks, administrators, and inspectors of the Howard
19 County Alcoholic Beverage Hearing Board.

20 (xiii) 1. A. In this subparagraph the following words have
21 the meanings indicated.

22 B. “Applicant” means an applicant for a new alcoholic
23 beverages license or for a transfer of an existing alcoholic beverages license.

24 C. “Board” means the Board of Liquor License
25 Commissioners of Talbot County.

26 2. This subparagraph applies only in Talbot County.

27 3. The Board shall:

28 A. Require an applicant to be fingerprinted;

29 B. Forward the fingerprints to the Criminal Justice
30 System Central Repository in the Department of Public Safety and Correctional
31 Services; and

32 C. Request from the Central Repository a State and
33 national criminal history records check of the applicant.

1 4. The Board may not disseminate information from
2 criminal records to the public but may make information from criminal records
3 available to members of the Board and their designees.

4 5. The Board may charge an applicant for the cost of
5 fingerprinting and performing a State and national criminal history records check.

6 6. The Board may exempt from this subparagraph a
7 license holder who seeks to renew an alcoholic beverages license.

8 (xiv) In Baltimore City:

9 1. The Board of Liquor License Commissioners shall:

10 A. Obtain criminal records of alcoholic beverages license
11 applicants from the Criminal Justice Information System Central Repository of the
12 Department of Public Safety and Correctional Services;

13 B. Require applicants for alcoholic beverages licenses in
14 Baltimore City to be fingerprinted; and

15 C. Forward the fingerprints through the Criminal
16 Justice Information System Central Repository of the Department of Public Safety and
17 Correctional Services for transmittal to the Federal Bureau of Investigation for a
18 national criminal history records check; and

19 2. Applicants for license renewal may not be subject to
20 the provisions of this subparagraph.

21 (14) A statement as to whether the applicant has ever held a license for
22 the sale of alcoholic beverages, and if so, in what state and at what location therein;

23 (15) A statement that no person except the applicant is in any way
24 pecuniarily interested in said license or in the business to be conducted thereunder
25 during the continuance of the license applied for, and a further statement that no
26 manufacturer, brewer, distiller, or wholesaler, directly or indirectly, has any financial
27 interest in the premises or business of the applicant and that the applicant will not
28 thereafter convey or grant to any such manufacturer, brewer, distiller or wholesaler
29 any such interest, except as otherwise permitted in this article; and that the applicant
30 has at the time of making the application no indebtedness or other financial
31 obligations and will not thereafter incur any such indebtedness or other financial
32 obligation, directly or indirectly, to any manufacturer, brewer, distiller or wholesaler
33 other than for the purchase of alcoholic beverages;

34 (16) A statement that the applicant will, if granted a license, conform to
35 all laws and regulations relating to the business in which the applicant proposes to
36 engage;

1 (17) (i) A statement duly executed and acknowledged by the owner
2 of the premises in which the business is to be conducted assenting to the granting of
3 the license applied for, and authorizing the Comptroller, his duly authorized deputies,
4 inspectors and clerks, the board of license commissioners of the county or city in which
5 the place of business is located, its duly authorized agents and employees, any peace
6 officer of that city or county, and any peace officer of any incorporated municipality in
7 which the business is to be conducted, to inspect and search, without warrant, the
8 premises upon which the business is to be conducted, and any and all parts of the
9 building in which the business is to be conducted, at any and all hours.

10 (ii) In Montgomery County, a statement and acknowledgment is
11 not required where the applicant for a license is the lessee of the entire building in
12 which the business is to be conducted for the entire term of the license to be issued.

13 (iii) In Baltimore City, a statement and acknowledgment by the
14 owner is not required when the applicant is applying for a license pursuant to §
15 9–204.1(d) of this article if the applicant files an affidavit that the applicant is the
16 lessee of the premises and accompanies the affidavit with a copy of the executed lease;

17 (18) (i) A certificate signed by at least ten citizens who are owners
18 of real estate and registered voters of the precinct in which the business is to be
19 conducted, stating the length of time each has been acquainted with the applicant, or
20 in the case of a corporation with the individuals making the application; that they
21 have examined the application of the applicant and that they have good reason to
22 believe that all the statements contained in this application are true, and that they are
23 of the opinion that the applicant is a suitable person to obtain the license. The
24 certificate must have a statement that the signers of it are familiar with the premises
25 upon which the proposed business is to be conducted, and that they believe the
26 premises are suitable for the conduct of the business of a retail dealer in alcoholic
27 beverages.

28 (ii) In Baltimore County, persons who are owners of real estate
29 and registered voters of Baltimore County and who reside within 1 mile of the
30 premises for which a license is sought shall be those persons signing the certificate.

31 (iii) In St. Mary's County, persons who are owners of real estate
32 within 5 miles of the premises for which a license is sought and registered voters of St.
33 Mary's County shall be those persons signing the certificate.

34 (iv) This certificate is not necessary for applications filed in
35 Dorchester County, Prince George's County, Montgomery County and Anne Arundel
36 County.

37 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
38 July 1, 2009.