

HOUSE BILL 731

A2

9lr0568

By: **Howard County Delegation**

Introduced and read first time: February 10, 2009

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 22, 2009

CHAPTER _____

1 AN ACT concerning

2 **Baltimore County and Howard County – Alcoholic Beverages Licenses –**
3 **Application Requirements – Citizenship Status**

4 **Ho. Co. 8–09**

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

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

5 (1) The class of license desired;

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

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

10 **(3-A) (I) IN BALTIMORE COUNTY AND HOWARD COUNTY, A**
 11 **STATEMENT WHETHER THE APPLICANT IS A NATURAL-BORN CITIZEN OR A**
 12 **NATURALIZED CITIZEN AND, IF THE APPLICANT IS NOT A NATURAL-BORN**
 13 **CITIZEN OR A NATURALIZED CITIZEN, ~~THE APPLICANT SHALL PROVIDE THE~~**
 14 **INFORMATION OR DOCUMENTATION REQUIRED BY THE BALTIMORE COUNTY**
 15 **BOARD OF LIQUOR LICENSE COMMISSIONERS OR THE BOARD OF LICENSE**
 16 **COMMISSIONERS OF HOWARD COUNTY TO SHOW PROOF OF ALIEN STATUS.**

17 **(II) ~~THE BOARD~~ BALTIMORE COUNTY BOARD OF LIQUOR**
 18 **LICENSE COMMISSIONERS AND THE BOARD OF LICENSE COMMISSIONERS OF**
 19 **HOWARD COUNTY MAY OBTAIN INFORMATION FROM THE SOCIAL SECURITY**
 20 **ADMINISTRATION AND THE DEPARTMENT OF HOMELAND SECURITY -**
 21 **IMMIGRATION AND CUSTOMS TO VERIFY THE APPLICANT'S CITIZENSHIP OR**
 22 **ALIEN STATUS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (v) 1. A. In this subparagraph the following words have
28 the meanings indicated.

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

31 C. "Board" means the Board of License Commissioners of
32 Somerset County.

33 2. This subparagraph applies only in Somerset County.

34 3. The Board shall:

- 1 D. St. Mary’s County;
- 2 E. Worcester County; and
- 3 F. Howard County.

4 2. The county board of license commissioners or the
5 liquor control board may obtain criminal records on alcoholic beverages license
6 applicants and their agents in its respective county from the Criminal Justice
7 Information System Central Repository of the Department of Public Safety and
8 Correctional Services and county police.

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

14 (iv) In Montgomery County:

15 1. The Board of License Commissioners shall:

16 A. Obtain criminal records of alcoholic beverages license
17 applicants from the Criminal Justice Information System Central Repository of the
18 Department of Public Safety and Correctional Services and Montgomery County
19 Police;

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

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

26 2. Applicants for license renewal may be subject to these
27 provisions.

28 (v) In Frederick County:

29 1. The Board of License Commissioners shall:

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

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

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

5 2. Applicants for license renewal may not be subject to
6 these provisions.

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

9 2. The Boards of License Commissioners shall:

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

13 B. Require applicants for new alcoholic beverages
14 licenses 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 (F.B.I.) for
18 a national criminal history records check. Applications for license renewal are not
19 subject to these provisions.

20 3. The County Commissioners may set a fee to cover the
21 cost of obtaining the fingerprints and the Maryland and national criminal history
22 records check.

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

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

29 6. The Kent County Board of License Commissioners
30 shall:

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

33 B. Adopt regulations to further preserve the
34 confidentiality of information obtained under this subparagraph.

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

3 2. The Board of License Commissioners shall:

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

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

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

12 (viii) In Harford County:

13 1. The Liquor Control Board shall:

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

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

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

23 2. Applicants for license renewal may not be subject to
24 these provisions.

25 (ix) In Carroll County:

26 1. The Board of License Commissioners shall:

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

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

32 C. Forward the fingerprints through the Criminal
33 Justice Information System Central Repository of the Department of Public Safety and

1 C. Forward the fingerprints through the Criminal
2 Justice Information System Central Repository of the Department of Public Safety and
3 Correctional Services for transmittal to the Federal Bureau of Investigation for a
4 national criminal history records check.

5 2. This subparagraph does not apply to an alcoholic
6 beverages license renewal applicant.

7 (xii) In Howard County:

8 1. The Board of License Commissioners shall:

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

13 B. Require applicants for alcoholic beverages licenses in
14 the county 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.

19 2. Applicants for license renewal may be subject to this
20 subparagraph.

21 3. The Board shall:

22 A. Keep all criminal records confidential; and

23 B. Make all criminal records in its possession available
24 only to members, clerks, administrators, and inspectors of the Board of License
25 Commissioners and to members, clerks, administrators, and inspectors of the Howard
26 County Alcoholic Beverage Hearing Board.

27 (xiii) 1. A. In this subparagraph the following words have
28 the meanings indicated.

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

31 C. "Board" means the Board of Liquor License
32 Commissioners of Talbot County.

33 2. This subparagraph applies only in Talbot County.

- 1 3. The Board shall:
- 2 A. Require an applicant to be fingerprinted;
- 3 B. Forward the fingerprints to the Criminal Justice
4 System Central Repository in the Department of Public Safety and Correctional
5 Services; and
- 6 C. Request from the Central Repository a State and
7 national criminal history records check of the applicant.

8 4. The Board may not disseminate information from
9 criminal records to the public but may make information from criminal records
10 available to members of the Board and their designees.

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

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

15 (xiv) In Baltimore City:

16 1. The Board of Liquor License Commissioners shall:

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

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

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

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

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

30 (15) A statement that no person except the applicant is in any way
31 pecuniarily interested in said license or in the business to be conducted thereunder
32 during the continuance of the license applied for, and a further statement that no
33 manufacturer, brewer, distiller, or wholesaler, directly or indirectly, has any financial
34 interest in the premises or business of the applicant and that the applicant will not

1 thereafter convey or grant to any such manufacturer, brewer, distiller or wholesaler
2 any such interest, except as otherwise permitted in this article; and that the applicant
3 has at the time of making the application no indebtedness or other financial
4 obligations and will not thereafter incur any such indebtedness or other financial
5 obligation, directly or indirectly, to any manufacturer, brewer, distiller or wholesaler
6 other than for the purchase of alcoholic beverages;

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

10 (17) (i) A statement duly executed and acknowledged by the owner
11 of the premises in which the business is to be conducted assenting to the granting of
12 the license applied for, and authorizing the Comptroller, his duly authorized deputies,
13 inspectors and clerks, the board of license commissioners of the county or city in which
14 the place of business is located, its duly authorized agents and employees, any peace
15 officer of that city or county, and any peace officer of any incorporated municipality in
16 which the business is to be conducted, to inspect and search, without warrant, the
17 premises upon which the business is to be conducted, and any and all parts of the
18 building in which the business is to be conducted, at any and all hours.

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

22 (iii) In Baltimore City, a statement and acknowledgment by the
23 owner is not required when the applicant is applying for a license pursuant to §
24 9-204.1(d) of this article if the applicant files an affidavit that the applicant is the
25 lessee of the premises and accompanies the affidavit with a copy of the executed lease;

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

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

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.