

CHAPTER 152

(House Bill 731)

AN ACT concerning

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

Ho. Co. 8-09

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

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

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

Article 2B – Alcoholic Beverages

10-103.

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

- (1) The class of license desired;
- (2) The name and residence of the applicant and how long he has resided at that address;
- (3) ~~Except in Baltimore [and Howard counties]~~ **COUNTY**, a **A** statement that the applicant is a citizen of the United States;

(3-A) (I) IN BALTIMORE COUNTY AND HOWARD COUNTY, A STATEMENT WHETHER THE APPLICANT IS A NATURAL-BORN CITIZEN OR A

NATURALIZED CITIZEN AND, IF THE APPLICANT IS NOT A NATURAL-BORN CITIZEN OR A NATURALIZED CITIZEN, ~~THE APPLICANT SHALL PROVIDE THE INFORMATION OR DOCUMENTATION REQUIRED BY THE BALTIMORE COUNTY BOARD OF LIQUOR LICENSE COMMISSIONERS OR THE BOARD OF LICENSE COMMISSIONERS OF HOWARD COUNTY TO SHOW PROOF OF ALIEN STATUS.~~

(II) ~~THE BOARD~~ BALTIMORE COUNTY BOARD OF LIQUOR LICENSE COMMISSIONERS AND THE BOARD OF LICENSE COMMISSIONERS OF HOWARD COUNTY MAY OBTAIN INFORMATION FROM THE SOCIAL SECURITY ADMINISTRATION AND THE DEPARTMENT OF HOMELAND SECURITY – IMMIGRATION AND CUSTOMS TO VERIFY THE APPLICANT'S CITIZENSHIP OR ALIEN STATUS.

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

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

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

(5) The age and sex of the applicant;

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

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

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

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

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

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

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

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

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

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

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

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

2. This subparagraph applies only in Somerset County.

3. The Board shall:

A. Require an applicant to be fingerprinted;

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

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

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

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

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

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

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

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

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

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

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

- A. Anne Arundel County;
- B. Harford County;
- C. Prince George's County;
- D. St. Mary's County;
- E. Worcester County; and
- F. Howard County.

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

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

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

(iv) In Montgomery County:

1. The Board of License Commissioners shall:

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

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

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

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

(v) In Frederick County:

1. The Board of License Commissioners shall:

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

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

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

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

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

2. The Boards of License Commissioners shall:

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

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

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

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

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

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

6. The Kent County Board of License Commissioners shall:

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

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

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

2. The Board of License Commissioners shall:

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

B. Require applicants for licenses to be fingerprinted;
and

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

(viii) In Harford County:

1. The Liquor Control Board shall:

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

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

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

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

(ix) In Carroll County:

1. The Board of License Commissioners shall:

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

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

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

these provisions.

2. Applicants for license renewal may not be subject to

- (x) 1. This subparagraph applies only in Garrett County.
2. In this subparagraph, "applicant" includes:
 - A. An applicant for renewal of an alcoholic beverages license; and

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

3. The Board of License Commissioners may:
 - A. Obtain criminal records of an alcoholic beverages license applicant from the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services and from other law enforcement agencies;

- B. Require an applicant to be fingerprinted;

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

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

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

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

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

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

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

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

(xii) In Howard County:

1. The Board of License Commissioners shall:

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

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

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

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

3. The Board shall:

A. Keep all criminal records confidential; and

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

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

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

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

2. This subparagraph applies only in Talbot County.
3. The Board shall:
 - A. Require an applicant to be fingerprinted;
 - B. Forward the fingerprints to the Criminal Justice System Central Repository in the Department of Public Safety and Correctional Services; and
 - C. Request from the Central Repository a State and national criminal history records check of the applicant.
4. The Board may not disseminate information from criminal records to the public but may make information from criminal records available to members of the Board and their designees.
5. The Board may charge an applicant for the cost of fingerprinting and performing a State and national criminal history records check.
6. The Board may exempt from this subparagraph a license holder who seeks to renew an alcoholic beverages license.

(xiv) In Baltimore City:

1. The Board of Liquor License Commissioners shall:
 - A. Obtain criminal records of alcoholic beverages license applicants from the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services;
 - B. Require applicants for alcoholic beverages licenses in Baltimore City to be fingerprinted; and
 - C. Forward the fingerprints through the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services for transmittal to the Federal Bureau of Investigation for a national criminal history records check; and
2. Applicants for license renewal may not be subject to the provisions of this subparagraph.

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, April 14, 2009.