

## Chapter 551

### (House Bill 1326)

AN ACT concerning

#### **Baltimore City – Consumption of Alcoholic Beverages – Unlicensed Restaurants**

FOR the purpose of prohibiting, with a certain exception, an establishment in Baltimore City that is not licensed by the Board of License Commissioners from performing certain activities, including giving, serving, or dispensing alcoholic beverages on its premises; authorizing certain restaurants not licensed by the Board to allow a patron to consume alcoholic beverages during a certain time under certain conditions; authorizing the Baltimore City Police Department to immediately close all operations of an establishment under certain circumstances; requiring the owner or operator to be given an opportunity for a prompt hearing on when the establishment may reopen; repealing provisions concerning the establishment and registration of bottle clubs; and generally relating to alcoholic beverages in Baltimore City.

BY repealing and reenacting, without amendments,  
Article 2B – Alcoholic Beverages  
Section 1–102(a)(1) and (22)(i) and (ii)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 20–102  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

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

#### **Article 2B – Alcoholic Beverages**

1–102.

- (a) (1) In this article the following words have the meanings indicated.
- (22) (i) 1. “Restaurant” means an establishment:
  - A. Which accommodates the public;

B. Which is equipped with a dining room with facilities for preparing and serving regular meals; and

C. In which the average daily receipts from the sale of foods exceed the average daily receipts from the sale of alcoholic beverages.

2. However the board of license commissioners in any county by regulation may prescribe a different standard as to what constitutes a restaurant.

3. For a restaurant in Baltimore City, the average daily receipts from the sale of food must be at least 40% of the total daily receipts of the establishment.

(ii) In Baltimore City, the term “food” as used in the definition of “restaurant”, whether the definition is established by State law or by regulations adopted by the Board of License Commissioners, may not include any ingredient or garnish used with or mixed with an alcoholic beverage that is prepared and served for consumption on the licensed premises.

20–102.

(a) [(1) In this section, “bottle club” means any establishment that serves, gives, or allows alcoholic beverages to be consumed by patrons from supplies that the patrons previously purchased or reserved.

(2) “Bottle club” does not include any establishment if a license for the premises had been issued under the provisions of this article.

(b)] This section applies only in Baltimore City.

[(c)] **(B) [A bottle club] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN ESTABLISHMENT THAT IS NOT LICENSED BY THE BOARD OF LICENSE COMMISSIONERS** may not give, serve, dispense, keep, or allow to be consumed on its premises, or on premises under its control or possession, any alcoholic beverages[, setups, or other component parts of mixed alcoholic drinks after legal closing hours for establishments under § 8–203(d) of this article].

**(C) A RESTAURANT AS DEFINED IN § 1–102(A)(22)(I) AND (II) OF THIS ARTICLE THAT IS NOT LICENSED BY THE BOARD OF LICENSE COMMISSIONERS MAY ALLOW A PATRON TO CONSUME ALCOHOLIC BEVERAGES FROM 6 A.M. TO 2 A.M. THE FOLLOWING DAY IF:**

(1) THE ALCOHOLIC BEVERAGES ARE BROUGHT TO THE RESTAURANT BY THE PATRON;

(2) THE ALCOHOLIC BEVERAGES ARE CONSUMED WITH A MEAL;

(3) THERE IS NO CHARGE FOR ADMISSION TO THE RESTAURANT;  
AND

(4) THE BALTIMORE CITY FIRE DEPARTMENT DETERMINES THAT THE MAXIMUM SEATING CAPACITY OF THE RESTAURANT IS 50.

(D) (1) THE BALTIMORE CITY POLICE DEPARTMENT MAY IMMEDIATELY CLOSE ALL OPERATIONS OF AN ESTABLISHMENT IF THE DEPARTMENT DETERMINES THAT THE ESTABLISHMENT IS IN VIOLATION OF THIS SECTION AND THAT THE PUBLIC HEALTH, SAFETY, OR WELFARE REQUIRES EMERGENCY ACTION.

(2) THE ESTABLISHMENT SHALL BE CLOSED UNTIL THE BALTIMORE CITY POLICE DEPARTMENT DETERMINES THAT THE PUBLIC HEALTH, SAFETY, OR WELFARE HAS BEEN RESTORED.

(3) THE OWNER OR OPERATOR OF THE ESTABLISHMENT SHALL BE GIVEN AN OPPORTUNITY TO REQUEST A PROMPT HEARING IN CIRCUIT COURT ON WHEN THE ESTABLISHMENT MAY REOPEN.

~~(D)~~ (E) [(1) Any person who owns or operates a bottle club shall register the establishment with the Board of License Commissioners for Baltimore City and pay the application fee that the Board sets.

(2) The registration shall include:

(i) The name of the establishment;

(ii) The address where the establishment is doing business; and

(iii) Evidence of all inspections required of the establishment and business licenses issued to the person by the State or Baltimore City.

(3) (i) The Board shall meet the same notice and hearing requirements for the application for registration that apply to an application for an alcoholic beverages license.

(ii) Before the Board may approve an application and accept the registration, the applicant shall provide copies of all inspections by the appropriate

agencies, a trader's license, a sales and use tax license, and a use and occupancy permit.

(iii) At the hearing, the Board shall determine whether to register the establishment, using the standards listed under § 10–202(a)(2)(ii) of this article.

(iv) 1. A registration of a bottle club under this subsection remains in effect for 1 year.

2. Subject to subparagraph (v) of this paragraph, a registration that is accepted by the Board may be renewed each year in accordance with the same renewal procedures used for liquor licenses.

3. A person that seeks to renew a registration shall pay the renewal fee that the Board establishes.

(v) 1. Subject to subsubparagraph 2 of this subparagraph, the Board may not accept a renewal of a registration without a hearing if a protest has been filed against the renewal at least 30 days before the expiration of the registration.

2. A protest shall be:

A. Instituted by the Board; or

B. Signed by at least 10 residents, commercial tenants who are not holders of or applicants for any license issued under this article, or real estate owners in the immediate vicinity in which the bottle club is located.

(vi) The Board may revoke or refuse to renew a registration.

(e)] A violation of this section is a misdemeanor, and upon conviction, the court shall impose a fine of up to \$10,000 or imprisonment for up to 2 years, or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

**Approved by the Governor, May 20, 2010.**