HOUSE BILL 228

By: Delegates Feldman, Ivey, Afzali, Arora, Barnes, Barve, Beitzel, Bobo, Carr, Cullison, Dumais, Dwyer, Eckardt, Elliott, Frank, Frick, Glass, Harrison, Healey, Holmes, Hough, Howard, Hubbard, Hucker, Kach, Kaiser, A. Kelly, Kipke, Krebs, Lee, Luedtke, McComas, McMillan, A. Miller, Myers, Nathan-Pulliam, Norman, Reznik, Rosenberg, Schulz, Summers, Washington, and Wilson
Introduced and read first time: January 26, 2012
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

Consuming Wine Beverages Not Bought on Premises – Restaurants, Clubs, and Hotels

4 FOR the purpose of allowing an individual in a certain restaurant, club, or hotel for $\mathbf{5}$ which a certain alcoholic beverages license is issued the privilege of consuming 6 wine not purchased from or provided by the license holder; requiring, for an 7 individual to exercise the privilege, that the wine be consumed with a meal and 8 the individual receive the approval of the license holder; authorizing a license 9 holder to determine and charge an individual a fee for the privilege; applying 10 the sales tax to the fee; requiring, with a certain exception, the license holder to 11 dispose of wine after the meal is finished; allowing an individual to remove from 12the licensed premises a bottle, the contents of which are only partially 13consumed, if the license holder or an employee of the license holder inserts a 14cork in or places a cap on the bottle; specifying that a certain bottle of wine is an "open container" for a certain purpose; and generally relating to the 15consumption of wine. 16

- 17 BY repealing and reenacting, with amendments,
- 18 Article 2B Alcoholic Beverages
- 19 Section 12–107(b)(2)
- 20 Annotated Code of Maryland
- 21 (2011 Replacement Volume)
- 22 BY adding to
- 23 Article 2B Alcoholic Beverages
- 24 Section 12–107(b)(10)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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$\frac{1}{2}$	Annotated Code of Maryland (2011 Replacement Volume)
$3 \\ 4 \\ 5 \\ 6 \\ 7$	BY repealing and reenacting, with amendments, Article – Tax – General Section 11–101(m) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)
8 9	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
10	Article 2B – Alcoholic Beverages
11	12–107.
$12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19$	(b) (2) [It] EXCEPT AS PROVIDED IN PARAGRAPH (10) OF THIS SUBSECTION, IT shall be unlawful for any person to drink on the licensed premises of any license holder any alcoholic beverages not purchased from the license holder on said premises and not permitted by this article to be consumed on the premises; and it shall be unlawful for any license holder to permit any person to drink any alcoholic beverage not purchased from the said license holder on the premises covered by the license which he holds and not permitted by this article to be consumed on the premises.
20 21 22 23	(10) (I) AN INDIVIDUAL IN A RESTAURANT, CLUB, OR HOTEL FOR WHICH A CLASS B OR CLASS C LICENSE ALLOWING THE SALE OF WINE IS ISSUED MAY CONSUME WINE NOT PURCHASED FROM OR PROVIDED BY THE LICENSE HOLDER ONLY IF:
$\frac{24}{25}$	1. THE WINE IS CONSUMED WITH A MEAL DURING THE HOURS OF SALE SPECIFIED BY THE LICENSE; AND
$\frac{26}{27}$	2. THE INDIVIDUAL RECEIVES THE APPROVAL OF THE LICENSE HOLDER.
28 29 30 31	(II) A LICENSE HOLDER THAT ALLOWS AN INDIVIDUAL THE PRIVILEGE OF CONSUMING WINE DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY DETERMINE AND CHARGE THE INDIVIDUAL A FEE FOR THE PRIVILEGE, ON WHICH A SALES TAX SHALL BE IMPOSED.
32 33 34 35	(III) EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH, THE LICENSE HOLDER SHALL DISPOSE OF WINE DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT REMAINS AFTER THE MEAL IS FINISHED.

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PREMISES A BOTTLE OF WINE, THE CONTENTS OF WHICH ARE ONLY PARTIALLY

(IV) THE INDIVIDUAL MAY REMOVE FROM THE LICENSED

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3 CONSUMED WITH THE MEAL, IF THE LICENSE HOLDER OR AN EMPLOYEE OF THE LICENSE HOLDER INSERTS A CORK IN OR PLACES A CAP ON THE BOTTLE. 4 $\mathbf{5}$ **(**V**)** A BOTTLE OF WINE THAT IS REMOVED FROM THE 6 LICENSED PREMISES UNDER SUBPARAGRAPH (IV) OF THIS PARAGRAPH IS AN 7 "OPEN CONTAINER" FOR PURPOSES OF § 10-125 OF THE CRIMINAL LAW ARTICLE. 8 Article - Tax - General 9 10 11 - 101."Taxable service" means: 11 (m) 12fabrication, printing, or production of tangible personal property by (1)13special order; 14(2)commercial cleaning or laundering of textiles for a buyer who is engaged in a business that requires the recurring service of commercial cleaning or 15laundering of the textiles; 1617cleaning of a commercial or industrial building; (3)18 cellular telephone or other mobile telecommunications service; (4) 19(5)"900", "976", "915", and other "900"-type telecommunications 20service; 21(6)custom calling service provided in connection with basic telephone 22service: 23(7)a telephone answering service; 24pay per view television service; (8)25(9)credit reporting; 26(10)a security service, including: 27(i) a detective, guard, or armored car service; and 28(ii) a security systems service;

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1 (11) a transportation service for transmission, distribution, or delivery 2 of electricity or natural gas, if the sale or use of the electricity or natural gas is subject 3 to the sales and use tax; [or]

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- (12) a prepaid telephone calling arrangement; **OR**

5 (13) THE PRIVILEGE GIVEN TO AN INDIVIDUAL UNDER ARTICLE 2B 6 § 12–107(B)(10) OF THE CODE TO CONSUME WINE THAT IS NOT PURCHASED 7 FROM OR PROVIDED BY A RESTAURANT, CLUB, OR HOTEL.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 9 July 1, 2012.