

HOUSE BILL 228

A1

2lr0832
CF SB 755

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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 2012

CHAPTER _____

1 AN ACT concerning

2 **Consuming Wine ~~Beverages~~ Not Bought on Premises – Restaurants, Clubs,**
3 **and Hotels**

4 FOR the purpose of allowing an individual in a certain restaurant, club, or hotel for
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~~ under certain
9 circumstances; requiring a local licensing board to issue a certain permit at no
10 cost to certain license holders; authorizing a license holder to determine and
11 charge an individual a fee for the privilege; applying the sales tax to the fee;
12 requiring, with a certain exception, the license holder to dispose of wine after
13 the meal is finished; allowing an individual to remove from the licensed
14 premises a bottle, the contents of which are only partially consumed, if the
15 license holder or an employee of the license holder inserts a cork in or places a
16 cap on the bottle; specifying that a certain bottle of wine is an “open container”
17 for a certain purpose; prohibiting a license holder from allowing a certain
18 individual from consuming certain wine; and generally relating to the
19 consumption of wine.

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 BY repealing and reenacting, with amendments,
 2 Article 2B – Alcoholic Beverages
 3 Section 12–107(b)(2)
 4 Annotated Code of Maryland
 5 (2011 Replacement Volume)

6 BY adding to
 7 Article 2B – Alcoholic Beverages
 8 Section 12–107(b)(10)
 9 Annotated Code of Maryland
 10 (2011 Replacement Volume)

11 BY repealing and reenacting, with amendments,
 12 Article – Tax – General
 13 Section 11–101(m)
 14 Annotated Code of Maryland
 15 (2010 Replacement Volume and 2011 Supplement)

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

18 **Article 2B – Alcoholic Beverages**

19 12–107.

20 (b) (2) [It] **EXCEPT AS PROVIDED IN PARAGRAPH (10) OF THIS**
 21 **SUBSECTION, IT** shall be unlawful for any person to drink on the licensed premises of
 22 any license holder any alcoholic beverages not purchased from the license holder on
 23 said premises and not permitted by this article to be consumed on the premises; and it
 24 shall be unlawful for any license holder to permit any person to drink any alcoholic
 25 beverage not purchased from the said license holder on the premises covered by the
 26 license which he holds and not permitted by this article to be consumed on the
 27 premises.

28 **(10) (i) AN INDIVIDUAL IN A RESTAURANT, CLUB, OR HOTEL**
 29 **FOR WHICH A CLASS B OR CLASS C LICENSE ALLOWING THE SALE OF WINE IS**
 30 **ISSUED MAY CONSUME WINE NOT PURCHASED FROM OR PROVIDED BY THE**
 31 **LICENSE HOLDER ONLY IF:**

32 **1. THE WINE IS CONSUMED WITH A MEAL DURING**
 33 **THE HOURS OF SALE SPECIFIED BY THE LICENSE; ~~AND~~**

34 **2. THE INDIVIDUAL RECEIVES THE APPROVAL OF**
 35 **THE LICENSE HOLDER;**

1 **3. THE WINE IS NOT AVAILABLE FOR SALE ON THE**
2 **LICENSE HOLDER'S WINE LIST; AND**

3 **4. THE LICENSE HOLDER OBTAINS A PERMIT FROM**
4 **THE LOCAL LICENSING BOARD BEFORE ALLOWING AN INDIVIDUAL THE**
5 **PRIVILEGE OF CONSUMING WINE NOT PURCHASED FROM OR PROVIDED BY THE**
6 **LICENSE HOLDER.**

7 **(II) A LOCAL LICENSING BOARD SHALL ISSUE A PERMIT AT**
8 **NO CHARGE TO EACH LICENSE HOLDER WHO SEEKS TO ALLOW AN INDIVIDUAL**
9 **TO CONSUME WINE UNDER THE CONDITIONS SPECIFIED IN SUBPARAGRAPH (I)**
10 **OF THIS PARAGRAPH.**

11 ~~**(II)**~~ **(III)** **A LICENSE HOLDER THAT ALLOWS AN INDIVIDUAL**
12 **THE PRIVILEGE OF CONSUMING WINE DESCRIBED UNDER SUBPARAGRAPH (I) OF**
13 **THIS PARAGRAPH MAY DETERMINE AND CHARGE THE INDIVIDUAL A FEE FOR**
14 **THE PRIVILEGE, ON WHICH A SALES TAX SHALL BE IMPOSED.**

15 ~~**(III)**~~ **(IV)** **EXCEPT AS PROVIDED IN SUBPARAGRAPH ~~**(IV)**~~ **(V)****
16 **OF THIS PARAGRAPH, THE LICENSE HOLDER SHALL DISPOSE OF WINE**
17 **DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT REMAINS**
18 **AFTER THE MEAL IS FINISHED.**

19 ~~**(IV)**~~ **(V)** **THE INDIVIDUAL MAY REMOVE FROM THE**
20 **LICENSED PREMISES A BOTTLE OF WINE, THE CONTENTS OF WHICH ARE ONLY**
21 **PARTIALLY CONSUMED WITH THE MEAL, IF THE LICENSE HOLDER OR AN**
22 **EMPLOYEE OF THE LICENSE HOLDER INSERTS A CORK IN OR PLACES A CAP ON**
23 **THE BOTTLE.**

24 ~~**(V)**~~ **(VI)** **A BOTTLE OF WINE THAT IS REMOVED FROM THE**
25 **LICENSED PREMISES UNDER SUBPARAGRAPH ~~**(IV)**~~ **(V)** OF THIS PARAGRAPH IS**
26 **AN "OPEN CONTAINER" FOR PURPOSES OF § 10-125 OF THE CRIMINAL LAW**
27 **ARTICLE.**

28 **(VII) A LICENSE HOLDER MAY NOT ALLOW AN INDIVIDUAL**
29 **WHO IS UNDER 21 YEARS OLD OR WHO IS VISIBLY UNDER THE INFLUENCE OF AN**
30 **ALCOHOLIC BEVERAGE THE PRIVILEGE OF CONSUMING WINE DESCRIBED**
31 **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

32 **Article – Tax – General**

33 11-101.

34 (m) "Taxable service" means:

- 1 (1) fabrication, printing, or production of tangible personal property by
2 special order;
- 3 (2) commercial cleaning or laundering of textiles for a buyer who is
4 engaged in a business that requires the recurring service of commercial cleaning or
5 laundering of the textiles;
- 6 (3) cleaning of a commercial or industrial building;
- 7 (4) cellular telephone or other mobile telecommunications service;
- 8 (5) “900”, “976”, “915”, and other “900”-type telecommunications
9 service;
- 10 (6) custom calling service provided in connection with basic telephone
11 service;
- 12 (7) a telephone answering service;
- 13 (8) pay per view television service;
- 14 (9) credit reporting;
- 15 (10) a security service, including:
- 16 (i) a detective, guard, or armored car service; and
- 17 (ii) a security systems service;
- 18 (11) a transportation service for transmission, distribution, or delivery
19 of electricity or natural gas, if the sale or use of the electricity or natural gas is subject
20 to the sales and use tax; [or]
- 21 (12) a prepaid telephone calling arrangement; **OR**

22 **(13) THE PRIVILEGE GIVEN TO AN INDIVIDUAL UNDER ARTICLE**
23 **2B, § 12-107(B)(10) OF THE CODE TO CONSUME WINE THAT IS NOT PURCHASED**
24 **FROM OR PROVIDED BY A RESTAURANT, CLUB, OR HOTEL.**

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