

# HOUSE BILL 401

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By: **Delegates McHale, Clippinger, and Hammen**

Introduced and read first time: February 1, 2012

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City – Alcoholic Beverages – Refillable Containers**

3 FOR the purpose of creating in Baltimore City a refillable container license;  
4 authorizing the Board of Liquor License Commissioners to issue the license to a  
5 holder of a Class B beer and light wine or a Class B beer, wine and liquor  
6 license issued for a restaurant; specifying that a holder of the license may sell  
7 beer for consumption off the licensed premises in a certain refillable container  
8 to a certain individual; prohibiting a holder of a license from displaying or  
9 providing shelving for beer for off-premises consumption; requiring an  
10 applicant for the license to complete a certain form and pay a certain fee;  
11 requiring that certain advertising, posting of notice, and public hearing  
12 requirements be met; specifying the term of the license; requiring that receipts  
13 collected under the license be included in a certain calculation of average daily  
14 receipts; specifying the hours of sale for the license; allowing a holder of the  
15 license to exercise the privileges of the license only if the licensed premises is  
16 open for business as a restaurant; authorizing the Board to adopt certain  
17 regulations; making a technical change; and generally relating to alcoholic  
18 beverages in Baltimore City.

19 BY repealing and reenacting, without amendments,  
20 Article 2B – Alcoholic Beverages  
21 Section 1–102(a)(1) and (22) and 8–203(a) and (b)  
22 Annotated Code of Maryland  
23 (2011 Replacement Volume)

24 BY adding to  
25 Article 2B – Alcoholic Beverages  
26 Section 8–203(e)  
27 Annotated Code of Maryland  
28 (2011 Replacement Volume)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article 2B – Alcoholic Beverages  
3 Section 12–113(c)  
4 Annotated Code of Maryland  
5 (2011 Replacement Volume)

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

8 **Article 2B – Alcoholic Beverages**

9 1–102.

10 (a) (1) In this article the following words have the meanings indicated.

11 (22) (i) 1. “Restaurant” means an establishment:

12 A. Which accommodates the public;

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

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

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

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

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

28 (iii) In Harford County a “restaurant” as used in § 5–201 and §  
29 6–201(n)(9) of this article means a business establishment for the accommodation of  
30 the public, fully equipped with a proper and adequate dining room, tables, chairs and  
31 sufficient facilities for preparing and serving regular meals, as may be approved by the  
32 Liquor Control Board. The Board and Department of Health shall approve its sanitary  
33 facilities, running hot and cold water, equipment for the proper cleaning of dishes and  
34 kitchenware and adequate toilets. At all times there must be sufficient food on the  
35 premises for the regular serving of meals, with a proper sign or signs in front of the

1 establishment designating “restaurant” or food and beverages sold, and not  
2 advertising any other business. In this establishment the average gross monthly  
3 receipts from the sale of foods cooked or prepared and served on the premises where  
4 the license is exercised, and other foods, commodities and items defined by the Liquor  
5 Control Board, shall exceed 50 percent of the average monthly receipts from the sale of  
6 beer and wine, except that a restaurant serving food and beverages whose gross  
7 monthly receipts from the sale of food averages \$1,500 or more may not be required to  
8 sell food and food commodities in excess of 50 percent of the average monthly receipts  
9 from the sale of beer and wine.

10 (iv) The requirements of this section relating to average daily  
11 receipts are not applicable to any licenses issued in Cecil County.

12 8-203.

13 (a) The provisions of this section only apply in Baltimore City.

14 (b) In this section, “Board” means the Board of License Commissioners of  
15 Baltimore City.

16 **(E) (1) THERE IS A REFILLABLE CONTAINER LICENSE.**

17 **(2) THE BOARD MAY ISSUE A REFILLABLE CONTAINER LICENSE**  
18 **TO A HOLDER OF A CLASS B BEER AND LIGHT WINE OR A CLASS B BEER, WINE**  
19 **AND LIQUOR LICENSE ISSUED FOR A RESTAURANT.**

20 **(3) A REFILLABLE CONTAINER LICENSE ENTITLES THE HOLDER**  
21 **TO SELL BEER FOR CONSUMPTION OFF THE LICENSED PREMISES:**

22 **(I) IN A REFILLABLE CONTAINER WITH A CAPACITY OF NOT**  
23 **LESS THAN 32 OUNCES AND NOT MORE THAN 128 OUNCES; AND**

24 **(II) ONLY TO AN INDIVIDUAL WHO HAS PURCHASED FOOD**  
25 **OR AN ALCOHOLIC BEVERAGE FROM THE LICENSED PREMISES.**

26 **(4) IN AREAS OF THE PREMISES THAT ARE ACCESSIBLE TO THE**  
27 **PUBLIC, A HOLDER OF A REFILLABLE CONTAINER LICENSE MAY NOT DISPLAY**  
28 **OR PROVIDE SHELVING FOR BEER FOR OFF-PREMISES CONSUMPTION.**

29 **(5) BEFORE THE BOARD ISSUES A REFILLABLE CONTAINER**  
30 **LICENSE TO AN APPLICANT:**

31 **(I) THE APPLICANT SHALL:**

1                   1.    COMPLETE THE FORM THAT THE BOARD  
2 PROVIDES; AND

3                   2.    PAY AN ANNUAL LICENSE FEE OF \$500; AND

4                           (ii) THE SAME ADVERTISING, POSTING OF NOTICE, AND  
5 PUBLIC HEARING REQUIREMENTS AS THOSE FOR THE LICENSE THAT THE  
6 APPLICANT HOLDS SHALL BE MET.

7                   (6)   THE TERM OF A REFILLABLE CONTAINER LICENSE ISSUED TO  
8 A SUCCESSFUL APPLICANT IS THE SAME AS THAT OF THE LICENSE THAT THE  
9 APPLICANT HOLDS.

10                   (7)   RECEIPTS COLLECTED UNDER A REFILLABLE CONTAINER  
11 LICENSE ARE TO BE INCLUDED IN THE CALCULATION OF AVERAGE DAILY  
12 RECEIPTS FROM THE SALE OF ALCOHOLIC BEVERAGES UNDER  
13 § 1-102(A)(22)(I)3 OF THIS ARTICLE.

14                   (8)   THE HOURS OF SALE FOR A REFILLABLE CONTAINER LICENSE  
15 ARE THE SAME AS THOSE FOR THE LICENSE ALREADY HELD BY THE PERSON TO  
16 WHOM THE REFILLABLE CONTAINER LICENSE IS ISSUED.

17                   (9)   THE HOLDER OF A REFILLABLE CONTAINER LICENSE MAY  
18 EXERCISE THE PRIVILEGES OF THE LICENSE ONLY IF THE LICENSED PREMISES  
19 IS OPEN FOR BUSINESS AS A RESTAURANT.

20                   (10) THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS  
21 SUBSECTION, INCLUDING A LIMIT ON THE NUMBER OF REFILLABLE CONTAINER  
22 LICENSES TO BE ISSUED.

23   12-113.

24                   (c)   [No] EXCEPT AS PROVIDED IN § 8-203(E) OF THIS ARTICLE, NO retail  
25 dealer, or agent or employee of such retail dealer shall refill any container of alcoholic  
26 beverages with any substance whatsoever after such container has once been emptied  
27 of its original contents.

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