

# HOUSE BILL 1432

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CF SB 1059

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By: **Delegate Barkley**

Introduced and read first time: March 1, 2012

Assigned to: Rules and Executive Nominations

Re-referred to: Economic Matters, March 5, 2012

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Committee Report: Favorable

House action: Adopted

Read second time: March 26, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Alcoholic Beverages – Comptroller – Departments of Liquor Control and**  
3 **Liquor Control Boards**

4 FOR the purpose of expressly requiring the Comptroller to enforce certain provisions  
5 of law applicable to certain activities conducted by a department of liquor  
6 control or a liquor control board; making certain powers of liquor control boards  
7 subject to the enforcement authority of the Comptroller; and generally relating  
8 to the authority of the Comptroller regarding certain activities of liquor control  
9 boards and departments of liquor control.

10 BY repealing and reenacting, with amendments,  
11 Article 2B – Alcoholic Beverages  
12 Section 15–204(a) and 15–205  
13 Annotated Code of Maryland  
14 (2011 Replacement Volume)

15 BY adding to  
16 Article 2B – Alcoholic Beverages  
17 Section 16–407.1  
18 Annotated Code of Maryland  
19 (2011 Replacement Volume)

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

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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.



**Article 2B – Alcoholic Beverages**

1

2 15–204.

3 (a) [Except] **SUBJECT TO § 16–407.1 OF THIS ARTICLE AND EXCEPT** as  
4 otherwise provided in this section, the liquor control board in each county shall have  
5 an absolute monopoly of the sale and distribution of the particular alcoholic beverages  
6 which elsewhere in this subtitle it is empowered to sell.

7 15–205.

8 [The] **SUBJECT TO § 16–407.1 OF THIS ARTICLE, THE** liquor control board of  
9 each county shall have full power and authority within its county:

10 (a) (1) (i) To appoint such employees as may be necessary to conduct  
11 such county liquor dispensary or branch dispensaries, fix their compensation and  
12 require such bonds for the faithful performance of their duties as the board may in  
13 each case determine.

14 (ii) In Montgomery County, effective July 1, 1951, the positions  
15 of General Manager and Treasurer of the Liquor Control Board are hereby abolished.  
16 All existing employees of the Board, except those whose positions are abolished herein,  
17 shall be entitled to continue to be employed on probation of six months duration at  
18 their existing salaries subject to passing qualifying examinations and regulations of  
19 the County Personnel Board. All employees of the Department except the Director  
20 shall be appointed and hold their positions subject to the regulations. The office of the  
21 County Attorney shall furnish legal services to the Department.

22 (2) This paragraph applies only to Garrett County. The position of  
23 clerk of the Board of License Commissioners is abolished as of July 1, 1987. The  
24 County Commissioners shall provide administrative, clerical, and accounting services  
25 to the Board of License Commissioners as are needed in the execution of their duties  
26 under the provisions of this article. The County Commissioners shall provide legal  
27 counsel to the Board of License Commissioners through the office of the County  
28 Attorney or bear the expense of competent private legal counsel for the Board.

29 (b) To purchase from any licensed wholesaler or manufacturer any sparkling  
30 or fortified wine or any other alcoholic beverage which the Board is authorized to sell,  
31 upon which the tax imposed by § 5–102 of the Tax – General Article has been paid,  
32 and to purchase from any nonresident or resident producer or dealer any such  
33 alcoholic beverages and import the same for resale, as hereinafter provided; but such  
34 importations shall not be resold until the excise tax has been paid.

35 (c) To sell such alcoholic beverages in sealed containers, as above provided,  
36 at such prices as may be determined by the board, which prices shall be uniform in all  
37 stores in the said county.

1 (d) To refuse to sell any alcoholic beverage to any person who, in its  
2 judgment, is not a suitable person to purchase or consume such beverages; to restrict  
3 and/or limit the quantities of said alcoholic beverages which might be sold at any given  
4 time or period to any individual consumer or licensee by such system or methods as  
5 may be prescribed by the liquor control board.

6 (e) (1) To make any and all contracts, rules and regulations which they  
7 may deem necessary or desirable to carry out the powers conferred upon them by this  
8 article.

9 (2) In Harford County, the Board shall hold public hearings on all  
10 proposed alterations of its rules and regulations. These hearings shall be advertised in  
11 two or more newspapers of general circulation in the county at least two consecutive  
12 weeks prior to the scheduled public hearings.

13 (f) To sell and ship outside of county any containers or packages of alcoholic  
14 beverages kept for sale in the dispensary or branch dispensaries, provided that such  
15 shipment is not prohibited by law applicable in the place where shipment is consigned.

16 (g) To rent, lease, or purchase premises necessary for the conduct of said  
17 dispensaries, subject to the approval of the county commissioners.

18 (h) Unless otherwise provided in this subtitle, to fix the hours for opening  
19 and closing all dispensaries and branch dispensaries; and it shall be unlawful to  
20 remain open or sell any alcoholic beverages after the regular closing hours.

21 (i) (1) In Harford County, the Liquor Control Board shall employ one  
22 full-time chief inspector and such other inspector or inspectors as in its discretion  
23 shall be required from time to time. Provided, however, that neither the Sheriff, any  
24 deputy sheriff or any constable or municipal peace officer in Harford County shall be  
25 eligible to be appointed or to serve as the chief inspector or as an inspector. The person  
26 appointed to be chief inspector shall have had at the time of appointment investigative  
27 experience as a police officer or as an inspector for a governmental agency or as a  
28 police officer or investigator for a private agency. After appointment, the chief  
29 inspector shall serve as such and shall be discharged only for cause involving  
30 dishonesty, incompetency or immoral conduct; and prior to his discharge, he shall be  
31 given a list of the charges against him and an opportunity to reply thereto in an open  
32 hearing either in person or by counsel. The chief inspector with the approval of the  
33 Liquor Control Board shall be empowered to contract with or hire any independent  
34 accounting firm to audit the books and accounts of any licensee. The Liquor Control  
35 Board is authorized to establish and change from time to time such reasonable  
36 compensation for the chief inspector or any other inspector or inspectors as is  
37 warranted by their respective duties and responsibilities. Nothing in this subsection  
38 shall be construed to relieve from the responsibility of enforcing the provisions of this  
39 article in Harford County the several peace officers listed in § 16-401 of this article.

1           (2) In Harford County the Liquor Control Board shall appoint a  
2 general manager, who shall act as secretary–treasurer of the Board and who shall be  
3 the chief business administrative officer of the Board under its control and  
4 supervision. No Board member shall be eligible to fill said position while retaining his  
5 membership on the Liquor Control Board. The manager so appointed shall hold office  
6 during good behavior and shall be discharged only for cause involving dishonesty,  
7 incompetency, or immoral conduct after opportunity for hearing.

8           (3) The salaries of all employees of the Liquor Control Board shall be  
9 fixed by the Liquor Control Board, subject to the approval of the County Executive and  
10 County Council. The County Council shall also review the adequacy of the fidelity  
11 bonds required of the employees by the Liquor Control Board for the protection of the  
12 county.

13           (4) Notwithstanding any other provision of the Code or local law,  
14 employees of the Harford County Liquor Control Board are subject to the provisions  
15 regarding conflicts of interest, and lobbying activities found in Title 15, Subtitle 5,  
16 Part I, and Subtitle 7 of the State Government Article, but may not be required to file  
17 the statement required by § 15–601 of the State Government Article.

18           (j) Repealed.

19           (k) (1) In Montgomery County, in addition to the powers already  
20 enumerated in this section, which powers are subject to the approval of the County  
21 Executive, the director of the Department of Liquor Control shall have power to  
22 acquire, with the approval of the County Executive, by lease, purchase or otherwise,  
23 such real or personal property as may be deemed necessary by the director to operate  
24 dispensaries, stores or warehouses. He may acquire, by purchase or otherwise, any  
25 alcoholic beverages from any source for resale. Except for purchases of merchandise  
26 for resale, all purchases shall be made through the county purchasing office.

27           (2) Effective July 1, 1951, the title to all real and personal property  
28 now used by or in the name of the Liquor Control Board, including money in banks,  
29 credits, accounts receivable, trucks, automobiles, equipment, stock in trade, leases,  
30 franchises, contracts and the title to the liquor dispensary building located in Silver  
31 Spring, Maryland, more particularly described in a deed dated July 27, 1943, and  
32 recorded among the land records of Montgomery County in Liber 917, folio 156, shall  
33 be and is hereby vested in Montgomery County, Maryland. Nothing in this subtitle  
34 shall be construed to impair the validity of any outstanding contracts or obligations of  
35 any nature to which the Liquor Control Board has heretofore become a party.

36           (l) In Worcester County, subject to the approval of the County  
37 Commissioners, the Director of the Department of Liquor Control may purchase or  
38 otherwise acquire:

39           (1) Real or personal property that the Director considers necessary to  
40 operate dispensaries, stores, or warehouses; and

1           (2)     Wine and liquor from any source for resale.

2           (m)     In Wicomico County, the Liquor Control Board may hold wine tasting and  
3 sampling promotional events in county liquor dispensaries in accordance with the  
4 following restrictions:

5           (1)     The Liquor Control Board may not serve to an individual more  
6 than 1 ounce from each brand at an event;

7           (2)     The number of bottles that may be open at any one time at an  
8 event may not exceed six;

9           (3)     The number of days during which events are conducted in the  
10 County may not exceed 10 in any 12-month period;

11           (4)     Once opened, each bottle used for an event shall be marked that it  
12 is to be used only for that purpose;

13           (5)     The contents of each bottle may not be mixed with the contents of  
14 any other bottle, and all bottles shall be destroyed once they are empty; and

15           (6)     Wine tasting and sampling may be conducted for on-premises  
16 consumption only and may not be conducted using a drive-through window.

17     **16-407.1.**

18           **THE COMPTROLLER SHALL ENFORCE THE PROVISIONS OF THIS ARTICLE**  
19 **APPLICABLE TO:**

20           **(1)     THE PURCHASE OR IMPORTATION OF ALCOHOLIC BEVERAGES**  
21 **BY A DEPARTMENT OF LIQUOR CONTROL OR A LIQUOR CONTROL BOARD; AND**

22           **(2)     THE SALE OF ALCOHOLIC BEVERAGES TO A WHOLESALER OR**  
23 **RETAIL DEALER BY A DEPARTMENT OF LIQUOR CONTROL OR A LIQUOR**  
24 **CONTROL BOARD.**

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