

SENATE BILL 627

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2lr2433
CF HB 767

By: ~~Senator Conway~~ Senators Conway and Middleton

Introduced and read first time: February 3, 2012

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 26, 2012

CHAPTER _____

1 AN ACT concerning

2 **Multiple Jurisdictions – Alcoholic Beverages – Class B and Class BLX**
3 **Licenses – Restaurants**

4 FOR the purpose of altering the requirement for an alcoholic beverages licensee in
5 Anne Arundel County to be issued a certain Class BLX license for a restaurant;
6 ~~authorizing a business in which a parent company has a direct or indirect~~
7 ~~interest and that operates using a certain trademark used in connection with~~
8 ~~restaurant services to obtain a Class B beer license, Class B beer and wine~~
9 ~~license, or a Class B beer, wine and liquor license for certain premises used as a~~
10 ~~restaurant; requiring an applicant for a certain license to apply for the license~~
11 ~~in a certain manner and pay a certain fee; limiting the granting of a certain~~
12 ~~license to a certain purpose of providing alcoholic beverages for consumption on~~
13 ~~the licensed premises only; making a certain exception; establishing that certain~~
14 ~~provisions of law do not limit the rights of certain persons to obtain certain~~
15 ~~licenses; providing that the granting of a certain license is not subject to certain~~
16 ~~provisions of law limiting the number of permitted licenses; establishing that a~~
17 ~~certain provision of law does not authorize the issuance of more licenses than~~
18 ~~the maximum number of licenses permitted in a certain county, the City of~~
19 ~~Annapolis, or Baltimore City; defining certain terms; and generally relating to~~
20 ~~the obtaining of a Class B beer license, Class B beer and wine license, or a Class~~
21 ~~B beer, wine and liquor license by a business in which a parent company has a~~
22 ~~direct or indirect interest and that operates using a trademark used in~~
23 ~~connection with restaurant services~~ altering the maximum number of Class B
24 licenses and Class BLX licenses in Anne Arundel County, Baltimore City,
25 Baltimore County, Calvert County, Charles County, Howard County,

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 Montgomery County, and Prince George's County that certain persons may hold
 2 or in which certain persons may have a direct or indirect interest; making a
 3 stylistic change; and generally relating to Class B and Class BLX licenses in
 4 certain jurisdictions.

5 BY repealing and reenacting, without amendments,
 6 Article 2B – Alcoholic Beverages
 7 Section ~~9-102(a)~~ 6-201(f)(1), (r)(1)(i) and (6)(i), 8-202.1(a) and (c)(1), and
 8 9-102.1(a) and (b)(4)
 9 Annotated Code of Maryland
 10 (2011 Replacement Volume)

11 BY ~~adding to~~ repealing and reenacting, with amendments,
 12 Article 2B – Alcoholic Beverages
 13 Section ~~9-102(a-2)~~ 6-201(f)(4)(vi) and (r)(6)(iii), 8-202.1(g)(1), (h), (m), and (n),
 14 9-102(b-3A), (o)(1) and (2), (p), and 9-102.1(o)(1)
 15 Annotated Code of Maryland
 16 (2011 Replacement Volume)

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

19 **Article 2B – Alcoholic Beverages**

20 ~~9-102.~~

21 ~~(a) (1) No more than one license provided by this article, except by way of~~
 22 ~~renewal or as otherwise provided in this section, shall be issued in any county or~~
 23 ~~Baltimore City, to any person, or for the use of any partnership, corporation,~~
 24 ~~unincorporated association, or limited liability company, in Baltimore City or any~~
 25 ~~county of the State.~~

26 ~~(2) No more than one license shall be issued for the same premises~~
 27 ~~except as provided in §§ 2-201 through 2-208, 2-301, and 6-701 and Title 7.5 of this~~
 28 ~~article.~~

29 ~~(3) This subsection may not be construed to apply to § 6-201(r)(4),~~
 30 ~~(15), (17), and (18), § 7-101(b) and (e), § 8-202(g)(2)(ii) and (iii), § 8-217(e), § 8-508, §~~
 31 ~~8-902, § 9-217(b-1), or § 12-202 of this article.~~

32 ~~(A-2) (1) (i) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE~~
 33 ~~THE MEANINGS INDICATED:~~

34 ~~(ii) "INDIRECT INTEREST" MEANS ONE OR MORE OF THE~~
 35 ~~FOLLOWING CONDITIONS EXIST BETWEEN TWO PERSONS, CORPORATIONS,~~
 36 ~~LIMITED LIABILITY COMPANIES, PARTNERSHIPS, LIMITED PARTNERSHIPS,~~

1 ~~JOINT VENTURES, ASSOCIATIONS, OR ANY OTHER COMBINATION OF PERSONS,~~
2 ~~WHETHER NATURAL OR OTHERWISE:~~

3 ~~1. A COMMON PARENT COMPANY;~~

4 ~~2. A LICENSING AGREEMENT;~~

5 ~~3. A CONCESSION AGREEMENT;~~

6 ~~4. MEMBERSHIP IN A CHAIN OF BUSINESSES~~
7 ~~COMMONLY OWNED AND OPERATED AND SO PORTRAYED TO THE PUBLIC;~~

8 ~~5. SHARING OF DIRECTORS OR STOCKHOLDERS;~~

9 ~~6. COMMON DIRECT OR INDIRECT SHARING OF~~
10 ~~PROFIT FROM THE SALE OF ALCOHOLIC BEVERAGES; OR~~

11 ~~7. SHARING OF A COMMON TRADE NAME,~~
12 ~~TRADEMARK, LOGO, THEME, OR MODE OF OPERATION IDENTIFIABLE BY THE~~
13 ~~PUBLIC, EXCEPT HOTELS AND MOTELS.~~

14 ~~(H) "PARENT COMPANY" MEANS A CORPORATION, THE~~
15 ~~SECURITIES OF WHICH ARE EXEMPT FROM REGISTRATION UNDER § 11-601(8)~~
16 ~~OR (12) OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE THAT OWNS OR~~
17 ~~CONTROLS, DIRECTLY OR INDIRECTLY, AT LEAST THREE RESTAURANT~~
18 ~~REGISTERED BRANDS.~~

19 ~~(IV) "RESTAURANT REGISTERED BRAND" MEANS A~~
20 ~~TRADEMARK THAT IS REGISTERED WITH THE UNITED STATES PATENT AND~~
21 ~~TRADEMARK OFFICE USED IN CONNECTION WITH RESTAURANT SERVICES.~~

22 ~~(2) (i) NOTWITHSTANDING ANY OTHER PROVISION OF THIS~~
23 ~~ARTICLE, A BUSINESS IN WHICH A PARENT COMPANY HAS A DIRECT OR~~
24 ~~INDIRECT INTEREST AND THAT OPERATES USING A RESTAURANT REGISTERED~~
25 ~~BRAND OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY THE PARENT~~
26 ~~COMPANY, MAY OBTAIN A CLASS B BEER LICENSE, A CLASS B BEER AND WINE~~
27 ~~LICENSE, OR A CLASS B BEER, WINE AND LIQUOR LICENSE FOR PREMISES USED~~
28 ~~AND OCCUPIED AS A BONA FIDE RESTAURANT, AS DEFINED BY THE RULES AND~~
29 ~~REGULATIONS OF THE LOCAL BOARD OF LICENSE COMMISSIONERS OR THE~~
30 ~~BALTIMORE CITY BOARD OF LIQUOR LICENSE COMMISSIONERS.~~

31 ~~(H) FOR AN APPLICANT TO OBTAIN A LICENSE UNDER THIS~~
32 ~~SUBSECTION, THE APPLICANT SHALL APPLY FOR THE LICENSE IN THE REGULAR~~
33 ~~MANNER AND PAY THE USUAL FEE.~~

1 ~~(3) EXCEPT AS OTHERWISE PROVIDED UNDER § 12-107.1 OF THIS~~
 2 ~~ARTICLE, THE ISSUANCE OF A LICENSE AS PROVIDED IN THIS SUBSECTION IS~~
 3 ~~LIMITED TO THE PURPOSE OF PROVIDING ALCOHOLIC BEVERAGES FOR~~
 4 ~~CONSUMPTION ON THE LICENSED PREMISES ONLY, WITH NO OFF-SALE~~
 5 ~~PRIVILEGES TO BE EXERCISED BY THE LICENSEE.~~

6 ~~(4) (i) NOTHING IN THIS SUBSECTION LIMITS THE RIGHTS OF A~~
 7 ~~PERSON TO OBTAIN A CLASS B BEER LICENSE, CLASS B BEER AND WINE~~
 8 ~~LICENSE, OR A CLASS B BEER, WINE AND LIQUOR LICENSE AS PROVIDED BY ANY~~
 9 ~~OTHER PROVISION OF THIS ARTICLE.~~

10 ~~(ii) SUBJECT TO SUBPARAGRAPH (iii) OF THIS PARAGRAPH,~~
 11 ~~THE ISSUANCE OF A LICENSE AS PROVIDED IN THIS SUBSECTION IS NOT~~
 12 ~~SUBJECT TO ANY OTHER PROVISION OF THIS ARTICLE THAT LIMITS THE~~
 13 ~~NUMBER OF PERMITTED LICENSES.~~

14 ~~(iii) NOTHING IN THIS SUBSECTION AUTHORIZES THE~~
 15 ~~ISSUANCE OF MORE CLASS B BEER LICENSES, CLASS B BEER AND WINE~~
 16 ~~LICENSES, OR CLASS B BEER, WINE AND LIQUOR LICENSES TO RESTAURANTS~~
 17 ~~USING THE SAME RESTAURANT REGISTERED BRAND IN A COUNTY, THE CITY OF~~
 18 ~~ANNAPOLIS, OR BALTIMORE CITY THAN THE MAXIMUM NUMBER OF LICENSES~~
 19 ~~PERMITTED BY THAT COUNTY, THE CITY OF ANNAPOLIS, OR BALTIMORE CITY;~~

20 ~~1. TO AN INDIVIDUAL OR A SOLE PROPRIETOR; OR~~

21 ~~2. FOR USE OF A PARTNERSHIP, A CORPORATION, AN~~
 22 ~~UNINCORPORATED ASSOCIATION, OR A LIMITED LIABILITY COMPANY.~~

23 6-201.

24 (f) (1) This subsection applies only in Calvert County.

25 (4) (vi) Notwithstanding any other provision of this article, an
 26 individual, corporation, limited liability company, partnership, limited partnership,
 27 joint venture, association, or other person or combination of persons may not have a
 28 direct or indirect interest in any combination in more than [3] 4 Class B and Class
 29 BLX licenses.

30 (r) (1) (i) This subsection applies only in Prince George's County.

31 (6) (i) There is a Class BLX license, which is a special Class B
 32 license.

1 (iii) 1. Class BLX licenses may be issued only to luxury type
2 restaurants, a term which shall be defined by the regulations of the Board.

3 2. The restaurant shall have a minimum capital
4 investment of ~~[\$800,000]~~ **\$1,000,000** for dining room facilities and kitchen
5 equipment, which sum may not include the cost of land, buildings or a lease.

6 3. The restaurant shall have a minimum seating
7 capacity of 100 persons.

8 4. The Board has complete discretion as to whom these
9 licenses may be issued, the number to be issued, and whether an existing license
10 holder of an alcoholic beverages license may also have an interest in one Class BLX
11 license.

12 5. Subject to sub-subparagraphs 6, 7, and 8 of this
13 subparagraph, an individual or corporation may hold not more than ~~[6]~~ **10** Class BLX
14 licenses.

15 6. A license holder may be issued a fifth BLX license
16 only if the date of application for a fifth license is at least 1 year after the date the
17 license holder was issued the fourth license.

18 7. A license holder may be issued a sixth BLX license
19 only if the date of application for a sixth license is at least 1 year after the date the
20 license holder was issued the fifth license.

21 8. In determining whether to issue a fifth ~~[or], sixth,~~
22 **SEVENTH, EIGHTH, NINTH, OR TENTH** BLX license to a single license holder, the
23 Board of License Commissioners for Prince George's County:

24 A. Shall consider the number of licensed establishments
25 existing in the area surrounding the site of the proposed licensed establishment; and

26 B. May issue the additional license only if the Board
27 determines that the proposed licensed establishment will enhance the recreational,
28 business, and economic development of the area.

29 9. This license is limited and restricted to the purpose of
30 providing alcoholic beverages for consumption on the licensed premises only, with no
31 off-sale privileges to be exercised.

32 10. The residency requirements specified in § 9-101 of
33 this article as it pertains to Prince George's County do not apply to Class BLX licenses.

34 ~~8-202.1.~~

1 (a) This section applies only in Anne Arundel County.

2 (c) (1) There is a 7-day Class BLX (deluxe restaurant) (on-sale) beer,
3 wine and liquor license.

4 (g) (1) A licensee may hold not more than [six] 10 licenses of any class in
5 accordance with this section.

6 (h) (1) Except as provided in paragraph (2) of this subsection, a license
7 that was issued on or before June 30, 2006, and in which a licensee holds a direct
8 interest or an indirect interest:

9 (i) Shall be counted against the maximum number of [six] 10
10 licenses that the licensee may hold under this section; but

11 (ii) Is exempt from subsections (i) through (l) of this section.

12 (2) A Class H license that was issued in the period beginning on
13 March 14, 2005, and ending on December 1, 2005, may not be counted against the
14 maximum number of [six] 10 licenses that the licensee may hold under this section.

15 (m) (1) A licensee may be issued a fifth license if[:

16 (1) The] THE license sought is a Class BLX license[; and].

17 (2) The restaurant for which the FIFTH license is sought[:

18 (i) Is located in a community revitalization zone with a
19 designation in the series "A" through "P", inclusive, as shown on the map adopted by
20 the Anne Arundel County Council by Bill 97-01; or

21 (ii) Is located anywhere else in the county, if at least one
22 restaurant for which a license was issued to the licensee is already located in a
23 community revitalization zone] MAY BE LOCATED ANYWHERE IN THE COUNTY.

24 (n) (1) A licensee may be issued a sixth, SEVENTH, EIGHTH, NINTH, OR
25 TENTH license if the license sought is a Class BLX license.

26 (2) The restaurant for which the license is sought may be located
27 anywhere in the county.

28 9-102.

29 (b-3A) (1) Notwithstanding any other provisions of this section, AND
30 SUBJECT TO SUBSECTIONS (B-3B) AND (B-3C) OF THIS SECTION, in Baltimore
31 City or Baltimore County, the holder of a Class B, (on-sale — hotels and restaurants)

1 beer, wine and liquor license under this article, by making application in the regular
2 manner and paying the usual fee may obtain an additional Class B, (on-sale — hotels
3 and restaurants) beer, wine and liquor license for premises used and occupied as a
4 bona fide restaurant, as may be defined by the rules and regulations of the Board of
5 License Commissioners for Baltimore City or Baltimore County, provided that said
6 restaurant has a minimum capital investment of \$500,000 for restaurant facilities,
7 which sum shall not include the cost of land or buildings, and has a minimum seating
8 capacity of 125 persons.

9 **(2)** Nothing contained herein shall permit the issuance of more than
10 [three (3)] FIVE such licenses to any person, or for the use of any partnership,
11 corporation, unincorporated association, or limited liability company in Baltimore City
12 or Baltimore County.

13 **(3)** The granting of additional licenses hereunder shall be limited and
14 restricted to the purpose of providing alcoholic beverages for consumption on the
15 licensed premises only, with no off-sale privileges to be exercised therewith.

16 (o) **(1)** Subject to paragraphs (2) and (3) of this subsection, and
17 notwithstanding any other provision of law, in Howard County, the Board of License
18 Commissioners may issue 2 Class B (on-sale) beer, wine and liquor licenses and [3] 7
19 Class BLX (luxury restaurant) (on-sale) beer, wine and liquor licenses, or [5] 9 Class
20 BLX (luxury restaurant) (on-sale) beer, wine and liquor licenses for separate
21 premises:

22 (i) To an individual; or

23 (ii) For the use of a partnership, corporation, or unincorporated
24 association.

25 **(2)** A person, including a corporation, limited liability company,
26 partnership, limited partnership, joint venture, association, or other combination of
27 persons, whether natural or otherwise and for whatever reason formed, may not have
28 a direct or indirect interest in any combination of more than [5] 9 Class B and Class
29 BLX licenses.

30 (p) Notwithstanding subsection (a) of this section, in Charles County, the
31 Board of License Commissioners may issue [1] 2 additional Class BLX alcoholic
32 beverages [license] LICENSES for use in a luxury-type restaurant for each Charles
33 County Class BLX licensee who applies.

34 9-102.1.

35 (a) This section applies only in Montgomery County.

1 (b) (4) “License” means a Class B beer, wine and liquor on-sale only
2 license.

3 (o) (1) A licensee that holds an original license, may obtain a maximum of
4 [five] 9 additional licenses and may not hold more than [six] 10 licenses altogether.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.