

Chapter 697

(House Bill 1050)

AN ACT concerning

Alcoholic Beverages Licensees – Adult Entertainment – Exception

FOR the purpose of providing that certain prohibitions in certain jurisdictions against alcoholic beverages licensees allowing certain types of adult entertainment do not apply to licensees who are operators of theaters, art centers, or similar establishments that present performances expressing matters of serious literary, artistic, scientific, or political value; altering a prohibition relating to certain adult entertainment activity to remove certain references to touching; altering certain cross-references to clarify that certain references to certain adult entertainment activity; terminating an exemption for certain license holders from a prohibition against certain adult entertainment activity in Prince George's County; and generally relating to alcoholic beverages licensees and adult entertainment.

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 10–405, 11–304(e)(3)(i), 12–203, 12–204(d), 20–103.1(a)(2),
20–105.1(a)(3), 20–107(b)(2), 20–107.1(a)(2), 20–108.1(a)(3),
20–108.2(a)(2), 20–110(a)(2), 20–111(a)(2), 20–112(a)(2), and 20–113(a)(2)

Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, without amendments,

Article 2B – Alcoholic Beverages

Section 12–204(a)

Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing

Chapter 262 of the Acts of the General Assembly of 2005

Section 2

BY repealing and reenacting, with amendments,

Chapter 262 of the Acts of the General Assembly of 2005

Section 3

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

Article 2B – Alcoholic Beverages

10–405.

(a) The provisions of this section apply only in:

- (1) Allegany County;
- (2) Anne Arundel County;
- (3) Calvert County;
- (4) Caroline County;
- (5) Carroll County;
- (6) Cecil County;
- (7) Charles County;
- (8) Dorchester County;
- (9) Frederick County;
- (10) Garrett County;
- (11) Harford County;
- (12) Kent County;
- (13) Prince George’s County;
- (14) Queen Anne’s County;
- (15) St. Mary’s County;
- (16) Except as provided in subsection (i) of this section, Washington County;
- (17) Wicomico County; and
- (18) Worcester County.

(b) **(1) [Any] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A license issued under the provisions of this article shall be revoked if,**

after hearing as provided in § 10–403 of this subtitle, any of the activities listed in this section are found to occur on any premises or location for which the license was issued.

(2) THE LICENSE OF A PERSON MAY NOT BE REVOKED UNDER PARAGRAPH (1) OF THIS SUBSECTION IF:

(I) THE PERSON OPERATES A THEATER, CONCERT HALL, ART CENTER, MUSEUM, OR SIMILAR ESTABLISHMENT THAT IS PRIMARILY DEVOTED TO THE ARTS OR THEATRICAL PERFORMANCES; AND

(II) THE PERFORMANCES EXPRESS MATTERS OF SERIOUS LITERARY, ARTISTIC, SCIENTIFIC, OR POLITICAL VALUE.

(c) With respect to attire and conduct, a person may not:

(1) Be employed or used in the sale or service of alcoholic beverages in or upon the licensed premises while the person is unclothed or in attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals;

(2) Be employed or act as a hostess or act in a similar-type capacity to mingle with the patrons while the hostess or person acting in a similar-type capacity is unclothed or in attire, costume or clothing as described in paragraph (1) of this subsection;

(3) Encourage or permit any person on the licensed premises to ~~touch~~ caress or fondle the breasts, buttocks, anus or genitals of any other person; or

(4) Permit any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion of it.

(d) With respect to entertainment provided, a person may not:

(1) Permit any person to perform acts of or acts which simulate:

(i) The act of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(ii) The [touching,] caressing or fondling of the breast, buttocks, anus or genitals; or

(iii) The display of the pubic hair, anus, vulva or genitals;

(2) Permit any entertainer whose breasts or buttocks are exposed (subject to the restrictions of paragraph (1) of this subsection) to perform closer than six feet from the nearest patron; or

(3) Permit any person to use artificial devices or inanimate objects to depict, perform or simulate any activity prohibited by paragraph (1) of this subsection.

(e) A person may not exhibit or show any motion picture film, still picture, electronic reproduction or other visual reproduction depicting:

(1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(2) Any person being [touched,] caressed or fondled on the breast, buttocks, anus or genitals;

(3) Scenes where a person displays the vulva or anus or the genitals;
or

(4) Scenes where artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

(f) A person may not permit any person to remain in or upon the licensed premises who exposes to public view any portion of his genitals or anus.

(g) The provisions of this section do not permit any conduct or form of attire prohibited by any other provision of statute, ordinance, rule or regulation.

(h) In Cecil County, in addition to the penalty provided in subsection (b) of this section, if any of the activities listed in subsections (c), (d), (e), and (f) of this section are found to occur on the premises for which the license was issued, the holder of the license, or any employee, entertainer, or patron who performs any of the listed activities is guilty of a misdemeanor and shall be fined or imprisoned according to the penalty set forth in § 16–503 of this article.

(i) In Washington County, this section does not apply to:

(1) The Washington County Playhouse; or

(2) A theater holding a Class B beer, wine and liquor on–sale license under § 6–201(w) of this article.

(j) (1) This subsection applies only in Caroline County.

(2) After a finding that the activities enumerated in this section have occurred, the Board of License Commissioners may decide whether or not to revoke a license, notwithstanding the mandatory provisions of subsection (b) of this section.

11-304.

(e) (3) (i) Alcoholic beverages may not be brought onto any premises and consumed or transferred if the premises constitute a place of public entertainment and the entertainment is of the type [listed under § 10-405(c) through (f)] **PROHIBITED UNDER § 10-405** of this article.

12-203.

(a) In this section, "adult entertainment" means:

(1) With respect to attire and conduct:

(i) Employment or use of any person in the sale or service of alcoholic beverages in or upon the licensed premises while the person is unclothed or in attire, costume, or clothing so as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals.

(ii) Employment or use of the services of any hostess or other person to mingle with the patrons while the hostess or other person is unclothed or in attire, costume, or clothing as described in subparagraph (i) of this paragraph.

(iii) Encouragement of or permitting any person on the licensed premises to [touch, caress,] **CARESS** or fondle the breasts, buttocks, anus, or genitals of any other person.

(iv) Permitting any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair, or any portion of it.

(2) With respect to entertainment provided:

(i) Permitting any person to perform acts of or acts which simulate:

1. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.

2. The [touching, caressing,] **CARESSING** or fondling of the breast, buttocks, anus, or genitals.

3. The displaying of the pubic hair, anus, vulva, or genitals.

(ii) Permitting any entertainer whose breasts and/or buttocks are exposed (subject to the restrictions of subparagraph (i) of this paragraph) to perform closer than 6 feet from the nearest patron.

(iii) Permitting any person to use artificial devices or inanimate objects to depict, perform, or simulate any activity prohibited by subparagraph (i) of this paragraph.

(3) Exhibiting or showing any motion picture film, still picture, electronic reproduction, or other visual reproduction depicting:

(i) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.

(ii) Any person being [touched, caressed,] **CARESSED** or fondled on the breast, buttocks, anus, or genitals.

(iii) Scenes where a person displays the vulva, or anus, or the genitals.

(iv) Scenes where artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

(b) In Baltimore City, the Board of License Commissioners may not authorize nor may the holder of any class of alcoholic beverages license permit adult entertainment on the licensed premises or on adjacent property over which the licensee has ownership or control.

(c) Upon a finding by the Board of License Commissioners that a violation of this section has occurred, the Board shall impose a suspension or revocation of the license, fine, or both.

(d) This section does not apply to [any]:

(1) ANY licensee that offers adult entertainment as of May 31, 1993 or the transferee of the license for the same premises if the transferee continues to offer adult entertainment; AND

(2) A LICENSEE WHO OPERATES A THEATER, A CONCERT HALL, AN ART CENTER, A MUSEUM, OR A SIMILAR ESTABLISHMENT THAT IS PRIMARILY

DEVOTED TO THE ARTS OR THEATRICAL PERFORMANCES, WHEN THE PERFORMANCES PRESENTED EXPRESS MATTERS OF SERIOUS LITERARY, ARTISTIC, SCIENTIFIC, OR POLITICAL VALUE.

12-204.

(a) This section applies only in Baltimore County.

(d) (1) (i) In this subsection, “adult entertainment” means performances at licensed premises that are commonly called “go-go dancing”, “male revues”, “female revues”, and “exotic dancing”.

(ii) “Adult entertainment” includes performances by individuals who perform in any manner while in a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps and devices.

(2) The holder of any class of alcoholic beverages license may not permit adult entertainment on licensed premises or on property adjacent to the licensed premises over which the holder has ownership or control.

(3) If the Board finds that a violation of this subsection has occurred, the Board shall suspend or revoke the license for the premises where the violation occurred, impose a fine on the holder of the license for the premises where the violation occurred, or both.

(4) The provisions of this subsection do not apply to:

(i) The holder of an alcoholic beverages license that offered adult entertainment on licensed premises for at least 5 calendar days between March 8, 1996 and April 8, 1996; [or]

(ii) A transferee of an alcoholic beverages license from a holder described in item (i) of this paragraph as long as the transferee continues to offer adult entertainment on the same licensed premises; **OR**

(III) THE HOLDER OF AN ALCOHOLIC BEVERAGES LICENSE WHO OPERATES A THEATER, A CONCERT HALL, AN ART CENTER, A MUSEUM, OR A SIMILAR ESTABLISHMENT THAT IS PRIMARILY DEVOTED TO THE ARTS OR THEATRICAL PERFORMANCES, WHEN THE PERFORMANCES EXPRESS MATTERS OF SERIOUS LITERARY, ARTISTIC, SCIENTIFIC, OR POLITICAL VALUE.

20-103.1.

(a) (2) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form

of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–105.1.

(a) (3) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–107.

(b) (2) “Place of public entertainment” means a business establishment that:

(i) Does not have a license to sell alcoholic beverages but to which patrons bring alcoholic beverages the patrons have purchased elsewhere; and

(ii) Allows on its premises any activity [listed in § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–107.1.

(a) (2) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–108.1.

(a) (3) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–108.2.

(a) (2) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–110.

(a) (2) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–111.

(a) (2) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–112.

(a) (2) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–113.

(a) (2) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

Chapter 262 of the Acts of 2005

[SECTION 2. AND BE IT FURTHER ENACTED, That the Prince George’s County Board of License Commissioners of Prince George’s County shall exempt from this Act a current alcoholic beverages license holder that currently conducts an activity that is made unlawful by this Act only if the license holder:

(a) received approval from the Board to conduct the activity on or before August 15, 1981; and

(b) has owned the licensed premises continuously since September 1, 1981.]

SECTION [3.] 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2005.

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

Approved by the Governor, May 22, 2012.