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FISCAL AND POLICY NOTE
Revised

House Bill 737

(Chair, Baltimore County Delegation)(By Request -
Baltimore County Administration)

Economic Matters

Education, Health, and Environmental Affairs

Baltimore County - Alcoholic Beverages Licenses

This emergency bill generally alters provisions of law relating to the transfer and issuance of alcoholic beverages licenses within Baltimore County.

Fiscal Summary

State Effect: None.

Local Effect: Baltimore County revenues increase by \$5,000 for each new Class B service bar (SB) beer and wine licenses that are issued, beginning in FY 2013. Enforcement activities can be handled with existing resources and the required task force can be staffed with existing resources.

Small Business Effect: Potential meaningful to those businesses who are able to transfer their licenses to the areas described by the bill, and to restaurants who are issued new Class B SB alcoholic beverages licenses as provided by the bill.

Analysis

Bill Summary/Current Law:

Transfer of Class B and Class D Alcoholic Beverages Licenses

The bill authorizes the Baltimore County Board of Liquor License Commissioners, effective May 1, 2012, through April 30, 2017, to approve the transfer of no more than 25 Class B or Class D alcoholic beverages licenses in existence in election district 15 on

May 1, 2012, from the district to other election districts within the county provided the number of licenses in existence on the date of approval of the transfer is not greater than 25% more than the number of licenses that would otherwise exist in that election district based on the rule of the board that limits the total number of licenses available in an election district by population. No more than two licenses can be transferred into any single election district each year.

If, during the period from May 1, 2012, through April 30, 2017, fewer than five Class B or Class D licenses transfer from election district 15 to other election districts within any one year from May 1 to April 30, both inclusive, the board must create and issue a new Class B SB beer and wine license to achieve a requirement of not fewer than five new licenses each year as follows:

- by April 30, 2013, 5 licenses must have been transferred or created;
- by April 30, 2014, 10 licenses must have been transferred or created;
- by April 30, 2015, 15 licenses must have been transferred or created;
- by April 30, 2016, 20 licenses must have been transferred or created; and
- by April 30, 2017, 25 licenses must have been transferred or created.

In any year, if the board approves the transfer of more Class B or Class D licenses than are needed to meet the minimum total required for that year, the excess will be counted against the minimum total required for the following year. The date a license is transferred is the date of final, nonappealable approval of the application for a new license or for license transfer by the board.

Additionally, when a license is transferred from election district 15 to another election district, the license may not be construed to exist in election district 15. A license transferred under this section must be considered by the board as a regular license and not an exception license for determining the total number of licenses available in any election district based on the rule of the board that limits the total number of licenses available by population, and allows a transfer of no more than 25% of licenses that would otherwise exist in that election district on the date of approval of the transfer.

Class B SB Beer and Wine License

The board is required to create a Class B SB beer and wine license, with an annual license fee of \$5,000, that may be issued to restaurants who comply with the following:

- the license may be used only in the operation of a restaurant maintaining average daily receipts from the sale of food of at least 60% of the total daily receipts of the establishment;

- the license must allow on-premises sales of beer and wine only;
- the license allows alcoholic beverages to be served to patrons only as part of a meal;
- the license must be restricted to restaurants having table service, excluding any type of service provided to a customer who is standing or accepting delivery of the purchased food items other than while seated at a table;
- the proposed location of the restaurant for which a Class B SB beer and wine license is sought must comply with the zoning ordinances of the county, including allowing seating for not fewer than 30 customers and not more than 100 customers;
- the license may not be used in conjunction with the viewing of televised sporting events, or the use of live bands, disc jockeys, karaoke, or any other form of live entertainment;
- a license transferred from district 15, or a Class B SB beer and wine license issued in another district when fewer than five Class B or Class D licenses are transferred from the district 15 to any other district in the county within any one year from May 1 to April 30, may not thereafter be transferred from the licensed premises or converted to another class of license;
- not more than one Class B SB beer and wine license may be issued in any one election district per year;
- the license may not be issued for use on premises or a location for which any on-sale license has been issued within two years before the application for the license is filed; and
- any person, including an individual or sole proprietorship, partnership, corporation, unincorporated association, and limited liability company, may not have a direct or indirect interest in more than one Class B SB beer and wine license.

Conversion of Class D Licenses

The bill requires the board to convert a Class D license that is transferred from election district 15 to a Class B license in the election district to which it is transferred. The subsequent transfer or conversion of the transferred Class B license to another class of license is prohibited. The board may not transfer from the licensed premises or convert to another class of license any new license issued by the board based on an increase in population under the rule of the board limiting the total number of licenses available by population. Additionally, a license that has been revoked and reissued by the board cannot be transferred.

Alcoholic Beverages License Applications on Behalf of Partnerships

The bill requires that if an application for an alcoholic beverages license in Baltimore County is made for a partnership of two or more individuals, at least one must be a registered voter of any county of the State, or of the City of Baltimore and must reside there at the time of application. If there is only one general partner, the board must issue the license to that partner as an individual, if the partner is a registered voter in any county of the State, or the City of Baltimore, and resides there at the time of the application.

Increases in Number of Direct and Indirect Interests in Class B (on-sale) Licenses

Generally, the bill increases, from 6 to 12, the maximum number of Class B (on-sale – hotels and restaurants) alcoholic beverages licenses an individual or a sole proprietorship, partnership, corporation, unincorporated association, or limited liability company in the county may obtain a direct or indirect interest. The applicant must file an application in the regular manner and pay the usual fee if the restaurant for which the additional license is sought meets the following specified requirements retained from current law: meets the rules, regulations, and requirements of the board regarding the availability and issuance of licenses; meets the definition of “restaurant” established by the board; has a minimum seating capacity of 190 persons for dining; has a cocktail lounge or bar area seating capacity that does not exceed 25% of the seating capacity for dining; and has no more than 40% of sales in alcoholic beverages in connection with the business.

However, if one of the restaurants for which a license is issued is located in the Liberty Road Commercial Revitalization District as defined by the county council on October 18, 1999, the maximum number of licenses increases from 7 to 13. The applicant must file an application in the regular manner and pay the usual fee if the restaurant for which the additional license is sought meets the rules, regulations, and requirements of the board regarding the availability and issuance of licenses; the definition of “restaurant” established by the board; and has a cocktail lounge or bar area seating capacity that does not exceed 25% of the seating capacity for dining. The bill repeals a previous provision of law which additionally required a minimum seating capacity of 190 persons for dining and increases, from 20% to 40%, the previous limit on percentage of sales in alcoholic beverages in connection with the business for restaurants located within the Liberty Road Commercial Revitalization District.

Task Force and Additional Provisions

No later than June 15, 2016, the Baltimore County Executive must appoint a task force to examine further reductions in the rule of the board limiting the total number of alcoholic

beverages licenses available by population and other issues related to the distribution of alcoholic beverages licenses in the county.

The bill requires an applicant of an alcoholic beverages license in Baltimore County to sign a statement affirming they have been a resident of the State for a period of at least two years immediately preceding the date the application is filed.

The bill clarifies the previous requirement that an applicant for an alcoholic beverages license in the county submit a certificate signed by at least 10 citizens who own real estate, and reside within one mile of the premises for which an alcoholic beverages license is being sought will no longer be required in Baltimore County.

The board must allow a reduction of 20% of the required square footage applicable to office buildings and shopping centers in the rule of the board limiting the total number of alcoholic beverages licenses available by population and other issues related to the distribution of alcoholic beverages licenses in the county.

The bill establishes a uniform requirement for restaurants with Class B beer, wine, and liquor licenses located within the Towson Commercial Revitalization District (Class B TCRD license), the Hunt Valley Commercial/Mixed Use Focal Point (Class B HV license), the Quarry at Greenspring (Class B QG license), the Metro Center at Owings Mills (Class B MCOM license), and the Promenade at Catonsville (Class B PC license) to maintain average daily receipts from the sale of food of at least 60% of the total daily receipts of the respective establishment. This new requirement is lower than the requirements listed for these licenses under current law which range from a minimum of 65% to a minimum of 70% of total daily receipts in their respective establishments.

The bill specifies that the board may require restaurants for which a Class B or Class D license may be transferred, and a Class B TCRD beer, wine, and liquor license may be issued must have a maximum seating capacity of 100 persons with a seating capacity in the bar area not exceeding 25% of the total seating capacity of the restaurant. This is an increase from current law which requires the bar area in an applicable establishment to not exceed more than 15% of the total seating capacity of the restaurant.

Additionally, the bill must be construed to apply retroactively and be applied to and interpreted to affect restaurants for which alcoholic beverages licenses covered in this provision have been issued or are sought in the Towson Commercial Revitalization District, the Hunt Valley Commercial/Mixed Use Focal Point, the Quarry at Greenspring, the Metro Center at Owings Mills, the Promenade at Catonsville, and the Liberty Road Commercial Revitalization District.

Local Fiscal Effect: Baltimore County revenues increase by \$5,000 for each new Class B SB beer and wine license that are issued, beginning in fiscal 2013. The transfer of Class B and Class D alcoholic beverages licenses, and the increase in the maximum number of Class B licenses an entity in the county may obtain a direct or indirect interest in will have no direct impact on revenues. Enforcement activities can be handled with existing resources, and the task force required by the bill can be staffed with existing resources.

Additional Information

Prior Introductions: None.

Cross File: SB 654 (Senator Klausmeier)(By Request - Baltimore County Administration) - Education, Health, and Environmental Affairs.

Information Source(s): Baltimore County, Department of Legislative Services

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