

Chapter 70

(House Bill 816)

AN ACT concerning

Alcoholic Beverages – Allegany County – Video Lottery Facility Sales and Consumption

FOR the purpose of creating in Allegany County a Class BWL–VLF (video lottery facility) beer, wine and liquor license and a Class BWL–VLC (concessionaire) beer, wine and liquor license; specifying that the Board of License Commissioners may issue a video lottery facility license for a video lottery facility that contains one or more food services facilities, bars, or lounges; specifying that a video lottery facility license may be issued to an individual or entity that meets certain requirements; providing that an applicant for the license need not meet a location, voting, or residency requirement; providing that the video lottery facility license authorizes the licensee to sell beer, wine, and liquor by the drink and by the bottle on the premises of the video lottery facility, for consumption anywhere in the facility or on grounds controlled by the licensee as defined in the video lottery facility license; authorizing the Board to issue a concessionaire license to one or more concessionaires operating in a video lottery facility; authorizing a concessionaire license holder to sell beer, wine, and liquor on the premises of the concessionaire for consumption anywhere in the video lottery facility or on grounds controlled by the video lottery facility licensee as defined in the video lottery facility license; specifying certain fees; specifying that an off–sale privilege is not conferred by a video lottery facility license or a concessionaire license; authorizing that beer, wine, and liquor purchased under a video lottery facility license or a concessionaire license may be taken anywhere in a video lottery facility or on grounds controlled by the video lottery facility licensee; specifying that a video lottery facility license and a concessionaire license authorize the playing of music and dancing; specifying certain days and hours of sale for the video lottery facility and concessionaire licenses; specifying that video lottery facility and concessionaire licenses and licensees are subject to all laws and regulations applicable to the sale of alcoholic beverages not inconsistent with this Act; providing for the application to certain persons of certain penalties and sanctions for violations occurring on certain premises; authorizing a person to consume alcoholic beverages on the licensed premises of a video lottery facility during certain hours of operation of the facility; specifying that the hours for the sale of alcoholic beverages under a video lottery facility license or concessionaire license are the same as the hours of operation for a video lottery facility; defining certain terms; making this Act an emergency measure; and generally relating to alcoholic beverages and video lottery facilities in Allegany County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6–201(a) and (b)(1) and (2), 11–304(a), and 11–501(a)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 6–201(b–1) and 11–501(d)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 11–304(b)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 9–1A–23(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

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

Article 2B – Alcoholic Beverages

6–201.

(a) (1) A Class B beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located, and the license authorizes its holder to keep for sale and sell all alcoholic beverages at retail at any hotel or restaurant at the place described, for consumption on the premises or elsewhere, or as provided in this section.

(2) The annual fee for this license is payable to the local collecting agent before any license is issued, for distribution as provided in this article.

(3) (i) Except in Montgomery County or in the case of a contrary provision in this subtitle, this license shall be issued, on approval of the application by the board of license commissioners in any county in which a license may be issued for the sale of beer, wine, and liquor, to the owner of any hotel which meets the following minimum provisions:

1. The hotel building shall be originally constructed for hotel purposes; be at least three stories in height; and contain at least one passenger elevator;

2. The hotel shall contain no less than 100 rooms for the accommodation of the public;

3. The hotel shall contain a dining room with facilities for preparing and serving regular meals for at least 125 persons at one seating; and

4. The capital investment in the hotel facility may not be less than \$500,000.

(ii) The annual fee for this license is \$2,000.

(b) (1) The provisions of this subsection apply only in Allegany County.

(2) (i) The Board of License Commissioners may issue Class B beer, wine and liquor (on-sale) licenses.

(ii) This license shall be issued for the exclusive use:

1. On the premises of a restaurant that is located within a hotel or motel establishment; or

2. If used in conjunction with a Class 7 micro-brewery license, on the premises of a restaurant only.

(iii) In addition to other county requirements provided for in this article:

1. The hotel or motel shall be an establishment having at least 100 bedrooms for public accommodation; and

2. The restaurant shall be an establishment:

A. Located in a permanent building with ample space and accommodations for preparing, serving, and selling meals to the public during business hours;

B. That 60 percent of its gross monthly revenue is derived from the sale of food;

C. That has waiter or waitress service to its customers who are seated at tables for dining; and

D. That is not considered to be a fast-food style facility.

(iv) This license authorizes the holder to sell beer, wine and liquor by the drink for consumption on the licensed premises only.

(v) This license does not have off-sale privileges.

(vi) The requirements for hours and days of sale are as provided under § 11-501(a) and (b) of this article.

(vii) The annual license fee is \$800.

(viii) This license is exempt from any license population quota limitation.

(ix) Notwithstanding any law to the contrary, this license may not be transferred to a location other than the premises for which it was issued.

(B-1) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) “CONCESSIONAIRE” MEANS A LESSEE, SUBLESSEE, OR ANY OTHER OPERATOR OF AN ESTABLISHMENT THAT:

1. ENGAGES IN THE DAILY SALE OF BEER, WINE, AND LIQUOR BY THE DRINK OR BY THE BOTTLE ON ITS PREMISES FOR CONSUMPTION ANYWHERE IN A VIDEO LOTTERY FACILITY; AND

2. IS OPERATED AS A CONCESSION INDEPENDENT OF THE CLASS BWL-VLF LICENSE.

(III) “VIDEO LOTTERY FACILITY” MEANS A FACILITY THAT HOLDS A LICENSE UNDER TITLE 9, SUBTITLE 1A OF THE STATE GOVERNMENT ARTICLE.

(2) (I) THERE IS A CLASS BWL-VLF (VIDEO LOTTERY FACILITY) BEER, WINE AND LIQUOR LICENSE.

(II) THE BOARD MAY ISSUE A CLASS BWL-VLF LICENSE FOR A VIDEO LOTTERY FACILITY THAT CONTAINS ONE OR MORE FOOD SERVICE FACILITIES, BARS, OR LOUNGES.

(III) THE CLASS BWL-VLF LICENSE MAY BE ISSUED TO AN INDIVIDUAL OR ENTITY THAT OWNS A VIDEO LOTTERY FACILITY AND HOLDS A LICENSE UNDER TITLE 9, SUBTITLE 1A OF THE STATE GOVERNMENT ARTICLE.

(IV) AN APPLICANT FOR A CLASS BWL-VLF LICENSE MAY NOT BE REQUIRED TO MEET ANY LOCATION, VOTING, OR RESIDENCY REQUIREMENT.

(V) A CLASS BWL-VLF LICENSE AUTHORIZES THE LICENSEE TO SELL BEER, WINE, AND LIQUOR BY THE DRINK AND BY THE BOTTLE ON THE PREMISES OF THE VIDEO LOTTERY FACILITY, FOR CONSUMPTION ANYWHERE IN THE VIDEO LOTTERY FACILITY OR ON GROUNDS CONTROLLED BY THE LICENSEE, AS DEFINED IN THE CLASS BWL-VLF LICENSE.

(3) (I) THERE IS A CLASS BWL-VLC (VIDEO LOTTERY CONCESSIONAIRE) BEER, WINE AND LIQUOR LICENSE.

(II) THE BOARD MAY ISSUE A CLASS BWL-VLC LICENSE TO ONE OR MORE CONCESSIONAIRES OPERATING IN THE VIDEO LOTTERY FACILITY.

(III) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A CLASS BWL-VLC LICENSE AUTHORIZES THE LICENSEE TO SELL BEER, WINE, AND LIQUOR ON THE PREMISES OF THE CONCESSIONAIRE FOR CONSUMPTION ANYWHERE IN THE VIDEO LOTTERY FACILITY OR ON GROUNDS CONTROLLED BY THE CLASS BWL-VLF LICENSEE, AS DEFINED IN THE CLASS BWL-VLF LICENSE.

(4) (I) THE ANNUAL FEE FOR A CLASS BWL-VLF LICENSE IS \$15,000.

(II) THE ANNUAL FEE FOR A CLASS BWL-VLC LICENSE IS \$5,000.

(III) THE ANNUAL LICENSE FEE SHALL BE PAID TO THE BOARD ON OR BEFORE MAY 1 OF EACH YEAR.

(5) (I) AN OFF-SALE PRIVILEGE IS NOT CONFERRED BY A CLASS BWL-VLF LICENSE OR A CLASS BWL-VLC LICENSE.

(II) BEER, WINE, AND LIQUOR PURCHASED UNDER A CLASS BWL-VLF LICENSE OR A CLASS BWL-VLC LICENSE MAY BE TAKEN ANYWHERE IN A VIDEO LOTTERY FACILITY OR ON GROUNDS CONTROLLED BY

THE CLASS BWL-VLF LICENSEE, AS DEFINED IN THE CLASS BWL-VLF LICENSE.

(6) A CLASS BWL-VLF LICENSE AND A CLASS BWL-VLC LICENSE AUTHORIZE:

(I) THE PLAYING OF MUSIC AND DANCING; AND

(II) THE SALE AND PROVISION OF BEER, WINE, AND LIQUOR THROUGHOUT THE VIDEO LOTTERY FACILITY AND GROUNDS CONTROLLED BY THE CLASS BWL-VLF LICENSEE DURING THOSE DAYS AND HOURS THAT THE VIDEO LOTTERY FACILITY IS OPEN FOR BUSINESS.

(7) CLASS BWL-VLF AND CLASS BWL-VLC LICENSES AND LICENSEES ARE SUBJECT TO ALL LAWS AND REGULATIONS APPLICABLE TO THE SALE OF ALCOHOLIC BEVERAGES NOT INCONSISTENT WITH THIS SUBSECTION.

(8) ANY PENALTY OR OTHER SANCTION THAT IS IMPOSED FOR A VIOLATION OF A REGULATION OF THE BOARD ON THE LICENSED PREMISES OF A CLASS BWL-VLC LICENSEE SHALL APPLY TO THE CONCESSIONAIRE THAT THE BOARD DETERMINES TO BE RESPONSIBLE FOR THE VIOLATION.

11-304.

(a) (1) Between 2 a.m. and 6 a.m. on any day, a person may not consume any alcoholic beverages on any premises open to the general public, any place of public entertainment, or any place at which setups or other component parts of mixed alcoholic drinks are sold under any license issued under the provisions of the Business Regulation Article, and an owner, operator or manager of the premises or places may not knowingly permit such consumption.

(2) Except as provided in this section, any person found consuming any alcoholic beverage on any premises open to the general public, and any owner, operator or manager of those premises or places who knowingly permits consumption between the hours provided by this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$50 and not less than \$5.

(i) In Anne Arundel County the fine may not be more than \$250.

(ii) In Worcester County the fine may not be more than \$1,000.

(b) (1) **(I)** This subsection applies only in Allegany County.

(II) IN SUBPARAGRAPHS (IV) AND (V) OF THIS PARAGRAPH AND PARAGRAPH (2) OF THIS SUBSECTION, "PREMISES" MEANS:

- 1. A RESTAURANT, TAVERN, HOTEL, CLUB, DANCE STUDIO, OR DISCO;**
- 2. A PLACE OF PUBLIC ENTERTAINMENT;**
- 3. A PLACE OPEN TO THE GENERAL PUBLIC; OR**
- 4. A PLACE THAT IS LICENSED BY THE STATE OR THE COUNTY.**

[(2) (III)] The prohibitions of **[this subsection] SUBPARAGRAPHS (IV) AND (V) OF THIS PARAGRAPH AND PARAGRAPH (2) OF THIS SUBSECTION** apply after 1 a.m. on Sunday or between the hours of 1 a.m. and 7 a.m. on other days.

[(3) (i) (IV)] A person may not consume any alcoholic beverages on any:

1. Premises open to the general public;
2. Place operated as a club;
3. Place of public entertainment; or
4. Place at which setups or other component parts of mixed alcoholic drinks are sold under any license issued under the provisions of this article.

[(ii) (V)] An owner, operator, or manager of the premises may not permit that consumption.

[(4) (i) (2) (I)] A person may not possess or consume any alcoholic beverage on any premises which is not licensed under this article but which is open to the general public and is operated as a club, a place of public entertainment, or a place where setups or other component parts of mixed alcoholic drinks are sold.

(ii) An owner, operator, or manager of the premises may not permit that consumption or possession.

(3) (I) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SUBSECTION, A PERSON MAY CONSUME ALCOHOLIC BEVERAGES ON THE LICENSED PREMISES OF A VIDEO LOTTERY FACILITY ONLY DURING THE HOURS

OF OPERATION ESTABLISHED UNDER § 9-1A-23(A) OF THE STATE GOVERNMENT ARTICLE.

(II) A VIDEO LOTTERY FACILITY LICENSEE OR A CONCESSIONAIRE LICENSEE OR AN EMPLOYEE OF A VIDEO LOTTERY FACILITY LICENSEE OR A CONCESSIONAIRE LICENSEE MAY NOT KNOWINGLY ALLOW A PERSON TO CONSUME ALCOHOLIC BEVERAGES ON THE LICENSED PREMISES OF A VIDEO LOTTERY FACILITY EXCEPT DURING THE HOURS OF OPERATION ESTABLISHED UNDER § 9-1A-23(A) OF THE STATE GOVERNMENT ARTICLE.

[(5)] (4) Any person who violates the provisions of this subsection is guilty of a misdemeanor and may be fined not less than \$50 nor more than \$500 for each offense.

11-501.

(a) In Allegany County, any person having a license under this article may not sell intoxicating beverages between the hours of 2 a.m. and 7:00 o'clock a.m. except as provided in subsection (b) of this section, it shall be unlawful after 2:00 a.m. Sunday to sell intoxicating beverages until 7:00 o'clock a.m. Monday. However, Sunday sales when New Year's Eve or New Year's Day falls on Sunday shall be governed by § 11-402(b) of this article.

(D) IN ALLEGANY COUNTY, NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES UNDER AN ENTERTAINMENT FACILITY LICENSE OR AN ENTERTAINMENT CONCESSIONAIRE LICENSE ARE THE SAME AS THE HOURS OF OPERATION FOR A VIDEO LOTTERY FACILITY ESTABLISHED UNDER § 9-1A-23(A) OF THE STATE GOVERNMENT ARTICLE.

Article – State Government

9-1A-23.

(a) A video lottery facility may operate 24 hours a day.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 9, 2013.