

Chapter 280

(House Bill 801)

AN ACT concerning

Washington County – Alcoholic Beverages – Conversion of Class P Licenses

FOR the purpose of establishing in Washington County a Class B beer (on-sale) license, a Class B beer and light wine (on-sale) license, and a Class B beer, wine and liquor (on-sale) license; specifying certain license fees; repealing provisions of law concerning a Class P pouring license; authorizing the Washington County Board of License Commissioners to issue a sidewalk cafe license to a holder of certain Class B licenses under certain circumstances; authorizing the Board to issue certain Class B (on-sale) licenses only if an applicant is a restaurant that meets certain requirements; specifying that certain Class B (on-sale) licenses are not subject to certain population ratio quota requirements; specifying that the Class B (on-sale) licenses authorize the holder to sell certain alcoholic beverages for on-premises consumption; specifying the term of Class B (on-sale) licenses; requiring a license holder to comply with a request from the Board to submit certain information for a certain report under certain circumstances; specifying standards for the information contained in a certain report submitted to the Board; providing for the conversion of certain Class P licenses to Class B (on-sale) licenses or Class D (on-sale) licenses on a certain date; requiring a license holder, as a condition of having a Class P license converted, to submit a certain report under certain circumstances; requiring a certain applicant to attest that the applicant will comply with a certain requirement under certain circumstances; making conforming changes; defining certain terms; and generally relating to alcoholic beverages licenses in Washington County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 3–201(a), 5–201(a), and 6–201(a)
Annotated Code of Maryland
(2011 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 3–201(w), 5–201(w), 6–201(w), 6–709, 8–222, and 9–222
Annotated Code of Maryland
(2011 Replacement Volume and 2014 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 8–222.1
Annotated Code of Maryland
(2011 Replacement Volume and 2014 Supplement)

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

Article 2B – Alcoholic Beverages

3–201.

(a) (1) A Class B license shall be issued by the license issuing authority of the county in which the place of business is located. The holder of the license may keep for sale and sell beer at retail at any hotel or restaurant at the place described in the license for consumption on the premises or elsewhere.

(2) The annual fee for the license shall be paid to the local collecting agent before any license is issued, for distribution as provided.

(w) In Washington County, the annual license fee **FOR A LICENSE WITH:**

(1) ~~ON AND OFF-SALE PRIVILEGES~~ ON-SALE PRIVILEGES, AS PROVIDED FOR UNDER § 8-222.1 OF THIS ARTICLE, is \$50; OR

(2) ~~ON-SALE PRIVILEGES, AS PROVIDED FOR UNDER § 8-222.1 OF THIS ARTICLE,~~ ON- AND OFF-SALE PRIVILEGES IS \$350.

5–201.

(a) (1) A Class B beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The holder may keep for sale and sell beer and light wines at retail at any hotel or restaurant, at the place described in the license, for consumption on the premises or elsewhere.

(2) The annual fee shall be paid to the local collecting agent before any license is issued.

(w) In Washington County, the annual license fee **FOR A LICENSE WITH:**

(1) ~~ON AND OFF-SALE PRIVILEGES~~ ON-SALE PRIVILEGES, AS PROVIDED FOR UNDER § 8-222.1 OF THIS ARTICLE, is \$200; OR

(2) ~~ON-SALE PRIVILEGES, AS PROVIDED FOR UNDER § 8-222.1 OF THIS ARTICLE,~~ ON- AND OFF-SALE PRIVILEGES IS \$400.

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.

(w) (1) This subsection applies only in Washington County.

(2) The annual license fee **FOR A LICENSE WITH:**

(I) ON- AND OFF-SALE PRIVILEGES is \$1,000; OR

(II) ON-SALE PRIVILEGES, AS PROVIDED FOR UNDER § 8-222.1 OF THIS ARTICLE, IS \$750.

(3) (i) There is a Class B-theater license.

(ii) The annual license fee is \$200.

(iii) The Board of License Commissioners may issue a Class B beer, wine and liquor on-sale license for use in a theater.

(iv) To qualify for a license under this paragraph the theater shall:

1. Be operated by a nonprofit organization;

2. Appear on the National Register of Historic Places;
3. Accommodate at least 1,400 persons; and
4. Be located on the south side of Hagerstown.

(v) The holder of a license issued under this paragraph is authorized to sell beer, wine, and liquor for on-premises consumption only to persons who are attending a performance or an event that is held at the theater.

6-709.

(a) (1) This section applies only in Washington County.

(2) In this section, "Board" means the Board of License Commissioners.

(b) The Board may issue a caterer's license to a holder of a [pouring license or a] Class B restaurant or hotel (on and off-sale) beer, wine and liquor license.

(c) The annual license fee is \$1,500.

(d) A caterer's license issued under this section authorizes the holder to provide alcoholic beverages at events that are held off the premises covered by the [pouring license or the] Class B restaurant or hotel **(ON- AND OFF-SALE)** license.

(e) The holder shall prepare, deliver, and provide food as well as alcoholic beverages for consumption at the catered event.

(f) Before a caterer's license may be issued, reissued, or renewed, the county health department shall approve the facilities that prepare the food.

(g) A holder may exercise the privileges under this license only during the hours and days that are allowed under this article for the underlying [pouring license or] Class B restaurant or hotel **(ON- AND OFF-SALE)** license.

(h) This section does not require a holder of an existing [pouring license or] Class B restaurant or hotel **(ON- AND OFF-SALE)** license to have a caterer's license for catering on the premises that is covered by the existing license.

(i) The holder of a caterer's license shall:

(1) Provide all the service employees to serve the alcoholic beverages at the catered event; and

(2) Ensure that at least one of those employees is certified by an alcohol awareness program and on the premises at all times during the catered event.

8-222.

(a) This section applies only in Washington County.

(b) (1) The operators of any amusement park, whether individual, association of individuals, or a corporation, may be entitled to a license for the sale of beer within the confines of its park.

(2) The fee for such license shall be one hundred dollars (\$100) each calendar year, and shall entitle the holder to sell beer at one or more locations within the park from 8 a.m. to midnight on every day from May 1 to September 30 of each year, except Sundays and election days.

(3) Such licensees shall be subject to all laws, rules and regulations applicable in the county to the sale of beer, not inconsistent with the provisions of this section; nothing contained in § 9-102 of this article shall apply to any license issued pursuant to this section.

[(c) (1) A separate license, called a Class P “pouring license” may be issued countywide by the Board of License Commissioners.

(2) The holder of a Class P “pouring license” may only sell alcoholic beverages for consumption on the premises.

(3) The annual fee for each Class P “pouring license” is:

- (i) \$350 for a beer license;
- (ii) \$400 for a beer and light wine license;
- (iii) \$750 for a beer, light wine, and liquor license; and
- (iv) \$250 for a Sunday sale license.]

[(d) (C) (1) In this subsection, “premises” includes the entire stadium facility and the stadium parking lots.

(2) The Board of License Commissioners may issue a stadium (on-sale) license to the owner of a professional baseball team franchise.

(3) The franchise may be in any form of business organization, including partnership, corporation, and limited liability company.

- (4) The annual fee is \$2,000.
- (5) A license entitles the holder to sell beer and light wine:
- (i) Subject to paragraph (4) of this subsection, for consumption on the licensed premises to persons present at any event held in the stadium;
 - (ii) In plastic, Styrofoam, or paper containers; and
 - (iii) From the time the stadium opens for the event until the event ends.
- (6) The written approval of the Board of License Commissioners is required before beer and light wine may be sold, served, or consumed:
- (i) On the parking lots of the stadium; or
 - (ii) During any event other than a baseball game in which the team of the license holder is playing.
- (7) Except for a wholesaler or distributor of beer and light wine that is conducting business with the license holder, the license holder may not allow any person to carry alcoholic beverages onto or from the licensed premises.

[(e)] (D) (1) The Board of License Commissioners may issue a sidewalk cafe license to a holder of a Class B **[or Class P “pouring license”]** **LICENSE OF ANY KIND.**

(2) A license entitles the holder to sell and serve alcoholic beverages in an area on the sidewalk directly in front of the licensed establishment.

(3) The annual fee is \$500.

(4) A sidewalk cafe license may be issued only with an application for a Class B license **[or Class P “pouring license”]** **OF ANY KIND.**

(5) To maintain a sidewalk cafe license, a holder:

(i) Shall comply with all rules and regulations applicable to the issuance of the underlying Class B license **[or Class P “pouring license”]** **OF ANY KIND** and with all municipal ordinances and fire and health department regulations;

(ii) Shall ensure that at least one employee is certified by an alcohol awareness program and on the premises at all times during the operation of the sidewalk cafe; and

(iii) Shall keep the kitchen open during all hours of operation and have prepared meals available to be served in the sidewalk cafe.

(6) A holder may sell or serve alcoholic beverages in the sidewalk cafe from noon to midnight, every day of the week.

8-222.1.

(A) (1) (I) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) "BOARD" MEANS THE WASHINGTON COUNTY BOARD OF LICENSE COMMISSIONERS.

(III) "CLASS B (ON-SALE) LICENSE OF ANY TYPE" MEANS:

1. A CLASS B (ON-SALE) BEER LICENSE;

2. A CLASS B (ON-SALE) BEER AND LIGHT WINE LICENSE; OR

3. A CLASS B (ON-SALE) BEER, WINE AND LIQUOR LICENSE.

(2) THIS SECTION APPLIES ONLY IN WASHINGTON COUNTY.

(B) (1) A CLASS B (ON-SALE) LICENSE OF ANY TYPE:

(I) MAY BE ISSUED COUNTYWIDE BY THE BOARD; AND

(II) IS NOT SUBJECT TO THE POPULATION RATIO QUOTA REQUIREMENTS UNDER § 9-222 OF THIS ARTICLE.

(2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE BOARD MAY ISSUE A CLASS B (ON-SALE) LICENSE OF ANY TYPE IF THE ESTABLISHMENT FOR WHICH THE LICENSE IS ISSUED IS A RESTAURANT THAT:

(I) IS LOCATED IN A PERMANENT BUILDING WITH AMPLE SPACE AND ACCOMMODATIONS;

(II) COMMONLY OFFERS HOT AND COLD MEALS THAT ARE PREPARED, SOLD, AND SERVED TO THE PUBLIC DURING REGULAR BUSINESS HOURS;

(III) HAS A DINING AREA WITH REGULAR SEATING CAPACITY AT TABLES, CHAIRS, AND BOOTHS, THAT, EXCLUDING SEATS AT BARS OR COUNTERS, CAN ACCOMMODATE AT LEAST 50 PATRONS; AND

(IV) IS EQUIPPED WITH SUFFICIENT KITCHEN AND DINING FACILITIES FOR REGULARLY PREPARING AND SERVING MEALS TO THE PUBLIC;

(V) MAINTAINS A MENU THAT ADVERTISES A VARIETY OF FOOD THAT THE ESTABLISHMENT SERVES;

(VI) SERVES FOOD AT ALL TIMES WHENEVER ALCOHOLIC BEVERAGES ARE BEING SERVED OR CONSUMED; AND

(VII) HAS, ON AN ANNUAL BASIS, GROSS SALES OF FOOD AND NONALCOHOLIC BEVERAGES THAT EXCEED ITS GROSS SALES OF ALCOHOLIC BEVERAGES.

(C) (1) A CLASS B BEER (ON-SALE) LICENSE AUTHORIZES THE HOLDER TO SELL BEER FOR ON-PREMISES CONSUMPTION.

(2) A CLASS B BEER AND LIGHT WINE (ON-SALE) LICENSE AUTHORIZES THE HOLDER TO SELL BEER AND LIGHT WINE FOR ON-PREMISES CONSUMPTION.

(3) A CLASS B BEER, WINE AND LIQUOR (ON-SALE) LICENSE AUTHORIZES THE HOLDER TO SELL BEER, WINE, AND LIQUOR FOR ON-PREMISES CONSUMPTION.

(D) THE TERM OF A CLASS B (ON-SALE) LICENSE OF ANY TYPE IS 1 YEAR AND BEGINS ON MAY 1 OF EACH YEAR.

(E) (1) (I) ONCE PER LICENSING CYCLE, A LICENSE HOLDER SHALL COMPLY WITH A REQUEST FROM THE BOARD TO SUBMIT A FOOD ALCOHOL RATION REPORT COVERING 2 PRECEDING QUARTERS THAT THE BOARD SELECTS TO DEMONSTRATE COMPLIANCE WITH THE ANNUAL GROSS SALES REQUIREMENT UNDER SUBSECTION (B) OF THIS SECTION.

(II) TO ENFORCE THIS PARAGRAPH, THE BOARD MAY:

1. REQUEST THAT A LICENSE HOLDER PROVIDE SUPPORTING DATA OR ADDITIONAL INFORMATION;

2. ISSUE A FINE; OR
3. SUSPEND A LICENSE.

(2) AS A PREREQUISITE FOR THE RENEWAL OF A LICENSE UNDER THIS SUBSECTION, AN APPLICANT FOR A CLASS B (ON-SALE) LICENSE OF ANY TYPE SHALL HAVE DEMONSTRATED COMPLIANCE WITH THE ANNUAL GROSS SALES REQUIREMENT UNDER SUBSECTION (B) OF THIS SECTION.

(3) WHEN SUBMITTING A FOOD ALCOHOL RATION REPORT, THE APPLICANT SHALL INCLUDE A CURRENT MENU AND INFORMATION ON HOURS OF OPERATION AND SALES AMOUNTS AND PERCENTAGES FOR THE SPECIFIED QUARTERS FOR FOOD, NONALCOHOLIC BEVERAGES, AND ALCOHOLIC BEVERAGES.

(4) THE APPLICANT OR THE APPLICANT'S ACCOUNTANT SHALL COMPLETE, SIGN, AND PROVIDE FOR THE NOTARIZATION OF THE FOOD ALCOHOL RATION REPORT.

(F) THE ANNUAL LICENSE FEE:

(1) FOR A CLASS B (ON-SALE) BEER LICENSE IS SET OUT IN § 3-201(W) OF THIS ARTICLE;

(2) FOR A CLASS B (ON-SALE) BEER AND LIGHT WINE LICENSE IS SET OUT IN § 5-201(W) OF THIS ARTICLE;

(3) FOR A CLASS B (ON-SALE) BEER, WINE AND LIQUOR LICENSE IS SET OUT IN § 6-201(W) OF THIS ARTICLE; AND

(4) FOR A SPECIAL SUNDAY (ON-SALE) LICENSE IS \$250.

9-222.

(a) In Washington County, except for a special or temporary license or a certificate of permission or renewal license issued to a personal representative under § 10-506 of this article, the Board of License Commissioners may not issue a license to sell alcoholic beverages:

(1) Until all outstanding gaming proceeds, payments, and fines that are due and owing by the licensee or applicant have been paid or judicially satisfied; and

(2) For any premises that previously have been licensed under this article, until all county taxes that are due and owing by the licensee for the operation of the business under the previous license have been paid or judicially satisfied.

(b) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Population ratio quota” means 1 license for each 1,000 individuals, excluding individuals detained or confined in a correctional facility as defined under § 1–101(d) of the Correctional Services Article, who reside in the election district where the license will be issued as determined by the last federal population census.

(iii) “Restaurant” means an establishment that:

1. Is located in a permanent building;
2. Regularly sells and serves food to the general public;
3. Has a seating capacity of at least:
 - A. 75 persons for a Class B alcoholic beverages (on– ~~AND~~ OFF–sale) license; or
 - B. 50 persons for a Class **[P] B** alcoholic beverages (on–sale) license; and
4. Has on an annual basis, gross sales of food and nonalcoholic beverages that exceed its annual gross sales of alcoholic beverages.

(2) In Washington County, except for a Class **[P] B** alcoholic beverages (on–sale) license issued to a restaurant **UNDER § 8–222.1 OF THIS ARTICLE** and any class of alcoholic beverages license renewed or transferred for the same premises, an alcoholic beverages license may not be issued within an election district if the number of alcoholic beverages licenses exceeds the population ratio quota.

(3) (i) If the Washington County Board of License Commissioners determines that there is a public need including governmentally sanctioned economic revitalization for the issuance of a license notwithstanding the population ratio quota, the license may be issued by the Board.

(ii) The Board shall state in the order granting the issuance of the license the reasons for its decision to exceed the population ratio quota.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On May 1, 2016, unless the Board of License Commissioners for Washington County determines that a Class P license shall convert to a Class D (on–sale) license, a Class P license shall convert to a Class B beer (on–sale) license, Class B beer and light wine (on–sale) license, or Class B beer, wine and liquor (on–sale) license as appropriate.

(b) (1) As a condition of having a Class P license converted to a Class B (on-sale) license or a Class D (on-sale) license, a license holder shall, on request from the Board, submit a Food Alcohol Ration Report covering 2 quarters that the Board selects of the 12-month period immediately preceding the application year to demonstrate compliance with the annual gross sales requirement under § 8-222.1(b), as enacted by Section 1 of this Act.

(2) If an applicant for a Class B (on-sale) license did not hold an alcoholic beverages license during the 12-month period immediately preceding the application for a Class B (on-sale) license, the applicant shall, on request from the Board, attest in a sworn statement that the applicant will comply with the annual gross sales requirement under § 8-222.1(b), as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2015.

Approved by the Governor, May 12, 2015.