

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 64

(Delegate Vitale, *et al.*)

Economic Matters

Education, Health, and Environmental Affairs

Alcoholic Beverages - Local Licensing Boards - Judicial Review

This bill repeals the time limit of 90 days within which a circuit court must affirm, modify, or reverse a local alcoholic beverages licensing board's decision in approving, suspending, revoking and restricting, or refusing to approve, suspend, revoke or restrict a license, or a licensee, unless extended by the court for good cause.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: None. The bill does not substantively change State activities or operations.

Local Effect: None. The bill does not substantively change local government activities or operations.

Small Business Effect: Minimal. Small businesses that are awaiting a determination by the circuit court may have to wait longer, but because the circuit court can already extend the time for good cause, it has a negligible impact on small businesses.

Analysis

Current Law: Among other statewide provisions governing sanctions against an alcoholic beverages licensee, the decision of a local licensing board in approving, suspending, revoking and restricting, or refusing to approve, suspend, revoke or restrict a license, or a licensee, may be appealed to a circuit court.

A licensee, license applicant, or group that appeals a decision of a local licensing board must be aggrieved by the decision of the board and must have appeared at the hearing of the board either in person, by a representative, or by the submission of a written document

that was introduced at the hearing. Upon the filing of an appeal, the local licensing board may stay its order until a final determination is made.

The burden of proof in such an appeal is on the petitioner to show that the decision complained of was against the public interest and that the local licensing board's discretion in rendering its decision was not honestly and fairly exercised, or that such decision was arbitrary, or procured by fraud, or unsupported by any substantial evidence, or was unreasonable, or that such decision was beyond the powers of the local licensing board, and was illegal. Unless extended by the court for good cause, the court must affirm, modify, or reverse the local licensing board's decision within 90 days after the record has been filed in the court by the local licensing board.

The Circuit Court for Baltimore City and the circuit courts for Anne Arundel, Calvert, Carroll, Charles, Frederick, Harford, Howard, Montgomery, Prince George's, and St. Mary's counties may remand these proceedings to the local licensing board for further consideration.

Under certain circumstances, a further appeal may be made by any party of record to the Court of Special Appeals or the Court of Appeals.

Background: Unless otherwise ordered by the court or required by law, Maryland Rules require circuit courts to hold administrative agency hearings no sooner than 90 days from the date the record was filed.

Montgomery County advises that it has fewer than 10 cases appealed from the Board of License Commissioners to the circuit court annually.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Kent, Montgomery, Washington, and Worcester counties; Baltimore City; Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - February 2, 2015
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