

SB1159/904636/1

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL 1159

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Nathan-Pulliam” and substitute “, Nathan-Pulliam, Ferguson, Gladden, McFadden, and Pugh”; in line 8, after “occurs;” insert “repealing the requirement that the Governor appoint all of the members of the Board of License Commissioners for Baltimore City; requiring the Mayor of Baltimore City and the President of the City Council of Baltimore City to appoint all of the members of the Board in a certain manner; repealing the requirement that the Governor appoint members of the Board alone under certain circumstances; requiring the Mayor and the President of the City Council to appoint the members of the Board alone under certain circumstances; requiring the Mayor and the President of the City Council to make an appointment to fill a vacancy on the Board within a certain number of days after the vacancy occurs; repealing the requirement that the Governor designate a chair of the Board; requiring the Board to designate a chair from among the regular members of the Board; repealing the authority of the Governor to remove a member of the Board under certain circumstances and in accordance with certain requirements; authorizing the Mayor and the President of the City Council to remove a member of the Board under certain circumstances and in accordance with certain requirements; making certain provisions of this Act effective on a certain date subject to a certain contingency;”; strike in their entirety lines 11 through 15, inclusive; in line 18, strike “15-101(d)” and substitute “15-101(a) and (d) and 15-110”; and after line 20, insert:

“BY repealing and reenacting, without amendments,

Article 2B - Alcoholic Beverages

Section 15-101(d)

Annotated Code of Maryland

(As enacted by Section 1 of this Act)”.

(Over)

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On page 2, in line 1, after “12-202” insert “and 12-203”.

AMENDMENT NO. 2

On page 3, in line 12, strike “**30**” and substitute “**15**”.

AMENDMENT NO. 3

On page 3, after line 14, insert:

“Article 2B – Alcoholic Beverages

15-101.

(a) (1) For the jurisdictions in which this section is effective, the Governor, biennially, by and with the advice and consent of the Senate, if in session, and if not in session, then the Governor alone, shall appoint three persons who shall constitute and be styled “The Board of License Commissioners for [Baltimore City or] County”, as the case may be.

(2) In making the appointments, the Governor shall designate one of the appointees in [Baltimore City and] each of the counties to be the chairman of the respective boards.

(3) The commissioners shall be residents and voters of Baltimore City or the respective counties, as the case may be, and they shall be persons of high character and integrity and of recognized business capacity.

(4) In the case of any vacancies in the number of the license commissioners in [Baltimore City or in] any county which occur when the legislature is not in session, the Governor shall appoint some eligible person to fill the vacancy during the remainder of the term of office of the person originally appointed.

(d) (1) This subsection applies in Baltimore City.

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(2) (i) The Board of Liquor License Commissioners consists of three regular members and one alternate member.

(ii) The [Governor] MAYOR SHALL APPOINT TWO REGULAR MEMBERS TO THE BOARD AND THE PRESIDENT OF THE CITY COUNCIL shall appoint [all of the members of the Board] ONE REGULAR MEMBER AND ONE ALTERNATE MEMBER TO THE BOARD.

(iii) The appointments shall be made:

1. If the Senate is in session, with the advice and consent of the Senate; or

2. If the Senate is not in session, by the [Governor] MAYOR AND THE PRESIDENT OF THE CITY COUNCIL alone.

(iv) The alternate member may serve on the Board if any permanent member of the Board is absent or recused.

(v) Each appointee shall be a resident and voter of Baltimore City and be an individual of high character and integrity and of recognized business capacity.

(vi) At least one appointee shall be a member of the Bar of the Court of Appeals of Maryland.

(VII) WHEN EVALUATING AN APPLICANT FOR MEMBERSHIP ON THE BOARD, THE MAYOR AND THE PRESIDENT OF THE CITY COUNCIL SHALL CONSIDER THE NEED FOR GEOGRAPHIC, POLITICAL, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY ON THE BOARD.

(Over)

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(3) (i) The term of a member of the Board is 2 years and begins on July 1.

(ii) The terms of the members are staggered as required by the terms provided for members of the Board on July 1, 2014.

(iii) At the end of a term, a member continues to serve until a successor is appointed.

(iv) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed.

(v) 1. TO FILL A VACANCY THAT OCCURS DURING THE TERM OF OFFICE, AN ELIGIBLE INDIVIDUAL SHALL BE APPOINTED BY:

A. THE MAYOR, IF THE VACANCY OCCURS DURING THE TERM OF OFFICE OF AN INDIVIDUAL ORIGINALLY APPOINTED BY THE MAYOR; OR

B. THE PRESIDENT OF THE CITY COUNCIL, IF THE VACANCY OCCURS DURING THE TERM OF OFFICE OF AN INDIVIDUAL ORIGINALLY APPOINTED BY THE PRESIDENT OF THE CITY COUNCIL.

2. AN APPOINTMENT UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH SHALL BE MADE WITHIN 15 DAYS AFTER THE VACANCY OCCURS.

(4) THE BOARD SHALL DESIGNATE A CHAIR FROM AMONG THE REGULAR MEMBERS OF THE BOARD.

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(a) [The] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE Governor may remove any member of any board of license commissioners appointed by him under the provisions of this article, for misconduct in office, incompetency or willful neglect of duty, giving him a copy of the charges against him and an opportunity of being publicly heard in person, or by counsel, in his own defense, upon not less than ten days' notice. If any member shall be removed, the Governor shall file in the office of the Secretary of State, a statement of the charges made against such member and his findings thereon.

(b) The board of county commissioners may remove any member of any board of license commissioners appointed by them, for the causes in this section prescribed. In Montgomery County, the County Executive may, with the approval of the County Council, remove any member of the Board of License Commissioners for the causes in this section prescribed.

(c) (1) THIS SUBSECTION APPLIES ONLY IN BALTIMORE CITY.

(2) IN THIS SUBSECTION, "APPOINTING OFFICER" MEANS THE MAYOR OR THE PRESIDENT OF THE CITY COUNCIL.

(3) THE MAYOR AND THE PRESIDENT OF THE CITY COUNCIL MAY REMOVE A MEMBER FOR MISCONDUCT IN OFFICE, INCOMPETENCE, OR WILLFUL NEGLECT OF DUTY.

(4) A MEMBER WHO IS CHARGED SHALL BE GIVEN BY THE APPOINTING OFFICER WHO APPOINTED THE MEMBER A COPY OF THE CHARGES AGAINST THE MEMBER AND, WITH AT LEAST 10 DAYS' NOTICE, AN OPPORTUNITY TO BE HEARD PUBLICLY IN PERSON OR BY COUNSEL.

(Over)

(5) IF A MEMBER IS REMOVED, THE APPOINTING OFFICER WHO REMOVED THE MEMBER SHALL FILE WITH THE OFFICE OF THE SECRETARY OF STATE A STATEMENT OF CHARGES AGAINST THE MEMBER AND THE GOVERNOR'S FINDINGS MADE ON THE CHARGES.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

15-101.

(a) (1) For the jurisdictions in which this section is effective, the Governor, biennially, by and with the advice and consent of the Senate, if in session, and if not in session, then the Governor alone, shall appoint three persons who shall constitute and be styled “The Board of License Commissioners for [Baltimore City or] County”, as the case may be.

(2) In making the appointments, the Governor shall designate one of the appointees in [Baltimore City and] each of the counties to be the chairman of the respective boards.

(3) The commissioners shall be residents and voters of Baltimore City or the respective counties, as the case may be, and they shall be persons of high character and integrity and of recognized business capacity.

(4) In the case of any vacancies in the number of the license commissioners in [Baltimore City or in] any county which occur when the legislature is not in session, the Governor shall appoint some eligible person to fill the vacancy during the remainder of the term of office of the person originally appointed.

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(d) (1) This subsection applies in Baltimore City.

(2) (i) The Board of Liquor License Commissioners consists of three regular members and one alternate member.

(ii) The [Governor] **MAYOR SHALL APPOINT TWO REGULAR MEMBERS TO THE BOARD AND THE PRESIDENT OF THE CITY COUNCIL** shall appoint [all of the members of the Board] **ONE REGULAR MEMBER AND ONE ALTERNATE MEMBER TO THE BOARD.**

(iii) The appointments shall be made:

1. If the Senate is in session, with the advice and consent of the Senate; or

2. If the Senate is not in session, by the [Governor] **MAYOR AND THE PRESIDENT OF THE CITY COUNCIL** alone.

(iv) The alternate member may serve on the Board if any permanent member of the Board is absent or recused.

(v) Each appointee shall be a resident and voter of Baltimore City and be an individual of high character and integrity and of recognized business capacity.

(vi) At least one appointee shall be a member of the Bar of the Court of Appeals of Maryland.

(vii) When evaluating an applicant for membership on the Board, the [Governor] **MAYOR AND THE PRESIDENT OF THE CITY COUNCIL** shall consider the need for geographic, political, racial, ethnic, cultural, and gender diversity on the Board.

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(3) (i) The term of a member of the Board is 2 years and begins on July 1.

(ii) The terms of the members are staggered as required by the terms provided for members of the Board on July 1, 2014.

(iii) At the end of a term, a member continues to serve until a successor is appointed.

(iv) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed.

[(v) 1. The Governor shall appoint an eligible person to fill a vacancy that occurs during the term of office of the person originally appointed in accordance with paragraph (2) of this subsection.

2. The Governor shall make the appointment within 15 days after the vacancy occurs.]

(v) 1. TO FILL A VACANCY THAT OCCURS DURING THE TERM OF OFFICE, AN ELIGIBLE INDIVIDUAL SHALL BE APPOINTED BY:

A. THE MAYOR, IF THE VACANCY OCCURS DURING THE TERM OF OFFICE OF AN INDIVIDUAL ORIGINALLY APPOINTED BY THE MAYOR; OR

B. THE PRESIDENT OF THE CITY COUNCIL, IF THE VACANCY OCCURS DURING THE TERM OF OFFICE OF AN INDIVIDUAL ORIGINALLY APPOINTED BY THE PRESIDENT OF THE CITY COUNCIL.

2. AN APPOINTMENT UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH SHALL BE MADE WITHIN 15 DAYS AFTER THE VACANCY OCCURS.

(4) THE BOARD SHALL DESIGNATE A CHAIR FROM AMONG THE REGULAR MEMBERS OF THE BOARD.

15-110.

(a) [The] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE Governor may remove any member of any board of license commissioners appointed by him under the provisions of this article, for misconduct in office, incompetency or willful neglect of duty, giving him a copy of the charges against him and an opportunity of being publicly heard in person, or by counsel, in his own defense, upon not less than ten days' notice. If any member shall be removed, the Governor shall file in the office of the Secretary of State, a statement of the charges made against such member and his findings thereon.

(b) The board of county commissioners may remove any member of any board of license commissioners appointed by them, for the causes in this section prescribed. In Montgomery County, the County Executive may, with the approval of the County Council, remove any member of the Board of License Commissioners for the causes in this section prescribed.

(c) (1) THIS SUBSECTION APPLIES ONLY IN BALTIMORE CITY.

(2) IN THIS SUBSECTION, "APPOINTING OFFICER" MEANS THE MAYOR OR THE PRESIDENT OF THE CITY COUNCIL.

(Over)

(3) THE MAYOR AND THE PRESIDENT OF THE CITY COUNCIL MAY REMOVE A MEMBER FOR MISCONDUCT IN OFFICE, INCOMPETENCE, OR WILLFUL NEGLIGENCE OF DUTY.

(4) A MEMBER WHO IS CHARGED SHALL BE GIVEN BY THE APPOINTING OFFICER WHO APPOINTED THE MEMBER A COPY OF THE CHARGES AGAINST THE MEMBER AND, WITH AT LEAST 10 DAYS' NOTICE, AN OPPORTUNITY TO BE HEARD PUBLICLY IN PERSON OR BY COUNSEL.

(5) IF A MEMBER IS REMOVED, THE APPOINTING OFFICER WHO REMOVED THE MEMBER SHALL FILE WITH THE OFFICE OF THE SECRETARY OF STATE A STATEMENT OF CHARGES AGAINST THE MEMBER AND THE GOVERNOR'S FINDINGS MADE ON THE CHARGES.

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:”.

AMENDMENT NO. 4

On page 4, in line 19, strike “30” and substitute “15”.

AMENDMENT NO. 5

On page 4, after line 29, insert:

“SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Alcoholic Beverages

12-102.

This title applies only in Baltimore City.

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12-202.

(a) (1) The [Governor] MAYOR SHALL APPOINT TWO REGULAR MEMBERS TO THE BOARD AND THE PRESIDENT OF THE CITY COUNCIL shall appoint [three] ONE regular [members] MEMBER and one substitute member to the Board.

(2) The appointments shall be made:

(i) if the Senate is in session, with the advice and consent of the Senate; or

(ii) if the Senate is not in session, by the [Governor] MAYOR OR PRESIDENT OF THE CITY COUNCIL alone.

(b) (1) Each member of the Board shall be:

(i) a resident and voter of the City; and

(ii) an individual of high character and integrity and of recognized business capacity.

(2) At least one member of the Board shall be a member of the Bar of the Court of Appeals of Maryland.

(3) WHEN EVALUATING AN APPLICANT FOR MEMBERSHIP ON THE BOARD, THE MAYOR AND THE PRESIDENT OF THE CITY COUNCIL SHALL CONSIDER THE NEED FOR GEOGRAPHIC, POLITICAL, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY ON THE BOARD.

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(c) The substitute member may serve on the Board if a regular member is absent or recused.

(d) (1) The term of a member is 2 years and begins on July 1.

(2) The terms of the members are staggered as required by the terms provided for members of the Board on July 1, 2016.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(e) (1) [The Governor shall appoint an eligible individual to fill a vacancy that occurs during the term of office of the individual originally appointed in accordance with subsection (a) of this section.] **TO FILL A VACANCY THAT OCCURS DURING THE TERM OF OFFICE, AN ELIGIBLE INDIVIDUAL SHALL BE APPOINTED BY:**

(I) THE MAYOR, IF THE VACANCY OCCURS DURING THE TERM OF OFFICE OF AN INDIVIDUAL ORIGINALLY APPOINTED BY THE MAYOR; OR

(II) THE PRESIDENT OF THE CITY COUNCIL, IF THE VACANCY OCCURS DURING THE TERM OF OFFICE OF AN INDIVIDUAL ORIGINALLY APPOINTED BY THE PRESIDENT OF THE CITY COUNCIL.

(2) AN APPOINTMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE WITHIN 15 DAYS AFTER THE VACANCY OCCURS.

[(2)] (3) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

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(f) (1) The [Governor] **MAYOR OR PRESIDENT OF THE CITY COUNCIL** may remove a member for misconduct in office, incompetence, or willful neglect of duty.

(2) [The Governor shall give a member who is charged a copy of the charges against the member and, with at least 10 days' notice, an opportunity to be heard publicly in person or by counsel.

(3) If a member is removed, the Governor shall file with the Office of the Secretary of State a statement of charges against the member and the Governor's findings made on the charges.] **IN THIS SUBSECTION, "APPOINTING OFFICER" MEANS THE MAYOR OR THE PRESIDENT OF THE CITY COUNCIL.**

(3) A MEMBER WHO IS CHARGED SHALL BE GIVEN BY THE APPOINTING OFFICER WHO APPOINTED THE MEMBER A COPY OF THE CHARGES AGAINST THE MEMBER AND, WITH AT LEAST 10 DAYS' NOTICE, AN OPPORTUNITY TO BE HEARD PUBLICLY IN PERSON OR BY COUNSEL.

(4) IF A MEMBER IS REMOVED, THE APPOINTING OFFICER WHO REMOVED THE MEMBER SHALL FILE WITH THE OFFICE OF THE SECRETARY OF STATE A STATEMENT OF CHARGES AGAINST THE MEMBER AND THE GOVERNOR'S FINDINGS MADE ON THE CHARGES.

12-203.

[In making the appointments, the Governor] **THE BOARD** shall designate a chair from among the regular members of the Board.".

AMENDMENT NO. 6

On page 4, strike in their entirety lines 30 through 33, inclusive, and substitute:

(Over)

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“SECTION 6. AND BE IT FURTHER ENACTED, That, if Section 1 of this Act does not take effect before April 12, 2016, Section 2 of this Act shall take effect on the later of April 12, 2016, or the effective date of this Act, contingent on the failure of the Governor to appoint, and the Senate of Maryland to confirm, four members to the Board of License Commissioners for Baltimore City before April 12, 2016. If the Governor appoints, and the Senate of Maryland confirms four members to the Board of License Commissioners for Baltimore City before April 12, 2016, Section 2 of this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION 7. AND BE IT FURTHER ENACTED, That, if Section 1 of this Act does take effect before April 12, 2016, Section 3 of this Act shall take effect April 12, 2016, contingent on the failure of the Governor to appoint, and the Senate of Maryland to confirm, four members to the Board of License Commissioners for Baltimore City before April 12, 2016. If the Governor appoints, and the Senate of Maryland confirms four members to the Board of License Commissioners for Baltimore City before April 12, 2016, Section 3 of this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION 8. AND BE IT FURTHER ENACTED, That, if Section 2 of this Act takes effect, Sections 1 and 3 of this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION 9. AND BE IT FURTHER ENACTED, That, if Section 3 of this Act takes effect, Section 1 of this Act shall be abrogated and of no further force and effect and Section 2 of this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION 10. AND BE IT FURTHER ENACTED, That, if Section 2 of this Act takes effect, Section 5 of this Act shall take effect on the taking effect of Chapter _____ (S.B. 724) of the Acts of the General Assembly of 2016. If Section 5 takes effect, Section 2 of this Act shall be abrogated and of no further force and effect and Section 4 of this

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Act shall be null and void without the necessity of further action by the General Assembly.

SECTION 11. AND BE IT FURTHER ENACTED, That, if Section 3 of this Act takes effect, Section 5 of this Act shall take effect on the taking effect of Chapter ____ (S.B. 724) of the Acts of the General Assembly of 2016. If Section 5 takes effect, Section 3 of this Act shall be abrogated and of no further force and effect and Section 4 of this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION 12. AND BE IT FURTHER ENACTED, That, subject to Sections 10 and 11 of this Act, Section 4 of this Act shall take effect on the taking effect of Chapter ____ (S.B. 724) of the Acts of the General Assembly of 2016. If Section 4 takes effect, Section 1 of this Act shall be abrogated and of no further force and effect and Section 5 of this Act shall be null and void without the necessity of further action by the General Assembly.”.

On page 5, in line 1, strike “4.” and substitute “13.”; and in line 4, strike “Section 3” and substitute “Sections 6, 7, 10, 11, and 12”.