

SENATE BILL 488

A2

EMERGENCY BILL

7lr1914

By: **Prince George's County Senators**

Introduced and read first time: January 30, 2017

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County – Alcoholic Beverages Regulation Reform Act of 2017**

3 FOR the purpose of requiring the County Executive for Prince George's County, instead of
4 the Governor, to appoint members to the Board of License Commissioners for Prince
5 George's County; requiring the appointments to be made after a certain hearing;
6 providing that a certain appointment is subject to certain confirmation during a
7 certain session of the General Assembly; providing that a seat is deemed to be vacant
8 under certain circumstances; requiring at least one member of the Board to have a
9 certain type of experience; repealing provisions of law requiring the Governor to
10 request lists of candidates from certain central committees before making an
11 appointment; requiring the County Executive to consider the need for certain types
12 of diversity when evaluating an applicant for membership on the Board; prohibiting
13 a member of the Board from soliciting or transmitting a contribution for a certain
14 purpose from a person regulated by the Board; requiring the County Executive to
15 appoint an eligible individual to fill a vacancy under certain circumstances;
16 authorizing the County Executive to remove a member under certain circumstances;
17 requiring the County Executive to give certain notice and file a statement of charges
18 and findings on the charges if a member is removed; requiring a certain resignation
19 letter to be addressed to the County Executive under certain circumstances; altering
20 the authority of the Board to set the compensation of employees of the Board;
21 requiring that the Board appoint an executive director, rather than an
22 administrator; requiring that the executive director receive a salary as determined
23 by the County Executive and as set forth in the county budget; repealing a certain
24 provision of law prohibiting the County Executive and County Council to adopt a
25 certain policy; requiring the Board attorney to receive a salary as provided in the
26 county budget, rather than a certain amount; repealing a certain provision of law
27 specifying that the Board attorney serves at the will of the Board; providing that the
28 County Council is required to pay for certain expenses as contained in the county's
29 budget; altering the number of full-time and part-time inspectors of the Board;
30 altering the number of deputy chief inspectors to be designated by the Board;
31 altering the salary of a part-time inspector; providing the members, employees, and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 inspectors of the Board are subject to certain public ethics laws to the same extent
 2 as certain local officials; authorizing a person to file a complaint with the county's
 3 Office of Ethics and Accountability under certain circumstances; requiring the Office
 4 to take certain action if a complaint is filed; providing that the terms of office of the
 5 members of the Board or successor members who are in office as of the effective date
 6 of this Act shall terminate as of the effective date of this Act; making conforming
 7 changes; making this Act an emergency measure; and generally relating to the
 8 appointment, removal, and resignation of members of the Board of License
 9 Commissioners for Prince George's County.

10 BY repealing and reenacting, without amendments,

11 Article – Alcoholic Beverages

12 Section 26–102

13 Annotated Code of Maryland

14 (2016 Volume and 2016 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Alcoholic Beverages

17 Section 26–202, 26–205, and 26–206

18 Annotated Code of Maryland

19 (2016 Volume and 2016 Supplement)

20 BY adding to

21 Article – Alcoholic Beverages

22 Section 26–209

23 Annotated Code of Maryland

24 (2016 Volume and 2016 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

26 That the Laws of Maryland read as follows:

27 **Article – Alcoholic Beverages**

28 26–102.

29 This title applies only in Prince George's County.

30 26–202.

31 (a) (1) The [Governor] **COUNTY EXECUTIVE** shall appoint five members to
 32 the Board.

33 (2) The appointments shall be made:

34 **(1) AFTER A HEARING AT WHICH MEMBERS OF THE PUBLIC**
 35 **SHALL BE GIVEN THE OPPORTUNITY TO BE HEARD; AND**

1 [(i)] (II) 1. if the Senate is in session, with the advice and
2 consent of the Senate; or

3 [(ii)] 2. if the Senate is not in session, by the [Governor] COUNTY
4 EXECUTIVE alone.

5 (3) (I) IF AN APPOINTMENT IS MADE WHILE THE SENATE IS NOT IN
6 SESSION, THE APPOINTMENT IS SUBJECT TO CONFIRMATION BY THE SENATE
7 DURING THE NEXT SESSION OF THE GENERAL ASSEMBLY.

8 (II) IF THE SENATE FAILS TO CONFIRM THE APPOINTMENT, THE
9 SEAT SHALL BE DEEMED VACANT.

10 (b) (1) (i) Four members of the Board shall be, at the time of appointment,
11 members of the political party that at the last preceding gubernatorial election polled the
12 highest number of votes in the county for Governor.

13 (ii) One member of the Board shall be, at the time of appointment, a
14 member of the political party that at the last preceding gubernatorial election polled the
15 second highest number of votes in the county for Governor.

16 (III) AT LEAST ONE MEMBER OF THE BOARD SHALL HAVE:

17 1. PUBLIC SAFETY EXPERIENCE;

18 2. REGULATORY EXPERIENCE; OR

19 3. BUSINESS EXPERIENCE.

20 [(2) (i) Before making an appointment or filling a vacancy, the Governor
21 shall request the central committees for the county representing each of the two leading
22 political parties of the State to designate at least four eligible candidates for each position
23 to be filled.

24 (ii) Except as provided in subparagraph (iii) of this paragraph, the
25 Governor shall appoint one of the designated individuals.

26 (iii) If the Governor decides that all of the individuals are unfit or
27 incompetent, the Governor:

28 1. may not appoint any of the individuals;

29 2. shall file a written statement with the Secretary of State,
30 setting forth the facts and the grounds for the decision and calling on the central
31 committees for a new list of six names for each position to be filled; and

1 3. shall make the appointments from the new list and the
2 original list.]

3 **(2) WHEN EVALUATING AN APPLICANT FOR MEMBERSHIP ON THE**
4 **BOARD, THE COUNTY EXECUTIVE SHALL CONSIDER THE NEED FOR GEOGRAPHIC,**
5 **POLITICAL, RACIAL, ETHNIC, AND GENDER DIVERSITY ON THE BOARD.**

6 (3) A member shall be:

7 (i) a resident and voter of the county; and

8 (ii) a person of high character and integrity and of recognized
9 business capacity.

10 (c) (1) In this subsection, “direct or indirect interest” means an interest that
11 is proprietary or obtained by a loan, mortgage, or lien, or in any other manner.

12 (2) A member of the Board may not:

13 (i) have a direct or indirect interest in or on a premises in the State
14 where alcoholic beverages are manufactured or sold;

15 (ii) have a direct or indirect interest in a business wholly or partly
16 devoted to the manufacture or sale of alcoholic beverages in the State;

17 (iii) own stock in:

18 1. a corporation that has a direct or indirect interest in a
19 premises in the State where alcoholic beverages are manufactured or sold; or

20 2. a business wholly or partly devoted to the manufacture or
21 sale of alcoholic beverages in the State; or

22 (iv) solicit or receive a commission, remuneration, or gift from:

23 1. a person engaged in the manufacture or sale of alcoholic
24 beverages or an agent or employee of the person; or

25 2. a license holder.

26 (d) (1) In this subsection, “candidate”, “contribution”, and “political
27 committee” have the meanings stated in § 1–101 of the Election Law Article.

28 (2) A member of the Board may not solicit or transmit a contribution for
29 the benefit of a candidate or political committee from:

1 (i) a person engaged in the sale of alcoholic beverages in the county
2 or an agent or employee of the person; [or]

3 (ii) a license holder; **OR**

4 **(III) ANY OTHER PERSON REGULATED BY THE BOARD.**

5 (e) (1) The term of a member is 3 years.

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

8 (f) (1) The [Governor] **COUNTY EXECUTIVE** shall appoint an eligible
9 individual to fill a vacancy during the remainder of the term of office of the individual
10 originally appointed in accordance with subsection (a) of this section.

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

13 (g) (1) The [Governor] **COUNTY EXECUTIVE** may remove a member for
14 misconduct in office, incompetence, or willful neglect of duty.

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

18 (3) If a member is removed, the [Governor] **COUNTY EXECUTIVE** shall
19 file with the [Office of the Secretary of State] **COUNTY ATTORNEY** a statement of charges
20 against the member and the [Governor's] findings on the charges.

21 (h) (1) If a member of the Board stops residing in or being a registered voter of
22 the county, the member shall immediately forfeit the office as a license commissioner for
23 the county.

24 (2) (i) A member of the Board may not serve in any other position of
25 public office.

26 (ii) On filing a certificate of candidacy for election to a public office
27 or within 30 days before the filing deadline for the primary election for the public office
28 sought, whichever occurs later, a member of the Board shall certify to the County Board of
29 Elections under oath that the individual is no longer a member of the Board.

30 (iii) The certification shall be accompanied by a letter addressed to
31 the [Governor] **COUNTY EXECUTIVE** containing the resignation of the member from the
32 Board.

1 26–205.

2 (a) Subject to this section and § 26–206 of this subtitle, the Board may:

3 (1) employ:

4 (i) a secretary;

5 (ii) inspectors; and

6 (iii) clerical and other assistants as are necessary; and

7 (2) set the compensation of the employees **IN ACCORDANCE WITH THE**
8 **COUNTY’S CLASSIFICATION PLAN.**

9 (b) (1) The Board shall appoint an [administrator] **EXECUTIVE DIRECTOR.**

10 (2) The [administrator] **EXECUTIVE DIRECTOR** shall serve at the will of
11 the Board and devote full time to the duties of the Board.

12 (3) The [administrator may] **EXECUTIVE DIRECTOR SHALL** receive a
13 salary [of \$40,705 annually] as determined by the [Board after a performance evaluation]
14 **COUNTY EXECUTIVE AND AS SET FORTH IN THE COUNTY BUDGET.**

15 (4) [(i)] The [administrator] **EXECUTIVE DIRECTOR** is eligible to
16 participate in the county’s supplemental retirement plan.

17 [(ii)] The County Executive and County Council may not adopt
18 through public local law a policy contrary to subparagraph (i) of this paragraph.]

19 (c) [(1)] The Board shall appoint an attorney who shall [serve at the will of the
20 Board] **RECEIVE A SALARY IN AN AMOUNT AS PROVIDED IN THE COUNTY BUDGET.**

21 [(2)] The County Council shall pay the attorney:

22 (i) a salary of \$18,500 annually;

23 (ii) all court costs and expenses incurred while performing the duties
24 of attorney; and

25 (iii) legal fees that the Board approves for representing the Board in
26 court.

27 (3) The Board shall establish the fee rate for representing the Board in
28 court.

1 (4) The attorney is eligible for:

2 (i) all county health benefits, including hospitalization, vision care,
3 prescriptions, dental care, life insurance, and expense reimbursement; and

4 (ii) membership in and retirement benefits of the State Retirement
5 and Pension System.

6 (5) The County Executive and County Council may not adopt through
7 public local law a policy contrary to paragraph (4) of this subsection.】

8 (d) (1) The restrictions under § 26–202(c) and (d) of this subtitle regarding
9 direct and indirect interests of members of the Board in alcoholic beverages activities and
10 soliciting or transmitting political contributions for the benefit of a candidate or political
11 committee apply to employees of the Board.

12 (2) An employee of the Board:

13 (i) shall devote full time to the business of the Board during the
14 hours designated by the Board for the performance of the employee’s official duties;

15 (ii) may not engage in an occupation, business, or profession
16 connected to or associated with the manufacture or sale of alcoholic beverages; and

17 (iii) may not transact business beyond the employee’s official duties:

18 1. with a license holder; or

19 2. in connection with the operation of an establishment
20 licensed for the manufacture or sale of alcoholic beverages.

21 (3) An employee of the Board who violates this section shall be removed.

22 (e) (1) 【Subject to paragraph (3) of this subsection, on】 **ON** the submission by
23 the Board of an annual budget, the County Council shall pay for all expenses of the Board
24 **AS CONTAINED IN THE COUNTY BUDGET.**

25 (2) In the budget, the salaries of the members 【and the attorney for the
26 Board and any additional compensation for legal fees for the attorney】 shall be as set forth
27 under 【subsection (c) of this section and §§ 26–204 and 26–206(g)】 **§ 26–204** of this subtitle.

28 【(3) (i) Except as provided in § 26–206(g) of this subtitle, payments for
29 all other expenses shall be at the discretion of the County Council, including:

30 1. the salary of the administrator under subsection (b)(3) of
31 this section;

1 2. compensation of other personnel, who shall be qualified
2 and employed under the county merit system;

3 3. printing;

4 4. supplies; and

5 5. office space.

6 (ii) The County Executive and the County Council shall recognize
7 and categorize the Board as a public safety agency for budgetary purposes.

8 (iii) The County Council may include in the budget an amount not to
9 exceed \$50,000 for the purpose of maintaining software and mobile devices used to
10 modernize practices and increase the efficiency and transparency of the Board.]

11 26–206.

12 (a) The Board shall appoint all of its inspectors.

13 (b) An inspector:

14 (1) has all the powers of a peace officer or sheriff in the State arising out of
15 or relating to the enforcement of this article;

16 (2) may issue a civil citation under § 26–2603 of this title; and

17 (3) has the authority to order that an unlicensed establishment be closed
18 immediately under § 26–2501 of this title.

19 (c) An inspector shall:

20 (1) visit and inspect periodically every licensed premises; and

21 (2) carry out other duties that the Board requires.

22 (d) Inspectors are subject to the restrictions under:

23 (1) § 26–202(c) and (d) of this subtitle regarding direct and indirect
24 interests of members of the Board in alcoholic beverages activities and soliciting or
25 transmitting political contributions for the benefit of a candidate or political committee;
26 and

27 (2) § 26–205(d) of this subtitle requiring an employee to devote full time to
28 the business of the Board, prohibiting certain activities, and requiring removal for violation
29 of those requirements and prohibitions.

1 (e) An inspector shall take the oath required by Article I, § 9 of the Maryland
2 Constitution.

3 (f) (1) There are **UP TO** three full-time inspectors and **UP TO** 24 part-time
4 inspectors of the Board **AS PROVIDED IN THE COUNTY BUDGET**.

5 (2) To be a full-time or part-time inspector, an individual shall be a
6 resident of the county.

7 (3) (i) From the full-time inspectors, the Board shall designate
8 annually a chief inspector and **UP TO** two deputy chief inspectors.

9 (ii) Under the direction of the Board, the chief inspector shall
10 regulate the duties, hours, and assignments of the inspectors.

11 (4) The full-time inspectors who are certified by the personnel director as
12 meeting the standards that the county merit board sets out are included in the county merit
13 system.

14 (g) A part-time inspector shall receive a salary [of \$13,900 annually] **AS**
15 **PROVIDED IN THE COUNTY BUDGET**.

16 **26-209.**

17 **(A) ALL MEMBERS, EMPLOYEES, AND INSPECTORS OF THE BOARD ARE**
18 **SUBJECT TO THE COUNTY'S PUBLIC ETHICS LAWS ENACTED UNDER § 5-807 OF THE**
19 **GENERAL PROVISIONS ARTICLE TO THE SAME EXTENT AS A LOCAL OFFICIAL OF THE**
20 **COUNTY.**

21 **(B) (1) A PERSON MAY FILE A COMPLAINT WITH THE COUNTY'S OFFICE**
22 **OF ETHICS AND ACCOUNTABILITY IF THE PERSON BELIEVES THAT A MEMBER, AN**
23 **EMPLOYEE, OR AN INSPECTOR OF THE BOARD HAS VIOLATED:**

24 **(I) ANY PROVISION OF CIVIL OR CRIMINAL LAW, INCLUDING**
25 **LAWS AGAINST BRIBERY, IN CONNECTION WITH THE PERFORMANCE OF THE DUTIES**
26 **OF THE MEMBER, EMPLOYEE, OR INSPECTOR; OR**

27 **(II) ANY PROVISION OF THE COUNTY'S PUBLIC ETHICS LAWS.**

28 **(2) IF A COMPLAINT IS FILED UNDER PARAGRAPH (1) OF THIS**
29 **SUBSECTION, THE COUNTY'S OFFICE OF ETHICS AND ACCOUNTABILITY SHALL:**

30 **(I) INVESTIGATE THE COMPLAINT; AND**

1 **(II) IF APPROPRIATE, REFER THE COMPLAINT TO THE STATE'S**
2 **ATTORNEY OF THE COUNTY FOR CRIMINAL PROSECUTION.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of office of the
4 members of the Board of License Commissioners for Prince George's County, or their
5 successors selected to fill a vacancy, who are in office as of the effective date of this Act,
6 shall terminate on the effective date of this Act.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
8 measure, is necessary for the immediate preservation of the public health or safety, has
9 been passed by a ye and nay vote supported by three-fifths of all the members elected to
10 each of the two Houses of the General Assembly, and shall take effect from the date it is
11 enacted.