

# SENATE BILL 488

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EMERGENCY BILL

7lr1914

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

Introduced and read first time: January 30, 2017

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable

Senate action: Adopted

Read second time: March 6, 2017

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## CHAPTER \_\_\_\_\_

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 county budget, rather than a certain amount; repealing a certain provision of law  
2 specifying that the Board attorney serves at the will of the Board; providing that the  
3 County Council is required to pay for certain expenses as contained in the county's  
4 budget; altering the number of full-time and part-time inspectors of the Board;  
5 altering the number of deputy chief inspectors to be designated by the Board;  
6 altering the salary of a part-time inspector; providing the members, employees, and  
7 inspectors of the Board are subject to certain public ethics laws to the same extent  
8 as certain local officials; authorizing a person to file a complaint with the county's  
9 Office of Ethics and Accountability under certain circumstances; requiring the Office  
10 to take certain action if a complaint is filed; providing that the terms of office of the  
11 members of the Board or successor members who are in office as of the effective date  
12 of this Act shall terminate as of the effective date of this Act; making conforming  
13 changes; making this Act an emergency measure; and generally relating to the  
14 appointment, removal, and resignation of members of the Board of License  
15 Commissioners for Prince George's County.

16 BY repealing and reenacting, without amendments,  
17 Article – Alcoholic Beverages  
18 Section 26–102  
19 Annotated Code of Maryland  
20 (2016 Volume and 2016 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article – Alcoholic Beverages  
23 Section 26–202, 26–205, and 26–206  
24 Annotated Code of Maryland  
25 (2016 Volume and 2016 Supplement)

26 BY adding to  
27 Article – Alcoholic Beverages  
28 Section 26–209  
29 Annotated Code of Maryland  
30 (2016 Volume and 2016 Supplement)

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

33 **Article – Alcoholic Beverages**

34 26–102.

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

36 26–202.

37 (a) (1) The [Governor] COUNTY EXECUTIVE shall appoint five members to  
38 the Board.

1 (2) The appointments shall be made:

2 (I) AFTER A HEARING AT WHICH MEMBERS OF THE PUBLIC  
3 SHALL BE GIVEN THE OPPORTUNITY TO BE HEARD; AND

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

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

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

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

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

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

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

20 1. PUBLIC SAFETY EXPERIENCE;

21 2. REGULATORY EXPERIENCE; OR

22 3. BUSINESS EXPERIENCE.

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

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

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

- 1                   1.     may not appoint any of the individuals;
- 2                   2.     shall file a written statement with the Secretary of State,  
3 setting forth the facts and the grounds for the decision and calling on the central  
4 committees for a new list of six names for each position to be filled; and
- 5                   3.     shall make the appointments from the new list and the  
6 original list.]

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

- 10                  (3)    A member shall be:
- 11                   (i)    a resident and voter of the county; and
- 12                   (ii)   a person of high character and integrity and of recognized  
13 business capacity.

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

- 16                  (2)    A member of the Board may not:
- 17                   (i)    have a direct or indirect interest in or on a premises in the State  
18 where alcoholic beverages are manufactured or sold;
- 19                   (ii)   have a direct or indirect interest in a business wholly or partly  
20 devoted to the manufacture or sale of alcoholic beverages in the State;
- 21                   (iii)   own stock in:
- 22                   1.     a corporation that has a direct or indirect interest in a  
23 premises in the State where alcoholic beverages are manufactured or sold; or
- 24                   2.     a business wholly or partly devoted to the manufacture or  
25 sale of alcoholic beverages in the State; or
- 26                   (iv)   solicit or receive a commission, remuneration, or gift from:
- 27                   1.     a person engaged in the manufacture or sale of alcoholic  
28 beverages or an agent or employee of the person; or
- 29                   2.     a license holder.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (ii) On filing a certificate of candidacy for election to a public office  
31 or within 30 days before the filing deadline for the primary election for the public office

1 sought, whichever occurs later, a member of the Board shall certify to the County Board of  
2 Elections under oath that the individual is no longer a member of the Board.

3 (iii) The certification shall be accompanied by a letter addressed to  
4 the [Governor] COUNTY EXECUTIVE containing the resignation of the member from the  
5 Board.

6 26–205.

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

8 (1) employ:

9 (i) a secretary;

10 (ii) inspectors; and

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

12 (2) set the compensation of the employees **IN ACCORDANCE WITH THE**  
13 **COUNTY'S CLASSIFICATION PLAN.**

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

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

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

20 (4) [(i)] The [administrator] **EXECUTIVE DIRECTOR** is eligible to  
21 participate in the county's supplemental retirement plan.

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

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

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

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

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

1 (iii) legal fees that the Board approves for representing the Board in  
2 court.

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

5 (4) The attorney is eligible for:

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

8 (ii) membership in and retirement benefits of the State Retirement  
9 and Pension System.

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

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

16 (2) An employee of the Board:

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

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

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

22 1. with a license holder; or

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

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

26 (e) (1) [Subject to paragraph (3) of this subsection, on] **ON** the submission by  
27 the Board of an annual budget, the County Council shall pay for all expenses of the Board  
28 **AS CONTAINED IN THE COUNTY BUDGET.**

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

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

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

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

7                    3. printing;

8                    4. supplies; and

9                    5. office space.

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

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

15 26–206.

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

17                    (b) An inspector:

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

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

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

23                    (c) An inspector shall:

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

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

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

27                    (1) § 26–202(c) and (d) of this subtitle regarding direct and indirect  
28 interests of members of the Board in alcoholic beverages activities and soliciting or



1 transmitting political contributions for the benefit of a candidate or political committee;  
2 and

3 (2) § 26–205(d) of this subtitle requiring an employee to devote full time to  
4 the business of the Board, prohibiting certain activities, and requiring removal for violation  
5 of those requirements and prohibitions.

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

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

10 (2) To be a full–time or part–time inspector, an individual shall be a  
11 resident of the county.

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

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

16 (4) The full–time inspectors who are certified by the personnel director as  
17 meeting the standards that the county merit board sets out are included in the county merit  
18 system.

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

21 **26–209.**

22 (A) **ALL MEMBERS, EMPLOYEES, AND INSPECTORS OF THE BOARD ARE**  
23 **SUBJECT TO THE COUNTY’S PUBLIC ETHICS LAWS ENACTED UNDER § 5–807 OF THE**  
24 **GENERAL PROVISIONS ARTICLE TO THE SAME EXTENT AS A LOCAL OFFICIAL OF THE**  
25 **COUNTY.**

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

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

32 (II) **ANY PROVISION OF THE COUNTY’S PUBLIC ETHICS LAWS.**

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

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

4                   **(II) IF APPROPRIATE, REFER THE COMPLAINT TO THE STATE’S**  
5 **ATTORNEY OF THE COUNTY FOR CRIMINAL PROSECUTION.**

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.