

SENATE BILL 518

A2

8lr2889
CF HB 206

By: **Senator Rosapepe**

Introduced and read first time: January 29, 2018

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 30, 2018

CHAPTER _____

1 AN ACT concerning

2 **Prince George's County – Alcoholic Beverages – Family Entertainment Permit**
3 **and Class BLX License – ~~Movie~~ for Movie Theaters**

4 FOR the purpose of repealing certain exceptions to the requirement that a license holder
5 in Prince George's County have an entertainment permit to provide entertainment;
6 establishing a family entertainment permit in Prince George's County; authorizing
7 the Board of License Commissioners for Prince George's County to issue the permit
8 to a holder of a Class B (on-sale) license under certain circumstances; providing that
9 the permit authorizes the permit holder to impose a cover charge and provide
10 entertainment; requiring the permit holder to comply with all requirements under
11 county law; requiring the Board to determine the number of days in a week that a
12 permit holder may exercise the privileges of the permit and the hours of effect of the
13 permit; subjecting the permit holder to certain provisions of law; requiring the Board
14 to adopt certain regulations; establishing the annual fee for the permit; authorizing
15 the Board of License Commissioners for Prince George's County to issue a Class BLX
16 license for a movie theater under certain circumstances; authorizing the holder of
17 the license to sell beer, wine, and liquor for on-premises consumption; allowing the
18 holder of the license to serve only customers who have proof of admission to the movie
19 theater; providing the hours of sale for the license; and generally relating to ~~Class~~
20 ~~BLX licenses for movie theaters~~ alcoholic beverages in Prince George's County.

21 BY repealing and reenacting, without amendments,
22 Article – Alcoholic Beverages
23 Section 26–102 and 26–1103(b) and (e) through (l)
24 Annotated Code of Maryland

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 (2016 Volume and 2017 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article – Alcoholic Beverages
4 Section 26–1103(a), 26–1606, 26–1616, and 26–2004(f)
5 Annotated Code of Maryland
6 (2016 Volume and 2017 Supplement)

7 BY adding to
8 Article – Alcoholic Beverages
9 Section 26–1103.1
10 Annotated Code of Maryland
11 (2016 Volume and 2017 Supplement)

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

14 **Article – Alcoholic Beverages**

15 26–102.

16 This title applies only in Prince George’s County.

17 26–1103.

18 (a) This section does not apply to a license holder that seeks to provide
19 entertainment if:

20 (1) the license of the license holder is issued under § 26–1003, § 26–1006, §
21 26–1008, § 26–1009, § 26–1010, § 26–1011, § 26–1014, § 26–1015, § 26–1016, or § 26–1018.1
22 of this title; OR

23 [(2) the Board determines that the license holder’s principal business is to
24 provide family entertainment;

25 (3) the license is a Class B (on–sale) license issued for a restaurant, and
26 the license holder provides entertainment for adults and children that:

27 (i) is ancillary to the operation of the business; and

28 (ii) is not the primary focus of marketing or promotion for the
29 business; or]

30 [(4)] (2) the license is a veterans or fraternal Class C license and the
31 license holder provides entertainment that:

32 (i) is under the direct supervision of the license holder;

1 (ii) is for adults, children, and families of the organization or the
2 public; and

3 (iii) when offered, ends not later than midnight.

4 (b) There is an entertainment permit.

5 (e) Before being issued the permit, an applicant shall:

6 (1) submit evidence to the satisfaction of the Board that:

7 (i) the applicant holds a Class B (on-sale) license;

8 (ii) there are no unpaid taxes due from the applicant to the State,
9 the county, or a municipal corporation; and

10 (iii) the applicant meets all other requirements for the permit; and

11 (2) (i) develop a security plan to prevent the premises for which the
12 permit is sought from posing a threat to the peace and safety of the surrounding area; and

13 (ii) submit the plan for review to the Board and the Chief of the
14 County Police Department.

15 (f) (1) The Chief of the County Police Department may submit comments to
16 the Board on the adequacy of the security plan within 30 days after receipt of the security
17 plan.

18 (2) The Board shall consider the comments, if any, of the Chief of the
19 County Police Department and subsequently issue the permit, refuse to issue the permit,
20 or condition the issuance of the permit on changes to the security plan.

21 (3) If the Board issues the permit with a security plan that the Chief of the
22 County Police Department does not support, the Board shall specify in writing to the Chief
23 of the County Police Department the reasons why the Board has determined that the
24 security plan is adequate.

25 (g) (1) Before issuing the permit, the Board shall hold a public hearing in
26 accordance with the requirements for a public hearing on an application for a license under
27 § 26-1511 of this title.

28 (2) At the public hearing, the Board shall give the applicant, supporters of
29 the applicant, and opponents of the applicant an opportunity to be heard.

30 (3) In making its determination whether to approve the application and
31 issue the permit, the Board shall consider whether:

1 (i) approval and issuance of the permit is necessary for the
2 accommodation of the public;

3 (ii) the applicant is a fit person to receive the permit;

4 (iii) the applicant has made a material false statement in the
5 application;

6 (iv) the applicant has committed any fraudulent act in connection
7 with the application;

8 (v) the operation of the business, if the permit is issued, will unduly
9 disturb the peace of the residents of the neighborhood where the place of business is located
10 or to be located; and

11 (vi) there are any other reasons that justify the disapproval of the
12 application or the refusal to issue the permit.

13 (4) The Board shall hold a similar public hearing on receipt of a petition to:

14 (i) revoke the permit; or

15 (ii) protest the renewal of the permit.

16 (h) The permit holder:

17 (1) shall implement and follow the approved security plan described under
18 subsection (e)(2) of this section at all times when the permit holder exercises the privileges
19 of the permit;

20 (2) when the privileges authorized by the permit are being exercised, may
21 not allow an individual who is under the age of 21 years on the premises for which the
22 permit is issued unless the individual is employed by or is an immediate family member of
23 the permit holder; and

24 (3) may employ sworn security personnel as part of the security plan
25 described under subsection (e)(2) of this section if the sworn security personnel have full
26 police powers in the jurisdiction where the premises of the permit holder is located.

27 (i) The Board at any time may prohibit, condition, or restrict the type of
28 entertainment offered by a permit holder, including lewd, exotic, loud, or raucous
29 entertainment, if after a hearing the Board determines that the entertainment:

30 (1) adversely impacts or unduly disturbs the community; and

1 (2) is not conducive to the peace, health, welfare, or safety of the residents
2 of the county.

3 (j) (1) Subject to paragraph (2) of this subsection, the Board may immediately
4 suspend the permit if the Board reasonably believes that the permit holder:

5 (i) violated this section; or

6 (ii) is not in compliance with a county zoning property standard or
7 use and occupancy requirement.

8 (2) If the Board immediately suspends a permit, the Board shall:

9 (i) give the permit holder notice of the suspension and a hearing on
10 the suspension at which the permit holder may be heard and present evidence; and

11 (ii) hold the hearing within 30 days after the suspension is imposed.

12 (k) (1) At the hearing, the Board shall determine:

13 (i) whether the permit holder violated this section or other law; and

14 (ii) if a violation occurred, what penalty to impose among those listed
15 in paragraphs (2) and (3) of this subsection.

16 (2) Subject to paragraph (3) of this subsection, if the Board finds that a
17 person has violated this section or any other law, the Board:

18 (i) may revoke or continue the suspension of the permit; and

19 (ii) shall impose on the person a penalty of:

20 1. for a first offense, at least \$1,000 but not more than
21 \$12,500; and

22 2. for each subsequent offense, at least \$5,000.

23 (3) The Board:

24 (i) shall revoke the permit of a person who the Board determines
25 violated this section or any other law twice in 24 months; and

26 (ii) may not consider an application from the person for a new permit
27 or an application for a new permit for the premises that was the subject of the revocation
28 until at least 12 months after the order of revocation is issued.

1 (4) If the Board determines that the permit holder did not violate this
2 section, the Board shall immediately reinstate the permit.

3 (1) The circuit court may issue a temporary restraining order to
4 immediately close to the public the entire operation of the premises if the county establishes
5 that:

6 (i) the security plan described under subsection (e)(2) of this section
7 has not been implemented; and

8 (ii) the public health, safety, or welfare requires emergency action.

9 (2) On issuance of a temporary restraining order under paragraph (1) of
10 this subsection, the county shall give the permit holder written notice of and reasons for
11 the closure.

12 (3) The permit holder promptly shall be given an opportunity for a hearing
13 in circuit court on the granting of the temporary restraining order in accordance with Title
14 15, Chapter 500 of the Maryland Rules.

15 **26-1103.1.**

16 **(A) THERE IS A FAMILY ENTERTAINMENT PERMIT.**

17 **(B) THE BOARD MAY ISSUE THE PERMIT TO A HOLDER OF A CLASS B**
18 **(ON-SALE) LICENSE IN ACCORDANCE WITH THIS SECTION IF THE BOARD**
19 **DETERMINES THAT:**

20 **(1) THE LICENSE HOLDER'S BUSINESS PROVIDES FAMILY**
21 **ENTERTAINMENT;**

22 **(2) THE ROOM IN WHICH THE ENTERTAINMENT IS TO BE PERFORMED**
23 **HAS A SEATING CAPACITY OF NOT MORE THAN 110 INDIVIDUALS;**

24 **(3) THE ESTABLISHMENT WILL ALLOW UNDERAGE PERSONS TO VIEW**
25 **THE ENTERTAINMENT AND WILL NOT OFFER ENTERTAINMENT FOR ADULTS ONLY;**

26 **(4) THE AVERAGE DAILY RECEIPTS FROM THE SALE OF FOOD WILL BE**
27 **AT LEAST 60% OF THE TOTAL DAILY RECEIPTS FROM THE SALE OF FOOD AND DRINK**
28 **IN THE ESTABLISHMENT;**

29 **(5) THE ESTABLISHMENT WILL OFFER THE SAME MENU, INCLUDING**
30 **APPETIZERS, MAIN COURSE, AND DESSERT, THROUGHOUT THE ESTABLISHMENT**
31 **AND DURING THE TIME WHEN THE ENTERTAINMENT IS PERFORMED;**

1 **(6) THE PRICES FOR FOOD AND DRINK IN THE ROOM WHERE THE**
2 **ENTERTAINMENT IS TO BE PERFORMED WILL NOT VARY FROM THE PRICES FOR**
3 **FOOD AND DRINK OFFERED ELSEWHERE IN THE ESTABLISHMENT; AND**

4 **(7) THE ENTERTAINMENT, WHEN OFFERED, ENDS NOT LATER THAN**
5 **MIDNIGHT.**

6 **(C) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE**
7 **PERMIT AUTHORIZES THE PERMIT HOLDER TO IMPOSE A COVER CHARGE AND**
8 **PROVIDE ENTERTAINMENT.**

9 **(II) THE PERMIT HOLDER SHALL COMPLY WITH ALL**
10 **REQUIREMENTS UNDER COUNTY LAW, INCLUDING ZONING AND USE AND**
11 **OCCUPANCY LAWS.**

12 **(2) THE BOARD SHALL DETERMINE:**

13 **(I) THE NUMBER OF DAYS IN A WEEK THAT A PERMIT HOLDER**
14 **MAY EXERCISE THE PRIVILEGES OF THE PERMIT; AND**

15 **(II) THE HOURS OF EFFECT OF THE PERMIT.**

16 **(D) THE PERMIT HOLDER SHALL BE SUBJECT TO § 26-1103(E) THROUGH (L)**
17 **OF THIS SUBTITLE.**

18 **(E) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.**

19 **(F) THE ANNUAL FEE FOR THE PERMIT IS \$250, WHICH IS IN ADDITION TO**
20 **THE ANNUAL FEE FOR THE CLASS B LICENSE.**

21 26-1606.

22 (a) Except as provided in subsection (b) of this section **AND § 26-1616(B)(2) OF**
23 **THIS SUBTITLE**, the Board may not issue a license for use on the site of a movie theater.

24 (b) This section does not prohibit the issuance of a Class B-DH (drafthouse)
25 license for use on the site of a drafthouse, as defined in § 26-1007 of this title.

26 26-1616.

27 (a) There is a Class BLX license.

28 (b) [(1)] The Board may issue the license for use in:

1 **(1)** a luxury-type restaurant, as defined in regulations of the Board, that
2 has:

3 (i) a minimum capital investment of \$1,000,000 for a dining room
4 facility and kitchen equipment, not including the cost of the land, building, or lease; and

5 (ii) seating for at least 100 individuals; AND

6 **(2)** A MOVIE THEATER IF:

7 **(I)** THE OWNER OR OPERATOR OF THE MOVIE THEATER HAS
8 INVESTED AT LEAST **\$2,000,000** IN RENOVATING OR REMODELING THE MOVIE
9 THEATER; AND

10 **(II)** EXCLUDING CANDY AND POPCORN, THE AVERAGE DAILY
11 RECEIPTS FROM THE SALE OF FOOD OF THE MOVIE THEATER EXCEED THE AVERAGE
12 DAILY RECEIPTS FROM THE SALE OF ALCOHOLIC BEVERAGES.

13 **(C)** THE HOLDER OF A CLASS **BLX** LICENSE ISSUED FOR A MOVIE THEATER
14 MAY SERVE ONLY CUSTOMERS WHO HAVE PROOF OF ADMISSION TO THE MOVIE
15 THEATER.

16 **[(2)] (D)** **(1)** If the criteria under [paragraph (1) of this subsection]
17 SUBSECTION **(B)(1)** OF THIS SECTION are met, the Board may issue or transfer one Class
18 BLX license FOR USE IN A LUXURY-TYPE RESTAURANT on behalf of:

19 (i) the county;

20 (ii) the Maryland-National Capital Park and Planning Commission;
21 or

22 (iii) a private concessionaire under contract with:

23 1. the county; or

24 2. the Maryland-National Capital Park and Planning
25 Commission.

26 **[(3)] (2)** The Board may determine:

27 (i) the number of licenses to be issued;

28 (ii) to whom the license may be issued; and

29 (iii) whether a holder of an alcoholic beverages license may have an
30 interest in one Class BLX license.

1 **[(4)] (3)** The license authorizes the license holder to sell beer, wine, and
2 liquor for on-premises consumption.

3 **[(c)] (E)** (1) Subject to paragraphs (2) and (3) of this subsection, a person may
4 not hold more than 10 Class BLX licenses.

5 (2) The Board may issue:

6 (i) a fifth license to a license holder only if the date of application for
7 the fifth license is at least 1 year after the date the license holder was issued the fourth
8 license; and

9 (ii) a sixth license only if the date of application for the sixth license
10 is at least 1 year after the date the license holder was issued the fifth license.

11 (3) In determining whether to issue a fifth, sixth, seventh, eighth, ninth, or
12 tenth license to a single license holder, the Board:

13 (i) shall consider the number of licensed establishments existing in
14 the area surrounding the site of the proposed licensed establishment; and

15 (ii) may issue an additional license only if the Board determines that
16 the proposed licensed establishment will enhance the recreational, business, and economic
17 development of the area.

18 **[(d)] (F)** The profit realized from the sale of an alcoholic beverage under a license
19 issued under subsection **[(b)(2)] (D)(1)** of this section may be for the use and benefit of the
20 license holder.

21 **[(e)] (G)** The annual license fee is \$3,875.

22 26-2004.

23 (f) (1) **(I)** Subject to [paragraph (2) of this subsection] **SUBPARAGRAPH**
24 **(II) OF THIS PARAGRAPH**, the holder of a Class BLX license **ISSUED FOR A**
25 **LUXURY-TYPE RESTAURANT** may sell beer, wine, and liquor for on-premises
26 consumption from 6 a.m. to 2 a.m. the following day.

27 **[(2)] (II)** A license holder may not sell beer, wine, or liquor for
28 on-premises consumption:

29 **[(i)] 1.** except as provided in § 26-2005 of this subtitle, from 2
30 a.m. to 6 a.m.; or

1 [(ii)] 2. at a bar or counter on Sunday, from 6 a.m. to 2 a.m. the
2 following day, unless the Sunday is December 24 or December 31.

3 (2) A HOLDER OF A CLASS BLX LICENSE ISSUED FOR A MOVIE
4 THEATER MAY SELL BEER, WINE, AND LIQUOR FOR ON-PREMISES CONSUMPTION
5 FROM NOON TO 12:30 A.M. THE FOLLOWING DAY.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
7 1, 2018.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.