

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 637
Economic Matters

(Delegate Clippinger, *et al.*)
Education, Health, and Environmental Affairs

Baltimore City - Alcoholic Beverages - Licenses

This bill authorizes the Baltimore City Board of License Commissioners to (1) issue up to two Inner Harbor Park licenses for use by a nonprofit organization, as specified; (2) issue a Class B beer, wine, and liquor (BWL) license for use by a restaurant in the 1400 block of Warner Street, as specified; and (3) issue one Class B-HM (hotel-motel) BWL license to a hotel in the 1200 block of East Fort Avenue.

In addition, the bill (1) alters provisions pertaining to the Old Goucher Revitalization District; (2) repeals a restriction pertaining to the exchange of a Class B-D-7 license for a Class A-7 license in the 46th legislative district; (3) authorizes a specified transferee of a Class B-D-7 license to apply to the board to exchange the license for a Class A-7 license by July 1, 2021; (4) alters provisions pertaining to the public market license; and (5) specifies restrictions pertaining to interactions between a specified Class 1 distillery and retail dealer in Port Covington.

The bill takes effect July 1, 2019. Provisions pertaining to interactions between a specified Class 1 distillery and retail dealer in Port Covington terminate June 30, 2022.

Fiscal Summary

State Effect: None.

Local Effect: Baltimore City revenues increase by an estimated \$13,860 in FY 2020, \$11,660 in FY 2021, \$12,440 in FY 2022, and \$11,840 annually thereafter from additional licensing, application, and renewal fees. Baltimore City can handle any enforcement activity with existing resources.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Inner Harbor Park License: The bill authorizes the board to issue up to two Inner Harbor Park licenses for use by a nonprofit organization that is operated to promote and care for the Inner Harbor waterfront. The licensed premises may be located in Rash Field and West Shore Park. The license authorizes the licensee to sell beer, wine, and liquor for on-premises consumption Monday through Sunday from 8 a.m. to 11 p.m. The annual license fee is \$1,320. The licensee must pay, in addition to the annual license fee, \$500, if the licensee provides live entertainment, and \$200, if the licensee provides outdoor table service.

Old Goucher Revitalization District: The bill moves the eastern boundary of the Old Goucher Revitalization District one block to the east – from St. Paul Street to Hargrove Street. Accordingly, the district includes the area surrounded by Howard Street on the west, 25th Street on the north, Hargrove Street on the east, and 21st Street on the south.

In addition, the bill authorizes the issuance of one Class B-D-7 license to a property within the district that is surrounded by Morton Street on the west, Ware Street on the north, 24th Street on the south, and Lovegrove Street on the east, subject to specified requirements. Under current law, one Class B-D-7 license may be issued to a property that is surrounded by Morton Street on the west, Ware Street on the north, 24th Street on the south, and *Charles Street* on the east.

Moreover, the bill authorizes the transfer of specified licenses within the district. Accordingly, a Class B-D-7 license issued for use in the 2100 block of Maryland Avenue may be transferred within the district.

Public Market License: The bill increases, from \$3,000,000 to \$5,000,000, the minimum capital investment required to obtain a public market license and repeals a requirement that the premises for which a public market license is issued must be separate from the premises for which a Class D (7-day) beer and wine (BW) license has been issued. The bill specifies that a licensee may designate a vendor to sell alcoholic beverages, as specified, for on-premises consumption at a restaurant in a premises formerly occupied by an establishment for which a Class D (7-day) BW license was issued. The restaurant must have average daily receipts from the sale of food that are at least 65% of the total daily receipts of the restaurant. A vendor designated for the restaurant is exempt from a specified square-footage limitation applicable to the sale of alcoholic beverages by individual vendors in a licensed public market, and the premises of the restaurant do not count toward a specified limit on the total square footage of floor space in which alcoholic beverages may be sold in the public market. The privilege to sell alcoholic beverages at the restaurant

may not be transferred to another location. The hours of sale for alcoholic beverages at the restaurant are from 9 a.m. to 1 a.m. the following day on Monday through Sunday.

In addition, the bill increases annual fees applicable to the public market license. Accordingly, the annual license fee for a public market license increases from \$6,500 to \$7,500, and the annual license fee for a public market license for an applicant who obtains and extinguishes a specified license increases from \$2,500 to \$3,500.

Authorized Class B BWL License: The bill also authorizes the board to issue a Class B BWL license for a restaurant in ward 21, precinct 4, in the 1400 block of Warner Street that has (1) seating for more than 150 individuals; (2) average daily receipts from the sale of food that are at least 40% of the total daily receipts of the restaurant; and (3) no sales for off-premises consumption.

Authorized Class B-HM BWL License: The board may issue one Class B-HM BWL license to a hotel in the 1200 block of East Fort Avenue.

Authorized License Transfer and Exchange: The bill repeals the requirement that a Class B-D-7 license may be exchanged for a Class A-7 license only if the Class B-D-7 license was issued for an establishment operating in a planned use development. Additionally, the bill authorizes the transferee of a Class B-D-7 license that is transferred from the 3600 block of Fleet Street to the 5600 block of Eastern Avenue to apply, by July 1, 2021, to the board to exchange the license for a Class A-7 license for use at the Eastern Avenue location.

Interactions between a Class 1 Distillery and a Retail Dealer in the Port Covington Area: The bill restricts interactions between a Class 1 distillery and a retail dealer located on contiguous premises in the area commonly known as Port Covington in a manner that differs from established statewide restrictions. Specifically, in the Port Covington area, a Class 1 distillery may lend a thing of value, make a gift, or offer a gratuity to a retail dealer but may not lend money to the retail dealer. A retail dealer may not become indebted to a Class 1 distillery except for the purchase of alcoholic beverages and allied products purchased for resale. Additionally, specified provisions of the Alcoholic Beverages Article pertaining to wine and liquor advertisements do not apply to a Class 1 distillery and licensed retailer in the Port Covington area under the bill.

Current Law:

Old Goucher Revitalization District

The Old Goucher Revitalization District is the area surrounded by Howard Street on the west, 25th Street on the north, St. Paul Street on the east, and 21st Street on the south. The

board may issue one Class B-D-7 for use in a specified property within the district if the establishment has a minimum capital investment, excluding land and acquisition costs, of \$50,000. A specified Class B-D-7 license issued for use in the 2100 block of North Charles Street may be transferred within the district.

Class A-7 BWL License

In Baltimore City, a Class A-7 BWL license authorizes the licensee to sell, for off-premises consumption, beer, wine, and liquor at retail at the place described in the license. The days and hours of sale are Monday through Sunday from 9 a.m. to 10 p.m. The annual license fee is \$1,500. Generally, the board may not issue a Class A-7 license after July 1, 2020. In the 46th legislative district, a Class B-D-7 license may be exchanged for a Class A-7 license only if the Class B-D-7 license was issued for an establishment operating in a planned use development.

Public Market License

The board may issue a public market license to an operator of an enclosed public market that (1) has a minimum capital investment of \$3,000,000 and (2) is located in a specified area bounded by Charles Street, East Cross Street, and Light Street in ward 23, precinct 1 of the 46th alcoholic beverages district. The premises for which a public market license is issued must be separate from the premises for which a Class D (7-day) BW license has been issued. The license authorizes the licensee to sell, for on- or off-premises consumption, beer, wine, and liquor, as specified. Monthly receipts from the sale of nonalcoholic beverage items, excluding items provided as part of an off-premises catering service, must be at least 65% of total monthly receipts of the market. The annual license fee is \$6,500 or, if the applicant obtains and extinguishes a specified license issued for use in ward 23, precinct 1 of the 46th alcoholic beverages district, \$2,500.

A licensee may designate vendors within the public market to sell alcoholic beverages, as specified, in leasable market space covering up to 20% of the total square footage of floor space of the licensed premises. An individual vendor may sell alcoholic beverages in an area covering up to 1,000 square feet of floor space. The licensee must submit to the board the same information about each vendor that the board requires of an applicant for a license, and the board must apply to the Central Repository for a State and national criminal history records check for each vendor authorized to sell alcoholic beverages. A vendor authorized to sell alcoholic beverages or a designated employee must be certified by an approved alcohol awareness program and present when alcoholic beverages are consumed.

The hours of sale for on-premises consumption authorized under the public market license are:

- from 11:30 a.m. to 10:00 p.m. Monday through Thursday;
- from 11:30 a.m. to 11:30 p.m. on Friday;
- from 9:00 a.m. to 11:30 p.m. on Saturday; and
- from 9:00 a.m. to 9:00 p.m. on Sunday.

Class B BWL License

Generally, the board may issue a Class B BWL license for use at a hotel or restaurant. The license authorizes the licensee to sell, for on- or off-premises consumption, beer, wine, and liquor at the place described in the license. The annual license fee is \$1,320, for a licensed premises with a seating capacity of up to 200 individuals, or \$1,800, for a licensed premises with a seating capacity of more than 200 individuals. A licensee that provides live entertainment or outdoor table service is subject to additional annual fees, as specified.

In the 46th alcoholic beverages district, a restaurant for which a Class B BWL license is issued is subject to additional capital investment, average daily receipt, and seating requirements, as specified. In the 47th alcoholic beverages district, a restaurant for which a Class B BWL license is issued is subject to additional restrictions pertaining to the sale of alcoholic beverages for off-premises consumption, as specified.

Class B-HM BWL License

The board may issue a Class B-HM BWL license for use by a hotel or motel that has (1) a dining room with facilities for preparing and serving regular meals for at least 125 individuals at one seating; (2) at least 100 rooms for the accommodation of the public; and (3) a capital investment of at least \$500,000. The annual license fee is \$6,500. A licensee is subject to additional annual fees, as specified, if the licensee provides live entertainment, the licensee provides outdoor table service, or the premises for which the license is issued has fewer than 100 rooms.

General Prohibitions against Issuance of Alcoholic Beverages Licenses

Generally, and with specified exceptions, the board may not issue a new alcoholic beverages license for use in the 46th alcoholic beverages district. In addition, the board generally may not issue an alcoholic beverages license for use in (1) ward 1, precincts 4 and 5; (2) ward 23, precinct 1; or (3) ward 24, precinct 5.

Alcohol Awareness Training Requirements for Alcoholic Beverages Licensees

Generally, for a premises that is licensed to sell alcoholic beverages with an off-sale privilege, or a premises that is licensed with on-sale privileges and sells alcoholic

beverages directly to a customer from a bar or service bar, the license holder or specified employees must complete training in an approved alcohol awareness program in order to obtain and retain their alcoholic beverages license. The training program must be approved and certified by the Comptroller and it must provide information on how alcohol affects a person's body and behavior, the dangers of drinking and driving, refusing service before a customer becomes intoxicated, and determining if a customer is old enough to legally consume alcohol. The training is valid for four years.

Interactions between Manufacturing Entities and Retailers – Restrictions

Restrictions on Ownership Interest in Retail Establishments: In the State, a “manufacturing entity,” which is defined to include specified manufacturers of alcoholic beverages, manufacturer's licensees, and other specified persons, generally may not (1) have a financial interest in the premises on or in which a license holder sells alcoholic beverages at retail or a business that a license holder conducts; (2) lend money or any other thing of value, make a gift, or offer a gratuity to a retail dealer; or (3) provide an advertisement to a retail dealer. In addition, a retail dealer generally may not accept, receive, or make use of money, a gift, or an advertisement provided by a manufacturing entity or become indebted to a manufacturing entity except for the purchase of alcoholic beverages and allied products purchased for resale.

Wine and Liquor – Authorized Advertisements: In the State, a wine or liquor brand owner engaged in the business of a manufacturing entity generally may only give a retailer an advertisement for use in windows or elsewhere on a retail liquor establishment if (1) the utilitarian value is secondary and only incidental to the value as an advertisement; (2) the total value of an item provided by a brand owner for each of its individual brands for use in any one retail establishment at any one time is not more than \$150 for each individual brand; and (3) the cost of installing these materials does not exceed the usual cost in the locality. In lieu of premanufactured advertising material, a brand owner may provide materials and labor for the custom manufacture of an advertising display that (1) is worth no more than \$150; (2) is temporary; and (3) has no other utilitarian value. A manufacturer, nonresident dealer, resident dealer, or brand owner may not undertake a plan that directly or indirectly results in a transaction in which the license holder pays for or shares the cost for any of the advertising materials, supplies, services, or mailing expenses used to promote a brand owner's products.

Background: According to the Comptroller's Office, in fiscal 2018, there were 1,221 alcoholic beverages licenses issued in Baltimore City. The board advises that while there are currently no public market licenses issued in Baltimore City, it anticipates issuing one public market license by the end of April 2019 at the current annual fee of \$6,500.

Local Fiscal Effect: Baltimore City revenues increase by an estimated \$13,860 in fiscal 2020, \$11,660 in fiscal 2021, \$12,440 in fiscal 2022, and \$11,840 annually thereafter from additional licensing, application, and renewal fees. This estimate assumes that the board issues (1) two Inner Harbor Park licenses; (2) one new Class B-HM BWL license; and (3) one new Class B BWL license under the bill. In addition, this estimate assumes that the board authorizes the exchange of one Class B-D-7 for one Class A-7 license in fiscal 2022. Finally, this estimate assumes that, in fiscal 2020 and annually thereafter, one anticipated public market license will be renewed at that higher annual license fee under the bill. The estimate is based on a one-time \$600 application fee, a \$50 renewal fee, and the following annual license fees:

- \$1,320 for an Inner Harbor Park license;
- \$7,500 for a public market license;
- \$6,500 for a Class B-HM license;
- \$1,320 for a Class B BWL license;
- \$1,320 for a Class B-D-7 license; and
- \$1,500 for a Class A-7 license.

There may be additional minimal increases in Baltimore City revenues to the extent that the board collects additional live entertainment and outdoor table service fees under the bill.

Additional Information

Prior Introductions: None.

Cross File: SB 584 (Senator Ferguson) - Education, Health, and Environmental Affairs.

Information Source(s): Comptroller's Office; Baltimore City; Department of Legislative Services

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