

# SENATE BILL 763

A1, A2, C8

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CF HB 996

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By: **Senator McCray**

Introduced and read first time: February 5, 2021

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages – Class A Licenses – Retail Grocery Establishments**  
3 **(Healthy Food Accountability Act of 2021)**

4 FOR the purpose of establishing a certain exception to the prohibition against issuing  
5 certain retail alcoholic beverages licenses for use in conjunction with or on the  
6 premises of certain establishments; requiring a local licensing board to issue a Class  
7 A beer or beer and wine license for use in conjunction with or on the premises of  
8 certain self-service or delivery-based grocery establishments located in certain  
9 areas; requiring an applicant for a license or license renewal authorized under this  
10 Act to pay to the Alcohol and Tobacco Commission a certain annual license or  
11 renewal fee; requiring the Commission to collect the annual license or renewal fee  
12 and distribute the proceeds to the Community Legacy Financial Assistance Fund;  
13 specifying certain contents of the Fund; establishing that a certain prohibition  
14 against being issued or using more than one license does not apply to a license issued  
15 under the authority of this Act; prohibiting a local licensing authority from  
16 transferring a Class A license under the authority of this Act; exempting a certain  
17 delivery-based license holder from the requirement to obtain a letter of  
18 authorization from the local licensing board to make certain deliveries of alcoholic  
19 beverages; establishing that certain residency, voter registration, or taxpayer status  
20 requirements do not apply to an applicant for or a holder of a license issued under  
21 the authority of this Act; making certain conforming changes to certain provisions of  
22 law governing local jurisdictions that prohibit the issuance of certain licenses for use  
23 at certain establishments; requiring the Commission to contract with a certain  
24 expert to conduct a certain review of a certain disparity study for certain purposes;  
25 requiring a certain certification agency, in consultation with the General Assembly  
26 and the Office of the Attorney General, to initiate a certain disparity study and to  
27 report the findings of the disparity study under certain circumstances; and generally  
28 relating to the issuance of Class A beer or beer and wine licenses for use in  
29 conjunction with or on the premises of certain grocery establishments.

30 BY repealing and reenacting, with amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Alcoholic Beverages  
2 Section 4–205, 4–507, 20–1603, 22–1603, and 26–1509  
3 Annotated Code of Maryland  
4 (2016 Volume and 2020 Supplement)

5 BY repealing and reenacting, without amendments,  
6 Article – Alcoholic Beverages  
7 Section 20–102, 22–102, and 26–102  
8 Annotated Code of Maryland  
9 (2016 Volume and 2020 Supplement)

10 BY repealing and reenacting, with amendments,  
11 Article – Housing and Community Development  
12 Section 6–211  
13 Annotated Code of Maryland  
14 (2019 Replacement Volume and 2020 Supplement)

15 Preamble

16 WHEREAS, According to the U.S. Centers for Disease Control and Prevention, more  
17 than two-thirds of American adults and one-third of American youth are now obese or  
18 overweight; and

19 WHEREAS, Obesity-related conditions make up several leading causes of death,  
20 such as heart disease and strokes; and

21 WHEREAS, In 2012, the U.S. Department of Agriculture updated its minimum  
22 nutrition standards for national school breakfast and lunch programs that established a  
23 healthy diet for school-aged children; and

24 WHEREAS, Lack of availability and affordability of healthy food contribute to the  
25 obesity epidemic; and

26 WHEREAS, Laws and policies can promote healthy food and limit access to  
27 unhealthy food; and

28 WHEREAS, The availability of healthy food can be a critical tool in addressing the  
29 dire obesity epidemic; now, therefore,

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

32 **Article – Alcoholic Beverages**

33 4–205.

34 (a) This section does not apply to:

1 (1) an establishment that already holds a Class A, Class B, or Class D beer  
2 license, beer and wine license, or beer, wine, and liquor license; or

3 (2) a license holder that sells alcoholic beverages at discount prices.

4 (b) **[A] SUBJECT TO SUBSECTION (C) OF THIS SECTION,** a local licensing board  
5 may not issue a Class A, Class B, or Class D beer license, beer and wine license, or beer,  
6 wine, and liquor license for use in conjunction with or on the premises of:

7 (1) a chain store;

8 (2) a supermarket; or

9 (3) a discount house.

10 **(C) (1) A LOCAL LICENSING BOARD SHALL ISSUE A CLASS A BEER OR**  
11 **BEER AND WINE LICENSE TO AN APPLICANT IN ACCORDANCE WITH THIS**  
12 **SUBSECTION FOR USE IN CONJUNCTION WITH OR ON THE PREMISES OF A**  
13 **SELF-SERVICE OR DELIVERY-BASED RETAIL ESTABLISHMENT THAT IS:**

14 **(I) INDEPENDENTLY OWNED OR PART OF A CORPORATION**  
15 **OPERATING A CHAIN OF RETAIL ESTABLISHMENTS UNDER THE SAME TRADE NAME;**  
16 **AND**

17 **(II) LOCATED IN A PRIORITY FUNDING AREA ESTABLISHED**  
18 **UNDER TITLE 5, SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT**  
19 **ARTICLE.**

20 **(2) A LOCAL LICENSING BOARD MAY ISSUE A LICENSE AUTHORIZED**  
21 **UNDER THIS SUBSECTION ONLY FOR USE IN CONJUNCTION WITH OR ON THE**  
22 **PREMISES OF A RETAIL ESTABLISHMENT THAT:**

23 **(I) 1. OFFERS FOR SALE A FULL LINE OF FOOD PRODUCTS**  
24 **IN AT LEAST SIX OF THE FOLLOWING CATEGORIES:**

25 **A. FRESH FRUITS AND VEGETABLES;**

26 **B. FRESH AND UNCOOKED MEAT, POULTRY, AND**  
27 **SEAFOOD;**

28 **C. DAIRY PRODUCTS;**

29 **D. CANNED FOODS;**

1 E. FROZEN FOODS;

2 F. DRY GROCERIES AND BAKED GOODS; OR

3 G. NONALCOHOLIC BEVERAGES; AND

4 2. A. HAS A MINIMUM OF 50% OF THE SQUARE  
5 FOOTAGE OF THE PUBLIC AREA OF THE STORE DEDICATED TO THE SALE OF FOOD  
6 OR BEVERAGES LISTED IN ITEM (I) OF THIS PARAGRAPH; OR

7 B. HAS A MINIMUM OF 6,000 SQUARE FEET AND A  
8 MINIMUM OF 5% OF THE PUBLIC AREA OF THE STORE DEDICATED TO THE SALE OF  
9 FOOD OR BEVERAGES LISTED IN ITEM (I) OF THIS PARAGRAPH; OR

10 (II) IS A CONVENIENCE AND FOOD PRODUCT DELIVERY  
11 COMPANY:

12 1. THAT DIRECTLY SELLS AND DELIVERS FROM ITS  
13 PREMISES DAIRY PRODUCTS, CANNED FOODS, FROZEN FOODS, INCLUDING FROZEN  
14 MEATS, DRY GROCERIES AND BAKED GOODS, NONALCOHOLIC BEVERAGES, AND  
15 HOUSEHOLD ITEMS;

16 2. FOR WHICH THE PREMISES DO NOT EXCEED 15,000  
17 SQUARE FEET; AND

18 3. THAT IS LOCATED IN A PRIORITY FUNDING AREA  
19 ESTABLISHED UNDER TITLE 5, SUBTITLE 7B OF THE STATE FINANCE AND  
20 PROCUREMENT ARTICLE.

21 (3) (I) IN ADDITION TO ANY LICENSE OR ANNUAL RENEWAL FEE  
22 OTHERWISE REQUIRED UNDER THIS ARTICLE, AN APPLICANT FOR A LICENSE OR  
23 LICENSE RENEWAL AUTHORIZED UNDER THIS SUBSECTION SHALL PAY TO THE  
24 COMMISSION AN ANNUAL STATE LICENSE OR RENEWAL FEE OF \$2,500.

25 (II) THE COMMISSION SHALL COLLECT THE STATE LICENSE OR  
26 RENEWAL FEE REQUIRED UNDER THIS SUBSECTION AND DISTRIBUTE THE  
27 PROCEEDS TO THE COMMUNITY LEGACY FINANCIAL ASSISTANCE FUND UNDER §  
28 6-211 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

29 (4) THE PROHIBITIONS AGAINST ONE PERSON OR ENTITY BEING  
30 ISSUED OR USING MORE THAN ONE LICENSE UNDER § 4-203 OF THIS SUBTITLE DO  
31 NOT APPLY TO A CLASS A LICENSE ISSUED UNDER THE AUTHORITY OF THIS

1 SUBSECTION.

2 (5) A LOCAL LICENSING BOARD MAY NOT TRANSFER A CLASS A  
3 LICENSE UNDER THE AUTHORITY OF THIS SUBSECTION.

4 (6) A DELIVERY-BASED CLASS A LICENSE HOLDER IS NOT REQUIRED  
5 TO OBTAIN A LETTER OF AUTHORIZATION FROM THE LOCAL LICENSING BOARD TO  
6 MAKE DELIVERIES OF ALCOHOLIC BEVERAGES UNDER THE AUTHORITY OF THIS  
7 SECTION.

8 (7) NOTWITHSTANDING § 1-202 OF THIS ARTICLE, ANY  
9 REQUIREMENTS UNDER DIVISION II OF THIS ARTICLE GOVERNING RESIDENCY,  
10 VOTER REGISTRATION, OR TAXPAYER STATUS DO NOT APPLY TO AN APPLICANT FOR  
11 OR A HOLDER OF A CLASS A LICENSE ISSUED UNDER THE AUTHORITY OF THIS  
12 SUBSECTION.

13 4-507.

14 (a) This section does not apply to:

15 (1) the delivery of wine from a direct wine shipper to a consumer using a  
16 common carrier in accordance with Title 2, Subtitle 1, Part V of this article; or

17 (2) the holder of a common carrier permit in the course of delivering  
18 directly shipped wine in accordance with Title 2, Subtitle 1, Part V of this article.

19 (b) Retail delivery to a purchaser of alcoholic beverages is prohibited unless:

20 (1) EXCEPT AS PROVIDED IN § 4-205(C) OF THIS TITLE, a retail license  
21 holder obtains a letter of authorization from the local licensing board to make deliveries;  
22 and

23 (2) the delivery is made from the licensed premises by the retail license  
24 holder or an employee of the retail license holder.

25 20-102.

26 This title applies only in Frederick County.

27 20-1603.

28 (A) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A Class  
29 A license may not be issued for, transferred to, used in conjunction with, or used at the  
30 location of:

1 (1) a chain store;

2 (2) a supermarket;

3 (3) a discount house; or

4 (4) a franchised establishment:

5 (i) that is operated under an agreement between a franchisee and  
6 franchisor that permits the franchisee to conduct a business or sell a product or service  
7 under a name or mark, in accordance with the methods and procedures set out by the  
8 franchisor; and

9 (ii) for which the franchisor assists the franchisee through  
10 advertising, promotion, or other services.

11 **(B) A CLASS A BEER OR BEER AND WINE LICENSE MAY BE ISSUED TO A**  
12 **SELF-SERVICE OR DELIVERY-BASED RETAIL ESTABLISHMENT AS AUTHORIZED**  
13 **UNDER § 4-205(C) OF THIS ARTICLE.**

14 22-102.

15 This title applies only in Harford County.

16 22-1603.

17 (a) (1) Except as provided in paragraph (2) of this subsection, any license with  
18 an off-sale privilege may not be issued for or transferred to:

19 (i) a chain store;

20 (ii) a supermarket;

21 (iii) a discount house; or

22 (iv) a franchisor, franchisee, or concessionaire of an establishment  
23 listed in this paragraph.

24 (2) **(I)** Paragraph (1) of this subsection does not apply to the renewal of  
25 a license.

26 **(II) A CLASS A BEER OR BEER AND WINE LICENSE MAY BE**  
27 **ISSUED TO A SELF-SERVICE OR DELIVERY-BASED RETAIL ESTABLISHMENT AS**  
28 **AUTHORIZED UNDER § 4-205(C) OF THIS ARTICLE.**

29 (b) An establishment that on July 1, 1976, held a license with an off-sale privilege

1 may continue to hold the license or apply to upgrade to a Class A–1 or Class A–2 license.

2 26–102.

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

4 26–1509.

5 (a) Except as provided in subsection (b) of this section, the Board may not issue a  
6 license that has an off–sale privilege to:

7 (1) an establishment commonly known as a chain store, supermarket, or  
8 discount house; or

9 (2) a franchisor, franchisee, or concessionaire of the establishment.

10 (b) (1) An establishment described in subsection (a) of this section that held a  
11 license on July 1, 1973:

12 [(1)] (I) may continue to hold the license; and

13 [(2)] (II) at the discretion of the Board, may change the class of the license.

14 (2) **A CLASS A BEER OR BEER AND WINE LICENSE MAY BE ISSUED TO**  
15 **A SELF–SERVICE OR DELIVERY–BASED RETAIL ESTABLISHMENT AS AUTHORIZED**  
16 **UNDER § 4–205(C) OF THIS ARTICLE.**

17 **Article – Housing and Community Development**

18 6–211.

19 (a) In this section, “Fund” means the Community Legacy Financial Assistance  
20 Fund.

21 (b) There is a Community Legacy Financial Assistance Fund.

22 (c) The Fund shall be used to carry out this subtitle.

23 (d) (1) The Secretary shall administer the Fund in accordance with this  
24 subtitle.

25 (2) The State Treasurer shall hold and the Comptroller shall account for  
26 the Fund.

27 (e) The Fund is a continuing, nonlapsing special fund that is not subject to §  
28 7–302 of the State Finance and Procurement Article.

1 (f) The Fund consists of:

2 (1) money appropriated in the State budget to the Fund;

3 (2) earnings from the investment of money in the Fund;

4 (3) repayments and prepayments of financial assistance provided by the  
5 Program; [and]

6 (4) **PROCEEDS DISTRIBUTED BY THE ALCOHOL AND TOBACCO**  
7 **COMMISSION TO THE FUND UNDER § 4-205(C) OF THE ALCOHOLIC BEVERAGES**  
8 **ARTICLE; AND**

9 (5) any other money accepted for the benefit of the Fund from any  
10 governmental or private source.

11 (g) Notwithstanding any other law, the State Treasurer may invest money in the  
12 Fund in the same way as money is invested by the State Retirement and Pension System.

13 (h) In any fiscal year, the Secretary may hold up to 10% of the money in the Fund  
14 in reserve for emergency use or urgent projects in accordance with this subtitle.

15 SECTION 2. AND BE IT FURTHER ENACTED, That:

16 (a) The Alcohol and Tobacco Commission, in consultation with the Office of the  
17 Attorney General, shall contract with an appropriate expert to review the “Business  
18 Disparities in the Maryland Market Area” study completed on February 8, 2017, to  
19 evaluate, on or before October 1, 2021, whether the data in the study demonstrates a  
20 compelling interest to implement remedial measures, including the application of the State  
21 Minority Business Enterprise Program under Title 14, Subtitle 3 of the State Finance and  
22 Procurement Article or a similar program, to assist minorities and women in the retail  
23 off-sale alcoholic beverages industry and market.

24 (b) (1) If a determination is made under subsection (a) of this section that the  
25 data in the February 8, 2017, study “Business Disparities in the Maryland Market Area”  
26 does not appropriately apply to the retail off-sale alcoholic beverages industry, the  
27 certification agency designated by the Board of Public Works under § 14-303(b) of the State  
28 Finance and Procurement Article, in consultation with the General Assembly and the Office  
29 of the Attorney General, shall initiate a disparity study of the retail off-sale alcoholic  
30 beverages industry to evaluate whether there is a compelling interest to implement  
31 remedial measures, including the application of the State Minority Business Enterprise  
32 Program under Title 14, Subtitle 3 of the State Finance and Procurement Article or a  
33 similar program, to assist minorities and women in the retail off-sale alcoholic beverages  
34 industry and market.

1                   (2)    The Alcohol and Tobacco Commission and all local licensing boards  
2 shall provide to the certification agency any information necessary to perform the study  
3 required under paragraph (1) of this subsection.

4                   (3)    The certification agency shall report to the Alcohol and Tobacco  
5 Commission and, in accordance with § 2-1257 of the State Government Article, the  
6 Legislative Policy Committee on the findings of the study required under paragraph (1) of  
7 this subsection.

8                   SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
9 1, 2021.