SENATE BILL 763

A1, A2, C8 11r1683 CF HB 996

By: Senator McCray
Introduced and read first time: February 5, 2021
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

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

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

BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Preamble

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

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

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

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

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

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

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

Article – Alcoholic Beverages

4–205.

(a) This section does not apply to:
(1) an establishment that already holds a Class A, Class B, or Class D beer license, beer and wine license, or beer, wine, and liquor license; or

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

(b) Subject to subsection (c) of this section, a local licensing board may not issue a Class A, Class B, or Class D beer license, beer and wine license, or beer, wine, and liquor license for use in conjunction with or on the premises of:

(1) a chain store;

(2) a supermarket; or

(3) a discount house.

(c) (1) A local licensing board shall issue a Class A beer or beer and wine license to an applicant in accordance with this subsection for use in conjunction with or on the premises of a self-service or delivery-based retail establishment that is:

   (I) independently owned or part of a corporation operating a chain of retail establishments under the same trade name; and

   (II) located in a priority funding area established under Title 5, Subtitle 7B of the State Finance and Procurement Article.

(2) A local licensing board may issue a license authorized under this subsection only for use in conjunction with or on the premises of a retail establishment that:

   (I) offers for sale a full line of food products in at least six of the following categories:

      A. fresh fruits and vegetables;

      B. fresh and uncooked meat, poultry, and seafood;

      C. dairy products;

      D. canned foods;
E. FROZEN FOODS;

F. DRY GROCERIES AND BAKED GOODS; OR

G. NONALCOHOLIC BEVERAGES; AND

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

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

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

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

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

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

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

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

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

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

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

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

(a) This section does not apply to:

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

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

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

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

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

This title applies only in Frederick County.

(A) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A Class A license may not be issued for, transferred to, used in conjunction with, or used at the location of:
(1) a chain store;  
(2) a supermarket;  
(3) a discount house; or  
(4) a franchised establishment:  
(i) that is operated under an agreement between a franchisee and franchisor that permits the franchisee to conduct a business or sell a product or service under a name or mark, in accordance with the methods and procedures set out by the franchisor; and  
(ii) for which the franchisor assists the franchisee through advertising, promotion, or other services.

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

This title applies only in Harford County.

(a) (1) Except as provided in paragraph (2) of this subsection, any license with an off-sale privilege may not be issued for or transferred to:  
(i) a chain store;  
(ii) a supermarket;  
(iii) a discount house; or  
(iv) a franchisor, franchisee, or concessionaire of an establishment listed in this paragraph.

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

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

(b) An establishment that on July 1, 1976, held a license with an off-sale privilege
may continue to hold the license or apply to upgrade to a Class A–1 or Class A–2 license.

This title applies only in Prince George’s County.

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

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

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

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

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

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

(2) A Class A Beer or Beer and Wine License May Be Issued To A Self–Service or Delivery–Based Retail Establishment As Authorized Under § 4–205(C) Of This Article.

Article – Housing and Community Development

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

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

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

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

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

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

1. money appropriated in the State budget to the Fund;
2. earnings from the investment of money in the Fund;
3. repayments and prepayments of financial assistance provided by the Program; and
4. PROCEEDS DISTRIBUTED BY THE ALCOHOL AND TOBACCO COMMISSION TO THE FUND UNDER § 4–205(C) OF THE ALCOHOLIC BEVERAGES ARTICLE; AND
5. any other money accepted for the benefit of the Fund from any governmental or private source.

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That:

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

(b) (1) If a determination is made under subsection (a) of this section that the data in the February 8, 2017, study “Business Disparities in the Maryland Market Area” does not appropriately apply to the retail off-sale alcoholic beverages industry, the certification agency designated by the Board of Public Works under § 14–303(b) of the State Finance and Procurement Article, in consultation with the General Assembly and the Office of the Attorney General, shall initiate a disparity study of the retail off-sale alcoholic beverages industry to evaluate whether there is a compelling interest to implement remedial measures, including the application of the State Minority Business Enterprise Program under Title 14, Subtitle 3 of the State Finance and Procurement Article or a similar program, to assist minorities and women in the retail off-sale alcoholic beverages industry and market.
(2) The Alcohol and Tobacco Commission and all local licensing boards shall provide to the certification agency any information necessary to perform the study required under paragraph (1) of this subsection.

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

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