

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 771

(Senator Ferguson)

Education, Health, and Environmental Affairs

Economic Matters

**Baltimore City - Alcoholic Beverages - Licenses and Outdoor Table Service
Privileges**

This emergency bill alters the hours of sale and the annual license fee relating to a public market license in Baltimore City, as well as the total square footage of public market floor space in which designated vendors may generally sell alcoholic beverages. The bill specifies circumstances under which the Baltimore City Board of License Commissioners may impose fees for the ancillary privilege of providing outdoor table or cafe service in conjunction with a Temporary Outdoor Seating Permit. The bill authorizes the board to waive the general distance restrictions for an application to transfer an alcoholic beverages license into the area bounded by Fagley Street, Gough Street, Grundy Street, and Chestle Place. The bill also repeals a provision authorizing the board to issue not more than two Class B beer, wine, and liquor (BWL) licenses in a specified area of the 46th alcoholic beverages district. In addition, the bill extends the expiration date of (1) a Class B (7-day) beer and wine license issued for a premises located in a specified geographic area in the 46th alcoholic beverages district, as specified, and (2) a Class B-D-7 license issued for a premises in the 1171-1173 block of Hamburg Street, as specified. **The provision relating to the expiration date of a Class B-D-7 license in Hamburg Street terminates June 30, 2023.**

Fiscal Summary

State Effect: None.

Local Effect: Baltimore City revenues may be impacted to the extent fees are imposed to provide outdoor table or cafe service, as discussed below; the bill does not otherwise materially affect Baltimore City finances or operations.

Small Business Effect: Minimal overall, but certain small business license holders may benefit from increased hours of operation at a public market, the ability to transfer or extend other licenses, and the ability to provide outdoor table or cafe service.

Analysis

Bill Summary:

Public Market License

The bill authorizes the sale of alcoholic beverages for on-premises consumption for the holder of a public market license:

- from 11:30 a.m. to 11:00 p.m. (instead of 10:00 p.m.), Monday through Thursday;
- from 11:30 a.m. to midnight (instead of 11:30 p.m.) on Friday;
- from 9:00 a.m. to midnight (instead of 11:30 p.m.) on Saturday; and
- from 9:00 a.m. to 11:00 p.m. (instead of 9:00 p.m.) on Sunday.

The bill reduces the annual license fee for a public market license from \$7,500 to \$6,000. The bill retains an annual license fee of \$3,500 for a public market license if the applicant for the license obtains and extinguishes one Class A, Class B, Class D, or Class B-D-7 license issued for use in ward 23, precinct 1 of the 46th alcoholic beverages district.

The bill also increases, from 20% to 25%, the total square footage of floor space in a public market in which designated vendors may generally sell alcoholic beverages, as specified.

License Issuance in the 46th Alcoholic Beverages District

Currently, the board generally may not issue a license for specified areas of the 46th alcoholic beverages district. The bill repeals a provision authorizing the board to issue not more than two Class B BWL licenses, so that the cumulative number of licenses issued or transferred is two, into the area of 829 through 919 East Fort Avenue, provided the board has executed and enforces a memorandum of understanding, as specified.

Distance Restrictions from a Place of Worship or School

The board may waive the general distance restrictions for an application to transfer a license into the area bounded by Fagley Street, Gough Street, Grundy Street, and Chestle Place if (1) the application is approved by each community association representing the area, each business association in the area, and the ordained leader and the board or council for each place of worship within 300 feet of the proposed establishment, and (2) a memorandum of understanding is executed by the applicant and each community association in the area. However, the board may not issue a license in or approve the transfer of a license into the geographic area described above if (1) the proposed location

of the establishment is in an area zoned “residential” or (2) the license to be issued or transferred is a Class A license.

License Expiration in the 46th Alcoholic Beverages District

Currently, unless transferred to another location, a Class B (7-day) beer and wine license issued for a premises located in an area bounded by Charles Street, East Cross Street, and Light Street, in ward 23, precinct 1 of the 46th alcoholic beverages district, expires no later than July 1, 2022. The bill extends the expiration date to July 1, 2024.

The bill also specifies that a Class B-D-7 license issued for a premises in the 1171-1173 block of Hamburg Street must be considered unexpired until the end of July 1, 2023, for the purposes of being transferred to another owner at the same location.

Outdoor Table or Cafe Service

The board may not charge a fee to a holder of an alcoholic beverages license issued by the board if (1) the license holder also holds an unexpired Temporary Outdoor Seating Permit issued by the Mayor and City Council of Baltimore City and (2) the fee is imposed for the ancillary privilege of providing outdoor table or cafe service in conjunction with the Temporary Outdoor Seating Permit.

However, on application, the board may consider the request of a license holder (who also holds an unexpired Temporary Outdoor Seating Permit) to permanently add to a license the ancillary privilege of providing outdoor table or cafe service. The board may charge a fee to do so and may satisfy or waive application notice requirements, as specified; the bill requires the board to adopt implementing regulations.

Current Law:

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 \$5,000,000 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 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 \$7,500 or, if the applicant obtains and extinguishes a specified license issued for use in ward 23, precinct 1 of the 46th alcoholic beverages district, \$3,500.

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.

A licensee may also 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 on-premises consumption generally 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.

License Issuance in the 46th Alcoholic Beverages District

In the 46th alcoholic beverages district, the board generally may not issue a license for (1) ward 1, precincts 4 and 5; (2) ward 23, precinct 1; or (3) ward 24, precinct 5. However, the board may issue not more than two Class B BWL licenses, so that the cumulative number of licenses issued or transferred is two, into the area of 829 through 919 East Fort Avenue, provided the board has executed and enforces a memorandum of understanding, as specified. In addition, the board may issue not more than a combined total of five Class B BWL licenses for use by establishments on the north side of the 900 block of East Fort Avenue and on the west side of the 1400 block of Lawrence Street; a license issued for an establishment in these areas may not be transferred to another establishment. The board may also issue not more than one Class B-HM (hotel-motel) BWL license to a hotel in the 1200 block of East Fort Avenue.

Distance Restrictions from a Place of Worship or School

The board generally may not issue a new license or approve the transfer of an existing license to a building within 300 feet of the nearest place of worship or school. Chapter 555 of 2021 repealed specified authorizations (reinstated by the bill) to issue or transfer a license within 300 feet of a place of worship or school in the area bounded by Fagley Street, Gough Street, Grundy Street, and Chestle Place.

License Transfers

A transfer of an alcoholic beverages license must be completed on or before 180 days after the board approves the transfer unless the board grants a hardship extension. A written request to extend the time authorized to complete the transfer due to hardship must be made in writing by a license holder or another appropriate interested party within 180 days after the board approves the transfer of a license. The board may grant the extension if it finds after a hearing that an existing hardship caused the delay in transferring the license. However, an extension may not prolong the period authorized to complete the transfer beyond 270 days after the board approves the transfer.

Outdoor Table or Cafe Service

Numerous provisions of Title 12 of the Alcoholic Beverages Article specify that, in Baltimore City, in addition to the annual license fee for various types of alcoholic beverages licenses, a license holder must pay an additional \$200 fee if the license holder provides outdoor table service. Baltimore City Alcoholic Beverages Rules and Regulations further govern ancillary privileges relating to outdoor service.

Local Revenues: Baltimore City revenues may be impacted to the extent the board is prohibited from charging a fee for the ancillary privilege of providing outdoor table or cafe service in conjunction with a Temporary Outdoor Seating Permit; however, the board *may* charge fees to permanently add to a license the ancillary privilege of providing outdoor table or cafe service. The exact fees that may be collected (or forgone) under the bill are indeterminable at this time and depend in part upon the board's implementing regulations.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1115 (Delegate Clippinger) - Economic Matters.

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

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