

# HOUSE BILL 938

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3lr2334  
CF SB 854

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By: **Delegate Boyce**

Introduced and read first time: February 10, 2023

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages – Class A License – Food Retailers**

3 FOR the purpose of authorizing a food retailer to offer to purchase a Class A license from a  
4 Class A license holder under certain circumstances; authorizing a food retailer to  
5 apply to a local licensing board for a Class A license under certain circumstances;  
6 and generally relating to Class A alcoholic beverages licenses for food retailers.

7 BY repealing and reenacting, with amendments,

8 Article – Alcoholic Beverages

9 Section 4–205 and 4–303

10 Annotated Code of Maryland

11 (2016 Volume and 2022 Supplement)

12 BY adding to

13 Article – Alcoholic Beverages

14 Section 4–205.1

15 Annotated Code of Maryland

16 (2016 Volume and 2022 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

19 **Article – Alcoholic Beverages**

20 4–205.

21 (a) This section does not apply to:

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

2 (b) [A] EXCEPT AS PROVIDED IN § 4-205.1 OF THIS SUBTITLE, A local  
3 licensing board may not issue a Class A, Class B, or Class D beer license, beer and wine  
4 license, or beer, wine, and liquor license for use in conjunction with or on the premises of:

5 (1) a chain store;

6 (2) a supermarket; or

7 (3) a discount house.

8 **4-205.1.**

9 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
10 INDICATED.

11 (2) "FAIR MARKET VALUE" MEANS THE PRICE AT WHICH A CLASS A  
12 LICENSE WOULD CHANGE HANDS BETWEEN A WILLING LICENSE HOLDER AND A  
13 WILLING FOOD RETAILER WHEN:

14 (I) NEITHER PARTY IS ACTING UNDER COMPULSION; AND

15 (II) BOTH PARTIES HAVE KNOWLEDGE OF ALL OF THE  
16 RELEVANT FACTS.

17 (3) "FOOD RETAILER" MEANS A RETAIL ESTABLISHMENT THAT:

18 (I) OFFERS FOR SALE FOOD PRODUCTS IN AT LEAST FIVE OF  
19 THE FOLLOWING CATEGORIES:

20 1. FRESH FRUITS AND VEGETABLES;

21 2. FRESH AND UNCOOKED MEAT, POULTRY, AND  
22 SEAFOOD;

23 3. DAIRY PRODUCTS;

24 4. CANNED FOODS;

25 5. FROZEN FOODS; AND

26 6. DRY GROCERIES AND BAKED GOODS;

1 (II) ACCEPTS SUPPLEMENTAL NUTRITION ASSISTANCE  
2 PROGRAM CREDITS AS PAYMENT FOR FOOD AND BEVERAGES;

3 (III) HAS A MINIMUM OF 3,200 SQUARE FEET; AND

4 (IV) EXCEPT AS PROVIDED IN DIVISION II OF THIS ARTICLE, HAS  
5 A PRIMARY ENTRANCEWAY THAT IS AT LEAST:

6 1. 300 FEET FROM THE NEAREST POINT OF A PLACE OF  
7 WORSHIP OR SCHOOL; AND

8 2. 100 FEET FROM ANY RESIDENTIAL PROPERTY NOT  
9 LOCATED IN THE SAME BUILDING OR STRUCTURE AS THE FOOD RETAILER.

10 (B) (1) A FOOD RETAILER LOCATED LESS THAN 3,000 FEET FROM A  
11 CLASS A LICENSE HOLDER MAY OFFER TO PURCHASE THE CLASS A LICENSE FROM  
12 THE LICENSE HOLDER AT FAIR MARKET VALUE.

13 (2) A FOOD RETAILER THAT OBTAINS A LICENSE IN ACCORDANCE  
14 WITH PARAGRAPH (1) OF THIS SUBSECTION MAY SELL ONLY BEER OR BEER AND  
15 WINE UNDER THE LICENSE, REGARDLESS OF THE TYPE OF CLASS A LICENSE THAT  
16 WAS PURCHASED.

17 (3) DEPENDING ON THE TYPES OF LICENSES AVAILABLE IN THE  
18 JURISDICTION, THE LOCAL LICENSING BOARD SHALL ISSUE TO THE FOOD RETAILER  
19 THAT OBTAINS A CLASS A LICENSE UNDER PARAGRAPH (1) OF THIS SUBSECTION:

20 (I) A CLASS A BEER LICENSE;

21 (II) A CLASS A BEER AND WINE LICENSE; OR

22 (III) A CLASS A BEER AND LIGHT WINE LICENSE.

23 (C) IF A LICENSE HOLDER DOES NOT ACCEPT A FOOD RETAILER'S OFFER,  
24 THE FOOD RETAILER MAY APPLY TO A LOCAL LICENSING BOARD FOR A CLASS A  
25 BEER OR BEER AND WINE LICENSE IN ACCORDANCE WITH THE LOCAL LICENSING  
26 BOARD'S RULES.

27 (D) (1) IF A LICENSE HOLDER ASSERTS THAT A FOOD RETAILER'S OFFER  
28 WAS NOT AT FAIR MARKET VALUE, THEN THE LICENSE HOLDER SHALL HAVE  
29 STANDING TO SEEK JUDICIAL REVIEW.

30 (2) WHEN DETERMINING WHETHER A FOOD RETAILER'S OFFER TO

1 PURCHASE A CLASS A LICENSE IS AT FAIR MARKET VALUE, THE FACT THAT A FOOD  
2 RETAILER MAY NOT RECEIVE THE FULL BENEFIT OF THE LICENSE SHALL BE TAKEN  
3 INTO ACCOUNT.

4 (3) AN APPLICATION FOR A CLASS A LICENSE IN ACCORDANCE WITH  
5 SUBSECTION (C) OF THIS SECTION SHALL BE STAYED PENDING A FINAL JUDICIAL  
6 DETERMINATION.

7 (E) AN APPLICATION FOR A CLASS A BEER OR BEER AND WINE LICENSE  
8 MADE BY A FOOD RETAILER IS:

9 (1) PRESUMED TO BE IN THE BEST INTEREST OF THE COMMUNITY;  
10 AND

11 (2) MAY NOT BE DENIED FOR ANY REASON OTHER THAN A REASON  
12 TRADITIONALLY CONSIDERED BY A LOCAL LICENSING BOARD.

13 4-303.

14 [A] EXCEPT AS PROVIDED IN § 4-205.1 OF THIS TITLE, A Class A, Class B, or  
15 Class D beer license, beer and wine license, or beer, wine, and liquor license may not be  
16 transferred for use in conjunction with or on the premises of a chain store, supermarket, or  
17 discount house unless:

18 (1) the establishment already holds a Class A, Class B, or Class D beer  
19 license, beer and wine license, or beer, wine, and liquor license; or

20 (2) the license is transferred to a similar type of establishment.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
22 1, 2023.