

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 607

(Senator Ferguson)

Finance

Economic Matters

**Baltimore City - Alcoholic Beverages - 46th Alcoholic Beverages District -
Revisions**

This bill alters general provisions of the alcoholic beverages laws in Baltimore City and various provisions related to the 46th alcoholic beverages district in Baltimore City. The bill alters the Charter of Baltimore City to remove the requirement that the Baltimore City Downtown Commercial District Management Authority enter into a contract with the Baltimore Police Department (BPD) to hire two police officers *from BPD* to exclusively patrol an area, as specified. The bill also extends the expiration of specified licenses until July 1, 2024, for the purposes of transfer and/or renewal. **The bill takes effect June 1, 2023, and provisions related to the expiration of specified licenses terminate June 30, 2024.**

Fiscal Summary

State Effect: None.

Local Effect: Baltimore City revenues may increase minimally beginning in FY 2024, to the extent the board issues additional Class B BWL (beer, wine, liquor) licenses and Class D BWL licenses, as specified, in the 46th alcoholic beverages district, or to the extent a new license or a transfer of a license occurs in specified geographic areas as a result of the bill.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law:

Requirements for Restaurants

Under current law, to be considered a restaurant, an establishment must have average daily receipts from the sale of food that are at least 40% of its total daily receipts (an ingredient or garnish used with or mixed with an alcoholic beverage that is prepared and served for on-premises consumption is not considered food). The Baltimore City Board of License Commissioners may waive the food requirement, as specified, for a restaurant owned and operated by a nonprofit organization in the area bounded by South Ellwood Avenue on the west, Bank Street on the north, South Bouldin Street on the east, and Fleet Street on the south.

For a license that the board has waived the food requirement, as specified, the bill permits the board to approve an expansion of the licensed premises onto a noncontiguous property with a second separate use permit issued by Baltimore City, if the second separate use permit specifically refers to the alcoholic beverages license at the primary location.

License Issuance in the 46th Alcoholic Beverages District

Under current law, in Baltimore City, new licenses for the sale of alcoholic beverages may not be issued in the 40th, 41st, 43rd, 44th, 45th, or 46th alcoholic beverages districts. Currently, in the 46th district, the board may issue a special one-day license.

Class B BWL Licenses

In Baltimore City, a holder of a Class B BWL license may generally sell alcoholic beverages from 6:00 a.m. to 2:00 a.m. the following day, seven days a week. The annual license fee for a Class B BWL license is \$1,320 for a premises with a seating capacity of not more than 200 individuals, and \$1,800 for a premises with a seating capacity of more than 200 individuals. There is an additional annual fee of \$500 if the license holder provides live entertainment, and an annual fee of \$200 if the license holder provides outdoor table service.

Under current law, a Class B BWL license may be issued to specified restaurants with average daily receipts from the sale of food of at least 51% of the total daily receipts of the restaurant. The board may also issue a Class B BWL license:

- for a restaurant in ward 26, precinct 8; ward 4, precinct 1; or ward 3, precinct 3 that has (1) seating for more than 150 individuals; (2) a minimum capital investment of

- \$700,000; and (3) average daily receipts from food sales that are at least 65% of the total daily receipts of the restaurant;
- for a restaurant in ward 4, precinct 1, or ward 22, precinct 1, if the restaurant has (1) seating for more than 75 individuals; (2) a minimum capital investment of \$700,000; (3) average daily receipts from food sales that are at least 65% of the total daily receipts of the restaurant; and (4) no sales for off-premises consumption unless an off-sale privilege for refillable containers has been issued;
- for up to three restaurants in a residential planned unit development for Silo Point if each restaurant has (1) a minimum capital investment of \$700,000; (2) seating for more than 75 individuals; (3) average daily receipts from food sales that are at least 65% of the total daily receipts of the restaurant; and (4) no sales for off-premises consumption unless an off-sale privilege for refillable containers has been issued;
- for up to three restaurants in a business planned unit development in ward 24, precinct 5, if each restaurant has (1) a minimum capital investment of \$700,000; (2) seating for more than 75 individuals, but not more than 150 individuals; (3) average daily receipts from food sales that are at least 51% of the total daily receipts of the restaurant; and (4) no sales for off-premises consumption unless an off-sale privilege for refillable containers has been issued;
- for a restaurant in the area known as Port Covington, bounded on the north by Interstate 95, on the east by the South Locust Point Terminal, and on the south and west by the Patapsco River, if the restaurant has (1) seating for more than 150 individuals; (2) a minimum capital investment of \$700,000; and (3) average daily receipts from food sales that are at least 60% of the total daily receipts of the restaurant; and
- for a restaurant in Unit G of 3700 Toone Street in ward 26, precinct 8, if the restaurant has (1) seating for at least 75 individuals; (2) a minimum capital investment of \$700,000; (3) average daily receipts from food sales that are at least 65% of the total daily receipts of the restaurant; and (4) has executed a memorandum of understanding (MOU) with Brewer's Hill Neighbors, Inc.

The bill authorizes the board to issue a Class B BWL license for a restaurant in:

- the area bounded on the north by Eastern Avenue, on the east by South Duncan Street, on the south by Fleet Street, and on the west by South Chester Street, if the restaurant has (1) a physical duckpin bowling alley and (2) a minimum capital investment of \$500,000, excluding residential improvements. The restaurant is not required to have a minimum amount of seating for patrons or a minimum amount of food sales to maintain the license. The license may not be transferred from the location of its first issuance;
- ward 21, precinct 4 in the 1300 block of Warner Street that has (1) average daily receipts from food sales that are at least 40% of the total daily receipts of the

restaurant, unless the license holder offers food truck options on the licensed premises, in which case the average daily receipts from food sales may be at least 20% of the total daily receipts of the restaurant and (2) no sales for off-premises consumption; and

- ward 1, precinct 4, in the 2700 block of Boston Street that has (1) seating for more than 75 individuals; (2) average daily receipts from food sales that are at least 51% of the total daily receipts of the restaurant; (3) a minimum capital investment of at least \$700,000 for restaurant facilities; and (4) executed an MOU with the Canton Community Association. The board may issue only *one* license, which may not be used for off-premises sales, except for delivery to a vessel docked at an adjacent marina or be transferred from the location of its original issuance.

Class D Beer and Light Wine Licenses and Class D BWL Licenses

Under current law, in Baltimore City, a Class D beer and light wine license authorizes the holder to sell beer and light wine, at retail, at the place described in the license, for on-and off-premises consumption. The license may not be issued for use by a drugstore. The annual license fee is \$165. A Class D BWL license authorizes the holder to sell beer, wine, and liquor, at the place described in the license, for on-and off-premises consumption. The license may not be issued for use by a drugstore. The annual license fee for a Class D BWL license is \$825. The fee for a transfer of a license is \$200, in addition to the costs of publication and notice and any hearing fees required.

The bill allows a license holder of a valid Class D beer and light wine license for use in the 46th alcohol beverages district to apply to the board to convert the license to a Class BWL license if the license holder (1) maintains average daily receipts from food sales that are at least 51% of its total daily receipts; (2) executes an MOU with relevant local neighborhood association as determined by the board; (3) operates a location with not more than 75 seats; and (4) pays a special transfer fee of \$15,000, in addition to any fees required for a transfer of a license; or if the license holder has a license that was originally issued by the board, as specified, and pays a transfer fee of \$15,000, in addition to any fees required for a transfer of a license. If the Class D beer and light wine license is converted to a Class D BWL license, the Class D BWL license (1) may not be transferred to a new location and (2) is subject to the requirements for converting the license from a Class D beer and light wine, as specified. A holder of a license converted, as specified, may sell beer, wine, and liquor Monday through Sunday from 6 a.m. until 1 a.m. the following day. An application to convert a Class D beer and light wine license is a transfer subject to the general provisions in Title 4, Subtitle 3, and the specific provisions applicable to Baltimore City in Title 12, Subtitle 17 of the Alcoholic Beverages Article.

License Transfers

In Baltimore City, a license may not be transferred into or within ward 1, precincts 2 and 3; ward 2 in its entirety; ward 3, precinct 3; and ward 26, precincts 3 and 10. However, an application for a new license or a transfer within the above specified areas is permitted if the new license or transfer is for (1) a hotel; (2) an establishment located in a planned unit development if the application for the planned unit development was filed or approved before December 31, 1995; (3) an establishment located in an area by the Inner Harbor East Urban Renewal Plan; or (4) an establishment that has a seating capacity of fewer than 150 individuals; or average daily receipts from food sales that are at least 51% of the total daily receipts of the establishment.

The bill alters the requirement of the exception to the prohibition of transferring a license into or within the specified geographic areas above by permitting a new license or transfer to an establishment that has a seating capacity of fewer than 150 individuals; average daily receipts from food sales that are at least 51% of the total daily receipts of the establishment; or a seating capacity of fewer than 200 individuals only if the establishment is within ward 3, precinct 3.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 917 (Delegate Clippinger, *et al.*) - Economic Matters.

Information Source(s): Department of Legislative Services

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