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February 17, 2020

Hon. Dereck E. Davis, Chair
Economic Matters Committee
Maryland House of Delegates
House Office Building, Room 231
Annapolis, Maryland 21401

Re: HB 1319 – City of Salisbury – Alcoholic Beverages – Local Regulation and Control

Dear Chairman Davis and Members of the Committee:

I represent the Wicomico County Liquor Control Board (sometimes herein, the “Control Board” or the “Dispensary”), the state-created entity that runs the alcoholic beverage dispensaries and acts as the wholesale provider of strong spirits in Wicomico County. The Control Board operates three retail stores selling wine and liquor and is the exclusive supplier of fortified wine and liquor to bars, restaurants and other licensees in Wicomico County. The Control Board employs 36 people and turns over its net profits each year (\$738,800 in the most recent fiscal year) to Wicomico County, revenues which support education and other public services funded by Wicomico County government.

For the reasons stated herein, the Control Board has a number of serious concerns and objections to the proposed bill which would create a new City of Salisbury liquor licensing authority and therefore opposes HB 1319 in its current form.

1. **HB 1319 threatens the Dispensary system in Wicomico County.** The bill states that the Dispensary system “may operate” within Salisbury city limits, but does not assure it of exclusive authority over fortified wine and hard liquor sales as under current law. Compare proposed §28.5-301 to current §32-301 to -312 of the Alcoholic Beverages Code).¹ Since early December 2019, Salisbury officials have promised to protect the Dispensary’s unique role in the distribution of liquor in Wicomico County by including detailed provisions along the lines of

¹ All references are to the section numbers of HB 1319 or the Maryland Annotated Code, Alcoholic Beverages Article.

§§32-301 to -312 of current law; this bill, however, fails to do so. Merely tolerating the Dispensary within the City of Salisbury is not good enough.

2. **HB 1319 also threatens the Dispensary's wholesale operations.** HB 1319 would allow wholesalers to sell fortified wine and hard liquor directly to restaurants and bars in the City of Salisbury. This is contrary to current law which limits sales by wholesalers to the Dispensary. Compare proposed §28.5-501(a)(2),(3) with current §32-501(a); there is no reference in HB 1319 to any provision along the lines of §32-504 of current law, which prohibits wholesalers from selling or delivering liquor in Wicomico County for resale except to the Dispensary. Current law then protects retailers by limiting the mark-up from the Control Board's wholesale price. §32-309(e). The Control Board's auditor estimates that about \$400,000, or more than half, of the Dispensary's profits derive from wholesale sales. The changes wrought by HB 1319 would not only detrimentally impact the revenues to Wicomico County, the decrease in sales volume would diminish the Control Board's purchasing power, making its stores less competitive with competitors just across the state line in Delaware which already benefit from no sales tax, compared to Maryland's effective 9% tax. And finally, these impacts would ultimately cause the loss of an unknown number of jobs provided by the Dispensary.

3. **The bill splinters governmental responsibility over alcohol.** HB 1319 would reallocate alcoholic beverage control in a way that is undesirable and potentially irresponsible. With the single exception of Annapolis, local control of alcoholic beverage control in Maryland has resided at the county level (considering Baltimore City as a "county" for this discussion). No municipality in Maryland, except for Annapolis, has been granted alcoholic beverage control independent of its county. Is a change to this regime desirable? Instead of 24 subdivisions (plus Annapolis) regulating alcohol, how many of the 157 municipalities in Maryland² would choose to wrest control of alcohol from their resident counties? As with education, it seems desirable to keep local alcohol control at the county level, rather than splinter regulation between the counties and an unknown number of municipalities and townships.

4. **Alcohol control may be weakened by HB 1319.** The bill raises questions about the ability of a new municipal regulator to effectively control alcohol. Licensing boards that regulate alcohol under current law don't hand out a license automatically like a Clerk of Court issues a contractor's license. They consider not only public convenience, but also impose strict controls to assure responsible ownership, monitor compliance to prevent underage drinking, and protect communities from blight and undesirable side effects that often accompany alcohol. Such controls are diminished or simply missing under the legislation proposed here. Consider:

² This is the number of members claimed on the Maryland Municipal League website. The actual number of municipalities in Maryland may be larger.

- a) Current law contains distance restrictions protecting schools and churches from alcoholic beverage licensees within a certain radius, but accommodates alcohol-serving establishments within the Salisbury city center described in the law as the Downtown Plaza. HB 1319 simply reserves on this point. Compare §32-1601 with proposed §28.5-1601.
- b) Under current law, Wicomico County has a stricter Alcohol Awareness program. This bill opts for a less stringent Alcohol Awareness program as utilized in other jurisdictions. Compare §32-1903 with §28.5-1901 which adopts, *inter alia*, §4-505 by reference.
- c) HB 1319 has no provision analogous to the current law's prohibition regarding unlicensed adult entertainment establishments in Wicomico County. Offending establishments are subject to two years imprisonment and/or a fine up to \$10,000. Compare §32-2501 with §28.5-2501.
- d) Under current law, Wicomico County has prohibitions on open containers and minors loitering in licensed establishments that are omitted under HB 1319. See §§32-2704 and -2705.
- e) HB 1319 lacks numerous enforcement tools available to the current Wicomico County license commissioners. Compare §32-2602 to -2614 with §§28.5-2601 and -2602.
- f) Penalties are weaker under HB 1319. Current law allows a violator in Wicomico County to be suspended, fined up to \$5,000, or both. Under the proposed legislation, an offender in the City of Salisbury could be fined up to \$2,000 *in lieu of* suspension. Compare §32-2802 with §28.5-2802.
- g) Other elements necessary to effective alcohol regulation are simply missing in action in the proposed bill. The bill contains no detail about the classes of licenses to be provided, see §§28.5-601, 801, 901, 1001, yet other regulations refer to license classes that don't exist under the bill. See §§28.5-1102, -1103.

5. **HB 1319 would disadvantage small businesses and operators outside of Salisbury.** As indicated above, the proposed bill would produce changes in the way liquor is provided at wholesale to the 80 or so licensees in Salisbury, and would provide incomplete or inconsistent regulation of alcohol in the city. Licensees in Fruitland, Delmar and the unincorporated parts of Wicomico County, about 60 in number, would continue under the current law and regulations. Larger operators in the City of Salisbury would get more lax regulation and could take advantage of new wholesale purchasing power, as compared to smaller businesses and fraternal organizations which can't purchase in bulk like the Dispensary which supplies them now. These smaller market participants are already at a disadvantage, a disparity which would only increase under this bill.

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In conclusion, HB 1319 appears to my client, the Wicomico County Liquor Control Board, to be a deeply flawed, ill-advised piece of legislation that raises a number of serious concerns, as spelled out above. This bill is being rushed with a minimum of consultation and consent on the part of various stakeholders. This lack of consultation and input shows up in the number of provisions that are inconsistent with past promises to respect and protect the unique position of the Dispensary in the distribution of alcohol in Wicomico County, that are inconsistent with other regulations regarding alcohol in Wicomico County, or that are simply incomplete ("reserved") and left to future legislation or regulation. The Salisbury-Wicomico County community hasn't had any meaningful opportunity for public input on the proposed changes here that would dismantle a county-wide licensing scheme that has worked well and threatens a Dispensary system that enjoys public support, except for a few large operators who make a lot of noise in their own self-interest. There is no compelling reason to change to a new, untested system of municipal regulation and many reasons to retain the existing system at the county level that has worked effectively in the public interest for many years.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "V. Laws", with a long horizontal flourish extending to the right.

Victor H. Laws, III

VHLIII:jme