

HOUSE BILL 917

A2

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CF SB 607

By: **Delegates Clippinger, Edelson, and R. Lewis**

Introduced and read first time: February 9, 2023

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City – Alcoholic Beverages – 46th Alcoholic Beverages District –**
3 **Revisions**

4 FOR the purpose of authorizing the Board of License Commissioners for Baltimore City to
5 approve a certain license expansion under certain circumstances; authorizing the
6 establishment and conversion of various alcoholic beverages licenses in the 46th
7 alcoholic beverages district in Baltimore City; altering certain seating capacity
8 requirements for a certain establishment located in a certain area in the 46th
9 alcoholic beverage district; extending for a certain amount of time the expiration of
10 an alcoholic beverages license issued for a certain area for the purposes of
11 transferring the license to another owner at the same location; and generally relating
12 to alcoholic beverages in Baltimore City.

13 BY repealing and reenacting, without amendments,
14 Article – Alcoholic Beverages
15 Section 12–102 and 12–1604(a) and (b)
16 Annotated Code of Maryland
17 (2016 Volume and 2022 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Alcoholic Beverages
20 Section 12–104, 12–1604(c), and 12–1706(d)
21 Annotated Code of Maryland
22 (2016 Volume and 2022 Supplement)

23 BY adding to
24 Article – Alcoholic Beverages
25 Section 12–1604.1
26 Annotated Code of Maryland
27 (2016 Volume and 2022 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

Article – Alcoholic Beverages

12–102.

This title applies only in Baltimore City.

12–104.

(a) To be considered a restaurant, an establishment shall meet the requirements of this section.

(b) An establishment shall have average daily receipts from the sale of food that are at least 40% of its total daily receipts.

(c) The Board may not consider as food an ingredient or a garnish used with or mixed with an alcoholic beverage that is prepared and served for on–premises consumption.

(d) **(1)** The Board may waive the food requirement specified under subsection (b) of this section 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.

(2) FOR A LICENSE THAT MEETS THE QUALIFICATIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD MAY APPROVE AN EXPANSION OF THE LICENSED PREMISES ONTO A NONCONTIGUOUS PROPERTY WITH A SECOND SEPARATE USE PERMIT ISSUED BY THE CITY, IF THE SECOND SEPARATE USE PERMIT SPECIFICALLY REFERS TO THE ALCOHOLIC BEVERAGES LICENSE AT THE PRIMARY LOCATION.

12–1604.

(a) This section applies only to the 46th alcoholic beverages district, which at all times is coterminous with the 46th legislative district in the Legislative Districting Plan of 2012.

(b) Except as provided in subsections (c), (d), and (i) of this section, the Board may not issue a new license in the 46th alcoholic beverages district.

(c) **(1)** The Board may issue:

(i) a 1–day license; and

(ii) except as provided in paragraph (2) of this subsection, and subject to paragraphs (3) and (4) of this subsection, a Class B beer, wine, and liquor license for use by a restaurant if the average daily receipts from the sale of food are at least 51% of the total daily receipts of the restaurant.

(2) The Board may issue a Class B beer, wine, and liquor license:

(i) 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. subject to paragraph (3) of this subsection, average daily receipts from the sale of food that are at least 65% of the total daily receipts of the restaurant;

(ii) 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 the sale of food that are at least 65% of the total daily receipts of the restaurant; and

4. except as provided in paragraph (5) of this subsection, no sales for off-premises consumption;

(iii) for not more than three restaurants in a residential planned unit development for Silo Point as approved by the Mayor and City Council of Baltimore City in Ordinance 04-697 on June 23, 2004, if each restaurant has:

1. a minimum capital investment of \$700,000;
2. seating for more than 75 individuals;
3. average daily receipts from the sale of food that are at least 65% of the total daily receipts of the restaurant; and
4. except as provided in paragraph (5) of this subsection, no sales for off-premises consumption;

(iv) for not more than three restaurants in a business planned unit development in ward 24, precinct 5, if each restaurant:

1. has a minimum capital investment of \$700,000;

2. has seating for more than 75 individuals, but not more than 150 individuals;

3. has average daily receipts from the sale of food that are at least 51% of the total daily receipts of the restaurant; and

4. except as provided in paragraph (5) of this subsection, may not sell for off-premises consumption;

(v) for a restaurant in the area that is commonly 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, and that has:

1. seating for more than 150 individuals;

2. a minimum capital investment of \$700,000; and

3. subject to paragraph (3) of this subsection, average daily receipts from the sale of food that are at least 60% of the total daily receipts of the restaurant; [and]

(vi) 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 for the sale of food that are at least 65% of the total daily receipts of the restaurant; and

4. has executed a memorandum of understanding with Brewer's Hill Neighbors, Inc.; AND

(VII) 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 DUCKPIN BOWLING ALLEY; AND

2. A MINIMUM CAPITAL INVESTMENT OF \$500,000, EXCLUDING RESIDENTIAL IMPROVEMENTS.

(3) When a license is renewed, the license holder shall file with the Board a statement of average daily receipts and an affidavit of a licensed certified public accountant that verify that the license holder has met the requirement under paragraph (1)(ii) or (2)(i)3 or (v)3 of this subsection.

(4) (i) A license may not be issued under paragraph (1)(ii) of this subsection for use in an establishment that is a fast-food-style restaurant.

(ii) A license issued under paragraph (1)(ii) of this subsection may not be transferred from the location of its first issuance.

(5) The Board may issue a Class B beer, wine, and liquor license for a restaurant in ward 21, precinct 4 in the 1400 block of Warner Street that has:

(i) seating for more than 150 individuals;

(ii) average daily receipts from the sale of food that are at least 40% of the total daily receipts of the restaurant; and

(iii) no sales for off-premises consumption.

(6) A license specified under this subsection, including a license that does not allow sales for off-premises consumption, may include an off-sale privilege for sales of refillable containers under a refillable container license issued in accordance with § 12-1102 of this title.

(7) A LICENSE ISSUED UNDER PARAGRAPH (2)(VII) OF THIS SUBSECTION:

(I) IS NOT REQUIRED TO HAVE A MINIMUM AMOUNT OF SEATING FOR PATRONS OR A MINIMUM AMOUNT OF FOOD SALES TO MAINTAIN LICENSURE; AND

(II) MAY NOT BE TRANSFERRED FROM THE LOCATION OF ITS FIRST ISSUANCE.

12-1604.1.

(A) THIS SECTION APPLIES ONLY TO A LICENSE HOLDER OF A CLASS D BEER AND LIGHT WINE LICENSE FOR USE IN THE 46TH ALCOHOLIC BEVERAGES DISTRICT.

(B) (1) A LICENSE HOLDER WHO HOLDS A VALID CLASS D BEER AND LIGHT WINE LICENSE MAY APPLY TO THE BOARD TO CONVERT THE LICENSE TO A CLASS D BEER, WINE, AND LIQUOR LICENSE IF THE LICENSE HOLDER:

(I) MAINTAINS AVERAGE DAILY RECEIPTS FROM THE SALE OF FOOD THAT ARE AT LEAST 51% OF ITS TOTAL DAILY RECEIPTS;

(II) EXECUTES A MEMORANDUM OF UNDERSTANDING WITH THE RELEVANT LOCAL NEIGHBORHOOD ASSOCIATION AS DETERMINED BY THE BOARD;

(III) OPERATES A LOCATION WITH NOT MORE THAN 75 SEATS;
AND

(IV) PAYS A SPECIAL TRANSFER FEE OF \$15,000, IN ADDITION TO ANY FEES REQUIRED UNDER § 12-1704 OF THIS TITLE.

(2) IF A CLASS D BEER AND LIGHT WINE LICENSE IS CONVERTED TO A CLASS D BEER, WINE, AND LIQUOR LICENSE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE CLASS D BEER, WINE, AND LIQUOR LICENSE:

(I) MAY NOT BE TRANSFERRED TO A NEW LOCATION; AND

(II) IS SUBJECT TO THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION.

(C) AN APPLICATION TO CONVERT A CLASS D BEER AND LIGHT WINE LICENSE UNDER SUBSECTION (B)(1) OF THIS SECTION IS A TRANSFER SUBJECT TO THE PROVISIONS OF § 12-1701(B)(1) OF THIS TITLE.

12-1706.

(d) (1) Except as provided in paragraph (2) of this subsection, a license may not be transferred into or within:

(i) ward 1, precincts 2 and 3;

(ii) ward 2 in its entirety;

(iii) ward 3, precinct 3; and

(iv) ward 26, precincts 3 and 10.

(2) This subsection does not apply to an application for a new license or a transfer from within the areas described in paragraph (1) of this subsection if the new license or transfer is for:

(i) a hotel;

(ii) an establishment located in a planned unit development if the application for the planned unit development was filed or approved before December 31, 1995;

(iii) an establishment located in an area governed by the Inner Harbor East Urban Renewal Plan; or

(iv) an establishment that has:

1. a seating capacity of fewer than 150 individuals; [or]

2. average daily receipts from the sale of food that are at least 51% of the total daily receipts of the establishment; **OR**

3. A SEATING CAPACITY OF FEWER THAN 200 INDIVIDUALS ONLY IF THE ESTABLISHMENT IS WITHIN WARD 3, PRECINCT 3.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding § 12-1705 of the Alcoholic Beverages Article, a Class B-D-7 license issued for a premises in the 4300 block of East Lombard Street shall be considered unexpired until the end of July 1, 2024, for the purposes of being transferred to another owner at the same location.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2023. Section 2 of this Act shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2024, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.