

Chapter 100

(House Bill 110)

AN ACT concerning

Alcoholic Beverages – ~~Follow-Up~~ Criminal History Records Checks – Procedures

FOR the purpose of ~~requiring~~ establishing certain uniform procedures for certain criminal history records checks requested from the Criminal Justice Information System Central Repository (~~CJIS~~) by certain local licensing boards; requiring the Central Repository to provide local licensing boards with a revised printed criminal record statement of a license applicant or license holder if information is reported to ~~CJIS~~ the Central Repository after the initial criminal history records check is completed; requiring ~~CJIS~~ the Central Repository to stop providing the local licensing boards with revised printed statements under certain circumstances; defining a certain term; making certain conforming and stylistic changes; and generally relating to criminal history records checks of alcoholic beverages licensees and license applicants.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 1-102(a)(19)
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 10-103(a), (b)(9)(v) and (13), and (c) through (e)
Annotated Code of Maryland
(2011 Replacement Volume)

BY adding to
Article 2B – Alcoholic Beverages
Section ~~10-103(f)~~ 10-103(a-1)
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

1-102.

(a) (19) “Local licensing board” means a board of license commissioners of a county or the Mayor and Aldermen of the City of Annapolis.

10-103.

(a) (1) In this section[, “county”] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(3) “COUNTY police” as it applies to Harford County includes the Harford County Sheriff’s Department and all Harford County municipal police departments.

(A-1) (1) THIS SUBSECTION APPLIES TO ANY CRIMINAL HISTORY RECORDS CHECK REQUESTED BY A LOCAL LICENSING BOARD UNDER THIS SECTION.

(2) THE LOCAL LICENSING BOARD SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH APPLICANT AND LICENSE HOLDER.

(3) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE LOCAL LICENSING BOARD SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(i) TWO COMPLETE SETS OF LEGIBLE FINGERPRINTS OF THE APPLICANT OR LICENSE HOLDER TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(ii) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS; AND

(iii) THE MANDATORY PROCESSING FEE THAT THE FEDERAL BUREAU OF INVESTIGATION REQUIRES FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(4) IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD

TO THE APPLICANT OR LICENSE HOLDER AND THE LOCAL LICENSING BOARD
THE CRIMINAL HISTORY RECORD INFORMATION OF THE APPLICANT OR
LICENSEE.

(5) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY
UNDER THIS SECTION:

(I) SHALL BE CONFIDENTIAL;

(II) MAY NOT BE REDISSEMINATED; AND

(III) SHALL BE USED ONLY FOR THE LICENSING PURPOSE
AUTHORIZED BY THIS SECTION.

(6) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK
UNDER THIS SUBSECTION MAY CONTEST THE CONTENTS OF THE PRINTED
STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223
OF THE CRIMINAL PROCEDURE ARTICLE.

~~(f) (1) IN THIS SUBSECTION, "CJIS" MEANS THE CRIMINAL JUSTICE
INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF
PUBLIC SAFETY AND CORRECTIONAL SERVICES.~~

~~(2) (7) WHEN CRIMINAL HISTORY RECORD INFORMATION OF
AN APPLICANT OR LICENSE HOLDER IS REPORTED TO ~~CJIS~~ THE CENTRAL
REPOSITORY AFTER THE INITIAL CRIMINAL HISTORY RECORDS CHECK IS
COMPLETED, ~~CJIS~~ THE CENTRAL REPOSITORY SHALL PROVIDE THE LOCAL
LICENSING BOARD WITH A REVISED PRINTED STATEMENT OF THE CRIMINAL
RECORD OF THE APPLICANT OR LICENSE HOLDER.~~

~~(3) (8) IF THE LOCAL LICENSING BOARD INFORMS ~~CJIS~~ THE
CENTRAL REPOSITORY THAT AN INDIVIDUAL IS NO LONGER AN APPLICANT OR
LICENSE HOLDER, ~~CJIS~~ THE CENTRAL REPOSITORY SHALL STOP PROVIDING
THE LOCAL LICENSING BOARD WITH REVISED PRINTED STATEMENTS OF THE
CRIMINAL RECORD OF THE INDIVIDUAL.~~

(b) Except as otherwise provided in this subtitle, every new application for a
license shall be made to the Board of License Commissioners on forms prescribed by
the Comptroller and sworn to by the applicant. Every application for a license shall
contain the following:

(9) (v) 1. A. In this subparagraph the following words have
the meanings indicated.

B. “Applicant” means an applicant for a new alcoholic beverages license or for a transfer of an existing alcoholic beverages license.

C. “Board” means the Board of License Commissioners of Somerset County.

2. This subparagraph applies only in Somerset County.

3. The Board shall:

A. Require an applicant to be fingerprinted;

B. Forward the fingerprints to the [Criminal Justice System] Central Repository [in the Department of Public Safety and Correctional Services]; and

C. Request from the Central Repository a State and national criminal history records check of the applicant.

4. The Board may not disseminate information from criminal records to the public but may make information from criminal records available to members of the Board and their designees.

5. The Board shall charge an applicant a fee to cover the cost of fingerprinting and performing a State and national criminal history records check.

6. The Board may exempt from this subparagraph a license holder who seeks to renew an alcoholic beverages license.

(13) (i) 1. A statement as to whether the applicant has ever been adjudged guilty of any offense against the laws of the State or of the United States.

2. The respective boards shall destroy the records obtained under subparagraphs (ii), (iv), (v), (vi), (vii), (viii), (ix), and (xii) of this paragraph upon completion of its necessary use of the records;

(ii) 1. The provisions of this subparagraph (ii) apply in the following:

A. Anne Arundel County;

B. Harford County;

C. Prince George’s County;

- D. St. Mary's County;
- E. Worcester County; and
- F. Howard County.

2. The county board of license commissioners or the liquor control board may obtain criminal records on alcoholic beverages license applicants and their agents in its respective county from the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services] and county police.

(iii) The Worcester County Board of License Commissioners also may obtain criminal records pursuant to the provisions of subparagraph (ii) of this paragraph on the stockholders which hold at least 10% interest in the corporation and owners of a corporation when the application is being made for the use of the corporation;

(iv) In Montgomery County:

1. The Board of License Commissioners shall:

A. Obtain criminal records of alcoholic beverages license applicants from the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services] and THE Montgomery County Police;

B. Require applicants for alcoholic beverages licenses in the county to be fingerprinted; and

C. Forward the fingerprints through the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services] for transmittal to the Federal Bureau of Investigation for a national criminal history records check; and

2. Applicants for license renewal may be subject to these provisions.

(v) In Frederick County:

1. The Board of License Commissioners shall:

A. Obtain criminal records of alcoholic beverages license applicants from the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services];

B. Require applicants for alcoholic beverages licenses in the county to be fingerprinted; and

C. Forward the fingerprints through the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services] for transmittal to the Federal Bureau of Investigation for a national criminal history records check; and

2. Applicants for license renewal may not be subject to these provisions.

(vi) 1. The provisions of this subparagraph apply only in Cecil County, Charles County, Dorchester County, and Kent County.

2. The Boards of License Commissioners shall:

A. Obtain criminal records of new alcoholic beverages license applicants from the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services];

B. Require applicants for new alcoholic beverages licenses to be fingerprinted; and

C. Forward the fingerprints through the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services] for transmittal to the Federal Bureau of Investigation [(F.B.I.)] for a national criminal history records check. Applications for license renewal are not subject to these provisions.

3. The County Commissioners may set a fee to cover the cost of obtaining the fingerprints and the Maryland and national criminal history records check.

4. Except as provided in [sub-subparagraph] SUBSUBPARAGRAPH 6 of this subparagraph, the Boards shall keep all criminal records in a sealed envelope available only to the members of the Boards and the clerks to the Boards.

5. The hearing for a new applicant and the issuance of a license may not be delayed due to the failure of the [F.B.I.] **FEDERAL BUREAU OF INVESTIGATION** to provide the requested criminal history records check by the date of the scheduled hearing.

6. The Kent County Board of License Commissioners shall:

A. Keep all criminal records in a sealed envelope available only to the members of the Board and their designees; and

B. Adopt regulations to further preserve the confidentiality of information obtained under this subparagraph.

(vii) 1. The provisions of this subparagraph apply only in Wicomico County.

2. The Board of License Commissioners shall:

A. Obtain criminal records of license applicants from the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services];

B. Require applicants for licenses to be fingerprinted;
and

C. Forward the fingerprints through the [Department of Public Safety and Correctional Services] **CENTRAL REPOSITORY** for transmittal to the Federal Bureau of Investigation for a national criminal history records check;

(viii) In Harford County:

1. The Liquor Control Board shall:

A. Obtain criminal records of alcoholic beverages license applicants from the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services];

B. Require applicants for alcoholic beverages licenses in the county to be fingerprinted; and

C. Forward the fingerprints through the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services] for transmittal to the Federal Bureau of Investigation for a national criminal history records check; and

2. Applicants for license renewal may not be subject to these provisions.

(ix) In Carroll County:

1. The Board of License Commissioners shall:
 - A. Obtain criminal records of alcoholic beverages license applicants from the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services];
 - B. Require applicants for alcoholic beverages licenses in the county to be fingerprinted; and
 - C. Forward the fingerprints through the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services] for transmittal to the Federal Bureau of Investigation for a national criminal history records check; and
2. Applicants for license renewal may not be subject to these provisions.
 - (x) 1. This subparagraph applies only in Garrett County.
 2. In this subparagraph, “applicant” includes:
 - A. An applicant for renewal of an alcoholic beverages license; and
 - B. A shareholder, member, partner, owner, or other person with an ownership interest in a business entity that applies for an alcoholic beverages license.
3. The Board of License Commissioners may:
 - A. Obtain criminal records of an alcoholic beverages license applicant from the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services] and from other law enforcement agencies;
 - B. Require an applicant to be fingerprinted;
 - C. Forward the fingerprints through the Central Repository for transmittal to the Federal Bureau of Investigation for a national criminal history records check; and
 - D. Set a fee to cover the cost of obtaining the fingerprints and State and national criminal records.

4. Criminal records shall be kept in a sealed envelope accessible only by Board members and their clerks, and the criminal records shall be destroyed on completion of their necessary use.

(xi) 1. In Calvert County, for each application for a new alcoholic beverages license or for a transfer of an existing alcoholic beverages license, the Board of License Commissioners shall:

A. Obtain criminal records of the license applicant from the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services];

B. Require a license applicant to be fingerprinted; and

C. Forward the fingerprints through the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services] for transmittal to the Federal Bureau of Investigation for a national criminal history records check.

2. This subparagraph does not apply to an alcoholic beverages license renewal applicant.

(xii) In Howard County:

1. The Board of License Commissioners shall:

A. Obtain criminal records of alcoholic beverages license applicants from the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services] and from the Federal Bureau of Investigation;

B. Require applicants for alcoholic beverages licenses in the county to be fingerprinted; and

C. Forward the fingerprints through the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services] for transmittal to the Federal Bureau of Investigation for a national criminal history records check.

2. Applicants for license renewal may be subject to this subparagraph.

3. The Board shall:

A. Keep all criminal records confidential; and

B. Make all criminal records in its possession available only to members, clerks, administrators, and inspectors of the Board of License Commissioners and to members, clerks, administrators, and inspectors of the Howard County Alcoholic Beverage Hearing Board.

(xiii) 1. A. In this subparagraph the following words have the meanings indicated.

B. “Applicant” means an applicant for a new alcoholic beverages license or for a transfer of an existing alcoholic beverages license.

C. “Board” means the Board of Liquor License Commissioners of Talbot County.

2. This subparagraph applies only in Talbot County.

3. The Board shall:

A. Require an applicant to be fingerprinted;

B. Forward the fingerprints to the [Criminal Justice System] Central Repository [in the Department of Public Safety and Correctional Services]; and

C. Request from the Central Repository a State and national criminal history records check of the applicant.

4. The Board may not disseminate information from criminal records to the public but may make information from criminal records available to members of the Board and their designees.

5. The Board may charge an applicant for the cost of fingerprinting and performing a State and national criminal history records check.

6. The Board may exempt from this subparagraph a license holder who seeks to renew an alcoholic beverages license.

(xiv) In Baltimore City:

1. The Board of Liquor License Commissioners shall:

A. Obtain criminal records of alcoholic beverages license applicants from the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services];

B. Require applicants for alcoholic beverages licenses in Baltimore City to be fingerprinted; and

C. Forward the fingerprints through the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services] for transmittal to the Federal Bureau of Investigation for a national criminal history records check; and

2. Applicants for license renewal may not be subject to the provisions of this subparagraph.

(xv) 1. [A.] In this subparagraph, [the following words have the meanings indicated.

B. "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

C.] "Board" means the Anne Arundel County Board of License Commissioners.

2. In Anne Arundel County, the Board shall apply to the Central Repository for State and national criminal history records checks for each alcoholic beverages license applicant.

3. As part of the application for a criminal history records check, the Board shall submit to the Central Repository:

A. Two complete sets of the applicant's fingerprints taken on forms approved by the director of the Central Repository and the Director of the Federal Bureau of Investigation;

B. The fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records; and

C. The mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

4. In accordance with [§§ 10-201 through 10-234] **TITLE 10, SUBTITLE 2** of the Criminal Procedure Article, the Central Repository shall forward to the applicant and the Board the applicant's criminal history record information.

5. Information obtained from the Central Repository under this subparagraph shall be:

A. Confidential and may not be disseminated; and
B. Used only for the licensing purpose authorized under this subparagraph.

6. The subject of a criminal history records check under this subparagraph may contest the contents of the printed statement issued by the Central Repository under § 10–223 of the Criminal Procedure Article.

(c) (1) In Caroline County, when considering an application for a new license or a transfer of an existing license, the Board of License Commissioners shall:

(i) Obtain criminal records of the applicant from the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services];

(ii) Require the applicant to submit the applicant’s fingerprints;

(iii) Forward the fingerprints through the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services] for transmittal to the Federal Bureau of Investigation for a national criminal history records check; and

(iv) Keep all criminal records in a sealed envelope available only to the members of the Board and their designees.

(2) The Board shall charge a fee that the Board sets to cover the cost of obtaining the fingerprints and the results of the State and national criminal history records check.

(3) The Board may require applicants for license renewals to meet the requirements of this subsection.

(d) (1) In this subsection, “Board” means the St. Mary’s County Alcoholic Beverage Board.

(2) This subsection applies only in St. Mary’s County.

(3) For each license applicant, the Board shall:

(i) Apply to the [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services] for a State and national criminal history records check; and

(ii) Submit as part of an application for a criminal history records check:

1. Two complete sets of the applicant's legible fingerprints taken on forms approved by the Director of the [Criminal Justice Information System] Central Repository and the Director of the Federal Bureau of Investigation;

2. The mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check; and

3. The fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records.

(4) The [Criminal Justice Information System] Central Repository [of the Department of Public Safety and Correctional Services] shall provide the requested information in accordance with Title 10, Subtitle 2 of the Criminal Procedure Article.

(5) This subsection does not apply to an applicant for renewal of an alcoholic beverages license.

(6) The Board may establish a fee to cover the cost of obtaining:

(i) The applicant's fingerprints; and

(ii) The State and national criminal history records check.

(7) The Board shall:

(i) Keep all criminal records confidential; and

(ii) Make all criminal records in its possession available only to Board members, the Board's designees, the Board Administrator, and the Board's inspector.

(8) A hearing for an applicant for an alcoholic beverages license and the issuance of a license may not be delayed due to the failure of the Federal Bureau of Investigation to provide the requested criminal history records check by the date of the scheduled hearing.

(9) The Board shall adopt regulations to implement this subsection.

(e) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Applicant” means an applicant for a new alcoholic beverages license or for a transfer of an existing alcoholic beverages license.

(iii) “Board” means the Board of License Commissioners of Washington County.

[(iv) “Central Repository” means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.]

(2) This subsection applies only in Washington County.

(3) (i) The Board shall apply to the Central Repository for a State and national criminal history records check for each applicant.

(ii) As part of the application for a criminal history records check, the Board shall submit to the Central Repository:

1. Two complete sets of the applicant’s legible fingerprints taken on forms approved by the director of the Central Repository and the director of the Federal Bureau of Investigation;

2. The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records; and

3. The mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(iii) In accordance with Title 10, Subtitle 2 of the Criminal Procedure Article, the Central Repository shall forward to the applicant and the Board the applicant’s criminal history record information.

(4) The Board shall establish a fee to cover the cost of obtaining:

(i) The applicant’s fingerprints; and

(ii) The State and national criminal records.

(5) Information obtained from the Central Repository under this subsection:

(i) Is confidential and may not be disseminated;

(ii) May be used only for licensing purposes;

(iii) Shall be kept in sealed envelopes available only to Board members, inspectors, administrators, and designees of the Board; and

(iv) Shall be destroyed on completion of their necessary use.

(6) A hearing for an applicant and the issuance of a license may not be delayed due to the failure of the Federal Bureau of Investigation to provide the requested criminal records by the date of the scheduled hearing.

(7) The subject of a criminal history records check under this subsection may contest the contents of the printed statement issued by the Central Repository under § 10–223 of the Criminal Procedure Article.

(8) The Board shall adopt regulations to implement this subsection and preserve the confidentiality of the information obtained under this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, April 10, 2012.