

HOUSE BILL 544

A2

11r0466

By: **Montgomery County Delegation**

Introduced and read first time: February 8, 2011

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County – Wine Consumption – Restaurants and Class C License**
3 **Facilities**

4 **MC 13–11**

5 FOR the purpose of allowing an individual in a restaurant or facility for which a
6 certain alcoholic beverages license is issued in Montgomery County to consume
7 under certain circumstances wine not purchased from or provided by the
8 restaurant or facility; authorizing a certain license holder to charge an
9 individual a certain fee under certain circumstances; applying the sales tax to
10 the fee; requiring a certain individual to dispose of or remove certain wine after
11 finishing a meal; allowing the individual to remove from the licensed premises a
12 bottle, the contents of which are only partially consumed, if the license holder or
13 an employee of the license holder inserts a cork in or places a cap on the bottle;
14 specifying that a certain bottle of wine is an “open container” for a certain
15 purpose; altering a certain definition; and generally relating to alcoholic
16 beverages in Montgomery County.

17 BY repealing and reenacting, with amendments,
18 Article 2B – Alcoholic Beverages
19 Section 12–107(b)(2)
20 Annotated Code of Maryland
21 (2005 Replacement Volume and 2010 Supplement)

22 BY adding to
23 Article 2B – Alcoholic Beverages
24 Section 12–107(b)(10)
25 Annotated Code of Maryland
26 (2005 Replacement Volume and 2010 Supplement)

27 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Tax – General
2 Section 11–101(m)
3 Annotated Code of Maryland
4 (2010 Replacement Volume)

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

7 **Article 2B – Alcoholic Beverages**

8 12–107.

9 (b) (2) **[It] EXCEPT AS PROVIDED IN PARAGRAPH (10) OF THIS**
10 **SUBSECTION, IT** shall be unlawful for any person to drink on the licensed premises of
11 any license holder any alcoholic beverages not purchased from the license holder on
12 said premises and not permitted by this article to be consumed on the premises; and it
13 shall be unlawful for any license holder to permit any person to drink any alcoholic
14 beverage not purchased from the said license holder on the premises covered by the
15 license which he holds and not permitted by this article to be consumed on the
16 premises.

17 **(10) (I) THIS PARAGRAPH APPLIES ONLY IN MONTGOMERY**
18 **COUNTY.**

19 **(II) AN INDIVIDUAL IN A RESTAURANT FOR WHICH ANY**
20 **CLASS B ALCOHOLIC BEVERAGES LICENSE IS ISSUED OR IN A FACILITY FOR**
21 **WHICH ANY CLASS C ALCOHOLIC BEVERAGES LICENSE IS ISSUED MAY CONSUME**
22 **WINE NOT PURCHASED FROM OR PROVIDED BY THE LICENSE HOLDER IF:**

23 **1. THE WINE IS CONSUMED WITH A MEAL; AND**

24 **2. THE INDIVIDUAL RECEIVES THE APPROVAL OF**
25 **THE LICENSE HOLDER.**

26 **(III) A LICENSE HOLDER THAT ALLOWS AN INDIVIDUAL TO**
27 **CONSUME WINE DESCRIBED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH**
28 **MAY CHARGE THE INDIVIDUAL A FEE FOR THE PRIVILEGE NOT EXCEEDING \$25,**
29 **ON WHICH A SALES TAX SHALL BE IMPOSED.**

30 **(IV) 1. THE INDIVIDUAL SHALL DISPOSE OF OR REMOVE**
31 **WINE DESCRIBED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH THAT**
32 **REMAINS AFTER FINISHING THE MEAL.**

33 **2. THE INDIVIDUAL MAY REMOVE FROM THE**
34 **LICENSED PREMISES A BOTTLE, THE CONTENTS OF WHICH ARE ONLY**

1 PARTIALLY CONSUMED WITH THE MEAL, IF THE LICENSE HOLDER OR AN
2 EMPLOYEE OF THE LICENSE HOLDER INSERTS A CORK IN OR PLACES A CAP ON
3 THE BOTTLE.

4 **3. A BOTTLE OF WINE THAT IS REMOVED FROM THE**
5 **LICENSED PREMISES UNDER SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH IS**
6 **AN “OPEN CONTAINER” FOR PURPOSES OF § 10–125 OF THE CRIMINAL LAW**
7 **ARTICLE.**

8 **Article – Tax – General**

9 11–101.

10 (m) “Taxable service” means:

11 (1) fabrication, printing, or production of tangible personal property by
12 special order;

13 (2) commercial cleaning or laundering of textiles for a buyer who is
14 engaged in a business that requires the recurring service of commercial cleaning or
15 laundering of the textiles;

16 (3) cleaning of a commercial or industrial building;

17 (4) cellular telephone or other mobile telecommunications service;

18 (5) “900”, “976”, “915”, and other “900”–type telecommunications
19 service;

20 (6) custom calling service provided in connection with basic telephone
21 service;

22 (7) a telephone answering service;

23 (8) pay per view television service;

24 (9) credit reporting;

25 (10) a security service, including:

26 (i) a detective, guard, or armored car service; and

27 (ii) a security systems service;

28 (11) a transportation service for transmission, distribution, or delivery
29 of electricity or natural gas, if the sale or use of the electricity or natural gas is subject
30 to the sales and use tax; [or]

1 (12) a prepaid telephone calling arrangement; OR

2 **(13) IN MONTGOMERY COUNTY, THE PRIVILEGE GIVEN TO AN**
3 **INDIVIDUAL UNDER ARTICLE 2B, § 12-107(B)(10) OF THE CODE TO CONSUME**
4 **WINE THAT IS NOT PURCHASED FROM OR PROVIDED BY A RESTAURANT OR**
5 **FACILITY.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2011.