

Chapter 137

(House Bill 817)

AN ACT concerning

**Prince George's County – ~~City of Bowie~~ – Alcoholic Beverages Licenses for
Supermarkets – Entertainment Permit – Exemptions and Revisions**

PG 307–12

FOR the purpose of ~~altering the maximum number of licenses of a certain class of alcoholic beverages license that may be issued in Prince George's County; authorizing the Prince George's County Board of License Commissioners to issue a Class D beer and light wine license with an off-sale privilege for use by a supermarket or similar type of premises in the City of Bowie under certain circumstances; prohibiting the Board of License Commissioners from issuing a Class D beer and light wine license with an off-sale privilege for use by a certain type of business; and generally relating to the issuance of a Class D beer and light wine license with an off-sale privilege within the corporate limits of the City of Bowie~~ exempting certain alcoholic beverages license holders in Prince George's County from the requirement of obtaining an entertainment permit before providing entertainment on their licensed premises; clarifying that a holder of an entertainment permit in Prince George's County must comply with zoning and use and occupancy laws and regulations; requiring an applicant for an entertainment permit to submit evidence to the satisfaction of the Board of License Commissioners that there are no unpaid taxes due from the applicant to the State, the county, or a municipal corporation; authorizing the Board to immediately suspend a permit on certain grounds; requiring the Board, at a certain permit hearing, to determine whether the permit holder violated certain laws; and generally relating to alcoholic beverages licenses in Prince George's County.

BY repealing and reenacting, without amendments,

Article 2B – Alcoholic Beverages

Section ~~9-217(a)~~ 6-201(r)(1)(i)

Annotated Code of Maryland

(2011 Replacement Volume)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section ~~9-217(b) and (h)~~ 6-201(r)(19)

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

~~9-217. 6-201.~~

~~(a)~~ (r) (1) (i) ~~This section~~ This subsection applies only in Prince George's County.

~~(b) Subject to subsection (b-1) of this section, the number of licenses of each class of alcoholic beverage licenses may not exceed the following maximum amounts:~~

- ~~(1) Beer license, Class A10~~
- ~~(2) Beer license, Class B23~~
- ~~(3) Beer license, Class C3~~
- ~~(4) Beer license, Class D76~~
- ~~(5) Beer and light wine license, Class A26~~
- ~~(6) Beer and light wine license, Class B45~~
- ~~(7) Beer and light wine license, Class B-GC4~~
- ~~(8) Beer and light wine license, Class B-Stadium1~~
- ~~(9) Beer and light wine license, Class C8~~
- ~~(10) Beer and light wine license, Class D[55]58~~
- ~~(11) Beer, wine and liquor license, Class A142~~
- ~~(12) Beer, wine and liquor license, Class B185~~
- ~~(13) Beer, wine and liquor license, Class B-AE5~~
- ~~(14) Beer, wine and liquor license, Class B-CE8~~
- ~~(15) Beer, wine and liquor license, Class B-CI2~~
- ~~(16) Reserved.~~
- ~~(17) Beer, wine and liquor license, Class B/ECF1~~

- ~~(18) Beer, wine and liquor license, Class B ECF/DS1~~
- ~~(19) Beer, wine and liquor license, Class B ECR1~~
- ~~(20) Beer, wine and liquor license, Class B Stadium1~~
- ~~(21) Beer, wine and liquor license, Class C~~
 - ~~(i) Under § 6 301(r)(2) 30~~
 - ~~(ii) Under § 6 301(r)(3) 25~~
 - ~~(iii) Under § 6 301(r)(4) 4~~
 - ~~(iv) Under § 6 301(r)(5) 12~~
 - ~~(v) Under § 6 301(r)(7) 1~~

~~(h) (1) Except as provided in [paragraph] PARAGRAPHS (2) AND (3) of this subsection, an alcoholic beverage license with an off sale privilege of any class, except by way of renewal, may not be transferred or issued to any business establishment of the type commonly known as chain stores, supermarkets, discount houses or their franchisors and franchisees or concessionaires. However, those establishments holding an alcoholic beverage license at the time of enactment of this section may continue to hold such license, and may, at the discretion of the Board of License Commissioners, change the classification of their license.~~

~~(2) Notwithstanding any other provision of this article, the Board of License Commissioners may approve the transfer from the 47th alcoholic beverages district to the 21st alcoholic beverages district of one Class D beer and light wine license with an off sale privilege for use by a supermarket or similar type of premises.~~

~~(3) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS D BEER AND LIGHT WINE LICENSE WITH AN OFF SALE PRIVILEGE FOR USE BY A SUPERMARKET OR SIMILAR TYPE OF PREMISES WITHIN THE CORPORATE LIMITS OF THE CITY OF BOWIE, IF:~~

~~1. A LICENSEE DOES NOT HAVE AN OWNERSHIP INTEREST IN MORE THAN ONE LICENSE ISSUED UNDER THIS PARAGRAPH;~~

~~2. THE APPLICANT FOR THE LICENSE PRESENTS TO THE BOARD OF LICENSE COMMISSIONERS A COPY OF A VALID LEASE IN THE CITY OF BOWIE FOR A TERM NOT LESS THAN 5 YEARS;~~

~~3. THE APPLICANT FOR THE LICENSE ALREADY HAS OCCUPIED THE PREMISES THAT IS THE SUBJECT OF THE LEASE UNDER ITEM 2 OF THIS SUBPARAGRAPH FOR AT LEAST 1 YEAR; AND~~

~~4. PROVIDED THERE IS STATE, COUNTY, OR MUNICIPAL INVESTMENT OR OTHER GOVERNMENTAL ECONOMIC PARTICIPATION IN THE LICENSED PREMISES, THE APPLICANT SEEKS TO OBTAIN A MEMORANDUM OF UNDERSTANDING WITH ANY LABOR ORGANIZATION THAT REPRESENTS THE EMPLOYEES OF THE LICENSED PREMISES STATING THAT THE LABOR ORGANIZATION AGREES TO FORBEAR FROM ADVERSE ECONOMIC ACTION AGAINST THE APPLICANT'S OPERATIONS.~~

~~(H) THE BOARD OF LICENSE COMMISSIONERS MAY NOT APPROVE A CLASS D BEER AND LIGHT WINE LICENSE WITH AN OFF-SALE PRIVILEGE UNDER THIS PARAGRAPH FOR USE BY:~~

~~1. A BUSINESS PRIMARILY ENGAGED IN THE SALE OF GENERAL MERCHANDISE THAT ALSO SELLS GROCERIES; OR~~

~~2. A BUSINESS THAT ALLOWS THE PURCHASE OF ALCOHOL AT ANY CUSTOMER-OPERATED MACHINE OR STAND LOCATED ON THE BUSINESS PREMISES.~~

(19) (i) A license holder that seeks to provide entertainment is not required to obtain a permit under this paragraph if:

1. The license is issued under paragraph (3), (9), (10), (11), (12), (13), (16), or (17) of this subsection or § 5-201(r)(4) of this article; [or]

2. The Board of License Commissioners determines that the holder's principal business is to provide family entertainment;

3. THE LICENSE IS A CLASS B (ON-SALE) LICENSE ISSUED FOR A RESTAURANT, AND THE LICENSE HOLDER PROVIDES ENTERTAINMENT FOR ADULTS AND CHILDREN THAT:

A. IS ANCILLARY TO THE OPERATION OF THE BUSINESS; AND

B. IS NOT THE PRIMARY FOCUS OF MARKETING OR PROMOTION FOR THE BUSINESS; OR

4. THE LICENSE IS A VETERANS OR FRATERNAL CLASS C LICENSE, AND THE LICENSE HOLDER PROVIDES ENTERTAINMENT THAT:

A. IS UNDER THE DIRECT SUPERVISION OF THE LICENSE HOLDER;

B. IS FOR ADULTS, CHILDREN, AND FAMILIES OF THE ORGANIZATION OR THE PUBLIC; AND

C. WHEN OFFERED, ENDS NOT LATER THAN MIDNIGHT.

(ii) There is a special entertainment permit that the Board may issue to a holder of any Class B (on-sale) license in accordance with this paragraph.

(iii) The Board shall determine the number of days in a week that a permit holder may exercise the privileges of the permit.

(iv) 1. Before approving an application for and issuing a permit under this paragraph, the Board shall hold a public hearing in accordance with the requirements for a public hearing on an application for a license under § 10-202(i) of this article.

2. At the public hearing, the Board shall give the applicant, supporters of the applicant, and opponents of the applicant an opportunity to be heard.

3. In making its determination whether to approve the application and issue the permit, the Board shall consider whether:

A. Approval and issuance of the permit is necessary for the accommodation of the public;

B. The applicant is a fit person to receive the permit;

C. The applicant has made any material false statement in the application;

D. The applicant has committed any fraudulent act in connection with the application;

E. The operation of the business, if the permit is issued, will unduly disturb the peace of the residents of the neighborhood where the place of business is located or to be located; and

F. There are any other reasons that justify the disapproval of the application or the refusal to issue the permit.

4. The Board shall hold a similar public hearing on receipt of a petition to:

A. Revoke an entertainment permit; or

B. Protest the renewal of an entertainment permit.

(v) 1. The permit authorizes the holder that complies with all requirements under county law, INCLUDING ZONING AND USE AND OCCUPANCY LAWS AND REGULATIONS, to impose a cover charge, offer facilities for patron dancing, and provide entertainment.

2. The permit is valid after 9 p.m. until 2 a.m. the following day.

(vi) Before being issued a permit, an applicant shall:

1. Submit evidence to the satisfaction of the Board that [the applicant]:

A. [Holds] THE APPLICANT HOLDS a Class B (on-sale) license; [and]

B. THERE ARE NO UNPAID TAXES DUE FROM THE APPLICANT TO THE STATE, THE COUNTY, OR A MUNICIPAL CORPORATION; AND

[B.] C. [Meets] THE APPLICANT MEETS all other entertainment permit requirements; and

2. A. Develop a security plan to prevent the premises for which the permit is sought from posing a threat to the peace and safety of the surrounding area; and

B. Submit the plan for review to the Board and the Chief of the Prince George's County Police Department.

(vii) 1. The Chief of the Prince George's County Police Department may submit comments to the Board on the adequacy of the security plan within 30 days after receipt of the plan.

2. The Board shall consider the comments, if any, of the Chief of Police and subsequently issue the permit, refuse to issue the permit, or condition the issuance of the permit on changes to the security plan.

3. If the Board issues the permit with a security plan that the Chief of the Prince George's County Police Department does not support, the Board shall specify in writing to the Chief the reasons why the Board has determined that the security plan is adequate.

4. Each permit holder shall follow the approved security plan at all times when the permit holder exercises the privileges of the permit.

(viii) A holder of the permit:

1. Shall implement the security plan; and

2. When the privileges authorized by the permit are being exercised, may not allow an individual who is under the age of 21 years on the premises for which the permit is issued, unless the individual is employed by or is an immediate family member of the holder.

(ix) The Board at any time may prohibit, condition, or restrict the type of entertainment offered by a holder of the permit, including lewd, exotic, loud, or raucous entertainment, if after a hearing the Board determines that the entertainment adversely impacts or unduly disturbs the community and is not conducive to the peace, health, welfare, or safety of the residents of the County.

(x) The annual fee for the permit is \$1,500, which is in addition to the annual fee for the Class B license.

(xi) A permit holder may employ sworn security personnel as part of the security plan if the sworn security personnel have full police powers in the jurisdiction where the premises of the permit holder is located.

(xii) 1. The circuit court may issue a temporary restraining order to immediately close to the public the entire operation of the premises if the County establishes that the security plan has not been implemented and that the public health, safety, or welfare requires emergency action.

2. On issuance of a temporary restraining order under subparagraph 1 of this subparagraph, the County shall give the permit holder written notice of and reasons for the closure.

3. The permit holder promptly shall be given an opportunity for a hearing in circuit court on the granting of the temporary restraining order in accordance with Title 15, Chapter 500 of the Maryland Rules.

(xiii) Subject to subparagraph (xiv) of this paragraph, the Board may immediately suspend a permit if the Board reasonably believes that the permit holder [violated]:

1. VIOLATED this paragraph; OR

2. IS NOT IN COMPLIANCE WITH A COUNTY ZONING PROPERTY STANDARD OR USE AND OCCUPANCY REQUIREMENT.

(xiv) If the Board immediately suspends a permit, the Board shall:

1. Give the permit holder notice of the suspension and a hearing on the suspension at which the permit holder may be heard and present evidence; and

2. Hold the hearing within 30 days after the suspension is imposed.

(xv) At the hearing, the Board shall determine:

1. Whether the permit holder violated this paragraph OR OTHER LAW; and

2. If a violation occurred, what penalty to impose among those listed in subparagraphs (xvi) and (xvii) of this paragraph.

(xvi) Subject to subparagraph (xvii) of this paragraph, if the Board finds that a person has violated this paragraph, the Board:

1. May revoke or continue the suspension of the permit; and

2. Shall impose on the person a penalty of:

A. For a first offense, at least \$1,000 but not more than \$12,500; and

B. For each subsequent offense, at least \$5,000.

(xvii) The Board:

1. Shall revoke the permit of a person who the Board determines violated this paragraph twice within a 24-month period; and

2. Until at least 12 months after the order of revocation was issued, may not consider an application from the person for a new permit or an application for a new permit for the premises that was the subject of the revocation.

(xviii) If the Board determines that the permit holder did not violate this paragraph, the Board shall immediately reinstate the permit.

(xix) The Board of License Commissioners shall adopt regulations to carry out this paragraph.

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

Approved by the Governor, April 10, 2012.