

SENATE BILL 755

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CF HB 228

By: **Senators Young, Brinkley, Madaleno, Pinsky, Raskin, and Rosapepe**

Introduced and read first time: February 3, 2012

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted

Read second time: March 19, 2012

CHAPTER _____

1 AN ACT concerning

2 **Consuming Wine Not Bought on Premises – Restaurants, Clubs, and Hotels**

3 FOR the purpose of allowing an individual in a certain restaurant, club, or hotel for
4 which a certain alcoholic beverages license is issued the privilege of consuming
5 wine not purchased from or provided by the license holder; requiring, for an
6 individual to exercise the privilege, that the wine be consumed under certain
7 circumstances; requiring a local licensing board to issue a certain permit at no
8 cost to certain license holders; authorizing a license holder to determine and
9 charge an individual a fee for the privilege; applying the sales tax to the fee;
10 requiring, with a certain exception, the license holder to dispose of wine after
11 the meal is finished; allowing an individual to remove from the licensed
12 premises a bottle, the contents of which are only partially consumed, if the
13 license holder or an employee of the license holder inserts a cork in or places a
14 cap on the bottle; specifying that a certain bottle of wine is an “open container”
15 for a certain purpose; prohibiting a license holder from allowing a certain
16 individual from consuming certain wine; and generally relating to the
17 consumption of wine.

18 BY repealing and reenacting, with amendments,
19 Article 2B – Alcoholic Beverages
20 Section 12–107(b)(2)
21 Annotated Code of Maryland
22 (2011 Replacement Volume)

23 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article 2B – Alcoholic Beverages
 2 Section 12–107(b)(10)
 3 Annotated Code of Maryland
 4 (2011 Replacement Volume)

5 BY repealing and reenacting, with amendments,
 6 Article – Tax – General
 7 Section 11–101(m)
 8 Annotated Code of Maryland
 9 (2010 Replacement Volume and 2011 Supplement)

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

12 **Article 2B – Alcoholic Beverages**

13 12–107.

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

22 **(10) (i) AN INDIVIDUAL IN A RESTAURANT, CLUB, OR HOTEL**
 23 **FOR WHICH A CLASS B OR CLASS C LICENSE ALLOWING THE SALE OF WINE IS**
 24 **ISSUED MAY CONSUME WINE NOT PURCHASED FROM OR PROVIDED BY THE**
 25 **LICENSE HOLDER ONLY IF:**

26 **1. THE WINE IS CONSUMED WITH A MEAL DURING**
 27 **THE HOURS OF SALE SPECIFIED BY THE LICENSE;**

28 **2. THE INDIVIDUAL RECEIVES THE APPROVAL OF**
 29 **THE LICENSE HOLDER;**

30 **3. THE WINE IS NOT AVAILABLE FOR SALE ON THE**
 31 **LICENSE HOLDER’S WINE LIST; AND**

32 **4. THE LICENSE HOLDER OBTAINS A PERMIT FROM**
 33 **THE LOCAL LICENSING BOARD BEFORE ALLOWING AN INDIVIDUAL THE**
 34 **PRIVILEGE OF CONSUMING WINE NOT PURCHASED FROM OR PROVIDED BY THE**
 35 **LICENSE HOLDER.**

1 (II) A LOCAL LICENSING BOARD SHALL ISSUE A PERMIT AT
2 NO CHARGE TO EACH LICENSE HOLDER WHO SEEKS TO ALLOW AN INDIVIDUAL
3 TO CONSUME WINE UNDER THE CONDITIONS SPECIFIED IN SUBPARAGRAPH (I)
4 OF THIS PARAGRAPH.

5 (III) A LICENSE HOLDER THAT ALLOWS AN INDIVIDUAL THE
6 PRIVILEGE OF CONSUMING WINE DESCRIBED UNDER SUBPARAGRAPH (I) OF
7 THIS PARAGRAPH MAY DETERMINE AND CHARGE THE INDIVIDUAL A FEE FOR
8 THE PRIVILEGE, ON WHICH A SALES TAX SHALL BE IMPOSED.

9 (IV) EXCEPT AS PROVIDED IN SUBPARAGRAPH (V) OF THIS
10 PARAGRAPH, THE LICENSE HOLDER SHALL DISPOSE OF ANY WINE DESCRIBED
11 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT REMAINS AFTER THE
12 MEAL IS FINISHED.

13 (V) THE INDIVIDUAL MAY REMOVE FROM THE LICENSED
14 PREMISES A BOTTLE OF WINE, THE CONTENTS OF WHICH ARE ONLY PARTIALLY
15 CONSUMED WITH THE MEAL, IF THE LICENSE HOLDER OR AN EMPLOYEE OF THE
16 LICENSE HOLDER INSERTS A CORK IN OR PLACES A CAP ON THE BOTTLE.

17 (VI) A BOTTLE OF WINE THAT IS REMOVED FROM THE
18 LICENSED PREMISES UNDER SUBPARAGRAPH (V) OF THIS PARAGRAPH IS AN
19 "OPEN CONTAINER" FOR PURPOSES OF § 10-125 OF THE CRIMINAL LAW
20 ARTICLE.

21 (VII) A LICENSE HOLDER MAY NOT ALLOW AN INDIVIDUAL
22 WHO IS UNDER 21 YEARS OLD OR WHO IS VISIBLY UNDER THE INFLUENCE OF AN
23 ALCOHOLIC BEVERAGE THE PRIVILEGE OF CONSUMING WINE DESCRIBED
24 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

25 Article – Tax – General

26 11-101.

27 (m) "Taxable service" means:

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

30 (2) commercial cleaning or laundering of textiles for a buyer who is
31 engaged in a business that requires the recurring service of commercial cleaning or
32 laundering of the textiles;

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- 1 (3) cleaning of a commercial or industrial building;
- 2 (4) cellular telephone or other mobile telecommunications service;
- 3 (5) “900”, “976”, “915”, and other “900”-type telecommunications
4 service;
- 5 (6) custom calling service provided in connection with basic telephone
6 service;
- 7 (7) a telephone answering service;
- 8 (8) pay per view television service;
- 9 (9) credit reporting;
- 10 (10) a security service, including:
- 11 (i) a detective, guard, or armored car service; and
- 12 (ii) a security systems service;
- 13 (11) a transportation service for transmission, distribution, or delivery
14 of electricity or natural gas, if the sale or use of the electricity or natural gas is subject
15 to the sales and use tax; [or]
- 16 (12) a prepaid telephone calling arrangement; **OR**

17 **(13) THE PRIVILEGE GIVEN TO AN INDIVIDUAL UNDER ARTICLE 2B**
18 **§ 12-107(B)(10) OF THE CODE TO CONSUME WINE THAT IS NOT PURCHASED**
19 **FROM OR PROVIDED BY A RESTAURANT, CLUB, OR HOTEL.**

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.