

Chapter 86

(Senate Bill 755)

AN ACT concerning

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

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

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

BY adding to
Article 2B – Alcoholic Beverages
Section 12–107(b)(10)
Annotated Code of Maryland
(2011 Replacement Volume)

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

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

Article 2B – Alcoholic Beverages

12-107.

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

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

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

2. THE INDIVIDUAL RECEIVES THE APPROVAL OF THE LICENSE HOLDER;

3. THE WINE IS NOT AVAILABLE FOR SALE ON THE LICENSE HOLDER'S WINE LIST; AND

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

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

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

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

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

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

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

Article – Tax – General

11-101.

(m) "Taxable service" means:

- (1) fabrication, printing, or production of tangible personal property by special order;
- (2) commercial cleaning or laundering of textiles for a buyer who is engaged in a business that requires the recurring service of commercial cleaning or laundering of the textiles;
- (3) cleaning of a commercial or industrial building;
- (4) cellular telephone or other mobile telecommunications service;
- (5) "900", "976", "915", and other "900"-type telecommunications service;
- (6) custom calling service provided in connection with basic telephone service;
- (7) a telephone answering service;

- (8) pay per view television service;
- (9) credit reporting;
- (10) a security service, including:
 - (i) a detective, guard, or armored car service; and
 - (ii) a security systems service;
- (11) a transportation service for transmission, distribution, or delivery of electricity or natural gas, if the sale or use of the electricity or natural gas is subject to the sales and use tax; [or]
- (12) a prepaid telephone calling arrangement; **OR**
- (13) THE PRIVILEGE GIVEN TO AN INDIVIDUAL UNDER ARTICLE 2B § 12-107(B)(10) OF THE CODE TO CONSUME WINE THAT IS NOT PURCHASED FROM OR PROVIDED BY A RESTAURANT, CLUB, OR HOTEL.**

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

Approved by the Governor, April 10, 2012.