

# SENATE BILL 307

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CF HB 144

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By: **Montgomery County Senators**

Introduced and read first time: January 17, 2014

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County – Alcoholic Beverages – Class B Beer, Wine and Liquor**  
3 **Licenses**

4 FOR the purpose of removing certain geographic restrictions for Class B beer, wine  
5 and liquor licenses issued in Montgomery County; altering the license fee for  
6 certain Class B beer, wine and liquor licenses obtained in Montgomery County;  
7 authorizing the Montgomery County Board of License Commissioners to issue a  
8 Class B beer, wine and liquor license in certain locations; prohibiting the Board  
9 from imposing on a holder of a Class B beer, wine and liquor license a limit on  
10 the number of additional licenses of the same class and type that the holder  
11 may apply for and be eligible to receive; repealing provisions of law allowing  
12 certain holders of a Class B beer, wine and liquor license to obtain an additional  
13 license or additional licenses, under certain circumstances; making a  
14 conforming change; and generally relating to alcoholic beverages licenses in  
15 Montgomery County.

16 BY repealing and reenacting, without amendments,  
17 Article 2B – Alcoholic Beverages  
18 Section 6–201(q)(1) and 8–216(a)(1)  
19 Annotated Code of Maryland  
20 (2011 Replacement Volume and 2013 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article 2B – Alcoholic Beverages  
23 Section 6–201(q)(2), 8–216(a)(2), 9–102(a), and 9–102.1  
24 Annotated Code of Maryland  
25 (2011 Replacement Volume and 2013 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article 2B – Alcoholic Beverages**

2 6–201.

3 (q) (1) (i) This subsection applies only in Montgomery County.

4 (ii) 1. In this subsection the following words have the  
5 meanings indicated.

6 2. “Board” means the Board of License Commissioners.

7 3. “Dining area” means the area occupied by patrons for  
8 the consumption of food and includes a cocktail area where food need not be served if  
9 there is no separate outdoor entrance to the cocktail area.10 (2) (i) [1.] The Board may issue this license only to the owner of  
11 any restaurant or hotel.12 [2. The restaurant shall be located in the second, third,  
13 fourth, sixth, seventh, eighth, ninth, tenth, or thirteenth election districts.14 3. The licensee may not be located in the Towns of  
15 Poolesville, Takoma Park, and Kensington.]16 (ii) 1. As a prerequisite for the initial issuance of a license  
17 under this subsection, the owner shall attest in a sworn statement that gross receipts  
18 from food sales in the restaurant or hotel will be at least equal to the gross receipts  
19 from the sale of alcoholic beverages.20 2. As a prerequisite for each renewal of a license issued  
21 under this subsection, the owner shall attest in a sworn statement that the gross  
22 receipts from food sales in the restaurant or hotel for the 12–month period  
23 immediately preceding the application for renewal have been at least equal to the  
24 gross receipts from the sale of alcoholic beverages.25 3. The Board by regulation shall provide for periodic  
26 inspection of the premises and for audits to determine the ratio of gross receipts from  
27 the sale of food to gross receipts from the sale of alcoholic beverages.28 4. Any regulations adopted by the Board shall include a  
29 requirement of at least monthly physical inspections of the premises during the initial  
30 license year of any licensee and the submission by the licensee to the Board, during  
31 the initial license year, of monthly statements showing gross receipts from the sale of  
32 food and gross receipts from the sale of alcoholic beverages for the immediately  
33 preceding month.

1                   5.     In the event that a licensee, during the initial license  
2 year, fails to maintain the sales ratio requirement provided in this paragraph for a  
3 period of three consecutive months or after the initial license year for each license or  
4 calendar year, the Board, in its discretion, may revoke the license. The Board may  
5 require any licensee to provide supporting data as it, in its discretion, deems  
6 necessary, in order to establish that the requirements of this section relating to the  
7 ratio of gross receipts from the sale of food to those from the sale of alcoholic beverages  
8 have been met.

9                   (iii)   A license issued under this subsection authorizes its holder  
10 to keep for sale and sell alcoholic beverages for consumption on the premises only, and  
11 alcoholic beverages may not be served to patrons or consumed at any bar, counter  
12 without seats, or other room but in the dining area. However, the seats in the cocktail  
13 area may not exceed 25 percent of the seats normally available for the general public  
14 in the dining area, including the cocktail area portion, but excluding special banquet  
15 and private party facilities.

16                   (iv)   Signs visible from the exterior of the building, advertising  
17 the sale of alcoholic beverages, are not permitted in connection with any restaurant or  
18 hotel holding a license issued under the provisions of this section except for the display  
19 of the menu then in use by the licensee.

20                   (v)    [1.]   The annual license fee is \$2,500.

21                   [2.    For the third license that is not restricted by location  
22 and is obtained by a licensee under § 9–102.1 of this article, the annual fee is \$5,000.]

23 8–216.

24           (a)   (1)   In this subsection “place of business” does not include:

25                   (i)    A country club; or

26                   (ii)   A restaurant located within the country inn zone of  
27 Montgomery County where alcoholic beverages are sold for consumption on the  
28 premises only; provided that a maximum of 2 (two) such alcoholic beverages licenses  
29 may be issued in any election district identified in paragraph (2) of this subsection.

30                   (2)   (i)    Except as provided in subparagraphs (ii), (iii), (iv), (v), and  
31 (vi) of this paragraph and in subsection (f) of this section, in Montgomery County, a  
32 license for the sale of alcoholic beverages authorized by this article may not be issued  
33 for any place of business located in Damascus (12th election district), and in the towns  
34 of Barnesville, Kensington, Laytonsville, Washington Grove and the City of Takoma  
35 Park.

36                   (ii)   In the town of Barnesville, the Montgomery County Board of  
37 License Commissioners may issue:

1                                   **1.     A CLASS B BEER, WINE AND LIQUOR LICENSE; OR**

2                                   **2.     [a] A special 7–day on–sale beer, wine and liquor**  
3 license to any bona fide religious, fraternal, civic, or charitable organization.

4                                   (iii)   In the town of Kensington, the Montgomery County Board of  
5 License Commissioners may issue:

6                                   **1.     A CLASS B BEER, WINE AND LIQUOR LICENSE; OR**

7                                   **2.     [a] A special 2–day on–sale beer and wine license or a**  
8 special 2–day on–sale beer, wine and liquor license to any bona fide religious,  
9 fraternal, civic, or charitable organization holding an event on municipal property  
10 located at 3710 Mitchell Street, Kensington, Maryland.

11                                   (iv)   1.     In the town of Kensington, the Montgomery County  
12 Board of License Commissioners may issue a special B–K beer and wine license or a  
13 special B–K beer, wine and liquor license for use on the premises of a restaurant  
14 located in the following commercial areas:

15                                   A.     The west side of Connecticut Avenue between  
16 Knowles Avenue and Perry Avenue;

17                                   B.     The east side of Connecticut Avenue between Knowles  
18 Avenue and Dupont Street and between University Boulevard and Perry Avenue;

19                                   C.     The west side of University Boulevard West;

20                                   D.     Dupont Avenue, west of Connecticut Avenue;

21                                   E.     Plyers Mill Road, west of Metropolitan Avenue;

22                                   F.     Summit Avenue between Knowles Avenue and  
23 Howard Avenue;

24                                   G.     Detrick Avenue between Knowles Avenue and  
25 Howard Avenue;

26                                   H.     The southwest side of Metropolitan Avenue between  
27 North Kensington Parkway and Plyers Mill Road;

28                                   I.     East Howard Avenue;

29                                   J.     Armory Avenue between Howard Avenue and  
30 Knowles Avenue;

1                                   K.    Montgomery Avenue between Howard Avenue and  
2 Kensington Parkway; or

3                                   L.    Kensington Parkway and Frederick Avenue, from  
4 Montgomery Avenue to Silver Creek.

5                                   2.    A special B–K beer, wine and liquor license or a  
6 special B–K beer and wine license authorizes the holder to keep for sale and sell  
7 alcoholic beverages for consumption on the premises only.

8                                   3.    A licensee shall maintain average daily receipts from  
9 the sale of food, not including carryout food, of at least 50% of the overall average daily  
10 receipts.

11                                  4.    In addition to the restrictions in subsubparagraphs 2  
12 and 3 of this subparagraph, the holder of a special B–K beer and wine license or a  
13 special B–K beer, wine and liquor license in the commercial areas specified in  
14 subsubparagraph 1I, J, K, and L of this subparagraph may not serve alcoholic  
15 beverages after 11 p.m.

16                                  (v)   1.    In the town of Kensington, the Montgomery County  
17 Board of License Commissioners may issue:

18                                   A.    Not more than three Class A (off–sale) beer and light  
19 wine licenses for use in the commercial areas specified in subparagraph (iv)1 of this  
20 paragraph; and

21                                   B.    Subject to subsubparagraphs 5 and 6 of this  
22 subparagraph, not more than three beer and wine sampling or tasting (BWST)  
23 licenses for holding tastings or samplings of beer and wine.

24                                   2.    A Class A beer and light wine license authorizes the  
25 holder to keep for sale and sell beer or light wine for consumption off the premises 7  
26 days a week, from 10 a.m. to 8 p.m. daily.

27                                   3.    A holder of a Class A beer and light wine license may  
28 not:

29                                   A.    Sell single bottles or cans of beer;

30                                   B.    Sell refrigerated products; or

31                                   C.    On a side, door, or window of the building of the  
32 licensed premises, place a sign or other display that advertises alcoholic beverages in a  
33 publicly visible location.

1                                   4.     The annual license fee is \$250.

2                                   5.     The Montgomery County Board of License  
3 Commissioners may issue a beer and wine sampling or tasting (BWST) license  
4 established under § 8–408.2 of this title to a holder of a Class A license under this  
5 subparagraph for holding tastings or samplings of beer and wine.

6                                   6.     A beer and wine sampling or tasting (BWST) license  
7 issued under this subparagraph is subject to the fee, serving limits, and other license  
8 requirements established under § 8–408.2 of this title.

9                                   (vi)   In Damascus (12th election district), the Montgomery  
10 County Board of License Commissioners may issue:

11                                   1.     **A CLASS B BEER, WINE AND LIQUOR LICENSE; OR**

12                                   2.     **[a] A special 7–day Class C on–sale beer, wine and**  
13 **liquor license to any bona fide volunteer fire department.**

14                                   **(VII) IN WASHINGTON GROVE, THE MONTGOMERY COUNTY**  
15 **BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS B BEER, WINE AND**  
16 **LIQUOR LICENSE.**

17 9–102.

18                                   (a)   (1)   No more than one license provided by this article, except by way of  
19 renewal or as otherwise provided in this section, shall be issued in any county or  
20 Baltimore City, to any person, or for the use of any partnership, corporation,  
21 unincorporated association, or limited liability company, in Baltimore City or any  
22 county of the State.

23                                   (2)   No more than one license shall be issued for the same premises  
24 except as provided in §§ 2–201 through 2–208, 2–301, and 6–701 and Title 7.5 of this  
25 article.

26                                   (3)   This subsection may not be construed to apply to § 6–201(r)(4),  
27 (15), (17), and (18), § 7–101(b) and (c), § 8–202(g)(2)(ii) and (iii), § 8–217(e), § 8–508, §  
28 8–902, **§ 9–102.1**, § 9–217(b–1), or § 12–202 of this article.

29 9–102.1.

30                                   (a)   This section applies only in Montgomery County.

31                                   (b)   (1)   In this section the following words have the meanings indicated.

32                                   (2)   “Board” means the Board of License Commissioners.

1            [(3) “Enterprise zone” has the meaning stated in § 5–701 of the  
2 Economic Development Article.]

3            [(4) (3) “License” means a Class B beer, wine and liquor on–sale  
4 only license.

5            [(5) (4) “Original license” means a Class B license as set forth in §  
6 6–201(q) of this article.

7            (c)    (1)    **THE BOARD MAY NOT IMPOSE ON A HOLDER OF A CLASS B  
8 BEER, WINE AND LIQUOR LICENSE A LIMIT ON THE NUMBER OF ADDITIONAL  
9 LICENSES OF THE SAME CLASS AND TYPE THAT THE HOLDER MAY APPLY FOR  
10 AND BE ELIGIBLE TO RECEIVE.**

11            (2)    After making an application and paying the fees, the holder of an  
12 original license may obtain the additional license or licenses authorized by this  
13 section.

14            (d)    (1)    A licensee may obtain additional licenses for premises operated as  
15 a public hotel.

16            (2)    An applicant for this additional license shall:

17                    (i)    Meet the minimum requirements set forth in § 6–201(a)(3) of  
18 this article. If the capital investment in the hotel exceeds \$3,000,000, the building  
19 height and elevator requirements required by that section do not apply; and

20                    (ii)    Have a minimum restaurant seating capacity, as specified in  
21 § 6–201(a)(3) of this article, of 100 persons.

22            [(e) (1) A licensee may obtain one additional license for premises which  
23 meet the qualifications specified in this subsection. For identification purposes, the  
24 additional license may be referred to as a “1–year” license.

25            (2)    An applicant for this additional license shall:

26                    (i)    Have the applicant’s place of business located in this State;

27                    (ii)    Have been the holder of a license for at least 1 year; and

28                    (iii)    Operate a restaurant, as defined by regulations of the  
29 Board.

30            (3)    This is an on–sale license only.

1 (f) (1) A licensee may obtain not more than two additional licenses for  
2 premises which meet the qualifications specified in this subsection. For identification  
3 purposes, this additional license may be referred to as an enterprise zone license.

4 (2) Each restaurant shall be located within one of two designated  
5 enterprise zones, with not more than one restaurant in each enterprise zone.

6 (3) The requirement that the holder have been a licensee for 1 year  
7 does not apply to this subsection.

8 (4) A licensee may obtain an additional license for a premises in a  
9 designated enterprise zone, even after the incentives and initiatives for a business  
10 entity in the designated enterprise zone are eliminated or reduced.

11 (g) (1) A licensee may obtain one additional license for premises which  
12 meet the qualifications specified in this subsection. For identification purposes, this  
13 additional license may be referred to as a "Rockville" license.

14 (2) The restaurant shall be located within the Rockville Town Center  
15 zoned property.

16 (3) The requirement that the holder have been a licensee for 1 year  
17 does not apply to this subsection.

18 (h) (1) A licensee may obtain one additional license for premises that meet  
19 the qualifications specified in this subsection. For identification purposes, each  
20 additional license may be referred to as a "Germantown" license.

21 (2) The restaurant shall be located within the Germantown Town  
22 Center district.

23 (3) The requirement that the holder have been a licensee for 1 year  
24 does not apply to this subsection.

25 (i) (1) A licensee may obtain up to one additional license for premises  
26 that meet the qualifications specified in this subsection. For identification purposes,  
27 each additional license may be referred to as a "Gaithersburg" license.

28 (2) The restaurant shall be located within the City of Gaithersburg.

29 (3) The requirement that the holder have been a licensee for 1 year  
30 does not apply to this subsection.

31 (j) (1) A licensee may obtain up to one additional license for premises  
32 that meet the qualifications specified in this subsection. For identification purposes,  
33 each additional license may be referred to as a "Montgomery Village" license.



1           (2)    The restaurant shall be located within the town sector zoned area  
2 called Montgomery Village.

3           (3)    The requirement that the holder have been a licensee for 1 year  
4 does not apply to this subsection.

5           (k)   (1)   A licensee may obtain one additional license for premises that meet  
6 the qualifications specified in this subsection. For identification purposes, each  
7 additional license may be referred to as an “East County” license.

8           (2)    The restaurant shall be located in an area bounded by the Howard  
9 County–Montgomery County line on the north, the Prince George’s  
10 County–Montgomery County line on the east, the Capital Beltway (I–495) on the  
11 south, and a line 3,000 feet west of the center of Columbia Pike on the west.

12           (3)    The requirement that the holder have been a licensee for 1 year  
13 does not apply to this subsection.

14           (l)   (1)   A licensee may obtain a maximum of two additional licenses for  
15 premises which meet the qualifications specified in this subsection. For identification  
16 purposes, each additional license may be referred to as an “incentive” license.

17           (2)    An applicant for an additional license shall:

18                   (i)    Have the applicant’s place of business located in this State;

19                   (ii)   Operate a restaurant, as defined by regulations of the  
20 Board; and

21                   (iii)   Hold an enterprise zone license, a Rockville license, a  
22 Germantown license, a Gaithersburg license, a Montgomery Village license, or an East  
23 County license.

24           (3)    A maximum of one incentive license may be issued for each  
25 enterprise zone license, Rockville license, Germantown license, Gaithersburg license,  
26 Montgomery Village license, or East County license.

27           (4)    The requirement that the holder have been a licensee for 1 year  
28 does not apply to this subsection.

29           (5)    This is an on–sale license only.

30           (m)   (1)   A licensee may obtain one additional license for premises which  
31 meet the qualifications specified in this subsection. For identification purposes, the  
32 additional license may be referred to as a “5–year” license.

33           (2)    An applicant for an additional license shall:

- 1 (i) Have the applicant's place of business located in this State;
- 2 (ii) Have been for at least 5 years the holder of two licenses  
3 under this section that are not restricted by location; and
- 4 (iii) Operate a restaurant, as defined by regulations of the  
5 Board.
- 6 (3) This is an on-sale license only.
- 7 (n) (1) Subsection (o) of this section excludes additional licenses issued  
8 pursuant to subsection (d) of this section, which relates to public hotels.
- 9 (2) This section does not permit the issuance to a person or for the use  
10 of any partnership, corporation, unincorporated association, or limited liability  
11 company of more than the number of licenses specified.
- 12 (o) (1) A licensee that holds an original license, may obtain a maximum of  
13 9 additional licenses and may not hold more than 10 licenses altogether.
- 14 (2) Subject to the requirements of subsections (e) through (m) of this  
15 section, a licensee may hold any combination of the following licenses:
- 16 (i) One 1-year license under subsection (e) of this section;
- 17 (ii) One 5-year license under subsection (m) of this section;
- 18 (iii) One enterprise zone license in each of two enterprise zones  
19 under subsection (f) of this section;
- 20 (iv) One Rockville license under subsection (g) of this section;
- 21 (v) One Germantown license under subsection (h) of this  
22 section;
- 23 (vi) One Gaithersburg license under subsection (i) of this section;
- 24 (vii) One Montgomery Village license under subsection (j) of this  
25 section;
- 26 (viii) One East County license under subsection (k) of this section;  
27 and
- 28 (ix) Two incentive licenses under subsection (l) of this section.]

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2    July 1, 2014.