

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 485

(Delegate Impallaria)

Economic Matters

Education, Health, and Environmental Affairs

Harford County - Alcoholic Beverages - Common Direct or Indirect Sharing of Profit

This bill repeals the presumption that a common direct or indirect sharing of profit from the sale of alcoholic beverages constitutes an indirect ownership interest in an alcoholic beverages license for the purpose of enforcing the general prohibition against a person having an interest in more than one alcoholic beverages license in Harford County.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: None.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: In Harford County, with specified exceptions, a person may not have an interest in more than one alcoholic beverages license. The prohibition applies whether the license is held or controlled by direct or indirect ownership, by franchise operation, by stock ownership, by interlocking directors or interlocking stock ownership, or in any other manner. Indirect ownership is presumed to exist between any combination of individuals, corporations, limited liability companies, partnerships, limited partnerships, joint ventures, associations, or other persons if any of the following conditions exist between them:

- a common parent company;
- a franchise agreement;
- a licensing agreement;
- a concession agreement;
- dual membership in a chain of businesses commonly owned and operated;
- a sharing of directors, stockholders, partners, or members, or a sharing of directors, stockholders, partners, or members of parents or subsidiaries;
- common direct or indirect sharing of profit from the sale of alcoholic beverages; or
- a sharing of a common trade name, trademark, logo, or theme, or mode of operation identifiable by the public.

Background: One example of a profit sharing agreement is a “percentage rent provision” in a commercial lease. According to the American Bar Association, under a percentage rent provision or a percentage rent lease, a tenant pays rent to a landlord based on a percentage of the sales at the premises in addition to, or in lieu of, a base rent. Percentage rent can be calculated and paid monthly, quarterly, or annually, as negotiated

In fiscal 2016, 196 alcoholic beverages licenses were issued for use in Harford County.

Additional Information

Prior Introductions: None.

Cross File: Although SB 1177 (Senators Jennings and Norman – Education, Health, and Environmental Affairs) is designated as a cross file, it is different.

Information Source(s): Harford County; American Bar Association; Department of Legislative Services

Fiscal Note History: First Reader - February 14, 2017
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