

BRIAN E. FROSH
ATTORNEY GENERAL



SANDRA BENSON BRANTLEY
COUNSEL TO THE GENERAL ASSEMBLY

ELIZABETH F. HARRIS
CHIEF DEPUTY ATTORNEY GENERAL

CAROLYN A. QUATTROCKI
DEPUTY ATTORNEY GENERAL

KATHRYN M. ROWE
DEPUTY COUNSEL

JEREMY M. MCCOY
ASSISTANT ATTORNEY GENERAL

DAVID W. STAMPER
ASSISTANT ATTORNEY GENERAL

THE ATTORNEY GENERAL OF MARYLAND
OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

April 6, 2018

The Honorable Lawrence J. Hogan, Jr.
Governor of Maryland
State House
100 State Circle
Annapolis, Maryland 21401

RE: *House Bill 159 – “Montgomery County - Alcoholic Beverages - Basket of Cheer Permit”*

Dear Governor Hogan:

We have reviewed and hereby approve for constitutionality and legal sufficiency House Bill 159 – “Montgomery County - Alcoholic Beverages - Basket of Cheer Permit.” In the course of our review, we have determined that House Bill 159 is not an expansion of gaming that would require a referendum under Article XIX, § 1(e) of the Maryland Constitution.

House Bill 159 creates a basket of cheer permit in Montgomery County. The permit allows the holder of a Class C per diem beer and wine license or a Class C beer, wine, and liquor license in Montgomery County to provide a “basket of cheer” as a prize in a raffle at a benefit performance. Current law permits a qualified organization that has a county-issued permit to conduct a raffle in Montgomery County for prizes of money or merchandise to benefit charity or further the purposes of the qualified organization. Criminal Law Article (“CR”), § 13-1810(a) and (f), § 13-1811. A qualified organization is a religious organization, a volunteer fire company, a volunteer rescue squad, a fraternal organization, a patriotic organization, an educational organization, or a charitable organization. CR § 13-1801(c).

A Class C per diem license can be issued to a club for the use of a person holding an entertainment event conducted by the club, at the place described in the license, and for a period of up to 7 days. Alcoholic Beverages Article (“AB”), § 4-1203(a). A “club” is an

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association or corporation that is organized on a nonprofit basis and operated exclusively for educational, social, fraternal, patriotic, political, or athletic purposes. AB § 1-101(e).

To the extent that the bill allows a club that is not a qualified organization to conduct a raffle, it would appear to be an expansion of gaming. It is our view, however, that it would not be an expansion of “commercial gaming” that would trigger the referendum requirement under Maryland Constitution, Article XIX, § 1(e). First, existing law limits Class C per diem license to nonprofit organizations. Second, the bill permits a raffle only at a “benefit performance.” The term “benefit performance” appears in only two parts of the Annotated Code. It is used in Criminal Law Article, Title 13, Subtitle 19 to describe events at which legal charitable gaming is conducted. It also appears as a portion of the definition of “gaming event” in CR § 12-101 (e)(5). The term “gaming event,” like the term “benefit performance,” is used only to describe events with legal charitable gaming. See CR § 12-108, and sections throughout Title 13. Because House Bill 159 permits only charitable gaming, it does not trigger the referendum requirement.

Sincerely,



Brian E. Frosh
Attorney General

BEF/KMR/kd

cc: The Honorable John C. Wobensmith
Chris Shank
Victoria L. Gruber