

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 765 (Senator Miller)
Education, Health, and Environmental Affairs

Alcoholic Beverages - License Applications - Durational Residency Requirements

This bill repeals various requirements that an applicant or holder of an alcoholic beverages license or specified permit be a registered voter, taxpayer, and/or resident of a jurisdiction for a period of time (generally one or more years) as a condition for obtaining or maintaining a license or permit. Instead, the bill generally requires that an applicant or holder of an alcoholic beverages license be a resident, voter, and/or taxpayer of the State or a local jurisdiction at the time of application and in specified cases during the license period. For a resident dealer's permit, the bill requires an applicant to be a resident of the State at the time the application is filed and remain a resident for the period of time a permit is in effect. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: None. The bill codifies a recent U.S. Supreme Court decision, as discussed below.

Local Effect: None. The bill codifies a recent U.S. Supreme Court decision, as discussed below.

Small Business Effect: None. The bill codifies a recent U.S. Supreme Court decision, as discussed below.

Analysis

Bill Summary: It is the intent of the General Assembly that the bill be applied and interpreted to comport with the holding of the U.S. Supreme Court in *Tennessee Wine and Spirits Retailers Assn. v. Russel Fl. Thomas, Executive Director of the Tennessee Alcoholic*

Beverage Commission, et al., 139 S. Ct. 2449 (2019), which held that durational-residency requirements for an alcoholic beverages license was facially discriminatory, in violation of the dormant Commerce Clause of the U.S. Constitution.

Current Law/Background: Alcoholic Beverages Law includes various requirements that an applicant for an alcoholic beverages license be a voter, taxpayer, or resident of a jurisdiction in order to obtain the license from that jurisdiction. This applies for specified State-issued licenses and permits and locally issued licenses and permits. For example, an applicant for an alcoholic beverages manufacturer’s license (brewery, winery, and distillery) must have been a resident of the State for the two years immediately preceding the application for a license. However, this type of durational residency requirement was recently ruled unconstitutional by the U.S. Supreme Court.

In June 2019, the U.S. Supreme Court decided the case of [*Tennessee Wine and Spirits Retailers Assn. v. Russel Fl. Thomas, Executive Director of the Tennessee Alcoholic Beverage Commission, et al.*, 139 S. Ct. 2449 \(2019\)](#). In the case, the court struck down a residency requirement to obtain and maintain an alcoholic beverages license in Tennessee. Specifically, Tennessee required an applicant for a retail liquor store license to live in the state for two years as a qualification for receiving a license, while an applicant for license renewal must have lived in the state for 10 years. The court found that this residency requirement violates the Commerce Clause of the U.S. Constitution. The bill codifies the court’s decision throughout State law.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 902 (Delegate Dumais) - Economic Matters.

Information Source(s): Baltimore City; Montgomery and Worcester counties; Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2020
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