

SENATE BILL 426

A2

1lr2115
CF HB 572

By: **Senator Ferguson**

Introduced and read first time: January 20, 2021

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 26, 2021

CHAPTER _____

1 AN ACT concerning

2 **Baltimore City – 46th District – Alcoholic Beverages Licenses**

3 FOR the purpose of authorizing the holder of certain alcoholic beverages licenses in the
4 46th alcoholic beverages district in Baltimore City to apply for an alteration to a
5 certain license; authorizing the Board of License Commissioners for Baltimore City
6 to issue a Class B beer, wine, and liquor license in a certain area if a memorandum
7 of understanding has been executed with Brewer’s Hill Neighbors, Inc.; authorizing
8 ~~the Board of License Commissioners for Baltimore City~~ to issue a Class D beer and
9 light wine license in a certain area if a memorandum of understanding has been
10 executed with Brewer’s Hill Neighbors, Inc.; making conforming changes; repealing
11 the termination of certain provisions providing certain exceptions from prohibitions
12 against certain transactions involving a certain distillery and a certain retail dealer;
13 and generally relating to alcoholic beverages licenses in the 46th alcoholic beverages
14 district in Baltimore City.

15 BY repealing and reenacting, without amendments,

16 Article – Alcoholic Beverages
17 Section 12–102, ~~12–404~~, and 12–1406
18 Annotated Code of Maryland
19 (2016 Volume and 2020 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article – Alcoholic Beverages
22 Section 12–1604 and 12–1605(a)
23 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2016 Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
Chapter 676 of the Acts of the General Assembly of 2019
Section 4

BY repealing and reenacting, with amendments,
Chapter 677 of the Acts of the General Assembly of 2019
Section 4

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

Article – Alcoholic Beverages

12–102.

This title applies only in Baltimore City.

12–404.

(a) Section 2–216(b) and (d) of this article does not apply to a holder of a Class 3 winery license or Class 4 limited winery license who is issued a Class A2 light wine on–sale and off–sale license with respect to the wine manufactured or bottled on the winery premises.

(b) (1) This subsection applies only to a Class 1 distillery and a retail dealer located on contiguous premises in the area commonly known as Port Covington.

(2) The Class 1 distillery:

(i) may lend a thing of value, make a gift, or offer a gratuity to the retail dealer; but

(ii) may not lend money to the retail dealer.

(3) The retail dealer:

(i) may accept, receive, or make use of a gift or an advertisement provided by the Class 1 distillery; but

(ii) may not become indebted to the distillery except for the purchase of alcoholic beverages and allied products purchased for resale.

(4) Section 2–216(d) of this article regarding advertisements does not apply to the Class 1 distillery and the licensed retailer.

1 12-1406.

2 (a) In this section, “community association” means:

3 (1) a nonprofit association, corporation, or other organization that is:

4 (i) composed of residents of a community within which a nuisance
5 is located;

6 (ii) operated exclusively for the promotion of social welfare and
7 general neighborhood improvement and enhancement; and

8 (iii) exempt from taxation under § 501(c)(3) or (4) of the Internal
9 Revenue Code; or

10 (2) a nonprofit association, corporation, or other organization that is:

11 (i) composed of residents of a contiguous community that is defined
12 by specific geographic boundaries, within which a nuisance is located;

13 (ii) operated for the promotion of the welfare, improvement, and
14 enhancement of that community; and

15 (iii) in good standing with the State Department of Assessments and
16 Taxation.

17 (b) If a community association and an applicant for the issuance or renewal of a
18 Class B, B-D-7, or D alcoholic beverages license have entered into a memorandum of
19 understanding that expressly acknowledges the authority of the Board under this article,
20 the Board may make the issuance or renewal of the license conditional on the substantial
21 compliance of the applicant with the memorandum of understanding.

22 (c) The existence of a memorandum of understanding does not affect any
23 requirement of any individuals to file a protest under § 4-406 of this article or a complaint
24 under § 4-603 of this article.

25 12-1604.

26 (a) This section applies only to the 46th alcoholic beverages district, which at all
27 times is coterminous with the 46th legislative district in the Legislative Districting Plan of
28 2002 as ordered by the Maryland Court of Appeals on June 21, 2002.

29 (b) Except as provided in subsections (c) [and], (d), AND (I) of this section, the
30 Board may not issue a new license in the 46th alcoholic beverages district.

31 (c) (1) The Board may issue:

1 (i) a 1-day license; and

2 (ii) except as provided in paragraph (2) of this subsection, and
3 subject to paragraphs (3) and (4) of this subsection, a Class B beer, wine, and liquor license
4 for use by a restaurant if the average daily receipts from the sale of food are at least 51%
5 of the total daily receipts of the restaurant.

6 (2) The Board may issue a Class B beer, wine, and liquor license:

7 (i) for a restaurant in ward 26, precinct 8, ward 4, precinct 1, or
8 ward 3, precinct 3 that has:

9 1. seating for more than 150 individuals;

10 2. a minimum capital investment of \$700,000; and

11 3. subject to paragraph (3) of this subsection, average daily
12 receipts from the sale of food that are at least 65% of the total daily receipts of the
13 restaurant;

14 (ii) for a restaurant in ward 4, precinct 1, or ward 22, precinct 1, if
15 the restaurant has:

16 1. seating for more than 75 individuals;

17 2. a minimum capital investment of \$700,000;

18 3. average daily receipts from the sale of food that are at
19 least 65% of the total daily receipts of the restaurant; and

20 4. except as provided in paragraph (5) of this subsection, no
21 sales for off-premises consumption;

22 (iii) for not more than three restaurants in a residential planned unit
23 development for Silo Point as approved by the Mayor and City Council of Baltimore City in
24 Ordinance 04-697 on June 23, 2004, if each restaurant has:

25 1. a minimum capital investment of \$700,000;

26 2. seating for more than 75 individuals;

27 3. average daily receipts from the sale of food that are at
28 least 65% of the total daily receipts of the restaurant; and

29 4. except as provided in paragraph (5) of this subsection, no
30 sales for off-premises consumption;

1 (iv) for not more than three restaurants in a business planned unit
2 development in ward 24, precinct 5, if each restaurant:

- 3 1. has a minimum capital investment of \$700,000;
- 4 2. has seating for more than 75 individuals, but not more
5 than 150 individuals;
- 6 3. has average daily receipts from the sale of food that are at
7 least 51% of the total daily receipts of the restaurant; and
- 8 4. except as provided in paragraph (5) of this subsection, may
9 not sell for off-premises consumption; ~~and~~ [and]

10 (v) for a restaurant in the area that is commonly known as Port
11 Covington, bounded on the north by Interstate 95, on the east by the South Locust Point
12 Terminal, and on the south and west by the Patapsco River, and that has:

- 13 1. seating for more than 150 individuals;
- 14 2. a minimum capital investment of \$700,000; and
- 15 3. subject to paragraph (3) of this subsection, average daily
16 receipts from the sale of food that are at least 60% of the total daily receipts of the
17 restaurant; **AND**

18 **(VI) FOR A RESTAURANT IN UNIT G OF 3700 TOONE STREET IN**
19 **WARD 26, PRECINCT 8, IF THE RESTAURANT HAS:**

- 20 **1. SEATING FOR AT LEAST 75 INDIVIDUALS;**
- 21 **2. A MINIMUM CAPITAL INVESTMENT OF \$700,000;**
- 22 **3. AVERAGE DAILY RECEIPTS FOR THE SALE OF FOOD**
23 **THAT ARE AT LEAST 65% OF THE TOTAL DAILY RECEIPTS OF THE RESTAURANT; AND**
- 24 **4. HAS EXECUTED A MEMORANDUM OF UNDERSTANDING**
25 **WITH BREWER'S HILL NEIGHBORS, INC.**

26 (3) When a license is renewed, the license holder shall file with the Board
27 a statement of average daily receipts and an affidavit of a licensed certified public
28 accountant that verify that the license holder has met the requirement under paragraph
29 (1)(ii) or (2)(i)3 or (v)3 of this subsection.

30 (4) (i) A license may not be issued under paragraph (1)(ii) of this
31 subsection for use in an establishment that is a fast-food-style restaurant.

1 (ii) A license issued under paragraph (1)(ii) of this subsection may
2 not be transferred from the location of its first issuance.

3 (5) The Board may issue a Class B beer, wine, and liquor license for a
4 restaurant in ward 21, precinct 4 in the 1400 block of Warner Street that has:

5 (i) seating for more than 150 individuals;

6 (ii) average daily receipts from the sale of food that are at least 40%
7 of the total daily receipts of the restaurant; and

8 (iii) no sales for off-premises consumption.

9 (6) A license specified under this subsection, including a license that does
10 not allow sales for off-premises consumption, may include an off-sale privilege for sales of
11 refillable containers under a refillable container license issued in accordance with §
12 12-1102 of this title.

13 (d) (1) The Board may issue a Class D beer, wine, and liquor license to an
14 applicant who holds or has applied for a Class 9 limited distillery license.

15 (2) A Class D beer, wine, and liquor license issued under this subsection
16 may be transferred only to a holder of a Class 9 limited distillery license.

17 **(3) NOTWITHSTANDING ANY RESTRICTIONS OR REQUIREMENTS IN**
18 **THIS TITLE, A HOLDER OF A CLASS 9 LIMITED DISTILLERY LICENSE WHO ALSO**
19 **HOLDS A CLASS D (6-DAY) BEER, WINE, AND LIQUOR LICENSE AND IS LOCATED ON**
20 **THE 4200 BLOCK OF EAST PRATT STREET MAY APPLY TO THE BOARD TO CONVERT**
21 **THE EXISTING CLASS D (6-DAY) BEER, WINE, AND LIQUOR LICENSE INTO A CLASS D**
22 **(7-DAY) BEER, WINE, AND LIQUOR LICENSE.**

23 (e) The Board may issue:

24 (1) a Class C beer, wine, and liquor license in the 200 block of Holliday
25 Street in ward 3, precinct 3;

26 (2) a Class C beer, wine, and liquor license in the 200 block of South
27 Central Avenue in ward 3, precinct 3; and

28 (3) subject to subsection (f) of this section, a Class D beer license for the
29 area in ward 24, precinct 5 that is bounded by East Fort Avenue on the north, the CSX
30 access way on the east, East McComas Street on the south, and Whetstone Way on the
31 west.

1 (f) A Class D beer license may be transferred into the area specified under
2 subsection (e)(3) of this section if originally issued for another area.

3 (g) Notwithstanding subsection (c)(1) and (2) of this section, the Board may not
4 issue a Class B beer, wine, and liquor restaurant license in:

5 (1) the area covered by the Key Highway East Industrial Area Urban
6 Renewal Plan, as adopted by the Mayor and City Council of Baltimore City in Ordinance
7 986 on June 29, 1987;

8 (2) the area covered by the Key Highway Urban Renewal Plan, as adopted
9 by the Mayor and City Council of Baltimore City in Ordinance 622 on March 12, 1986;

10 (3) (i) ward 1, precinct 4 or 5;

11 (ii) ward 23, precinct 1; and

12 (iii) ward 24, precinct 5; and

13 (4) the area known as Pen Lucy, ward 9, precincts 1 and 2.

14 (h) (1) Except as provided in paragraphs (2) and (3) of this subsection, the
15 Board may not issue a license for:

16 (i) ward 1, precincts 4 and 5;

17 (ii) ward 23, precinct 1; or

18 (iii) ward 24, precinct 5.

19 (2) The Board may issue not more than two Class B beer, wine, and liquor
20 licenses, so that the cumulative number of licenses issued or transferred is two, into the
21 area of 829 through 919 E. Fort Avenue only if the Board:

22 (i) has executed a memorandum of understanding between the
23 community associations in Riverside and Locust Point regarding the nature of the
24 establishment; and

25 (ii) enforces the memorandum of understanding against any license
26 holder that obtains a license under this paragraph and seeks to renew or transfer the
27 license.

28 (3) (i) The Board may issue not more than a combined total of five Class
29 B beer, wine, and liquor licenses for use by establishments on the north side of the 900
30 block of East Fort Avenue and on the west side of the 1400 block of Lawrence Street.

1 (ii) A license issued for an establishment in these areas may not be
2 transferred to another establishment.

3 (4) The Board may issue not more than one Class B–HM (hotel–motel)
4 beer, wine, and liquor license to a hotel in the 1200 block of East Fort Avenue.

5 **(I) THE BOARD MAY ISSUE A CLASS D BEER AND LIGHT WINE LICENSE FOR**
6 **AN ESTABLISHMENT IN WARD 26, PRECINCT 8 ON THE WEST SIDE OF THE 1200**
7 **BLOCK OF SOUTH HAVEN STREET THAT HAS EXECUTED A MEMORANDUM OF**
8 **UNDERSTANDING WITH BREWER’S HILL NEIGHBORS, INC.**

9 12–1605.

10 (a) (1) (i) Except as otherwise provided in this subsection, a new license
11 may not be issued for and an existing license may not be moved to a building that is within
12 300 feet of the nearest point of the building of a place of worship or school.

13 (ii) In the 45th legislative district, a new Class A license of any type
14 may not be issued for a building that is within 500 feet of the nearest point of the building
15 of a place of worship or school.

16 (2) Paragraph (1)(i) of this subsection does not apply to:

17 (i) a Class B beer and wine license outside the 46th legislative
18 district;

19 (ii) a Class B beer, wine, and liquor license outside the 46th
20 legislative district;

21 (iii) a Class B–D–7 license in the Old Goucher Revitalization District
22 under § 12–1603(e) of this subtitle;

23 (iv) a Class C beer and wine license; and

24 (v) a Class C beer, wine, and liquor license.

25 (3) A license for use in a building that is within 300 feet of the grounds of
26 a place of worship or school may be renewed or extended for the same building.

27 (4) (i) This paragraph applies only to an area bounded by:

28 1. High Street on the west, Pratt Street on the north, Central
29 Avenue on the east, and Eastern Avenue on the south;

30 2. West Cross Street and Amity Street on the west, Clifford
31 Street on the north, Scott Street on the east, and Carroll Street on the south; OR

1 3. Holliday Street on the west, Saratoga Street on the north,
2 Gay Street on the east, and Lexington Street on the south]; or

3 4. subject to subparagraph (iii) of this paragraph, Fagley
4 Street on the west, Gough Street on the north, Grundy Street on the east, and Chestle Place
5 on the south].

6 (ii) The Board may waive the distance restrictions in paragraph
7 (1)(i) of this subsection for an application for the transfer of a license into an area specified
8 in subparagraph (i) of this paragraph if:

9 1. the application is approved by:

10 A. each community association representing the area;

11 B. each business association in the area; and

12 C. the ordained leader and the board or council for each place
13 of worship that is within 300 feet of the proposed location of the establishment for which
14 the license transfer is sought; and

15 2. a memorandum of understanding is executed by the
16 applicant for the license transfer and each community association in the area.

17 [(iii) The Board may not issue a license in or approve the transfer of a
18 license into the area specified in subparagraph (i)4 of this paragraph if:

19 1. the proposed location of the establishment is in an area
20 that is zoned “residential”; or

21 2. the license to be issued or transferred is a Class A license
22 of any type.]

23 Chapter 676 of the Acts of 2019

24 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
25 1, 2019. [Section 3 of this Act shall remain effective for a period of 3 years and, at the end
26 of June 30, 2022, Section 3 of this Act, with no further action required by the General
27 Assembly, shall be abrogated and of no further force and effect.]

28 Chapter 677 of the Acts of 2019

29 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
30 1, 2019. [Section 3 of this Act shall remain effective for a period of 3 years and, at the end
31 of June 30, 2022, Section 3 of this Act, with no further action required by the General
32 Assembly, shall be abrogated and of no further force and effect.]

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
2 1, 2021.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.