

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 938
Economic Matters

(Delegate Boyce)

Alcoholic Beverages - Class A License - Food Retailers

This bill authorizes a food retailer to offer to purchase a Class A license from a Class A license holder under specific circumstances. The bill also authorizes a food retailer to apply to a local licensing board for a Class A license, as specified. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: Local expenditures and revenues may increase, likely minimally and correspondingly, as additional licenses are issued under the bill and the local licensing boards increase enforcement activities for new licensees.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Definitions

“Fair market value” means the price at which a Class A license would change hands between a willing licensee and a willing food retailer when (1) neither party is acting under compulsion and (2) both parties have knowledge of all of the relevant facts.

“Food retailer” means a retail establishment that sells at least five specified categories of food items including fresh fruits and vegetables; fresh and uncooked meat, poultry, and seafood; dairy products; canned foods; frozen foods; and dry groceries and baked goods. The store must also (1) accept Supplemental Nutrition Assistance Program credits as payment; (2) have a minimum of 3,200 square feet; and (3) have a primary entranceway that is at least 300 feet away from a place of worship or school and 100 feet away from any residential property, unless specified otherwise.

Class A License

The bill grants a food retailer located less than 3,000 feet from a Class A license holder the ability to offer to purchase the Class A license from the license holder at fair market value. A food retailer that obtains a license under the bill’s provisions may sell only beer or beer and wine under the license, regardless of the type of Class A license that was purchased.

Depending on the types of licenses available in the jurisdiction, the local licensing board must issue to the food retailer that obtains a Class A license under the bill, either a (1) Class A beer license; (2) Class A beer and wine license; or (3) Class A beer and light wine license.

If a Class A license holder does not accept an offer from a food retailer, the food retailer may apply to an appropriate licensing board for a Class A beer or beer and wine license, as specified.

An application for a Class A beer or beer and wine license from a food retailer is (1) presumed to be in the best interest of the community and (2) may not be denied for any reason other than a reason traditionally considered by the local licensing board.

Judicial Action

If a license holder asserts that a food retailer’s offer was not at fair market value, then the license holder has legal standing to seek judicial review. When determining whether a food retailer’s offer to purchase a Class A license is at fair market value, the fact that a food retailer may not receive the full benefit of the license must be taken into the court’s consideration. An application for a Class A license by a food retailer under the bill must be stayed pending the final judgment of the court.

Current Law: Maryland’s 23 counties, Baltimore City, and the City of Annapolis all have boards of license commissioners who issue and enforce retail alcoholic beverages licenses in their jurisdictions. Within each jurisdiction, the most common types of retail licenses are Class A, Class B, Class C, and Class D licenses. Each license authorizes the sale of alcoholic beverages in a different manner and may authorize the sale of alcohol for on- and

off-premises consumption, as specified. For example, Class A licenses generally only allow the sale of alcoholic beverages for off-premises consumption, and Class B licenses are generally issued to restaurants and allow the sale of alcoholic beverages with food.

Under current law, a local licensing board may not issue Class A, Class B, or Class D beer license, beer and wine license, or beer, wine, and liquor license for use in conjunction with or on the premises of a chain store, supermarket, or discount house.

Existing statute also prohibits a Class A, Class B, or Class D beer license, beer and wine license, or beer, wine, and liquor license from being transferred for use in conjunction with or on the premises of a chain store, supermarket, or discount house unless (1) the establishment already holds a Class A, Class B, or Class D beer license, beer and wine license, or beer, wine, and liquor license or (2) the license is transferred to a similar type of establishment.

Small Business Effect: Small business grocery stores that obtain a license under the bill's provisions are likely to benefit from the authority to sell alcoholic beverages. Conversely, some small businesses that are licensed to sell alcoholic beverages under the current law are likely to lose business as grocery stores begin to sell alcoholic beverages.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 854 (Senator McCray) - Finance.

Information Source(s): Montgomery, Washington, and Worcester counties; Alcohol and Tobacco Commission; Department of Legislative Services

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