

Chapter 275

(Senate Bill 627)

AN ACT concerning

Multiple Jurisdictions – Alcoholic Beverages – Class B and Class BLX Licenses – Restaurants

FOR the purpose of altering the requirement for an alcoholic beverages licensee in Anne Arundel County to be issued a certain Class BLX license for a restaurant; authorizing a business in which a parent company has a direct or indirect interest and that operates using a certain trademark used in connection with restaurant services to obtain a Class B beer license, Class B beer and wine license, or a Class B beer, wine and liquor license for certain premises used as a restaurant; requiring an applicant for a certain license to apply for the license in a certain manner and pay a certain fee; limiting the granting of a certain license to a certain purpose of providing alcoholic beverages for consumption on the licensed premises only; making a certain exception; establishing that certain provisions of law do not limit the rights of certain persons to obtain certain licenses; providing that the granting of a certain license is not subject to certain provisions of law limiting the number of permitted licenses; establishing that a certain provision of law does not authorize the issuance of more licenses than the maximum number of licenses permitted in a certain county, the City of Annapolis, or Baltimore City; defining certain terms; and generally relating to the obtaining of a Class B beer license, Class B beer and wine license, or a Class B beer, wine and liquor license by a business in which a parent company has a direct or indirect interest and that operates using a trademark used in connection with restaurant services altering the maximum number of Class B licenses and Class BLX licenses in Anne Arundel County, Baltimore City, Baltimore County, Calvert County, Charles County, Howard County, Montgomery County, and Prince George’s County that certain persons may hold or in which certain persons may have a direct or indirect interest; making a stylistic change; and generally relating to Class B and Class BLX licenses in certain jurisdictions.

BY repealing and reenacting, without amendments,

Article 2B – Alcoholic Beverages

Section ~~9-102(a)~~ 6-201(f)(1), (r)(1)(i) and (6)(i), 8-202.1(a) and (c)(1), and 9-102.1(a) and (b)(4)

Annotated Code of Maryland
(2011 Replacement Volume)

BY ~~adding to~~ repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section ~~9-102(a-2)~~ 6-201(f)(4)(vi) and (r)(6)(iii), 8-202.1(g)(1), (h), (m), and (n), 9-102(b-3A), (o)(1) and (2), (p), and 9-102.1(o)(1)

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

Article 2B – Alcoholic Beverages

~~9-102.~~

~~(a) (1) No more than one license provided by this article, except by way of renewal or as otherwise provided in this section, shall be issued in any county or Baltimore City, to any person, or for the use of any partnership, corporation, unincorporated association, or limited liability company, in Baltimore City or any county of the State.~~

~~(2) No more than one license shall be issued for the same premises except as provided in §§ 2-201 through 2-208, 2-301, and 6-701 and Title 7.5 of this article.~~

~~(3) This subsection may not be construed to apply to § 6-201(r)(4), (15), (17), and (18), § 7-101(b) and (c), § 8-202(g)(2)(ii) and (iii), § 8-217(e), § 8-508, § 8-902, § 9-217(b-1), or § 12-202 of this article.~~

~~(A-2) (1) (i) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(ii) “INDIRECT INTEREST” MEANS ONE OR MORE OF THE FOLLOWING CONDITIONS EXIST BETWEEN TWO PERSONS, CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS, LIMITED PARTNERSHIPS, JOINT VENTURES, ASSOCIATIONS, OR ANY OTHER COMBINATION OF PERSONS, WHETHER NATURAL OR OTHERWISE:~~

- ~~1. A COMMON PARENT COMPANY;~~
- ~~2. A LICENSING AGREEMENT;~~
- ~~3. A CONCESSION AGREEMENT;~~
- ~~4. MEMBERSHIP IN A CHAIN OF BUSINESSES COMMONLY OWNED AND OPERATED AND SO PORTRAYED TO THE PUBLIC;~~
- ~~5. SHARING OF DIRECTORS OR STOCKHOLDERS;~~

~~6. COMMON DIRECT OR INDIRECT SHARING OF PROFIT FROM THE SALE OF ALCOHOLIC BEVERAGES; OR~~

~~7. SHARING OF A COMMON TRADE NAME, TRADEMARK, LOGO, THEME, OR MODE OF OPERATION IDENTIFIABLE BY THE PUBLIC, EXCEPT HOTELS AND MOTELS.~~

~~(III) "PARENT COMPANY" MEANS A CORPORATION, THE SECURITIES OF WHICH ARE EXEMPT FROM REGISTRATION UNDER § 11-601(8) OR (12) OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE THAT OWNS OR CONTROLS, DIRECTLY OR INDIRECTLY, AT LEAST THREE RESTAURANT REGISTERED BRANDS.~~

~~(IV) "RESTAURANT REGISTERED BRAND" MEANS A TRADEMARK THAT IS REGISTERED WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE USED IN CONNECTION WITH RESTAURANT SERVICES.~~

~~(2) (i) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A BUSINESS IN WHICH A PARENT COMPANY HAS A DIRECT OR INDIRECT INTEREST AND THAT OPERATES USING A RESTAURANT REGISTERED BRAND OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY THE PARENT COMPANY, MAY OBTAIN A CLASS B BEER LICENSE, A CLASS B BEER AND WINE LICENSE, OR A CLASS B BEER, WINE AND LIQUOR LICENSE FOR PREMISES USED AND OCCUPIED AS A BONA FIDE RESTAURANT, AS DEFINED BY THE RULES AND REGULATIONS OF THE LOCAL BOARD OF LICENSE COMMISSIONERS OR THE BALTIMORE CITY BOARD OF LIQUOR LICENSE COMMISSIONERS.~~

~~(ii) FOR AN APPLICANT TO OBTAIN A LICENSE UNDER THIS SUBSECTION, THE APPLICANT SHALL APPLY FOR THE LICENSE IN THE REGULAR MANNER AND PAY THE USUAL FEE.~~

~~(3) EXCEPT AS OTHERWISE PROVIDED UNDER § 12-107.1 OF THIS ARTICLE, THE ISSUANCE OF A LICENSE AS PROVIDED IN THIS SUBSECTION IS LIMITED TO THE PURPOSE OF PROVIDING ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE LICENSED PREMISES ONLY, WITH NO OFF-SALE PRIVILEGES TO BE EXERCISED BY THE LICENSEE.~~

~~(4) (i) NOTHING IN THIS SUBSECTION LIMITS THE RIGHTS OF A PERSON TO OBTAIN A CLASS B BEER LICENSE, CLASS B BEER AND WINE LICENSE, OR A CLASS B BEER, WINE AND LIQUOR LICENSE AS PROVIDED BY ANY OTHER PROVISION OF THIS ARTICLE.~~

~~(II) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE ISSUANCE OF A LICENSE AS PROVIDED IN THIS SUBSECTION IS NOT SUBJECT TO ANY OTHER PROVISION OF THIS ARTICLE THAT LIMITS THE NUMBER OF PERMITTED LICENSES.~~

~~(III) NOTHING IN THIS SUBSECTION AUTHORIZES THE ISSUANCE OF MORE CLASS B BEER LICENSES, CLASS B BEER AND WINE LICENSES, OR CLASS B BEER, WINE AND LIQUOR LICENSES TO RESTAURANTS USING THE SAME RESTAURANT REGISTERED BRAND IN A COUNTY, THE CITY OF ANNAPOLIS, OR BALTIMORE CITY THAN THE MAXIMUM NUMBER OF LICENSES PERMITTED BY THAT COUNTY, THE CITY OF ANNAPOLIS, OR BALTIMORE CITY:~~

- ~~1. TO AN INDIVIDUAL OR A SOLE PROPRIETOR; OR~~
- ~~2. FOR USE OF A PARTNERSHIP, A CORPORATION, AN UNINCORPORATED ASSOCIATION, OR A LIMITED LIABILITY COMPANY.~~

6-201.

(f) (1) This subsection applies only in Calvert County.

(4) (vi) Notwithstanding any other provision of this article, an individual, corporation, limited liability company, partnership, limited partnership, joint venture, association, or other person or combination of persons may not have a direct or indirect interest in any combination in more than [3] 4 Class B and Class BLX licenses.

(r) (1) (i) This subsection applies only in Prince George's County.

(6) (i) There is a Class BLX license, which is a special Class B license.

(iii) 1. Class BLX licenses may be issued only to luxury type restaurants, a term which shall be defined by the regulations of the Board.

2. The restaurant shall have a minimum capital investment of [\$800,000] \$1,000,000 for dining room facilities and kitchen equipment, which sum may not include the cost of land, buildings or a lease.

3. The restaurant shall have a minimum seating capacity of 100 persons.

4. The Board has complete discretion as to whom these licenses may be issued, the number to be issued, and whether an existing license

holder of an alcoholic beverages license may also have an interest in one Class BLX license.

5. Subject to sub-subparagraphs 6, 7, and 8 of this subparagraph, an individual or corporation may hold not more than [6] 10 Class BLX licenses.

6. A license holder may be issued a fifth BLX license only if the date of application for a fifth license is at least 1 year after the date the license holder was issued the fourth license.

7. A license holder may be issued a sixth BLX license only if the date of application for a sixth license is at least 1 year after the date the license holder was issued the fifth license.

8. In determining whether to issue a fifth [or], sixth, SEVENTH, EIGHTH, NINTH, OR TENTH BLX license to a single license holder, the Board of License Commissioners for Prince George's County:

A. Shall consider the number of licensed establishments existing in the area surrounding the site of the proposed licensed establishment; and

B. May issue the additional license only if the Board determines that the proposed licensed establishment will enhance the recreational, business, and economic development of the area.

9. This license is limited and restricted to the purpose of providing alcoholic beverages for consumption on the licensed premises only, with no off-sale privileges to be exercised.

10. The residency requirements specified in § 9-101 of this article as it pertains to Prince George's County do not apply to Class BLX licenses.

8-202.1.

(a) This section applies only in Anne Arundel County.

(c) (1) There is a 7-day Class BLX (deluxe restaurant) (on-sale) beer, wine and liquor license.

(g) (1) A licensee may hold not more than [six] 10 licenses of any class in accordance with this section.

(h) (1) Except as provided in paragraph (2) of this subsection, a license that was issued on or before June 30, 2006, and in which a licensee holds a direct interest or an indirect interest:

(i) Shall be counted against the maximum number of [six] 10 licenses that the licensee may hold under this section; but

(ii) Is exempt from subsections (i) through (l) of this section.

(2) A Class H license that was issued in the period beginning on March 14, 2005, and ending on December 1, 2005, may not be counted against the maximum number of [six] 10 licenses that the licensee may hold under this section.

(m) (1) A licensee may be issued a fifth license if[:

(1) The] THE license sought is a Class BLX license[; and].

(2) The restaurant for which the FIFTH license is sought[:

(i) Is located in a community revitalization zone with a designation in the series “A” through “P”, inclusive, as shown on the map adopted by the Anne Arundel County Council by Bill 97–01; or

(ii) Is located anywhere else in the county, if at least one restaurant for which a license was issued to the licensee is already located in a community revitalization zone] MAY BE LOCATED ANYWHERE IN THE COUNTY.

(n) (1) A licensee may be issued a sixth, SEVENTH, EIGHTH, NINTH, OR TENTH license if the license sought is a Class BLX license.

(2) The restaurant for which the license is sought may be located anywhere in the county.

9–102.

(b–3A) (1) Notwithstanding any other provisions of this section, AND SUBJECT TO SUBSECTIONS (B–3B) AND (B–3C) OF THIS SECTION, in Baltimore City or Baltimore County, the holder of a Class B, (on–sale — hotels and restaurants) beer, wine and liquor license under this article, by making application in the regular manner and paying the usual fee may obtain an additional Class B, (on–sale — hotels and restaurants) beer, wine and liquor license for premises used and occupied as a bona fide restaurant, as may be defined by the rules and regulations of the Board of License Commissioners for Baltimore City or Baltimore County, provided that said restaurant has a minimum capital investment of \$500,000 for restaurant facilities, which sum shall not include the cost of land or buildings, and has a minimum seating capacity of 125 persons.

(2) Nothing contained herein shall permit the issuance of more than [three (3)] FIVE such licenses to any person, or for the use of any partnership, corporation, unincorporated association, or limited liability company in Baltimore City or Baltimore County.

(3) The granting of additional licenses hereunder shall be limited and restricted to the purpose of providing alcoholic beverages for consumption on the licensed premises only, with no off-sale privileges to be exercised therewith.

(o) (1) Subject to paragraphs (2) and (3) of this subsection, and notwithstanding any other provision of law, in Howard County, the Board of License Commissioners may issue 2 Class B (on-sale) beer, wine and liquor licenses and [3] 7 Class BLX (luxury restaurant) (on-sale) beer, wine and liquor licenses, or [5] 9 Class BLX (luxury restaurant) (on-sale) beer, wine and liquor licenses for separate premises:

(i) To an individual; or

(ii) For the use of a partnership, corporation, or unincorporated association.

(2) A person, including a corporation, limited liability company, partnership, limited partnership, joint venture, association, or other combination of persons, whether natural or otherwise and for whatever reason formed, may not have a direct or indirect interest in any combination of more than [5] 9 Class B and Class BLX licenses.

(p) Notwithstanding subsection (a) of this section, in Charles County, the Board of License Commissioners may issue [1] 2 additional Class BLX alcoholic beverages [license] LICENSES for use in a luxury-type restaurant for each Charles County Class BLX licensee who applies.

9-102.1.

(a) This section applies only in Montgomery County.

(b) (4) "License" means a Class B beer, wine and liquor on-sale only license.

(o) (1) A licensee that holds an original license, may obtain a maximum of [five] 9 additional licenses and may not hold more than [six] 10 licenses altogether.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.