

Chapter 85

(House Bill 316)

AN ACT concerning

Montgomery County – Alcoholic Beverages – Licenses in Takoma Park

MC 29–15

FOR the purpose of altering the name of certain licenses that were issued in a certain portion of the City of Takoma Park that was formerly part of Prince George’s County; repealing a prohibition against the issuance of a certain license in the Town of Takoma Park; ~~repealing certain obsolete language;~~ making conforming changes; providing for the issuance of certain licenses under certain circumstances on or after the effective date of this Act; and generally relating to alcoholic beverages licenses issued to licensed premises that were located in the portion of the City of Takoma Park that was formerly part of Prince George’s County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 5–401(q), 6–201(q)(2), and 8–216(d)
Annotated Code of Maryland
(2011 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6–101(q) and 6–201(q)(1)
Annotated Code of Maryland
(2011 Replacement Volume and 2014 Supplement)

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

Article 2B – Alcoholic Beverages

5–401.

(q) (1) This subsection applies only in Montgomery County.

(2) (i) For a Class D license, the annual license fee is \$400.

(ii) 1. The Board of License Commissioners may issue a refillable container permit to a holder of a Class D beer and light wine license issued by the Board of License Commissioners:

A. On completion of an application form that the Board provides; and

B. At no cost to the Class D license holder.

2. A refillable container permit may be renewed each year concurrently with the renewal of a Class D beer and light wine license.

(iii) A refillable container permit entitles the holder to sell draft beer for consumption off the licensed premises in a refillable container that:

1. Has a capacity of not less than 32 ounces and not more than 128 ounces; and

2. Meets the requirements under subparagraph (iv) of this paragraph.

(iv) To be used as a refillable container under subparagraph (iii) of this paragraph, a container shall meet the standards under § 21-107 of this article.

(v) The term of and hours of sale for a refillable container permit issued under this subsection are as specified for the permit holder's Class D beer and light wine license.

(vi) A holder of a refillable container permit may refill only a refillable container that meets the standards under § 21-107 of this article.

(vii) The Board of License Commissioners may adopt regulations to implement the provisions of this subsection relating to the issuance of a refillable container permit.

(3) [(i) For a Class D-TP license, the annual license fee is \$400.

(ii) A Class D-TP licensee may not be charged for such a license until May 1, 1998.

(4) (i) In this paragraph, "establishment" means a bowling alley, billiard hall, or drugstore or a restaurant located within these businesses.

(ii) The license may not be issued to, or for use in conjunction with, or upon the premises of any establishment, or for use upon any premises which has a door, archway, opening or other passageway providing direct public access to any establishment.

(iii) These restrictions which prohibit the issuance of licenses to drugstores or premises adjoining them are not applicable to any establishment which on

July 1, 1969, holds an alcoholic beverage license and which on July 1, 1969, has a door, archway, opening or other passageway providing direct public access to any drugstore.

[(5) The Board shall issue one Class D–TP license to a person who, on June 30, 1997, both held a Class D beer and light wine license and operated a licensed premises that was located in that portion of the City of Takoma Park that was formerly part of Prince George’s County.]

6–101.

(q) (1) This subsection applies only in Montgomery County.

(2) The only Class A license that is available in the county is a Class A–TP 7–day license.

(3) The annual license fee for a Class A–TP license is the same as for a license issued pursuant to subsection (r) of this section. Class A–TP licensees may not be charged for such a license until May 1, 1998.

(4) The Board shall issue a Class A–TP license to any person who on June 30, 1997, both held a Class A beer, wine and liquor license and operated a Class A business where the licensed premises were located in that portion of the City of Takoma Park that was formerly part of Prince George’s County.

(5) Unless revoked or not renewed for good cause, the license shall continue and be renewed, subject to payment of the annual license fee. The license is not transferable to any other location, but the license may be transferred to another person at any time, subject to the restrictions on similar transfers for other alcoholic beverages licenses in Montgomery County.

(6) The Board shall promulgate regulations that govern the sale of alcoholic beverages by a Class A–TP licensee. These regulations shall include the hours for sale.

6–201.

(q) (1) (i) This subsection applies only in Montgomery County.

(ii) 1. In this subsection the following words have the meanings indicated.

2. “Board” means the Board of License Commissioners.

3. “Dining area” means the area occupied by patrons for the consumption of food and includes a cocktail area where food need not be served if there is no separate outdoor entrance to the cocktail area.

(2) (i) 1. The Board may issue this license only to the owner or operator of any restaurant or hotel.

2. The restaurant shall be located in the second, third, fourth, sixth, seventh, eighth, ninth, tenth, or thirteenth election districts.

3. The licensee may not be located in the Towns of Poolesville [, Takoma Park,] and Kensington.

(ii) 1. As a prerequisite for the initial issuance of a license under this subsection, the owner or operator shall attest in a sworn statement that gross receipts from food sales in the restaurant or hotel will be at least equal to 40% of the gross receipts from the sale of food and alcoholic beverages.

2. As a prerequisite for each renewal of a license issued under this subsection, the owner or operator shall attest in a sworn statement that the gross receipts from food sales in the restaurant or hotel for the 12-month period immediately preceding the application for renewal have been at least equal to 40% of the gross receipts from the sale of food and alcoholic beverages.

3. The Board by regulation shall provide for periodic inspection of the premises and for audits to determine the ratio of gross receipts from the sale of food to gross receipts from the sale of alcoholic beverages.

4. Any regulations adopted by the Board shall include a requirement of at least monthly physical inspections of the premises during the initial license year of any licensee and the submission by the licensee to the Board, during the initial license year, of monthly statements showing gross receipts from the sale of food and gross receipts from the sale of alcoholic beverages for the immediately preceding month.

5. In the event that a licensee, during the initial license year, fails to maintain the sales ratio requirement provided in this paragraph for a period of three consecutive months or after the initial license year for each license or calendar year, the Board, in its discretion, may revoke the license. The Board may require any licensee to provide supporting data as it, in its discretion, deems necessary, in order to establish that the requirements of this section relating to the ratio of gross receipts from the sale of food to those from the sale of alcoholic beverages have been met.

(iii) A license issued under this subsection authorizes its holder to keep for sale and sell alcoholic beverages for consumption on the premises only.

(iv) The annual license fee is \$2,500.

(d) ~~¶(1)~~ The Montgomery County Board of License Commissioners may issue, renew, and transfer and otherwise provide for 8 classes of alcoholic beverages licenses in the City of Takoma Park as follows:

~~¶(i)~~ ~~(1)~~ Class B (on- and off-sale) beer and light wine, hotel and restaurant licenses;

~~¶(ii)~~ ~~(2)~~ Class H (on-sale) beer and light wine, hotel and restaurant licenses;

~~¶(iii)~~ ~~(3)~~ Class B (on-sale) beer, wine and liquor, hotel and restaurant licenses;

~~¶(iv)~~ ~~(4)~~ Class [H-TP] H (on-sale) beer license;

~~¶(v)~~ ~~(5)~~ Class [D-TP] D (on- and off-sale) beer and light wine license;

~~¶(vi)~~ ~~(6)~~ Class A-TP (off-sale) beer, wine and liquor license;

~~¶(vii)~~ ~~(7)~~ Class [C-TP] C (on-sale) beer, wine and liquor license;
and

~~¶(viii)~~ ~~(8)~~ Beer and wine sampling or tasting (BWST) licenses issued under § 8-408.3 of this title.

~~¶(2)~~ (i) The provisions of this paragraph apply only to Class -TP type licenses.

(ii) The Prince George's County Board of License Commissioners shall certify a list to the Montgomery County Board of License Commissioners of the alcoholic beverages licenses as of June 30, 1997, in that portion of the City of Takoma Park that became part of Montgomery County on July 1, 1997.

(iii) On July 1, 1997, the Montgomery County Board shall issue Class -TP type licenses to those licensees who were certified by the Prince George's County Board. License fees may not be charged until May 1, 1998.

(iv) Unless revoked or not renewed for good cause, the certified licenses shall continue in existence and be renewed, subject to payment of the annual license fee.

(v) The Class -TP type licenses are not transferable to other locations but are transferable to other persons, subject to the restrictions on similar transfers for other alcoholic beverages licenses in Montgomery County.

(vi) Class –TP licenses are subject to the same conditions and restrictions specified by law or by the Montgomery County Board of License Commissioners as are other licenses issued by the Board. However, the Board may waive whatever statutory and regulatory provisions it so chooses for the affected licenses so that equity, fairness, and reasonableness are achieved.

(vii) The Montgomery County Department of Health and Human Services may not charge an annual fee to the Class –TP licensees until January 1, 1998.

(3) (i) Notwithstanding that Class –TP licensees as of July 1, 1997 are subject to Montgomery County laws and regulations, those same licensees may retain the particular Prince George’s County alcoholic beverages license they possessed prior to unification.

(ii) The Prince George’s County license shall remain valid in every sense except that it does not apply to the licensed premises to which the Class –TP license applies, but is an open–location license. The Prince George’s County licensee may transfer, to another person or to a new location with the same licensee, the license into Prince George’s County without statutory or regulatory restriction.

(iii) While the Class –TP licensee remains in the same location where it was located on July 1, 1997, another license issued by Prince George’s County may not be granted or transferred to another Prince George’s licensee if the premises for which that license was issued is located within 300 feet of the premises licensed under the Class –TP license.†

SECTION 2. AND BE IT FURTHER ENACTED, That, on the renewal or transfer by a licensee of a Class H–TP (on–sale) beer license, a Class D–TP (on– and off–sale) beer and light wine license, or a Class C–TP (on–sale) beer, wine, and liquor license, respectively, on or after the effective date of this Act, the Montgomery County Board of License Commissioners shall issue a Class H (on–sale) beer license, a Class D (on– and off–sale) beer and light wine license, or a Class C (on–sale) beer, wine, and liquor license, respectively, to the licensee as a replacement license for the license being renewed or transferred.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2015.

Approved by the Governor, April 14, 2015.