

HOUSE BILL 316

A2

5lr0917

By: **Montgomery County Delegation**

Introduced and read first time: February 5, 2015

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2015

CHAPTER _____

1 AN ACT concerning

2 **Montgomery County – Alcoholic Beverages – Licenses in Takoma Park**

3 **MC 29–15**

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

12 BY repealing and reenacting, with amendments,
13 Article 2B – Alcoholic Beverages
14 Section 5–401(q), 6–201(q)(2), and 8–216(d)
15 Annotated Code of Maryland
16 (2011 Replacement Volume and 2014 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article 2B – Alcoholic Beverages
19 Section 6–101(q) and 6–201(q)(1)
20 Annotated Code of Maryland
21 (2011 Replacement Volume and 2014 Supplement)

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.



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

3 **Article 2B – Alcoholic Beverages**

4 5–401.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (iii) These restrictions which prohibit the issuance of licenses to
9 drugstores or premises adjoining them are not applicable to any establishment which on
10 July 1, 1969, holds an alcoholic beverage license and which on July 1, 1969, has a door,
11 archway, opening or other passageway providing direct public access to any drugstore.

12 [(5) The Board shall issue one Class D–TP license to a person who, on June
13 30, 1997, both held a Class D beer and light wine license and operated a licensed premises
14 that was located in that portion of the City of Takoma Park that was formerly part of Prince
15 George’s County.]

16 6–101.

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

18 (2) The only Class A license that is available in the county is a Class A–TP
19 7–day license.

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

23 (4) The Board shall issue a Class A–TP license to any person who on June
24 30, 1997, both held a Class A beer, wine and liquor license and operated a Class A business
25 where the licensed premises were located in that portion of the City of Takoma Park that
26 was formerly part of Prince George’s County.

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

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

1 6–201.

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

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

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

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

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

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

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

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

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

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

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

32 5. In the event that a licensee, during the initial license year,
33 fails to maintain the sales ratio requirement provided in this paragraph for a period of three
34 consecutive months or after the initial license year for each license or calendar year, the
35 Board, in its discretion, may revoke the license. The Board may require any licensee to

1 provide supporting data as it, in its discretion, deems necessary, in order to establish that
 2 the requirements of this section relating to the ratio of gross receipts from the sale of food
 3 to those from the sale of alcoholic beverages have been met.

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

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

7 8–216.

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

11 ~~[(i)]~~ ~~(1)~~ Class B (on– and off–sale) beer and light wine, hotel and
 12 restaurant licenses;

13 ~~[(ii)]~~ ~~(2)~~ Class H (on–sale) beer and light wine, hotel and
 14 restaurant licenses;

15 ~~[(iii)]~~ ~~(3)~~ Class B (on–sale) beer, wine and liquor, hotel and
 16 restaurant licenses;

17 ~~[(iv)]~~ ~~(4)~~ Class [H–TP] **H** (on–sale) beer license;

18 ~~[(v)]~~ ~~(5)~~ Class [D–TP] **D** (on– and off–sale) beer and light wine
 19 license;

20 ~~[(vi)]~~ ~~(6)~~ Class A–TP (off–sale) beer, wine and liquor license;

21 ~~[(vii)]~~ ~~(7)~~ Class [C–TP] **C** (on–sale) beer, wine and liquor license;

22 and

23 ~~[(viii)]~~ ~~(8)~~ Beer and wine sampling or tasting (BWST) licenses issued
 24 under § 8–408.3 of this title.

25 ~~[(2)]~~ (i) The provisions of this paragraph apply only to Class –TP type
 26 licenses.

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

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

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

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

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

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

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

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

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.