

SENATE BILL 854

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3lr2336
CF HB 938

By: **Senator McCray**

Introduced and read first time: February 6, 2023

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages – Class A License – Food Retailers**

3 FOR the purpose of authorizing a food retailer to offer to purchase a Class A license from a
4 Class A license holder under certain circumstances; authorizing a food retailer to
5 apply to a local licensing board for a Class A license under certain circumstances;
6 and generally relating to Class A alcoholic beverages licenses for food retailers.

7 BY repealing and reenacting, with amendments,
8 Article – Alcoholic Beverages
9 Section 4–205 and 4–303
10 Annotated Code of Maryland
11 (2016 Volume and 2022 Supplement)

12 BY adding to
13 Article – Alcoholic Beverages
14 Section 4–205.1
15 Annotated Code of Maryland
16 (2016 Volume and 2022 Supplement)

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

19 **Article – Alcoholic Beverages**

20 4–205.

21 (a) This section does not apply to:

22 (1) an establishment that already holds a Class A, Class B, or Class D beer
23 license, beer and wine license, or beer, wine, and liquor license; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2) a license holder that sells alcoholic beverages at discount prices.

(b) [A] EXCEPT AS PROVIDED IN § 4-205.1 OF THIS SUBTITLE, A local licensing board may not issue a 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:

(1) a chain store;

(2) a supermarket; or

(3) a discount house.

4-205.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “FAIR MARKET VALUE” MEANS THE PRICE AT WHICH A CLASS A LICENSE WOULD CHANGE HANDS BETWEEN A WILLING LICENSE HOLDER AND A WILLING FOOD RETAILER WHEN:

(I) NEITHER PARTY IS ACTING UNDER COMPULSION; AND

(II) BOTH PARTIES HAVE KNOWLEDGE OF ALL OF THE RELEVANT FACTS.

(3) “FOOD RETAILER” MEANS A RETAIL ESTABLISHMENT THAT:

(I) OFFERS FOR SALE A FULL LINE OF FOOD PRODUCTS IN AT LEAST SIX OF THE FOLLOWING CATEGORIES:

1. FRESH FRUITS AND VEGETABLES;

2. FRESH AND UNCOOKED MEAT, POULTRY, AND SEAFOOD;

3. DAIRY PRODUCTS;

4. CANNED FOODS;

5. FROZEN FOODS;

6. DRY GROCERIES AND BAKED GOODS; OR

1 **7. NONALCOHOLIC BEVERAGES; AND**

2 **(II) HAS A MINIMUM OF:**

3 **1. 50% OF THE SQUARE FOOTAGE OF THE PUBLIC AREA**
4 **OF THE STORE DEDICATED TO THE SALE OF FOOD OR BEVERAGES LISTED IN ITEM**
5 **(I) OF THIS PARAGRAPH; OR**

6 **2. 6,000 SQUARE FEET AND A MINIMUM OF 5% OF THE**
7 **PUBLIC AREA OF THE STORE DEDICATED TO THE SALE OF FOOD OR BEVERAGES**
8 **LISTED IN ITEM (I) OF THIS PARAGRAPH.**

9 **(B) (1) A FOOD RETAILER LOCATED LESS THAN 3,000 FEET FROM A**
10 **CLASS A LICENSE HOLDER MAY OFFER TO PURCHASE THE CLASS A LICENSE FROM**
11 **THE LICENSE HOLDER AT FAIR MARKET VALUE.**

12 **(2) A FOOD RETAILER THAT OBTAINS A LICENSE IN ACCORDANCE**
13 **WITH PARAGRAPH (1) OF THIS SUBSECTION MAY SELL ONLY BEER OR BEER AND**
14 **WINE UNDER THE LICENSE, REGARDLESS OF THE TYPE OF CLASS A LICENSE THAT**
15 **WAS PURCHASED.**

16 **(3) DEPENDING ON THE TYPES OF LICENSES AVAILABLE IN THE**
17 **JURISDICTION, THE LOCAL LICENSING BOARD SHALL ISSUE TO THE FOOD RETAILER**
18 **THAT OBTAINS A CLASS A LICENSE UNDER PARAGRAPH (1) OF THIS SUBSECTION:**

19 **(I) A CLASS A BEER LICENSE;**

20 **(II) A CLASS A BEER AND WINE LICENSE; OR**

21 **(III) A CLASS A BEER AND LIGHT WINE LICENSE.**

22 **(C) IF A LICENSE HOLDER DOES NOT ACCEPT A FOOD RETAILER'S OFFER,**
23 **THE FOOD RETAILER MAY APPLY TO A LOCAL LICENSING BOARD FOR A CLASS A**
24 **BEER OR BEER AND WINE LICENSE IN ACCORDANCE WITH THE LOCAL LICENSING**
25 **BOARD'S RULES.**

26 **(D) (1) IF A LICENSE HOLDER ASSERTS THAT A FOOD RETAILER'S OFFER**
27 **WAS NOT AT FAIR MARKET VALUE, THEN THE LICENSE HOLDER SHALL HAVE**
28 **STANDING TO SEEK JUDICIAL REVIEW.**

29 **(2) WHEN DETERMINING WHETHER A FOOD RETAILER'S OFFER TO**
30 **PURCHASE A CLASS A LICENSE IS AT FAIR MARKET VALUE, THE FACT THAT A FOOD**
31 **RETAILER MAY NOT RECEIVE THE FULL BENEFIT OF THE LICENSE SHALL BE TAKEN**

1 INTO ACCOUNT.

2 (3) AN APPLICATION FOR A CLASS A LICENSE IN ACCORDANCE WITH
3 SUBSECTION (C) OF THIS SECTION SHALL BE STAYED PENDING A FINAL JUDICIAL
4 DETERMINATION.

5 (E) AN APPLICATION FOR A CLASS A BEER OR BEER AND WINE LICENSE
6 MADE BY A FOOD RETAILER IS:

7 (1) PRESUMED TO BE IN THE BEST INTEREST OF THE COMMUNITY;
8 AND

9 (2) MAY NOT BE DENIED FOR ANY REASON OTHER THAN A REASON
10 TRADITIONALLY CONSIDERED BY A LOCAL LICENSING BOARD.

11 4–303.

12 [A] EXCEPT AS PROVIDED IN § 4–205.1 OF THIS TITLE, A Class A, Class B, or
13 Class D beer license, beer and wine license, or beer, wine, and liquor license may not be
14 transferred for use in conjunction with or on the premises of a chain store, supermarket, or
15 discount house unless:

16 (1) the establishment already holds a Class A, Class B, or Class D beer
17 license, beer and wine license, or beer, wine, and liquor license; or

18 (2) the license is transferred to a similar type of establishment.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
20 1, 2023.