

SENATE BILL 390

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By: **Senator Gallion**

Introduced and read first time: January 15, 2021

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Harford County – Alcoholic Beverages – Gift Basket Permit**

3 FOR the purpose of establishing, in Harford County, a gift basket permit; authorizing the
4 Board of License Commissioners for Harford County to issue the permit to certain
5 persons; prohibiting the Board from issuing the permit for certain uses; providing
6 that the permit authorizes a permit holder to sell and deliver gift baskets containing
7 beer, wine, or liquor to certain individuals under certain circumstances; requiring a
8 permit holder to maintain certain records and submit certain reports; requiring a
9 permit holder or certain employee to deliver a certain gift basket and require the
10 person receiving a delivery of a certain gift basket to display proof of a certain age;
11 requiring an individual who delivers a certain gift basket to be at least a certain age;
12 limiting the total annual sales from alcoholic beverages to a certain percentage of
13 the annual gross sales of the permit holder; requiring the alcoholic beverages
14 contained in a gift basket to be purchased from a retail license holder; requiring the
15 Board to adopt certain regulations; establishing a fee for the permit; providing that
16 certain distance requirements do not apply to the issuance of the permit; and
17 generally relating to alcoholic beverages in Harford County.

18 BY repealing and reenacting, without amendments,
19 Article – Alcoholic Beverages
20 Section 22–102
21 Annotated Code of Maryland
22 (2016 Volume and 2020 Supplement)

23 BY adding to
24 Article – Alcoholic Beverages
25 Section 22–1002.1
26 Annotated Code of Maryland
27 (2016 Volume and 2020 Supplement)

28 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Alcoholic Beverages
Section 22–1602
Annotated Code of Maryland
(2016 Volume and 2020 Supplement)

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

Article – Alcoholic Beverages

22–102.

This title applies only in Harford County.

22–1002.1.

(A) THERE IS A GIFT BASKET PERMIT.

(B) (1) THE BOARD MAY ISSUE THE PERMIT TO A PERSON:

**(I) WHOSE PRIMARY BUSINESS IS THE SALE AND DELIVERY OF
FLOWERS;**

**(II) WHOSE BUSINESS INCLUDES THE SALE AND DELIVERY OF
GIFT BASKETS OF FLOWERS, FOOD, OR OTHER ITEMS; AND**

**(III) WHO DOES NOT HOLD ANY OTHER ALCOHOLIC BEVERAGES
LICENSE OR PERMIT UNDER THIS ARTICLE.**

**(2) THE BOARD MAY NOT ISSUE THE PERMIT FOR USE IN
CONJUNCTION WITH OR ON THE PREMISES OF A CHAIN STORE, SUPERMARKET, OR
DISCOUNT HOUSE.**

(C) A HOLDER OF THE PERMIT:

**(1) MAY SELL AND DELIVER, TO CONSUMERS OF A LEGAL DRINKING
AGE LOCATED IN THE COUNTY, GIFT BASKETS CONTAINING:**

(I) NOT MORE THAN 72 OUNCES OF BEER;

(II) NOT MORE THAN 2.25 LITERS OF WINE; OR

(III) NOT MORE THAN 2.25 LITERS OF LIQUOR; AND

(2) SHALL MAINTAIN RECORDS AND SUBMIT REPORTS AS REQUIRED

1 BY THE BOARD.

2 (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE PERMIT
3 HOLDER OR AN EMPLOYEE OF THE PERMIT HOLDER SHALL:

4 (I) DELIVER THE GIFT BASKET CONTAINING ALCOHOLIC
5 BEVERAGES; AND

6 (II) REQUIRE THE PERSON RECEIVING A DELIVERY OF A GIFT
7 BASKET CONTAINING ALCOHOLIC BEVERAGES TO DISPLAY PROOF THAT THE
8 PERSON IS AT LEAST 21 YEARS OLD.

9 (2) AN INDIVIDUAL WHO DELIVERS A GIFT BASKET CONTAINING
10 ALCOHOLIC BEVERAGES SHALL BE AT LEAST 21 YEARS OLD.

11 (E) THE HOLDER'S ANNUAL SALES FROM ALCOHOLIC BEVERAGES MAY NOT
12 EXCEED 10% OF THE HOLDER'S ANNUAL GROSS SALES.

13 (F) THE ALCOHOLIC BEVERAGES CONTAINED IN A GIFT BASKET SHALL BE
14 PURCHASED FROM A RETAIL LICENSE HOLDER.

15 (G) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

16 (H) THE FEE FOR A GIFT BASKET PERMIT IS \$100.

17 22-1602.

18 (a) This section does not apply to:

19 (1) a license in effect on July 1, 1975, or the issuance or transfer of a Class
20 B (on-sale) beer, wine, and liquor license for use on any premises licensed on July 1, 1975;

21 (2) a license in effect on July 1, 1977;

22 (3) the renewal, transfer, or upgrading of a license, unless the license is
23 transferred to a new location; and

24 (4) the issuance of:

25 (i) a 1-day license that is to be used on the premises of a place of
26 worship or school;

27 (ii) a Class GC (golf course) license; [and]

28 (iii) a Class CCFA (continuing care facility) license; AND

(IV) A GIFT BASKET PERMIT.

(b) (1) (i) Except as provided in paragraph (2) of this subsection and subsection (c) of this section, the Board may not issue a license for an establishment that is within 300 feet of a place of worship.

(ii) The distance from the establishment to the place of worship is to be measured from the nearest point of the building of the establishment to the nearest point of the building of the place of worship.

(2) Paragraph (1) of this subsection does not apply to the issuance of:

(i) a 1-day license for use in a building;

(ii) a license issued to a hotel, motel, restaurant, club, caterer, brewery, or distillery in a municipality; and

(iii) a Class H beer, wine, and liquor license issued to a caterer for use in a banquet facility in an establishment if:

1. the construction of the establishment was completed after July 1, 1991; and

2. the establishment is used for emergency operations by a volunteer fire company.

(c) (1) Subject to paragraphs (2) and (3) of this subsection, the Board may waive the distance restrictions from a place of worship and issue a license on a case-by-case basis.

(2) Before the Board decides whether to waive the distance restrictions from a place of worship under paragraph (1) of this subsection:

(i) a public hearing shall be held by the governing body of:

1. if the establishment is located in a municipality, the municipality where the establishment is located; or

2. if the establishment is located outside the boundaries of a municipality, the county;

(ii) the governing body shall make a recommendation to the Board regarding whether the distance restrictions should be waived; and

(iii) after receiving a recommendation:

1 1. in favor of the waiver, the Board shall hold a public
2 hearing; or

3 2. to deny a waiver, the Board shall deny the waiver.

4 (3) In making a decision whether to waive the distance restrictions from a
5 place of worship, the Board shall consider:

6 (i) comments received from members and leaders of the place of
7 worship; and

8 (ii) comments made at the public hearing held by the Board.

9 (d) (1) (i) Except as provided in paragraph (2) of this subsection, the Board
10 may not issue a license to a business establishment that is within 1,000 feet of a public or
11 private school building.

12 (ii) The distance from the establishment to the public or private
13 school is to be measured from the nearest point of the building of the establishment to the
14 nearest point of the building of the school.

15 (2) The Board may issue a license to a business establishment in Harford
16 County and in a municipality in Harford County if the business establishment is not located
17 within 300 feet of a public or private school.

18 (3) A decision of the County Board of Education to locate a public school
19 building within 1,000 feet of the premises of a license holder may not be the basis to revoke
20 or deny the renewal, transfer, or upgrading of the license.

21 (e) (1) Subject to paragraphs (2) and (3) of this subsection, the Board may
22 waive the distance restrictions from a public or private school building and issue a Class B
23 (on-sale) restaurant license or a Class B cafe license on a case-by-case basis.

24 (2) Before the Board decides whether to waive the distance restrictions
25 from a public or private school building under paragraph (1) of this subsection:

26 (i) a public hearing shall be held by the governing body of:

27 1. if the restaurant is located in a municipality, the
28 municipality where the restaurant is located; or

29 2. if the restaurant is located outside the boundaries of a
30 municipality, the county where the restaurant is located;

31 (ii) the governing body shall make a recommendation to the Board
32 regarding whether the distance restrictions should be waived; and

(iii) after receiving the recommendation, the Board shall hold a public hearing.

(3) In making a decision whether to waive the distance restrictions from a public or private school building, the Board shall take into consideration:

(i) the recommendation from the governing body;

(ii) comments received from parents whose children attend the public or private school; and

(iii) comments made at the public hearing held by the Board.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.