

HOUSE BILL 1317

A2

EMERGENCY BILL

7lr2664

By: **Prince George's County Delegation**

Introduced and read first time: February 10, 2017

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County Delegation – Appointment of Board of License**
3 **Commissioners**

4 **PG 310–17**

5 FOR the purpose of repealing the requirement that the Governor appoint all of the
6 members of the Board of License Commissioners for Prince George's County;
7 requiring the County Executive to make the appointments, subject to confirmation
8 by the County Council; requiring the County Executive rather than the Governor to
9 make an appointment to fill a vacancy; authorizing the County Executive rather
10 than the Governor to remove a member under certain conditions; requiring a certain
11 certification letter to be addressed to the County Executive rather than the
12 Governor; requiring the County Executive rather than the Governor to appoint the
13 chair of the Board; repealing a provision of law prohibiting the County Executive and
14 County Council from adopting a certain policy; authorizing the Board to set the
15 compensation of the Board employees in accordance with the county's classification
16 plan; replacing the position of Board administrator with the position of executive
17 director of the Board; requiring the County Executive to appoint the executive
18 director, subject to confirmation by the County Council; providing for the salary of
19 the executive director; allowing the executive director to participate in the county's
20 supplemental retirement plan; requiring that the attorney whom the Board appoints
21 shall receive an amount as specified in the county budget; repealing certain
22 provisions of law regarding the compensation of the attorney; requiring that an
23 employee of the Board be subject to the county ethics laws; specifying that the
24 expenses of the Board be contained in the county budget; repealing certain provisions
25 of law regarding the payment of certain expenses; altering the number of full-time
26 inspectors and the number of part-time inspectors; altering the salary of a part-time
27 inspector; providing that the terms of office of the members of the Board or successor
28 members who are in office as of the effective date of this Act shall terminate on a
29 certain date; providing for staggered terms of office for members appointed after a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



certain date; making this Act an emergency measure; and generally relating to the Board of License Commissioners for Prince George's County.

BY repealing and reenacting, without amendments,
Article – Alcoholic Beverages
Section 26–102
Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Alcoholic Beverages
Section 26–202 through 26–206
Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

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

Article – Alcoholic Beverages

26–102.

This title applies only in Prince George's County.

26–202.

(a) [(1)] The [Governor] **COUNTY EXECUTIVE** shall appoint five members to the Board **SUBJECT TO CONFIRMATION BY THE COUNTY COUNCIL**.

[(2)] The appointments shall be made:

(i) if the Senate is in session, with the advice and consent of the Senate; or

(ii) if the Senate is not in session, by the Governor alone.]

(b) (1) (i) Four members of the Board shall be, at the time of appointment, members of the political party that at the last preceding gubernatorial election polled the highest number of votes in the county for Governor.

(ii) One member of the Board shall be, at the time of appointment, a member of the political party that at the last preceding gubernatorial election polled the second highest number of votes in the county for Governor.

[(2) (i) Before making an appointment or filling a vacancy, the Governor shall request the central committees for the county representing each of the two leading

political parties of the State to designate at least four eligible candidates for each position to be filled.

(ii) Except as provided in subparagraph (iii) of this paragraph, the Governor shall appoint one of the designated individuals.

(iii) If the Governor decides that all of the individuals are unfit or incompetent, the Governor:

1. may not appoint any of the individuals;

2. shall file a written statement with the Secretary of State, setting forth the facts and the grounds for the decision and calling on the central committees for a new list of six names for each position to be filled; and

3. shall make the appointments from the new list and the original list.]

[(3)] (2) A member shall be:

(i) a resident and voter of the county; and

(ii) a person of high character and integrity and of recognized business capacity.

(c) (1) In this subsection, "direct or indirect interest" means an interest that is proprietary or obtained by a loan, mortgage, or lien, or in any other manner.

(2) A member of the Board may not:

(i) have a direct or indirect interest in or on a premises in the State where alcoholic beverages are manufactured or sold;

(ii) have a direct or indirect interest in a business wholly or partly devoted to the manufacture or sale of alcoholic beverages in the State;

(iii) own stock in:

1. a corporation that has a direct or indirect interest in a premises in the State where alcoholic beverages are manufactured or sold; or

2. a business wholly or partly devoted to the manufacture or sale of alcoholic beverages in the State; or

(iv) solicit or receive a commission, remuneration, or gift from:

1 1. a person engaged in the manufacture or sale of alcoholic
2 beverages or an agent or employee of the person; or

3 2. a license holder.

4 (d) (1) In this subsection, “candidate”, “contribution”, and “political
5 committee” have the meanings stated in § 1–101 of the Election Law Article.

6 (2) A member of the Board may not solicit or transmit a contribution for
7 the benefit of a candidate or political committee from:

8 (i) a person engaged in the sale of alcoholic beverages in the county
9 or an agent or employee of the person; or

10 (ii) a license holder.

11 (e) (1) The term of a member is 3 years.

12 (2) The terms of the members are staggered [as required by the terms
13 provided for members of the Board on July 1, 2016].

14 (f) (1) The [Governor] **COUNTY EXECUTIVE** shall appoint an eligible
15 individual to fill a vacancy during the remainder of the term of office of the individual
16 originally appointed in accordance with subsection (a) of this section.

17 (2) A member who is appointed after a term has begun serves only for the
18 rest of the term and until a successor is appointed and qualifies.

19 (g) [(1)] The [Governor] **COUNTY EXECUTIVE** may remove a member for
20 misconduct in office, incompetence, or willful neglect of duty.

21 [(2)] The Governor shall give a member who is charged a copy of the charges
22 against the member and, with at least 10 days’ notice, an opportunity to be heard publicly
23 in person or by counsel.

24 (3) If a member is removed, the Governor shall file with the Office of the
25 Secretary of State a statement of charges against the member and the Governor’s findings
26 on the charges.]

27 (h) (1) If a member of the Board stops residing in or being a registered voter of
28 the county, the member shall immediately forfeit the office as a license commissioner for
29 the county.

30 (2) (i) A member of the Board may not serve in any other position of
31 public office.

(ii) On filing a certificate of candidacy for election to a public office or within 30 days before the filing deadline for the primary election for the public office sought, whichever occurs later, a member of the Board shall certify to the County Board of Elections under oath that the individual is no longer a member of the Board.

(iii) The certification shall be accompanied by a letter addressed to the [Governor] **COUNTY EXECUTIVE** containing the resignation of the member from the Board.

26–203.

In making the appointments, the [Governor] **COUNTY EXECUTIVE** shall designate a chair from among the members of the Board.

26–204.

(a) The Board shall meet at least twice each month.

(b) (1) (i) The chair of the Board shall receive a salary of \$22,000 annually.

(ii) Each other member of the Board shall receive a salary of \$20,000 annually.

(2) The chair and each other member of the Board are eligible for:

(i) all county health benefits; and

(ii) membership in and retirement benefits of the State Retirement and Pension System.

(3) The health benefits under paragraph (2)(i) of this subsection include hospitalization, vision care, prescriptions, dental care, life insurance, and expense reimbursement.

[(4) The County Executive and County Council may not adopt through public local law a policy contrary to paragraph (2) of this subsection.]

26–205.

(a) Subject to this section and § 26–206 of this subtitle, the Board may:

(1) employ:

(i) a secretary;

(ii) inspectors; and

(iii) clerical and other assistants as are necessary; and

(2) set the compensation of the employees **IN ACCORDANCE WITH THE COUNTY'S CLASSIFICATION PLAN.**

(b) (1) The [Board] **COUNTY EXECUTIVE** shall appoint an [administrator] **EXECUTIVE DIRECTOR, SUBJECT TO CONFIRMATION BY THE COUNTY COUNCIL.**

(2) The [administrator] **EXECUTIVE DIRECTOR** shall serve at the will of the [Board] **COUNTY EXECUTIVE** and devote full time to the duties of the Board.

(3) The [administrator may] **EXECUTIVE DIRECTOR SHALL** receive a salary [of \$40,705 annually] as determined by the [Board after a performance evaluation] **COUNTY EXECUTIVE AND AS PROVIDED IN THE COUNTY BUDGET.**

(4) (i) The [administrator] **EXECUTIVE DIRECTOR** is eligible to participate in the county's supplemental retirement plan.

(ii) The County Executive and County Council may not adopt through public local law a policy contrary to subparagraph (i) of this paragraph.

(c) **[(1)]** The Board shall appoint an attorney who shall [serve at the will of the Board] **RECEIVE A SALARY AS PROVIDED IN THE COUNTY BUDGET.**

[(2)] The County Council shall pay the attorney:

(i) a salary of \$18,500 annually;

(ii) all court costs and expenses incurred while performing the duties of attorney; and

(iii) legal fees that the Board approves for representing the Board in court.

(3) The Board shall establish the fee rate for representing the Board in court.

(4) The attorney is eligible for:

(i) all county health benefits, including hospitalization, vision care, prescriptions, dental care, life insurance, and expense reimbursement; and

(ii) membership in and retirement benefits of the State Retirement and Pension System.

(5) The County Executive and County Council may not adopt through public local law a policy contrary to paragraph (4) of this subsection.]

(d) (1) The restrictions under § 26–202(c) and (d) of this subtitle regarding direct and indirect interests of members of the Board in alcoholic beverages activities and soliciting or transmitting political contributions for the benefit of a candidate or political committee apply to employees of the Board.

(2) An employee of the Board:

(i) shall devote full time to the business of the Board during the hours designated by the Board for the performance of the employee's official duties;

(ii) may not engage in an occupation, business, or profession connected to or associated with the manufacture or sale of alcoholic beverages; and

(iii) may not transact business beyond the employee's official duties:

1. with a license holder; or

2. in connection with the operation of an establishment licensed for the manufacture or sale of alcoholic beverages.

(3) An employee of the Board who violates this section shall be removed.

(4) AN EMPLOYEE OF THE BOARD IS SUBJECT TO THE COUNTY ETHICS LAWS.

(e) (1) [Subject to paragraph (3) of this subsection, on] **ON** the submission by the Board of an annual budget, the County Council shall pay for all expenses of the Board **AS CONTAINED IN THE COUNTY BUDGET.**

(2) In the budget, the salaries of the members [and the attorney for the Board and any additional compensation for legal fees for the attorney] shall be as set forth under [subsection (c) of this section and §§ 26–204 and 26–206(g)] **§ 26–204** of this subtitle.

[(3) (i) Except as provided in § 26–206(g) of this subtitle, payments for all other expenses shall be at the discretion of the County Council, including:

1. the salary of the administrator under subsection (b)(3) of this section;

2. compensation of other personnel, who shall be qualified and employed under the county merit system;

3. printing;

1 4. supplies; and

2 5. office space.

3 (ii) The County Executive and the County Council shall recognize
4 and categorize the Board as a public safety agency for budgetary purposes.

5 (iii) The County Council may include in the budget an amount not to
6 exceed \$50,000 for the purpose of maintaining software and mobile devices used to
7 modernize practices and increase the efficiency and transparency of the Board.】

8 26–206.

9 (a) The Board shall appoint all of its inspectors.

10 (b) An inspector:

11 (1) has all the powers of a peace officer or sheriff in the State arising out of
12 or relating to the enforcement of this article;

13 (2) may issue a civil citation under § 26–2603 of this title; and

14 (3) has the authority to order that an unlicensed establishment be closed
15 immediately under § 26–2501 of this title.

16 (c) An inspector shall:

17 (1) visit and inspect periodically every licensed premises; and

18 (2) carry out other duties that the Board requires.

19 (d) Inspectors are subject to the restrictions under:

20 (1) § 26–202(c) and (d) of this subtitle regarding direct and indirect
21 interests of members of the Board in alcoholic beverages activities and soliciting or
22 transmitting political contributions for the benefit of a candidate or political committee;
23 and

24 (2) § 26–205(d) of this subtitle requiring an employee to devote full time to
25 the business of the Board, prohibiting certain activities, and requiring removal for violation
26 of those requirements and prohibitions.

27 (e) An inspector shall take the oath required by Article I, § 9 of the Maryland
28 Constitution.

(f) (1) There are ~~[three]~~ **TWO** full-time inspectors and ~~[24]~~ **NOT MORE THAN 16** part-time inspectors of the Board **AS PROVIDED IN THE COUNTY BUDGET**.

(2) To be a full-time or part-time inspector, an individual shall be a resident of the county.

(3) (i) From the full-time inspectors, the Board shall designate annually a chief inspector and ~~[two]~~ **ONE** deputy chief ~~[inspectors]~~ **INSPECTOR**.

(ii) Under the direction of the Board, the chief inspector shall regulate the duties, hours, and assignments of the inspectors.

(4) The full-time inspectors who are certified by the personnel director as meeting the standards that the county merit board sets out are included in the county merit system.

(g) A part-time inspector shall receive ~~[a]~~ **THE** salary ~~[of \$13,900 annually]~~ **THAT IS PROVIDED IN THE COUNTY BUDGET**.

SECTION 2. AND BE IT FURTHER ENACTED, That the term of office of the members of the Board of License Commissioners for Prince George's County, or their successors selected to fill a vacancy, who are in office as of the effective date of this Act, shall terminate on April 30, 2017.

SECTION 3. AND BE IT FURTHER ENACTED, That the terms of office of the initial members of the Board of License Commissioners for Prince George's County who are appointed on or after April 30, 2017, shall expire as follows:

(1) two members on April 30, 2018;

(2) two members on April 30, 2019; and

(3) one member on April 30, 2020.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.