

Chapter 540

(Senate Bill 390)

AN ACT concerning

Harford County – Alcoholic Beverages – Gift Basket Permit

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

BY repealing and reenacting, without amendments,

Article – Alcoholic Beverages

Section 22–102

Annotated Code of Maryland

(2016 Volume and 2020 Supplement)

BY adding to

Article – Alcoholic Beverages

Section 22–1002.1

Annotated Code of Maryland

(2016 Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

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 BY THE BOARD; AND

(3) IS SUBJECT TO THE ALCOHOL AWARENESS TRAINING REQUIREMENTS UNDER § 4-505 OF THIS ARTICLE.

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

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

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

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

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

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

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

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

22-1602.

(a) This section does not apply to:

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

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

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

(4) the issuance of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) the governing body shall make a recommendation to the Board 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.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.