

HOUSE BILL 938

A1

3lr2334
CF SB 854

By: **Delegate Boyce**

Introduced and read first time: February 10, 2023

Assigned to: Economic Matters

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 FOOD PRODUCTS IN AT LEAST FIVE 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; AND

6. DRY GROCERIES AND BAKED GOODS;

(II) ACCEPTS SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM CREDITS AS PAYMENT FOR FOOD AND BEVERAGES;

(III) HAS A MINIMUM OF 3,200 SQUARE FEET; AND

(IV) EXCEPT AS PROVIDED IN DIVISION II OF THIS ARTICLE, HAS A PRIMARY ENTRANCEWAY THAT IS AT LEAST:

1. 300 FEET FROM THE NEAREST POINT OF A PLACE OF WORSHIP OR SCHOOL; AND

2. 100 FEET FROM ANY RESIDENTIAL PROPERTY NOT LOCATED IN THE SAME BUILDING OR STRUCTURE AS THE FOOD RETAILER.

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

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

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

(I) A CLASS A BEER LICENSE;

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

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

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

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

(2) WHEN DETERMINING WHETHER A FOOD RETAILER'S OFFER TO

PURCHASE A CLASS A LICENSE IS AT FAIR MARKET VALUE, THE FACT THAT A FOOD RETAILER MAY NOT RECEIVE THE FULL BENEFIT OF THE LICENSE SHALL BE TAKEN INTO ACCOUNT.

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

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

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

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

4-303.

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

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

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

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