

Md. Ann. Code art. 2B, § 10-202

Annotated Code of Maryland
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*** Current through all chapters of the 2011 Special Session of the General Assembly ***

ARTICLE 2B. ALCOHOLIC BEVERAGES
TITLE 10. LICENSES.
SUBTITLE 2. PROCEDURE FOR ISSUANCE.

Md. Ann. Code art. 2B, § 10-202 (2011)

§ 10-202. Board of License Commissioners

(a) General procedure. --

(1) (i) Before the Board of License Commissioners for Baltimore City or any county approves any application for a license, the Board shall cause a notice of the application to be published two times in two successive weeks:

1. For Baltimore City licensee applicants -- in three newspapers of general circulation in Baltimore City.

2. For county licensee applicants -- in two newspapers of general circulation in the county where two newspapers are published, and if not, then in one newspaper having a general circulation in the county.

(ii) The notice shall specify the name of the applicant, the kind of license for which application is made, the location of the place of business proposed to be licensed, and the time and place fixed by the board for a hearing on the application.

(iii) The hearing may not be less than seven nor more than 30 days after the last publication.

(iv) At the time fixed by the notice for a hearing on the application or on any postponement of the time, any person shall be heard on either side of the question.

(2) (i) Before approving an application and issuing a license, the board shall consider:

1. The public need and desire for the license;

2. The number and location of existing licensees and the potential effect on existing licensees of the license applied for;

3. The potential commonality or uniqueness of the services and products to be offered by the applicant's business;

4. The impact on the general health, safety, and welfare of the community, including issues relating to crime, traffic conditions, parking, or convenience; and

5. Any other necessary factors as determined by the board.

(ii) The application shall be disapproved and the license for which application is made shall be refused if the Board of License Commissioners for the City or any county determines that:

1. The granting of the license is not necessary for the accommodation of the public;
2. The applicant is not a fit person to receive the license for which application is made;
3. The applicant has made a material false statement in his application;
4. The applicant has practiced fraud in connection with the application;
5. The operation of the business, if the license is granted, will unduly disturb the peace of the residents of the neighborhood in which the place of business is to be located; or
6. There are other reasons, in the discretion of the board, why the license should not be issued.

(iii) Except as otherwise provided in this section, if no such findings are made by the board, then the application shall be approved and the license issuing authority shall issue the license for which application is made upon payment of the fee required to the local collecting agent.

(3) The provisions of this paragraph apply to the subdivisions listed and supersede conflicting provisions elsewhere in this subsection:

(i) Baltimore City -- The Board of License Commissioners shall issue a certificate of approval for presentation to the Director of Finance, who may not issue a license unless and until there is presented to the Director also a certificate, issued by the Bureau of Assessments, that shows that there are no unpaid taxes due the City or State on the merchandise, fixtures, and stock of the applicant.

(ii) Caroline County -- If it approves the application, the Board of License Commissioners, rather than the clerk, shall issue the license after the applicant pays the fee.

(iii) Carroll County -- If it approves the application, the Board of License Commissioners, rather than the clerk, shall issue the license after the applicant pays the fee.

(iv) Howard County -- If it approves the application, the Board of License Commissioners, rather than the clerk, shall issue the license after the applicant pays the fee to the Director of Finance.

(v) 1. Prince George's County -- The certificate of approval may not be presented to nor payment made to the clerk of the court.

2. The application shall be approved and the license for which application is made shall be granted if at least three members of the Board of License Commissioners determine that:

- A. The granting of the license is necessary for the accommodation of the public;
- B. The applicant is a fit person to receive the license for which application is made;
- C. The applicant has not made a material false statement in the application;
- D. The applicant has not practiced fraud in connection with the application or the operation of the business;
- E. The operation of the business, if the license is granted, will not unduly disturb the peace of the residents of the neighborhood in which the place of business is to be located; and
- F. There are no other reasons, in the discretion of the Board, why the license should not be issued.

3. If these findings are made by at least three members of the Board, then the application shall be approved and the Board shall issue its certificate of approval. The Board shall issue the license for which application is made upon presentation of the certificate and payment of the required fee to the County Treasurer, and the Board shall maintain a record of licenses issued.

(a-1) Publication in Charles County. -- Notwithstanding the provisions of subsection (a) of this section, in Charles County, before the Board of License Commissioners approves any license, the Board shall cause notice of the application to be published 2 times in 2 successive weeks, in 1 newspaper of general circulation in Charles County.

(b) Notice on the premises. --

(1) (i) The provisions of this paragraph apply in the following subdivisions:

1. Allegany County;
2. Anne Arundel County;
3. Baltimore City;
4. Baltimore County;
5. Calvert County;
6. Dorchester County;
7. Prince George's County;
8. Washington County; and
9. Wicomico County.

(ii) If the application is in the subdivisions enumerated in this paragraph, the board shall cause a suitable sign or notice to be posted and to remain posted for a period of at least 10 days in a conspicuous place upon the premises described in the application. The posting shall be done at least 10 days before action upon the application, and the notice also shall specify the class of license applied for and the time and place fixed by the board for hearing upon the application.

(2) In Harford County, upon application for a new license, transfer of an existing license or upgrading an existing license, the Liquor Control Board of Harford County shall post a notice of the hearing before the Board, in a conspicuous place noticeable to the public on the exterior of the premises described in the application. The notice shall be on a sign not less than 12 by 18 inches and it shall set out the class of license, name of the applicant, time, date, and place of the hearing. The notice shall be posted and remain posted 20 days before the hearing.

(3) (i) In addition to the requirements set forth in subsection (a-1) of this section in Charles County, upon application for a new license, transfer of an existing license, or upgrade of an existing license, the applicant shall pay to the Board of License Commissioners a onetime posting fee of \$ 35.

(ii) The Board shall supply the applicant with the notice on a sign that:

1. Is not less than 12 by 18 inches in size; and
2. Includes the following information:
 - A. Class of license for which application is made;

B. Name and trade name of the applicant; and

C. Time, date, and place of the hearing.

(iii) For 20 consecutive days before the hearing, the applicant shall post the notice in a conspicuous place on the premises described in the application.

(iv) Failure to comply with the posting requirements of this paragraph (3) shall not divest the Board with jurisdiction to conduct the hearing and to take action provided the applicant demonstrates by a preponderance of the evidence that the applicant has substantially complied with the notice requirement.

(c) Allegany County. -- In Allegany County (1) (i) The Board of License Commissioners shall accept and process applications and fees for alcoholic beverages licenses and shall cause notice of each application to be published once in each week for two consecutive weeks in at least one newspaper published in the town or city in which, or nearest to which, the applicant's proposed place of business is to be located. (ii) The notice shall specify the residence of the applicant, the location of the place of business and the owner of the premises for which said application is made. (iii) Where the publication might be made in one of several newspapers the applicant may designate the one in which the publication shall be made. (iv) The first publication shall be not less than fifteen days before the time fixed for the consideration of such application.

(2) At the time fixed by the notice for hearing upon the application or upon any postponement of such time, any person shall be heard on either side of the question.

(3) In all hearings upon applications and remonstrances under the provisions of this article, the general reputation of the applicant or licensee and of the place of business and of the people who congregate therein or thereat shall be admissible in evidence.

(d) Anne Arundel County. -- The Board of License Commissioners for Anne Arundel County shall accept and process applications for alcoholic beverage licenses prior to the erection of a building or premises on the property for which the application is made, when those applications are accompanied by detailed plans of the building or premises to be erected, the parking area to be provided, and the general traffic flow in the area. The applications shall be processed in the same manner as license applications for property on which the building or premises is already constructed, except that approval by the Board of License Commissioners is subject to the completion of the building or premises in accordance with the plans or specifications, and approval by the building inspector, the health department and the inspector for the Board of License Commissioners. In addition to the notice of hearing required in subsection (a) of this section, the applicant shall post conspicuously and keep posted conspicuously a suitable sign or notice, similar to those used for zoning purposes, upon the premises described in the application, for a period of at least ten days immediately before the date of the hearing application, and the notice also shall specify the class of license applied for and the time and place fixed by the Board for the hearing upon the application. If the license for which application was approved is not in use one year from the date of approval, the approval has no effect unless written application is made to the Board of License Commissioners for an extension of time. It is solely up to the Board of License Commissioners to approve or deny a time of extension. The Board shall give written notice to the applicant at the time of application that if the license is not activated within one year from the approval date, the approval has no effect.

(e) Baltimore City. --

(1) In Baltimore City if it appears that more than 50 percent in numbers of the owners of real or leasehold property situated within 200 feet of the place of business for which application is made are opposed to the granting of the license, or if more than 50 percent of those owners and tenants in combination of real or leasehold property located within 200 feet of the place of business for which an application for a license is made are opposed to the granting of the

license, then the application may not be approved, and the license applied for shall be refused. This subsection does not apply to any application for license by way of renewal or by way of transfer for the same premises. This subsection does apply to an application for a license transfer when the license to be transferred is of a broader scope or more permissive class than the license presently issued for the same premises. For the purpose of this subsection "owners of real or leasehold property" includes holders of leasehold improvements upon ground rents, the City of Baltimore and the State of Maryland but excludes the owner of the subject premises. For the purpose of this subsection, a tenant is a person who rents a single-family dwelling and is residing there for at least one year immediately preceding the hearing of the Board. Should any owner of the dwelling participate as a protestant or proponent of the application, then the owner (s) and the tenant of the dwelling shall each have one-half vote. In case of property rented jointly, if one tenant appears in person at the hearing as a protestant, the other tenant's protest may be recorded by an affidavit. The City of Baltimore and the State of Maryland each shall be included as an owner of real or leasehold property when it owns title to a building, and it may protest through an authorized representative of the Mayor and City Council. If the City of Baltimore or the State of Maryland owns more than one building within 200 feet of the place of business for which application is made, then only the building of each which is closest to the place of business for which application is made may be the basis for making protest under this subsection.

(2) (i) On receipt of an application for a new license, a transfer of a license, a change in the class of the license, a request for live entertainment on the licensed premises, or an extension of the licensed premises, the Board of License Commissioners for Baltimore City shall advertise and post notice of the application or request in accordance with this paragraph.

(ii) The notice shall be posted on the premises described in the application.

(iii) The Board shall hold a public hearing on each request for a new license, a change in the class of license, a request of live entertainment, or an expansion of the licensed premises.

(iv) The Board shall hold a public hearing on the transfer of ownership of a license when the transfer includes a transfer of location, or the premises have been closed for more than 90 days, except where the closing is caused by fire, casualty, or act of God or when the transfer is due to an action of a creditor.

(v) The Board shall use the standards listed in subsection (a)(2) of this section in deciding whether to approve a request made under this paragraph.

(3) The Board of License Commissioners for Baltimore City shall hold a public hearing on the transfer of a license for an establishment in operation if the hearing is requested by at least 10 residents in the immediate area of the establishment.

(f) Caroline County. --

(1) In Caroline County, before the license is issued, the Board of License Commissioners shall satisfy themselves of the moral character and financial responsibility of the applicant, the appropriateness of the location where such licensed business is to be conducted, taking into consideration the number of licenses already issued, and generally as to the applicant's fitness for the trust to be reposed.

(2) If a license is issued to a person for the use of a business or club and thereafter the licensee wishes to substitute 1 or more of the officers of the business or club, the licensee may request the substitution by filing a petition with the Board of License Commissioners in lieu of filing a formal application for transfer. Approval of the petition is contingent upon a proper showing that the substitute officer is fit to engage in the business authorized by this article.

(f-1) Carroll County. -- In Carroll County, if the application is limited to a request for a special or a temporary license, the Board of License Commissioners is exempt from the requirement of a

hearing prior to the issuance of a license.

(g) Charles County. -- In Charles County, in all hearings upon applications and remonstrances under the provisions of this article, the general reputation of the applicant or licensee and of the place of business and of the people who congregate therein or thereat shall be admissible in evidence.

(h) Harford County. -- In Harford County, the Liquor Board shall publish its decision on any application for a new license, upgrading of an existing license, or any change of location of any existing license, in 2 newspapers of general circulation published in the county. The publication shall specify the name of the licensee, the type of license and the location of the license. The decision of the Harford County Liquor Board becomes effective 5 days following the date of publication of the decision. This 5-day period may be waived if there are no written or oral objections to the Board's decision by the conclusion of the public hearing on the licensing action.

(i) Prince George's County. --

(1) In Prince George's County, if the applicant proposes to do business in an incorporated town, written notice of the application shall be given to the governing body of the municipality. The municipality has standing to appear at any hearing before the Board of License Commissioners. If it appears that more than 50 percent in numbers of the owners of real or a leasehold property situated within 1,000 feet of the place of business for which application is made are opposed to the granting of the license, then the application may not be approved, and the license applied for shall be refused. The provisions of the preceding sentence do not apply to any application for license by way of renewal or by way of transfer for the same premises.

(2) An application must be submitted not less than 60 days prior to the date set for a hearing for a new license or a transfer hearing.

(3) (i) In Prince George's County, the Board of License Commissioners may adopt a calendar for establishing the following dates for the issuance of licenses:

1. A hearing date;
2. An application filing date; and
3. An application filing deadline date.

(ii) 1. The Board of License Commissioners shall determine the number of licenses of each class that may be applied for at a hearing.

2. The number of licenses that the Board makes available for issuance at a hearing may be less than the total number of licenses in each class that remain unissued by the Board.

(iii) 1. The Board of License Commissioners shall post a hearing notice in not less than 2 newspapers of general circulation in Prince George's County.

2. The hearing notice shall be posted not less than 30 days before the filing deadline date for the hearing.

3. The notice shall contain:
 - A. The number of licenses of each class that are available for issuance;
 - B. A description of each of these classes of licenses;
 - C. The filing deadline for the hearing; and

D. The scheduled hearing date.

(iv) If after a hearing, there are more applicants who are qualified for the issuance of a license than there are licenses of that class authorized to be issued at that hearing, then the Board of License Commissioners shall determine the applicants who are best qualified to be licensees.

(v) The Board may not grant any additional licenses of any class that were not determined and posted as available for the hearing under this section.

(j) Queen Anne's County. -- In Queen Anne's County a Class A license for the sale of beer, wine and liquor may not be issued to any person, firm or corporation which previously has been convicted of a violation of any of the provisions of this article.

(k) Wicomico County. -- In Wicomico County, before a license is issued, the Board of License Commissioners shall make a physical inspection of the proposed licensed premises, shall satisfy themselves of the moral character and financial responsibility of the applicant, the appropriateness of the location where such licensed business is to be conducted, taking into consideration the number of licenses already issued, and generally as to the applicant's fitness to engage in the business authorized by this article.

(l) Worcester County. -- In Worcester County, (1) the notice of every application for a license shall be published once in each week for two consecutive weeks in at least one newspaper published in the town in which, or nearest to which the applicant's proposed place of business is to be located; (2) when the Board of License Commissioners has approved the application for a license, it shall issue the license upon payment of the fee required.

(m) Montgomery County. --

(1) In Montgomery County, before a license is issued or transferred, the Board of License Commissioners shall cause a suitable sign or notice to be posted and to remain posted for a period of thirty days in a conspicuous place on the premises described in the application, the posting to be done at least thirty days before public hearing on the application; and the notice shall also specify the class of license applied for and the time and place fixed for a hearing on the application.

(2) A decision on an application for a license shall be made on the basis of evidence of record.

(3) When the Board of License Commissioners acts upon an application for a license, the Board shall adopt a resolution which shall contain a detailed statement of the grounds and findings forming the basis for the decision and the vote of each member of the Board on the decision. A copy of the resolution shall be forwarded to the applicant and all persons who so request in the manner prescribed by the Board. In addition, in the case of denial, the Board shall inform the applicant in writing of the procedures for appeal.

(4) The Board shall adopt rules of procedure, subject to the approval of the County Council.

(n) Howard County. --

(1) In Howard County, upon application for a new license, a transfer of a license, a change in the class of the license, or an extension of the licensed premises, the Howard County Board of License Commissioners shall post a notice of the hearing on the premises described in the application.

(2) The posting shall exist for no less than 15 days prior to the hearing.

(3) The posting shall be made by the alcoholic beverages inspector with the cooperation of the applicant.

(o) St. Mary's County. --

(1) In St. Mary's County, the County Treasurer:

- (i) Shall collect the alcoholic beverages license fees; and
- (ii) Is authorized to issue alcoholic beverages licenses.

(2) An application for a license shall be disapproved and the license for which application is made shall be refused if the Alcohol Beverage Board of St. Mary's County determines that the applicant has been convicted of a felony.

(p) Somerset County. -- In Somerset County:

(1) Notice of each application for a license shall be published once a week for 2 consecutive weeks in at least one newspaper published in the municipal corporation or unincorporated area in which, or nearest to which, the applicant's proposed place of business is to be located;

(2) The applicant for the license shall pay the Board of License Commissioners a fee of \$ 350 to cover the costs of the advertising required by paragraph (1) of this subsection and the costs of processing the application; and

(3) After the Board of License Commissioners has approved the application for a license, the County Treasurer shall issue the license on payment of the fee required for the license and the fee required by paragraph (1) of this subsection.

HISTORY: An. Code, 1951, § 57; 1947, ch. 501, § 52; 1949, ch. 490, § 48 (b); 1951, ch. 314, § 48 (ee); ch. 550, § 48 (g); ch. 604, § 48 (c)(2); 1953, chs. 192, 671; 1959, ch. 422; 1961, chs. 354, 614, 725; 1963, ch. 250, § 1; 1965, chs. 525, 826; 1966, ch. 301; 1967, chs. 33, 37; 1968, ch. 6; ch. 151, § 1; 1972, ch. 53; 1976, ch. 516; ch. 829, § 1; 1977, chs. 517, 536, 594; ch. 753, § 1; ch. 800; ch. 930, § 2; 1978, chs. 351, 866; 1979, ch. 181; 1982, ch. 647, § 2; ch. 730; ch. 820, § 1; ch. 870, § 2; 1983, chs. 54, 255; 1984, ch. 757; 1986, ch. 545; 1987, ch. 98; 1988, ch. 6, § 1; 1989, ch. 5, § 15; ch. 449; 1991, ch. 55, § 1; ch. 204; 1992, ch. 22, § 1; chs. 106, 359; 1993, ch. 5, § 2; chs. 373, 594; 1994, ch. 69; 1996, ch. 366; 1997, ch. 486; 1998, ch. 167; 1999, ch. 76; 2001, ch. 29, § 6; chs. 52, 475; 2002, ch. 51; 2003, ch. 175; 2006, ch. 302, § 1; chs. 509, 519; 2007, ch. 390; 2010, ch. 161.

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