

HOUSE BILL 902

A1, A2

0lr2213
CF SB 765

By: **Delegate Dumais**

Introduced and read first time: February 5, 2020

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 3, 2020

CHAPTER _____

1 AN ACT concerning

2 **Alcoholic Beverages – License Applications – Durational Residency**
3 **Requirements**

4 FOR the purpose of repealing certain requirements that a person be a resident for a certain
5 period of time, a taxpayer, or a registered voter to be issued certain statewide
6 alcoholic beverages licenses and permits; requiring that a person, to be issued certain
7 statewide licenses and permits, remain a resident for the duration of time that
8 certain licenses and permits are in effect; repealing certain requirements that a
9 person be a resident for a certain period of time to be issued certain local alcoholic
10 beverages licenses; making conforming changes; declaring the intent of the General
11 Assembly; and generally relating to alcoholic beverages licenses.

12 BY repealing and reenacting, without amendments,

13 Article – Alcoholic Beverages

14 Section 2–125(a), 4–104(a), 12–102, 13–102, 14–102, 19–102, 20–102, 21–102,
15 22–102, 23–102, 25–102, 25–1011.1(a), 26–102, 26–1405(b), 26–1406(b),
16 26–1704, 26–1808, 26–2102(d)(1), 27–102, 28–102, 31–102,
17 31–1312(a), and 32–102

18 Annotated Code of Maryland

19 (2016 Volume and 2019 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article – Alcoholic Beverages

22 Section 2–125(b), 2–211, 3–102, 3–104(b), 3–105(b), 3–106(a), 4–103, 4–104(b),
23 4–105(a), 4–109(a)(4), 12–1405, 13–1403, 14–1704, 19–1402, 20–1404(a),

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



21–1401, 22–1402, 23–1404(d)(2), 23–1406, 25–1011.1(b), 25–1405, 25–1406,
26–1405(c), 26–1406(c), 27–1402, 27–1403(a)(1), 28–1409, 31–1312(e)(2),
31–1402, 32–1403(b), 32–1405(a), 32–1502, and 32–1503
Annotated Code of Maryland
(2016 Volume and 2019 Supplement)

BY repealing
Article – Alcoholic Beverages
Section 21–1405.1 and 25–1407
Annotated Code of Maryland
(2016 Volume and 2019 Supplement)

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

Article – Alcoholic Beverages

2–125.

(a) There is a resident dealer’s permit.

(b) (1) Subject to paragraph (2) of this subsection, the Comptroller may issue
the permit to:

(i) an importer of beer, wine, or distilled spirits produced outside the
United States that:

1. purchases directly from the brand owner or from a sales
agent of a bottler, brewer, distiller, manufacturer, rectifier, vintner, or winery;

2. is authorized by the brand owner to sell in the State; and

3. provides proof of the sales agency relationship to the
Comptroller; or

(ii) an American sales agent of an importer under item (i) of this
paragraph, on presentation of proof of the sales agency relationship to the Comptroller.

(2) An individual applicant, an applicant qualifying as a resident applicant
for a corporation, or each applicant for a partnership is not eligible for the permit unless
the individual [has been] **IS** a resident of the State [for at least 2 years immediately before
applying for] **AT THE TIME THE APPLICATION IS FILED AND REMAINS A RESIDENT FOR
THE DURATION OF TIME** the permit **IS IN EFFECT**.

2–211.

To be issued a manufacturer’s license, the following individuals shall reside in the

1 State [for 2 years immediately preceding the] **AT THE TIME OF** filing [of] an application
2 for the license:

3 (1) for a sole proprietorship, the individual applicant;

4 (2) for a corporation or limited liability company, the individual who
5 qualifies as a resident applicant; or

6 (3) for a partnership, each partner of the applicant.

7 3-102.

8 To be issued a manufacturer's license or a wholesaler's license, an individual
9 applicant shall [have been] **BE** a resident of the State [for 2 years immediately before] **AT**
10 **THE TIME** the application is filed.

11 3-104.

12 (b) (1) If a partnership has fewer than three general partners, the names of
13 each general partner shall be on the license.

14 (2) Each of the three general partners or corporate officers shall:

15 (i) [have been a resident of the State for at least 2 years before] **BE**
16 **A RESIDENT OF THE STATE AT THE TIME** the application is filed; and

17 (ii) [be a registered voter of the State] **REMAIN A RESIDENT OF THE**
18 **STATE FOR THE DURATION OF TIME THE LICENSE IS IN EFFECT.**

19 3-105.

20 (b) (1) Except as provided in subsections (c) and (d) of this section, a license on
21 behalf of a corporation or club shall be applied for and issued to three officers of the
22 corporation or club as individuals.

23 (2) At least one of the three officers shall:

24 (i) [have been] **BE** a resident of the State [for at least 2 years before]
25 **AT THE TIME** the application is filed; and

26 (ii) [be a registered voter and taxpayer of the State when the
27 application is filed] **REMAIN A RESIDENT OF THE STATE FOR THE DURATION OF TIME**
28 **THE LICENSE IS IN EFFECT.**

29 3-106.

(a) (1) A license for the use of a limited liability company shall be applied for and issued to, as individuals:

(i) all of the authorized individuals, if the limited liability company has fewer than three authorized individuals; or

(ii) three authorized individuals, if the limited liability company has three or more authorized individuals.

(2) At least one of the authorized individuals shall:

(i) [have been] **BE** a resident of the State [for at least 2 years before] **AT THE TIME** the application is filed; and

(ii) [be a registered voter and taxpayer of the State when the application is filed] **REMAIN A RESIDENT OF THE STATE FOR THE DURATION OF TIME THE LICENSE IS IN EFFECT.**

4–103.

(a) An application for a license for the use of a partnership shall be made by and the license issued to all of the partners as individuals.

(b) Each of the partners shall [have resided]:

(1) RESIDE in the county or city where the business is located [for at least 2 years before] **AT THE TIME** the application is filed; **AND**

(2) REMAIN A RESIDENT OF THE COUNTY OR CITY WHERE THE BUSINESS IS LOCATED FOR THE DURATION OF TIME THE LICENSE IS IN EFFECT.

(c) The application for a license shall state the name and address of the partnership and the name and address of each applicant.

4–104.

(a) This section applies to:

(1) a corporation; and

(2) a club, whether incorporated or unincorporated.

(b) (1) Except as provided in subsections (c) and (d) of this section, a license on behalf of a corporation or club shall be applied for and issued to three officers of the corporation or club as individuals.

(2) At least one of the three officers shall:

(i) [have been] **BE** a resident of the jurisdiction or municipality [for at least 2 years before] **AT THE TIME** the application is filed; and

(ii) [be a registered voter and taxpayer of the jurisdiction or municipality when the application is filed] **REMAIN A RESIDENT OF THE JURISDICTION OR MUNICIPALITY FOR THE DURATION OF TIME THE LICENSE IS IN EFFECT.**

4–105.

(a) (1) A license for the use of a limited liability company shall be applied for and issued to authorized persons of the limited liability company, as individuals.

(2) (i) All of the authorized individuals shall apply for the license, if the limited liability company has fewer than three authorized individuals.

(ii) Three authorized individuals shall apply for the license, if the limited liability company has three or more authorized individuals.

(3) At least one of the authorized individuals shall:

(i) [have been] **BE** a resident of the jurisdiction or municipality [for at least 2 years before] **AT THE TIME** the application is filed; and

(ii) [be a registered voter and taxpayer of the jurisdiction or municipality when the application is filed] **REMAIN A RESIDENT OF THE JURISDICTION OR MUNICIPALITY FOR THE DURATION OF TIME THE LICENSE IS IN EFFECT.**

4–109.

(a) A license application shall state:

(4) that [for the 2 years immediately before filing the application] the applicant [has been] **IS** a resident of the jurisdiction in which the applicant proposes to operate under the license for which the applicant is applying;

12–102.

This title applies only in Baltimore City.

12–1405.

The application shall include a petition signed by at least three residents who are owners of real property and registered voters in the City stating that:

(1) the applicant:

(i) is personally known to the signers of the petition; and

(ii) [has been a resident or taxpayer of the City for 2 years and a resident of the State for 2 years preceding the presentation of] **IS A RESIDENT OR TAXPAYER OF THE CITY AT THE TIME THE APPLICANT PRESENTS** the application to the signers of the petition;

(2) if the applicant is a corporation, at least one of the applicants:

(i) is personally known to the signers of the petition;

(ii) [has been a resident or taxpayer of the City for 2 years and a resident of the State for 2 years preceding the presentation of] **IS A RESIDENT OR TAXPAYER OF THE CITY AT THE TIME THE APPLICANT PRESENTS** the application to the signers of the petition; and

(iii) is a registered voter in the State; and

(3) if the applicant is a partnership, all members of the partnership [have been residents or taxpayers of the City for 2 years and residents of the State for 2 years preceding the presentation of] **ARE RESIDENTS OF THE CITY AT THE TIME THE APPLICANTS PRESENT** the application to the signers of the petition.

13–102.

This title applies only in Baltimore County.

13–1403.

(a) An applicant for a license in the county shall include on the application:

(1) (i) a statement whether the applicant is a natural–born citizen or a naturalized citizen; or

(ii) if the applicant is not a natural–born citizen or a naturalized citizen, information or documentation required by the Board to show proof of immigration status; and

(2) a statement that the applicant [has been for 2 years immediately before the filing of the application] **IS** a resident of the State **AT THE TIME THE APPLICATION IS FILED**.

(b) The Board may obtain information from the Social Security Administration and the Department of Homeland Security — Immigration and Customs to verify the

1 citizenship or immigration status of the applicant.

2 14-102.

3 This title applies only in Calvert County.

4 14-1704.

5 The Board may waive the [2 years residence] **RESIDENCY** requirement for
6 applicants for a license if the applicant for the transfer:

7 (1) is the purchaser and proprietor of the establishment for which the
8 transfer is sought; and

9 (2) can submit to the satisfaction of the Board:

10 (i) proper persons who know the applicant and can vouch for the
11 good character of the applicant; or

12 (ii) other evidence that the applicant is a fit and proper person to
13 hold the license.

14 19-102.

15 This title applies only in Dorchester County.

16 19-1402.

17 [An] **AT THE TIME AN APPLICATION FOR A LICENSE IS FILED**, AN applicant shall
18 be a resident of the county [for 1 year before applying for a license].

19 20-102.

20 This title applies only in Frederick County.

21 20-1404.

22 (a) (1) A license for the use of a partnership shall be applied for and issued to
23 three individuals.

24 (2) The three individuals are not required to be partners but shall be
25 authorized in writing to act for the partnership.

26 (3) One of the three individuals shall[:

27 (i) have been] **BE** a resident **AND REGISTERED VOTER** of the

1 county [for at least 2 years before the application is filed; and

2 (ii) be a registered voter of the county before and] at the time the
3 application is filed.

4 (4) The names of each partner shall be stated on the application.

5 21-102.

6 This title applies only in Garrett County.

7 21-1401.

8 (a) The following sections of Title 4, Subtitle 1 (“Applications for Local Licenses”)
9 of Division I of this article apply in the county without exception or variation:

10 (1) § 4-102 (“Applications to be filed with local licensing board”);

11 (2) § 4-103 (“Application on behalf of partnership”);

12 (3) § 4-104 (“Application on behalf of corporation or club”);

13 (4) § 4-105 (“Application on behalf of limited liability company”);

14 (5) § 4-106 (“Payment of notice expenses”);

15 (6) § 4-108 (“Application form required by Comptroller”);

16 (7) **§ 4-109 (“REQUIRED INFORMATION ON APPLICATION – IN**
17 **GENERAL);**

18 **(8)** § 4-110 (“Required information on application — Petition of support”);

19 **[(8)] (9)** § 4-113 (“Refund of license fees”); and

20 **[(9)] (10)** § 4-114 (“Fees for licenses issued for less than 1 year”).

21 (b) The following sections of Title 4, Subtitle 1 (“Applications for Local Licenses”)
22 of Division I of this article apply in the county:

23 (1) § 4-107 (“Criminal history records check”), subject to §§ 21-1402
24 through 21-1405 of this subtitle;

25 (2) **[§ 4-109 (“Required information on application – In general”),** subject
26 **to § 21-1405.1 of this subtitle;**

(3) § 4–111 (“Payment of license fees”), subject to § 21–1406 of this subtitle;
and

[(4)] (3) § 4–112 (“Disposition of license fees”), subject to § 21–1407 of this
subtitle.

[21–1405.1.

An individual who is a resident of the county for 1 year immediately before filing the
license application meets the residency requirements under § 4–109(a)(4) of this article.]

22–102.

This title applies only in Harford County.

22–1402.

(a) (1) To be issued a license for the applicant’s individual use, the applicant
shall be a resident of the county [for at least 1 year before filing] **AT THE TIME** the
application **IS FILED**.

(2) The license holder is required to remain a resident of the county for as
long as the license is in effect.

(b) An applicant under this section is not required to be a registered voter.

23–102.

This title applies only in Howard County.

23–1404.

(d) (2) A continuing care retirement community license shall be issued to:

(i) a manager or supervisor; and

(ii) two officers, one of whom shall [have been] **BE** a resident of the
county [for at least 2 years before the application is filed and be], a registered voter, and A
taxpayer of the county [when] **AT THE TIME** the application is filed.

23–1406.

(a) At least one of the applicants shall include with the application a petition of
support signed by at least three residents who are owners of real property and registered
voters in the district where the business is to be conducted stating that the applicant:

(1) is known personally to the residents; and

(2) subject to subsection (b) of this section, [has been] **IS** a resident of the county [for 2 years immediately preceding the presentation of] **AT THE TIME THE APPLICANT PRESENTS** the application to the residents.

(b) The Board may waive the [2-year] residency requirement for an applicant if the applicant:

(1) is the purchaser of a business already in operation; or

(2) has owned the premises for which a license is sought for at least 2 years immediately preceding the filing of the application.

25-102.

This title applies only in Montgomery County.

25-1011.1.

(a) There is a sports stadium license.

(b) (1) Subject to paragraph (2) of this subsection, the Board may issue the license to three individuals serving on the board of directors for a corporation, partnership, or limited liability company that operates a stadium that:

(i) has a minimum capital investment of \$2,000,000, not including the cost of land;

(ii) serves as a venue for professional sports events; and

(iii) has a seating capacity of 2,000 persons, as established by the Fire Marshal for the county.

(2) At least one of the individuals to whom the license is issued shall [have been] **BE** a resident of the State [for at least the 2 years immediately preceding the issuance of the license] **AT THE TIME THE APPLICATION IS FILED**.

25-1405.

(a) (1) Except as provided in paragraph (2) of this subsection, a license on behalf of a corporation or club shall be applied for and issued to three officers of the corporation or club, as individuals.

(2) If a corporation or club has fewer than three officers, each officer shall apply for a license.

(b) An officer who is a resident of the State **AT THE TIME THE APPLICATION IS FILED** meets the [voter, taxpayer, and] residency requirements under § 4–104 of this article.

25–1406.

(a) [(1)] Except as provided in [paragraph (2) of this subsection] **SUBSECTION (B) OF THIS SECTION**, a license on behalf of a limited liability company shall be applied for **BY** and issued to three authorized persons of the limited liability company, as individuals.

[(2)] **(B) (1)** If a limited liability company has fewer than three authorized persons, each authorized person shall apply for a license.

[(b)] **(2)** An individual who is a resident of the State **AT THE TIME THE APPLICATION IS FILED** meets the [registered voter, taxpayer, and] residency requirements under § 4–105 of this article.

[25–1407.

An individual who is a resident of the State meets the residency requirements under § 4–109(a)(4) of this article.]

26–102.

This title applies only in Prince George’s County.

26–1405.

(b) (1) An application for a license for a proprietorship shall state the name and address of the proprietorship and the name and address of the applicant.

(2) An application for a license for a partnership shall:

(i) be made by and the license issued to each partner as an individual; and

(ii) state the name and address of the partnership and the names and addresses of each applicant.

(c) (1) This subsection does not apply to a Class B–Stadium beer and light wine license, a 7–day Class B–ECR on–sale beer, wine, and liquor license, or a Class B–WPL (waterfront pavilion) beer, wine, and liquor license.

(2) To be eligible to receive a license, a partner shall:

(i) [have been] **BE** a resident of the State [for at least 1 year before] **AT THE TIME** the application is filed and continue to be a resident as long as the license is in effect; and

(ii) be a registered voter of the State.

26–1406.

(b) (1) An application for a license on behalf of a corporation, an incorporated or unincorporated club, or a limited liability company shall be made by and the license issued to three officers of the corporation or club or three authorized persons of the limited liability company, as individuals.

(2) An application for a license shall:

(i) state the name and address of each officer of the corporation or club or authorized person of the limited liability company;

(ii) state the name and address of the corporation, club, or limited liability company; and

(iii) be signed by:

1. the president or vice president of the corporation or club;

or

2. three officers or authorized persons to whom the licenses are to be issued.

(3) If a corporation or club has fewer than three officers or directors or a limited liability company has fewer than three authorized persons, each officer, director, or authorized person shall apply for a license.

(c) (1) This subsection does not apply to a Class B–Stadium beer and light wine license, a 7–day Class B–ECR on–sale beer, wine, and liquor license, or a Class B–WPL (waterfront pavilion) beer, wine, and liquor license.

(2) To be eligible to receive a license, an applicant shall:

(i) [have been] **BE** a resident of the State [for at least 1 year before] **AT THE TIME** the application is filed and continue to be a resident as long as the license is in effect; and

(ii) be a registered voter of the State.

26–1704.

1 The residency requirements under § 26–1406(c) of this title apply to a transfer of a
2 license.

3 26–1808.

4 Except for a Class B–WPL (waterfront pavilion) beer, wine, and liquor license, the
5 residency requirements under § 26–1406(c) of this title apply to a renewal of a license.

6 26–2102.

7 (d) (1) If a license holder has not complied with the residency requirements
8 specified in § 4–103, § 4–104, or § 4–105 of this article or Subtitle 14 of this title, the Board
9 may revoke or suspend the license.

10 27–102.

11 This title applies only in Queen Anne’s County.

12 27–1402.

13 An applicant on behalf of a partnership may not be issued a Class A beer, wine and
14 liquor license unless the owners of 75% of the interest in the partnership [have been] **ARE**
15 residents of the county [for 2 years immediately before] **AT THE TIME THE** application is
16 filed.

17 27–1403.

18 (a) (1) An individual on behalf of a corporation or limited liability company
19 may not be issued a Class A beer, wine, and liquor license unless the owners of 75% of the
20 total issued capital stock or interest in the corporation or limited liability company [have
21 been] **ARE** residents of the county [for 2 years immediately before] **AT THE TIME** the
22 application is filed.

23 28–102.

24 This title applies only in St. Mary’s County.

25 28–1409.

26 A license may not be issued for the use of a corporation unless the owners of at least
27 15% of the total stock of the corporation [have resided] **ARE RESIDENTS** in the county [for
28 6 months immediately before the] **AT THE TIME THE** application for the license **IS FILED**.

29 31–102.

This title applies only in Washington County.

31-1312.

(a) There is a Class C per diem beer, wine, and liquor license.

(e) (2) (i) A license shall be applied for and issued to three individuals affiliated with the applicant, each of whom:

1. appears in person to present proper qualifications at the time the application is filed;

2. is at least 21 years old; and

3. is a registered voter in the county and a citizen of the United States.

(ii) At least one of the individuals shall [have been] **BE** a resident of the county [for the 2 years immediately before filing] **AT THE TIME** the application **IS FILED**.

31-1402.

With the license application, the applicant shall submit a petition of support that:

(1) is signed by at least three residents who are owners of real property and registered voters in the county; and

(2) declares that the applicant:

(i) is personally known to them; and

(ii) [has been] **IS** a resident of the county [for 2 years immediately before presenting] **AT THE TIME THE APPLICANT PRESENTS** them with the application.

32-102.

This title applies only in Wicomico County.

32-1403.

(b) (1) An application for a stadium beer and wine license for a partnership shall be made by and the license issued to three individuals who:

(i) shall be authorized in writing to apply for and hold the license on behalf of the partnership; but

(ii) are not required to be partners.

(2) One of the three individuals who applies for a license shall[:

(i) have been] **BE** a resident **AND REGISTERED VOTER** of the county [for at least 2 years before] **AT THE TIME** the application is filed[; and

(ii) have been a registered voter of the county for at least 1 year immediately before the application is filed].

(3) The name of each partner shall be stated on the application.

32-1405.

(a) Except as provided in subsection (b) of this section, the Board may not issue a license to a corporation or limited liability company unless the individual qualifying under this article:

(1) [has been] **IS** a registered voter, taxpayer, and resident of the county [for at least 2 years before the] **AT THE TIME OF** submission of the application; and

(2) owns at least 20% of the total issued capital stock of the corporation or 20% of the total interests of the limited liability company.

32-1502.

The prohibitions against one person being issued more than one license under § 4-203 of this article do not apply to:

(1) a Class 6 pub-brewery license issued under § 2-208 of this article or a Class 7 micro-brewery license issued under § 2-209 of this article; or

(2) a Class B beer, wine, and liquor license issued under § 32-902 of this article if:

(i) the resident applicant [has been] **IS** a resident of the county [for at least 2 years before the] **AT THE TIME OF** application; and

(ii) the minimum capital investment in the premises is at least \$200,000 or the premises have a fair market value of at least \$200,000.

32-1503.

Section 4-205 of this article does not apply to a license issued under:

(1) § 2-208 or § 2-209 (regarding pub-brewery and micro-brewery

licenses) of this article; or

(2) § 32–902 (regarding Class B beer, wine, and liquor licenses) of this article if:

(i) the resident applicant [has been] **IS** a resident of the county [for at least 2 years before the] **AT THE TIME OF** application; and

(ii) the minimum capital investment in the premises is at least \$200,000 or the premises have a fair market value of at least \$200,000.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that this Act be applied and interpreted to comport with the holding of the U.S. Supreme Court in *Tennessee Wine and Spirits Retailers Assn. v. Russel F. Thomas, Executive Director of the Tennessee Alcoholic Beverage Commission, et al.*, 139 S. Ct. 2449 (2019), which held that durational–residency requirements for an alcoholic beverages license was facially discriminatory, in violation of the dormant Commerce Clause of the U.S. Constitution.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.