

COUNTY COUNCIL
OF
TALBOT COUNTY, MARYLAND

2010 Legislative Session, Legislative Day No. : July 27, 2010

Bill No.: 1197

Expiration Date: September 30, 2010

Introduced by: Mr. Foster, Mr. Pack

A BILL TO AMEND CHAPTER 11, TALBOT COUNTY CODE, *ALCOHOLIC BEVERAGES*, TO PROVIDE FOR THE APPOINTMENT, QUALIFICATIONS, POWERS, AND REMUNERATION OF AN ALCOHOLIC BEVERAGE INSPECTOR, AND TO PROVIDE THAT EVIDENCE DISCOVERED DURING ANY INSPECTION OF ANY BUILDING OR PREMISES IN WHICH ALCOHOLIC BEVERAGES ARE AUTHORIZED TO BE KEPT OR SOLD UNDER A LICENSE OR PERMIT ISSUED BY THE TALBOT COUNTY BOARD OF LIQUOR LICENSE COMMISSIONERS SHALL BE ADMISSIBLE IN ANY PROSECUTION FOR VIOLATIONS OF THE PROVISIONS OF CHAPTER 11, AND IN ANY ADMINISTRATIVE HEARING FOR REVOCATION, SUSPENSION, OR RESTRICTION OF THE LICENSE OR PERMIT

By the Council: July 27, 2010

Introduced, read first time, ordered posted, and public hearing scheduled on Tuesday, August 24, 2010 at 2:00 p.m. at the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

By Order _____
Susan W. Moran, Secretary

A BILL TO AMEND CHAPTER 11, TALBOT COUNTY CODE, ALCOHOLIC BEVERAGES, TO PROVIDE FOR THE APPOINTMENT, QUALIFICATIONS, POWERS, AND REMUNERATION OF AN ALCOHOLIC BEVERAGE INSPECTOR, AND TO PROVIDE THAT EVIDENCE DISCOVERED DURING ANY INSPECTION OF ANY BUILDING OR PREMISES IN WHICH ALCOHOLIC BEVERAGES ARE AUTHORIZED TO BE KEPT OR SOLD UNDER A LICENSE OR PERMIT ISSUED BY THE TALBOT COUNTY BOARD OF LIQUOR LICENSE COMMISSIONERS SHALL BE ADMISSIBLE IN ANY PROSECUTION FOR VIOLATIONS OF THE PROVISIONS OF CHAPTER 11, AND IN ANY ADMINISTRATIVE HEARING FOR REVOCATION, SUSPENSION, OR RESTRICTION OF THE LICENSE OR PERMIT

KEY	
Boldface	Heading or defined term.
<u>Underlining</u>	Added to existing law by original bill.
Strikethrough	Deleted from existing law by original bill.
<u><u>Double underlining</u></u>	Added to bill by amendment.
<u>Double strikethrough</u>	Deleted from bill by amendment.
* * *	Existing law unaffected.

SECTION ONE: BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND, that Chapter 11, of the Talbot County Code entitled *Alcoholic Beverages* shall be and is hereby amended as set forth herein.

1 **§ 11-9 License application filing requirements.**

2 Every application for a new license shall be made to the Talbot County Board of Liquor
 3 License Commissioners and shall be accompanied by the specified application and
 4 license fees. The application shall contain the following:

5 * * *

6 N. A statement, duly executed and acknowledged by the owner of the premises upon
 7 which the business is to be conducted, assenting to the granting of the license applied for

8 and authorizing the Comptroller of the State of Maryland, his duly authorized deputies,
9 inspectors and clerks, the Talbot County Board of Liquor License Commissioners, its
10 duly authorized agents and employees, any Talbot County Alcoholic Beverages
11 Inspector, deputy, or assistant, any peace officer of Talbot County and any peace officer
12 of any incorporated municipality in which the business is to be conducted to inspect and
13 search, without warrant, the premises upon which the business is to be conducted, and
14 any and all parts of the building in which the business is to be conducted, at any and all
15 hours. The statement shall contain an acknowledgment that any evidence discovered
16 during any lawful inspection of licensed buildings or premises shall be admissible in any
17 prosecution for the violation of this Chapter, and shall be admissible in any hearing for a
18 revocation, suspension, or restriction of the license of the person, firm, corporation or
19 association who has obtained a license to sell alcoholic beverages in such building or
20 premises.

21 * * *

22 **§ 11-17-1.1 Alcoholic beverages inspector.**

23 A. Appointment.

24 The County Manager, with the approval of the Council, shall appoint an alcoholic
25 beverages inspector and such deputies or assistants as the Council may authorize from
26 time to time. The inspector, his deputies and assistants, shall be known as the “Talbot
27 County alcoholic beverages inspector” or “inspector.” After appointment, an inspector
28 shall serve at-will, and may be discharged by the County Manager at any time with or
29 without cause.

30 (1) The budget for alcoholic beverages inspections and Code enforcement shall be
31 set by the Council in the Annual Budget and Appropriation Ordinance.

32 (2) The inspector shall report to the Department of Administrative Services.

33 B. Qualifications.

34 (1) An inspector shall not have been convicted of a felony or a crime of moral
35 turpitude.

36 (2) A person may not qualify nor continue service as an inspector if the inspector or
37 the inspector's immediate family has any personal or financial interest, either
38 directly or indirectly, in any license, licensee, or in any premises licensed under
39 the provisions of this Chapter, or in any business wholly or partially devoted to
40 the manufacture, distribution, or sale of alcoholic beverages.

41 (3) An inspector may not, during the entire term of his appointment, hold any other
42 public office, federal, State or local.

43 (4) Before a person qualifies as an inspector, the person shall:

44 i. Make an oath to faithfully perform the duties entrusted to him as an
45 alcoholic beverages inspector pursuant to this Chapter, as provided in
46 Article I, § 9 of the Constitution of Maryland; and,

47 ii. Furnish bond in the penalty sum of \$10,000 to the Board and the County
48 Council jointly, conditioned “that the inspector shall well and faithfully
49 execute the office of Talbot County alcoholic beverages inspector in all
50 things appertaining thereto”. The cost of the bond shall be paid by the
51 county.

52 **§ 11-17-1.2 Prohibited activities.**

53 An inspector may not, during the entire term of his appointment:

54 (1) Solicit or receive directly or indirectly any commission, remuneration or gift
55 whatsoever from any:

56 (i) Person or corporation engaged in the manufacture, distribution, or sale of beer,
57 wine, or other alcoholic beverages;

58 (ii) Agent or employee of that person or corporation; or

59 (iii) Licensee licensed under the provisions of this Chapter or the alcoholic
60 beverage laws of the State of Maryland.

61 (2) Engage in any occupation, business, or profession in any way connected or associated
62 with the manufacture, distribution, or sale of alcoholic beverages; and us

63 (3) Transact any business of any kind whatsoever beyond their official duties with any
64 licensee, or in connection with the operation of any establishment licensed for the
65 manufacture, distribution, or sale of alcoholic beverages.

66 (4) Have any interest, direct or indirect, either proprietary or by means of any loan,
67 mortgage or lien, or in any other manner, in or on any premises where alcoholic
68 beverages are manufactured, distributed, or sold;

69 (5) Have any interest, direct or indirect, in any business wholly or partially devoted to the
70 manufacture, distribution, or sale of alcoholic beverages; or

71 (6) Own any stock in any corporation which has any interest, proprietary or otherwise,
72 direct or indirect, in any premises where alcoholic beverages are manufactured,

73 distributed, or sold or in any business wholly or partially devoted to the manufacture,
74 distribution, or sale of alcoholic beverages.

75 **§ 11-17-1.3 Powers.**

76 For the purpose administration and enforcement of the alcoholic beverages laws before
77 the Board, the inspector shall have the power to:

- 78 (1) Enforce all alcoholic beverages laws;
- 79 (2) Investigate all complaints and violations of the alcoholic beverages laws;
- 80 (3) Investigate all applicants for an alcoholic beverages license or transfer of license;
- 81 (4) Serve summonses and subpoenas, conduct inspections, and investigate violations of
82 this Chapter;
- 83 (5) Issue civil citations as provided in § 10-119 of the Criminal Law Article, Md. Ann.
84 Code, upon probable cause to believe that the person charged is committing or has
85 committed a Code violation;
- 86 (6) Initiate administrative proceedings before the Board to revoke, suspend, or restrict a
87 license;
- 88 (7) Visit and inspect at unannounced times every licensed premises in the county as
89 directed by the Department of Administrative Services;
- 90 (8) Report all violations of the alcoholic beverages laws to the Board and to the local
91 jurisdiction in which the licenses premises are located; and,
- 92 (9) Give monthly written reports to the Department of Administrative Services covering
93 all;

- 94 (i) Inspection activities;
95 (ii) Complaints; and,
96 (iii) Violations, either observed or reported
97 (10) Promote alcohol education and awareness training; and,
98 (11) Such other duties regarding administration and enforcement of Chapter 11, Talbot
99 County Code, *Alcoholic Beverages*, as the County Manager may prescribe from time
100 to time.

101 **§ 11-17-1.4 Commission, Profit, or Remuneration Prohibited**

102 No person or corporation engaged in the manufacture, distribution, or sale of beer, wine,
103 or other alcoholic beverages, nor any licensee licensed under the provisions of this
104 Chapter, including any agent or employee of that person, corporation, or licensee, either
105 directly or indirectly, may offer to pay any commission, profit, or remuneration, or make
106 any gift to any commissioner, alcoholic beverages inspector, or employee of the Board or
107 to anyone on behalf of that commissioner, inspector, or employee of the Board, nor may
108 any commissioner or employee of the Board solicit or receive, directly or indirectly, any
109 such commission, profit, remuneration, or gift whatsoever. Upon a finding of a violation
110 of this section by a licensee, the license shall be revoked. Upon a finding of a violation
111 of this section by any other person on behalf of or concerning any license or licensee, the
112 license shall be revoked unless the Board shall find that said action was unauthorized, in
113 which case the license shall be suspended for a period of not less than 30 days nor more
114 than one year.

116

117 **§ 11-17-1.5 Inspections; beverages as evidence**

118 The Alcoholic Beverages Inspector, and his duly authorized deputies or assistants, any
119 peace officer of the county, and any peace officer of the town in which the premises are
120 located, or any of them, shall be fully authorized to inspect and search, without warrant,
121 at all hours, any building and premises in which any alcoholic beverages are authorized
122 to be kept, transported, manufactured, or sold under a license or permit issued under the
123 provisions of this Chapter, and any evidence discovered during any such inspections shall
124 be admissible in any prosecution for the violation of the provisions of this Chapter, and in
125 any hearing for revocation, suspension, or restriction of the alcoholic beverage license or
126 permit. Any alcoholic beverages taken as evidence shall be returned to the license or
127 permit holder if he be adjudged not guilty; otherwise they shall be sold to license holders,
128 turned over to State institutions for medicinal use, or destroyed. Receipts from such sales
129 shall be credited to the general fund of the County.

SECTION TWO: BE IT FURTHER ENACTED, that this ordinance shall take effect sixty (60) days from the date of its passage.

SECTION THREE: AND BE IT FURTHER ENACTED, That if any provision of this Ordinance or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Ordinance which can be given effect without the invalid provision or application, and for this purpose the provisions of this Ordinance are declared severable.

PUBLIC HEARING

Having been posted and Notice of time, date, and place of hearing, and Title of Bill No. 1197 having been published, a public hearing was held on Tuesday, August 24, 2010 at 2:00 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 N. Washington Street, Easton, Maryland 21601.

BY THE COUNCIL

Read the third time.

ENACTED: August 24, 2010

By Order _____
Susan W. Moran, Secretary

Harrison	-	Abstain
Pack	-	Aye
Duncan	-	Aye
Foster	-	Aye
Bartlett	-	Aye