



# Maryland State Licensed Beverage Association

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## **MD State Licensed Beverage Association 2020 General Assembly Session Report**

*By J. Steven Wise, MSBLA Lobbyist and Legal Counsel*



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### INTRODUCTION

Like every other segment of society, the General Assembly was thrown off its normal course with the arrival of the COVID-19 virus. Rather than ending on the scheduled date of April 6<sup>th</sup>, Senate President Bill Ferguson and House Speaker Adrienne Jones declared an early end to the Session on March 18, almost 3 weeks early. This is the first time in anyone's memory that the Legislature did not remain in session for the full 90 days.

In the final days, rules restricting public access and limiting testimony were implemented, leaving an eerie feel to the halls of the House and Senate office buildings. The State Budget, which is constitutionally required to be passed before the Assembly adjourns, was passed in the final hours along with many other bills that were already in progress when the early end to the Session was announced. The leadership also announced that a Special Session would likely occur during the final week of May, public health concerns permitting. A Special Session is a new session, so any legislation that did not pass by the conclusion of the regular session on March 18th must begin anew at that time.

While new laws were passed and need to be factored into current practices, it is more important at this time that you be aware of the Executive Orders being issued daily by Governor Larry Hogan. Governors are given plenary powers during times like this of a public health crisis, so the rule of law can change quickly. You can follow these Orders at: <http://governor.maryland.gov/category/executive-orders/>.

### MAJOR LEGISLATIVE ISSUES

The most time-consuming legislation this Session was House Bill 291—Prince George's County-Alcoholic Beverages-Supermarkets (PG 308-20), which after a long battle was killed in the Delegation. While this was a local bill, it would have allowed beer and wine in any supermarket in Prince George's, a reversal of State policy, and was therefore treated as having statewide importance. As a local bill in Prince George's the legislative process had many more steps than usual, since there were committee hearings and discussions within the Delegation on top of the normal hearing process in the Economic Matters Committee.

HB 291 started out with momentum and numerous legislators fully behind it. But steadily, our efforts began to chip away at that momentum. Every step of the way, MSLBA had three Prince George's

members working hard and attending meetings with legislators, hearings, and working with licensees and making calls. It was a second full-time job for each of them. Marshelle Burgess of Rips in Bowie, Blaise Miller of BK Millers in Clinton, and Jimmy Spiropolous of Town Center Market in Riverdale carried a tremendous workload throughout. Their relationships with local legislators literally saved the day.

By late February, a Delegation committee was deadlocked with a 3-3 tie vote, which somehow still allowed the bill to be considered by the full Delegation (failure to achieve a majority normally results in a dead bill). When the full Delegation voted, the bill was defeated 14-4, an amazing result given where we began. By killing the bill in the Delegation, it never came up for consideration in the Economic Matters Committee. In short, this was a great example of how local connections with legislators can save the day. Every MSLBA member should make note of this and establish these connections today if you don't already have them. Make no mistake, this legislation will return.

Next, MSLBA requested legislation responding to the 2019 Supreme Court ruling of the U.S. Supreme Court in *Tennessee Wine and Spirits Retailers Assoc. v. Thomas*, holding that durational residency requirements are unconstitutional. Maryland law requires (in most jurisdictions) that applicants live in the State for 2 years before they can apply for a license, but this requirement was no longer constitutional under the *TN Wine* decision. In response to the ruling, several local liquor boards were adopting policies that went beyond the Supreme Court's decision. They were eliminating residency requirements altogether, allowing purely out of state individuals to hold licenses. At MSLBA's request, House Bill 902 (Dumais)/SB 765(Miller)—Durational Residency Requirements was introduced to provide clear statewide policy on this front. It removes the durational residency requirement but reaffirms that a person must be a resident at the time of application and while the license is held. This legislation passed. We owe our appreciation to Economic Matters Committee Vice-Chair Kathleen Dumais and Senate President Emeritus Mike Miller for marshalling this bill to passage in a compressed timeframe.

Another victory for MSLBA members was the defeat of House Bill 1045 (Class L license), House Bill 1046 (Class MD license) and House Bill 1269 (Manufacturers-Direct Transfer Permit). MSLBA opposed these bills, which would have turned every brewery, distiller and winery into a full-scale bar, allowing them to serve not only their own products, but beer, wine or liquor that they don't manufacture. The General Assembly has passed numerous bills in recent years allowing breweries, distillers and wineries to sell and promote their products through tap rooms and the like, but at the same time the Legislature has tried to strike a balance with existing bars and restaurants, who entered the market when manufacturers could not sell at retail at all. The license fees set out under these bills were much lower than for existing retailers, extending preferred status to them with no reason, and allowing manufacturers to become full-scale bars. Our arguments that recent changes in this area should be allowed to settle in before any further changes are made won the day.

House Bill 900/SB 911-Alcohol and Tobacco Commission—Clarifications was passed, which relates to the new Commission that will assume the role of regulating alcohol and tobacco at the State level. The principal change made by this legislation is that the effective date of the Commission is delayed from June 1, 2020 until January 1, 2021. Enforcement will remain in the Office of the Comptroller until that time.

During the 2019 interim and leading up to the 2020 Session, MSLBA and the Restaurant Association of Maryland worked with Del. Steve Arentz of Queen Anne’s County on changes to the Alcohol Awareness Program. In 2019, Del Arentz sought to require that every person involved in the sale or service of alcohol undergo alcohol awareness training. After some negotiation, the industry met him halfway and agreed that every licensee should have a trained person on site at all times, and that we would look to the incoming Alcohol and Tobacco Commission for further guidance as to who else should receive training going forward. House Bill 1435--Retail License Holders--Alcohol Awareness Program would have adopted this compromise, but it did not emerge from the Senate.

## CONCLUSION

Considering the closure of bars and restaurants and the likelihood that some of them will never re-open, the legislation discussed above may seem inconsequential. But it is in times like this that Associations are important for other reasons, too, like our communications with the Governor’s Office urging him to continue to allow food and alcohol deliveries during the closure. This is hopefully a lifeline to some businesses that MSLBA helped to preserve. No doubt, there are tough times ahead for the industry, but the ability to speak with one voice and do so quickly is one bright spot in an otherwise dark time.

It is likely that the next time the General Assembly comes to town—whenever that may be--MSLBA will be focused on some issues that are not normally our main concern. These will include unemployment insurance, tax abatement, license fees, and other requirements placed on businesses generally. The economy is going to be walloped by this event, and we will need to urge legislators to adopt policies that help get businesses back on their feet. We’ll need everyone’s help with this, so please stay active.