



BY J. STEVEN WISE, ESQ.  
MSLBA Lobbyist and Legal Counsel

## Maryland State Licensed Beverage Association *REPORT ON THE 2021 GENERAL ASSEMBLY SESSION*

### INTRODUCTION

Whoever said that the 2021 Session of the Maryland General Assembly would be narrowly focused on a few issues because of the COVID pandemic could not have been more wrong. In fact, the pandemic had very little effect on the number of bills or subject matters that the Legislature took on. From the budget, to healthcare, to police reform, and hundreds of other subjects, legislators considered 2,359 bills and resolutions, compared with 2,497 bills and resolutions during the 2020 Session. They remained in Session for the full 90 days, unlike 2020 when their work was cut short due to the onset of the pandemic. The annual meeting began at noon on Wednesday, January 10th and concluded at midnight on Monday, April 12th.

While the pandemic did not affect the volume of bills, it profoundly changed the legislative process, possibly permanently in some ways. Pre-filing of bills was encouraged in case the Session was again cut short. This also allowed bill hearings to begin the day after Session began, rather than waiting until February as is usually the case. While the committees held virtual bill hearings, the full 141-member House and 47-member Senate met sparingly to reduce covid-19 exposure. Once the entire Assembly was vaccinated, and covid-19

case counts among the public slowed, meetings of the full House and Senate increased.

With the State House and legislative buildings closed to the public, there were few face-to-face discussions with legislators, posing challenges for those of us who ply our trade in the halls of the Legislature and for citizens who hoped to impact the outcome of legislation by paying a visit to Annapolis. Testimony on bills was taken by Zoom, a term unknown to many just 12 months ago. This was convenient for those who would normally have to travel long distances to testify, but it lacked the advantage of being able to fully observe legislator's reactions to what was being said. Voting sessions of committees, normally not public, were also on Zoom, a change that may be permanent.

### MAJOR ALCOHOL ISSUES

In over 20 years of representing MSLBA, I believe that this was one of the most successful sessions we have ever had. We defeated legislation that was bad for the industry, passed legislation that will help the industry—particularly those most hurt by the pandemic, strengthened our ties with other industry groups like the Restaurant

Association of Maryland (RAM) and the Maryland Beer Wholesalers Association, (MBWA) and traded on the relationships of our members with legislators.

In addition, the guidance of MSLBA Legislative Co-Chairs Jack Milani and David Marberger, as well as Executive Director Jane Springer all culminated in great outcomes, as set out below.

## **HOUSE BILL 12/ SENATE BILL 205 Alcohol Beverages--Sale or Delivery for Off-Premises Consumption (PASSED)**

With the closure of bars and restaurants at the onset of the pandemic last spring, Governor Hogan issued an Executive Order giving them the ability to sell alcohol for carry-out and delivery, hoping this would help keep some businesses alive. As the year progressed, our on-premise members became concerned whether the Order would remain intact long enough for them to truly recover. So MSLBA went to work with the RAM to draft legislation that would continue carry-out and delivery until after the Order might expire.

This joint effort began by working with Delegate Courtney Watson from Howard County, the bill's House sponsor, and Senator Shelly Hettleman from Baltimore County, the Senate sponsor. We collaborated on draft legislation and then listened to the enforcement concerns of local liquor boards, which we heard from almost the minute the Order was issued. We also listened to our off-premise members, who were concerned that some on-premise accounts may try to become package stores when given this authority.

After hearings, voting session and conference committees that ran nearly the full 90 days, the bills as passed require that local liquor boards opt-into the legislation for it to remain effective in their jurisdiction beyond the duration of the Order. If the local board opts-in, bars and restaurants which had no off-premise privileges prior to the Order being issued will be allowed to sell alcohol for carry-out and delivery. Those bars and restaurants which already had off-premise retain that same authority but can now also sell mixed drinks under the legislation. However, licensees must receive written authorization from their local liquor board first. Carry-out and delivery alcohol must be:

- Served with prepared food;
- In sealed or closed containers;
- If delivered, by an employee who is 21 or older who is alcohol awareness trained; and
- Sold or delivered by 11 pm.

Additionally, local boards have the power to limit the amounts of alcohol that can be permitted for carry-out or delivery, addressing the concerns of existing off-premise licensees that some on-premise accounts would become package stores. Also, the legislation sunsets in June of 2023 unless extended by the Legislature.

This bill was a huge effort by MSLBA and RAM, and we appreciate their work and partnership in passing it, particularly that of Melvin Thompson, RAM's Vice President of Government Affairs.



## **HOUSE BILL 1232/SENATE BILL 821 Alcohol Beverages—Manufacturer's Licenses and Off-Site Permits (PASSED)**

Like the carry-out legislation above, part of this bill resulted from Governor Hogan's Order on alcohol delivery. He permitted manufacturers (breweries, wineries, and distilleries) to both deliver and ship alcohol. The bill also included some changes to manufacturers' off-site privileges which were part of past legislation that did not pass.

MSLBA raised objections to this bill because allowing direct shipment of alcohol by manufacturers in Maryland requires that out-of-state manufacturers be given the same privilege under the Supreme Court's decision in *Granholm v. Heald*, 544 U.S. 460 (2005). In short, every one of the thousands of manufacturers in the country could ship directly to customers here, bypassing Maryland's locally owned wholesalers and retailers. We also objected because there is no underage enforcement with direct-to-consumer deliveries like there is with brick-and-mortar sales.

The General Assembly adopted this legislation, but hearing our concerns, sunset the law in December of 2022, meaning it will be revisited next session. While MSLBA understands first-hand the difficulties the pandemic has brought to bear on businesses and the need for some temporary measures, we do not support opening direct shipment beyond this temporary period.

## **HOUSE BILL 996/SENATE BILL 763 Class A Retail Grocery Establishments (Healthy Food Accountability Act of 2021) (FAILED)**

These bills were presented as bills that would help solve the "food desert" problem found in some of Maryland's jurisdictions, where there is a shortage of grocery stores and supermarkets serving healthier foods. The argument was made that beer and wine licenses were necessary to entice supermarkets into these food deserts. In fact, the legislation reached far beyond that, allowing supermarkets and chain stores to obtain licenses in any priority funding area, which includes every municipality and population center in Maryland, all areas inside both beltways, and others.

MSLBA knew these bills were coming and was prepared to strongly oppose them. Martha McKenna and Kate Coleman with McKenna Media were immensely helpful in our public relations efforts, garnering petition signatures, coordinating social media, and working with other groups such as the public health community. The latter proved invaluable, with two public health experts testifying at the bill hearings that alcohol was no way to solve the problem of food deserts. MSLBA

members from across the State also provided excellent testimony. These included: Jack Milani--MSLBA (Balt Co), Tom Yates--Petite Cellars (Howard), Kim Lawson--FishPaws (AA Co), David Marberger--Bay Ridge Wine and Spirits (AA Co), Jimmy Spiropolous--(Prince George's Co), , Aashish Parikh--(Carroll Co), Blaise Miller--(Prince George's Co), Stuart Doriss--Fairgrounds Discount Beverages--(Balt Co.). We were also aided by MBWA representatives Nick Manis and Dan Hoose of Bob Hall Distributors.

The House Economic Matters Committee overwhelmingly disfavored the House bill, to the point that it was withdrawn instead of being voted down. The Senate bill never came up for a vote. This bill will be back in 2022.

## **HOUSE BILL 625 Prince George's County-Alcohol Density Zones and Licenses (FAILED)**

Similar to HB 996 above, this bill was presented as allowing grocery stores to locate in food deserts, but again was far broader than that. It attempted to take licenses out of Alcohol Density Zones, where there were already too many licenses and allow them to be moved to food deserts. However, these areas proved to be one and the same, meaning the license concentration was not being reduced at all, the owners were just changing. Despite being passed overwhelmingly by the Prince George's House Delegation with the strong support of the County Executive, the House Economic Matters Committee signaled that the bill would not pass in this form, just as HB 996 did not. Recognizing this, the proponents amended the bill down to simply allow license transfers across alcoholic beverage districts in the county, something not currently allowed. Grocery stores and supermarkets were stricken from the legislation.

Our members from Prince George's, most notably Blaise Miller (BK Millers), Jimmy Spiropolous (Town Center Market), Marshelle Burgess (Rips), Jaskinder Gill (Party Time), and Dinesh Patel (Branch Ave. Liquors), all worked very hard to help defeat this legislation as proposed and should be commended for their efforts for a second year in a row on this issue. Some members also banded together to hire lobbyist Bruce Bereano (at my suggestion) to assist, and this proved invaluable as well.

## **HOUSE BILL 617 Prince George's--Licenses for Supermarkets (WITHDRAWN)**

This bill was more of a direct "supermarket" bill than HB 625 above, allowing 20+ beer and wine licenses to be issued to supermarkets. It was withdrawn by Delegate Wanika Fisher before any vote.

## **HOUSE BILL 994 Alcohol Beverages-Retail Delivery--Class A License Holders (WITHDRAWN)**

This bill would have allowed Class A licensees to deliver outside of the jurisdiction in which they are licensed. MSLBA opposed the legislation, because there are many pending legal challenges in federal courts about retailer shipping and we are concerned about making



changes to these laws until those cases are decided. Otherwise, we could unintentionally open Maryland up to a lawsuit.

## **HOUSE BILL 463/SENATE BILL 172 MD Health Equity Resources Act (Alcohol Tax Increase) (AMENDED AND PASSED)**

This legislation established a program that would address health disparities in the State. MSLBA took no issue with the program but opposed funding it through an increase in the alcohol sales tax from the current 9% to 10%. When the legislation was first publicly announced in September of 2020, MSLBA coordinated a joint statement in opposition to the increase from MSLBA, MBWA, RAM, and Maryland's manufacturers. This no doubt helped achieve the end result, where the Assembly found an alternative funding source for the program.

## **HOUSE BILL 422/SENATE BILL 285 Minority Participation in the Beverage Alcohol Industry (FAILED)**

This legislation was supported by MSLBA and other members of the industry. It would study the participation by minorities in all three tiers of the industry and generate a report back to the General Assembly by Jan. 1, 2022. Prior to this Session, MSLBA proactively reached out to supporters of the bill over the summer and fall of 2020, including Delegate Darryl Barnes, Delegate Ben Brooks, and Senator Charles Sydnor, to offer the Association's assistance in helping minorities enter the business. That offer remains.

## **HOUSE BILL 553 State Lottery Tickets--Prohibition on Internet Sales--Repeal (FAILED)**

This bill would have repealed the existing prohibition on the sale of lottery tickets by way of the internet. As with other bills like direct shipment and delivery, this bill was introduced in the name of convenience for the consumer. MSLBA pushed back, noting the impact this would have on brick-and-mortar locations.

## **SOME WORDS OF WISDOM**

While we celebrate the end of the 2021 Session and our success, these outcomes are the product of the efforts of the active members of the MSLBA. If you are a member of the MSLBA, consider becoming an activist and engage with your legislators. If you are not a member, please consider joining ... your livelihood may depend on it.

