

House Bill No. 733—Alcoholic Beverage Licenses for Hotels

AN ACT to repeal and re-enact, with amendments, Section 60 (d) of Article 2B of the Annotated Code of Maryland (1957 Edition), title "Alcoholic Beverages", sub-title "Procedure for Issue of Licenses", to provide that adjacent property owners may not protest issue of alcoholic beverage licenses in Baltimore City to HOTEL licensees whose former HOTEL licensed premises were condemned or taken for public use.

April 30, 1959.

Honorable Perry O. Wilkinson
Speaker of the House of Delegates
State House
Annapolis, Maryland

Dear Mr. Speaker:

I have today vetoed House Bill No. 733, and in accordance with Article II, Section 17 of the Constitution of our State, I am returning this bill to the House of Delegates, along with my reasons for vetoing the same.

In a letter to me dated April 23, 1959, the Attorney General advised me that his office had examined House Bill No. 733 at my request, and believed the same to be invalid in that it is in violation of Article XXIII of the Declaration of Rights. In his letter the Attorney General states:

"Section 60, Article 2B, Annotated Code of Maryland (1957 Ed.), as it now stands, provides that in Baltimore City no *original* liquor license may be granted if 'more than 50 per centum 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'. The present law excepts from this prohibition an application for the renewal of a license or the transfer of a license 'for the same premises'. The effect of this statute is to give any property holder within the City the right to object to the licensing of a new establishment within his area and if a sufficient number of other property owners similarly situated also object absolutely to prevent such new establishment. The effect of the present bill is to except from this protection property owners located in an area in which a hotel was a proper use on June 1, 1959, in any case in which the owner of a hotel license whose premises have been taken by condemnation makes application for a liquor license.

"We consider this to be an unreasonable classification and discriminatory against the particular class of property owners in question. In effect, this statute renders the particular property owners affected the only ones in the City who are not protected by the '51 per cent rule' with respect to new establishments. We do not believe that such an unreasonable classification may stand. *Mogul v. Gaither*, 142 Md. 330; *Benner v. Tribbitt*, 190 Md. 6; *Northwest Merchants Terminal v. O'Rourke*, 191 Md. 171; *State v. Gurry*, 121 Md. 534."