

We have approved both House Bill 1518 and Senate Bill 791 as to constitutionality and legal sufficiency. The bills, both of which prohibit in Harford County persons in control of premises open to the public licensed by the State or County from allowing consumption of alcoholic beverages thereon, do have certain differences, to wit:

1. House Bill 1518 prohibits persons in control of such premises from giving or allowing to be consumed thereon any alcoholic beverages "other than as specifically permitted or provided in this Article." It thus attempts to restrict consumption generally in certain defined places, except where other sections of Article 2B allow such consumption.

2. Senate Bill 791 may have been intended to have the same effect, but arguably does not. This is because Senate Bill 791 makes it a crime for persons in control of certain premises to "knowingly permit the consumption, possession, or transfer of alcoholic beverages in a manner prohibited by this Article..." Thus, Senate Bill 791 only makes criminal knowingly permitting activities that are already prohibited by Article 2B. Thus, under Senate Bill 791, it would be a crime to knowingly permit a minor to drink on the defined premises, but not an adult, because an adult is not normally restricted from drinking by any provisions of Article 2B, except between 2 and 6 a.m., or if the individual is drunk, or, if the public place is a government building. House Bill 1518, on the other hand, would restrict such adults or more specifically the persons in control of the public places in which they happen to be.

3. House Bill 1518 also defines a class of organizations and entities to which the law's provisions would not apply, and authorizes exemptions to be granted by the Harford County Liquor Control Board for similar associations.

4. Senate Bill 791 arguably applies all of its exemptions, (even those enumerated in the law) on a case by case basis. See Senate Bill 791, proposed §86(j)(2).

5. Enclosed is a prior letter of advice on the constitutionality of House Bill 1518.

6. As these bills amend the law in somewhat different ways, we would advise against signing both into law.

Very truly yours,
Stephen H. Sachs
Attorney General