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Sens. Gay, Sokola, Townsend; Reps. Baumbach, Cooke

DELAWARE STATE SENATE  
151st GENERAL ASSEMBLY

SENATE BILL NO. 230

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOLIC LIQUORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend § 543, Title 4 of the Delaware Code by making deletions as shown by strike through and  
2       insertions as shown by underline as follows:

3           § 543. Grounds for refusal of license; transfer or extension of premises.

4           (d) The Commissioner shall refuse to grant a license for the sale of alcoholic liquor by any store, or establishment  
5       for consumption off the premises, when there is an existing licensed establishment of similar type within a ½ mile by  
6       accessible public road or street in any incorporated city or town, or within 3 miles by accessible public road or street in any  
7       unincorporated or rural area measured in driving distance both ways between the existing and proposed establishments.

8       This subsection does not apply to any of the following:

9           (1) An existing license or to the sale, transfer of ownership, or renewal of an existing license.

10          (2) A club licensed to sell off the premises where sold, farm winery, brewery-pub, microbrewery, or craft  
11       distillery.

12          (3) A licensee who desires to move the location of the license to a location within 500 feet thereof by  
13       accessible public road or street. However, a licensee located in a shopping center or shopping mall may move the  
14       location of the license any distance within the same shopping center or shopping mall, whether such center or mall  
15       consist of 1 or more than 1 separate buildings.

16          (4) ~~An applicant for an off premises license whose license location meets 1 of the following:~~

17           ~~a. Is between 1800 feet and ½ mile from an existing license of similar type in any incorporated city or~~  
18       ~~town, if the applicant can provide a report, determined reliable by the Commissioner after written input from the~~  
19       ~~Division that indicates either of the following:~~

20           ~~1. A minimum yearly increase of 1% in the population of individuals 21 years old or older over the~~  
21       ~~past 3 consecutive years measured from the month before the submission of the application.~~

22                   2. A minimum increase of 3% in the population of individuals 21 years old or older in the past year  
23                   measured from the month before the submission of the application within a distance of ½ mile from the  
24                   borders of the property where the applicant seeks licensure.

25                   b. Is between 1½ miles and 3 miles from an existing license of similar type in any unincorporated or rural  
26                   area if the applicant can provide a report, determined reliable by the Commissioner after written input from the  
27                   Division that indicates either of the following:

28                   1. A minimum yearly increase of 1% in the population of individuals 21 years old or older over the  
29                   past 3 consecutive years measured from the month before the submission of the application.

30                   2. A minimum increase of 3% in the population of individuals 21 years old or older in the past year  
31                   measured from the month before the submission of the application within a distance of 1½ miles from the  
32                   borders of the property where the applicant seeks licensure. [Repealed.]

33                   (e) The Commissioner may grant a new license to a licensee whose license was valid on December 31, 2019, and  
34                   who desires to move the location of the license due to the destruction of the building, loss of lease, diversion of highway  
35                   traffic pattern, or similar reason beyond the control of the licensee a new license licensee, if the application satisfies this  
36                   subsection; meets all of the following:

37                   (1) The requirements under subsection (d) of this section, as in effect before January 1, 2020; section and all  
38                   other requirements under this title.

39                   (2) The location to which the licensee proposes to move meets either of the following:

40                   a. If in an incorporated city or town, is within 500 feet of the existing location of the licensee.

41                   b. If in an unincorporated or rural area, is within a ½ mile by accessible public road or street of the  
42                   existing location of the licensee.

#### SYNOPSIS

This Act removes the exemption in § 543(d)(4) of Title 4 (reduced distance requirements based on population growth) to the prohibition against granting a license for the sale of alcoholic liquor if there is an existing licensed establishment of similar type within either of the following:

(1) A ½ mile by accessible public road or street in any incorporated city or town.

(2) Within 3 miles by accessible public road or street in any unincorporated or rural area.

This Act permits the Commissioner to grant a new license if all of the following apply:

(1) The licensee desires to move the location of the license due to the destruction of the building, loss of lease, diversion of highway traffic pattern, or similar reason beyond the control of the licensee.

(2) The application meets the requirements of § 543(d) of Title 4 of the Delaware Code and the other requirements of Title 4.

(3) The new license does not result in the licensee moving the location more than 500 feet in an incorporated city or town or a ½ mile in an unincorporated or rural area.

Author: Senator Poore