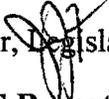


**MEMORANDUM**

TO: Public Safety Committee

FROM: Justina J. Ferber,  Legislative Analyst

SUBJECT: **Briefing – OIG Report Number 14-006  
Department of Liquor Control  
One-Day Alcoholic Beverage Licenses**

Those expected for this discussion:

Edward L. Blansitt, III, Inspector General  
Rachel Ondrik, Assistant Inspector General  
George Griffin, Director, Department of Liquor Control  
Kathie Durbin, Chief of Licensure, Regulation and Education, DLC

The Inspector General (IG) will present results and answer questions on OIG Report Number 14-006. The report documented and analyzed the policies, procedures, and internal controls specifically related to the issuance of Class C, Special Alcoholic Beverage Licenses, commonly referred to as “One-Day” licenses. The objectives of the review related to the issuance of One-Day licenses were to:

- Evaluate DLC’s current policies, procedures, and related internal controls from the standpoint of effectiveness, efficiency, and safeguarding of assets; and
- Determine whether there are any violations of law or regulation in the current procedures.

A copy of the IG’s briefing materials are attached at ©1. OIG Report Number 14-006 includes seven findings and nine recommendations which are listed below. The response from the Chief Administrative Officer (CAO) to the findings and recommendations is at ©19. Also, CAO responses and additional comments from the IG on those responses are included in the OIG report after each finding and recommendation. OIG Report Number 14-006 is attached at ©6.

**Finding 1:** One-Day licenses are issued without a license number.

*Recommendation:* 1. One-Day licenses should bear sequential license numbers.

*Response:* ©9 – Snippet: DLC has ordered pre-numbered license paper.

**Finding 2:** Issuance of One-Day licenses is authorized by the LRE Division Chief without Board approval.

*Recommendation:* 2. Under current Maryland law and Board regulations, only the Board should approve One-Day licenses. Applicants who do not apply for licenses within the published time constraints should be denied.

*Response:* ©10 – Snippet: The CAO did not agree with this finding and recommendation and suggested there was a fundamental misunderstanding or misinterpretation of Maryland laws and regulations governing special event One-Day licenses. The County will request an advisory opinion from the Maryland Attorney General.

**Finding 3:** Licenses were issued to two local non-profit organizations at an amount less than that required by law.

*Recommendation:* 3: All One-Day license applicants should be required to pay the fee codified in Maryland law. If DLC believes discounts are appropriate, it should seek a change in legislation.

*Response:* ©12 – Snippet: One-Day licenses are issued only to non-profit organizations. One-Day licenses were never discounted. The new Montgomery County Community Performing Arts License was available July 1, 2014.

**Finding 4:** Additional LRE One-Day license procedures appear to conflict with law or regulation.

*Recommendations:*

4. DLC should align its practices with the requirements contained in Maryland law. DLC should consider the need to request that the Maryland Code be amended to exempt One-Day licenses from the notice and posting requirements. (Anne Arundel County has such an exemption.)

5. The DLC and the Board should ensure consistency between the Maryland law, the Board's Regulations, and current practices.

*Response:* ©14 – Snippet: In the future, DLC will issue separate, numbered licenses for each event up to seven consecutive days. Article 2B, Section 13-101 currently exempts One-Day license holders from the requirement of Alcohol Awareness certification. The Board of License Commissioners will consider adding the exemption to the County Rules and Regulations. In the future DLC will explicitly cite the existing exemption found in State law (Article 2B, Section 13-101) in the County BLC license application materials and LRE process documents.

**Finding 5:** Checks received from One-Day license applicants are not deposited daily, but instead are stored in an open, unlocked area until the Board considers the application.

*Recommendations:*

6. All checks received by LRE should be immediately restrictively endorsed.

7. All payments received, including checks accompanying license applications, should be deposited daily.

*Response:* ©16 – Snippet: Effective immediately, all checks for One-Day license applications will be restrictively endorsed (stamped) upon receipt and kept in a locked cabinet. Also, DLC adopted a policy of making a bank deposit on a routine basis.

**Finding 6:** One-Day license applications and fees received are not recorded at the time that they are received. The accounting entry for One-Day license applications is made after the Board considers the application, as a lump sum amount covering fees of all applications approved.

*Recommendation:* 8: LRE should maintain a daily log of all One-Day license applications received. This entry would include the date of receipt, name of the licensee, and fees collected or to be collected. The employee who deposits license fees should reconcile the log with funds deposited. Other line items included in the log entry could include the license type, dates of event, and date of ultimate Board approval.

*Response:* ©16 – Snippet: DLC currently scans One-Day license receipts into Zyweb and will develop a daily log of all One-Day license applications received and a reconciliation process with the related funds deposited.

**Finding 7:** LRE procedures for the issuance of One-Day licenses and handling of financial instruments are not clearly documented.

*Recommendation:* 9. LRE should create formal, written policies and procedures regarding issuance of One-Day licenses, including the handling of license payments.

*Response:* ©17 – Snippet: LRE will develop and document the standard operating procedure for the issuance of One-Day license and a variance file has been added.

This packet contains:	<u>Circle #</u>
IG Briefing Materials	1-5
OIG Report Number 14-006	6-24

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Montgomery County Department of Liquor Control  
One-Day Alcoholic Beverage Licenses

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IG Report 14-006

October 16, 2014



MONTGOMERY COUNTY MARYLAND

**OFFICE OF THE INSPECTOR GENERAL**



Montgomery County Department of Liquor Control  
One-Day Alcoholic Beverage Licenses

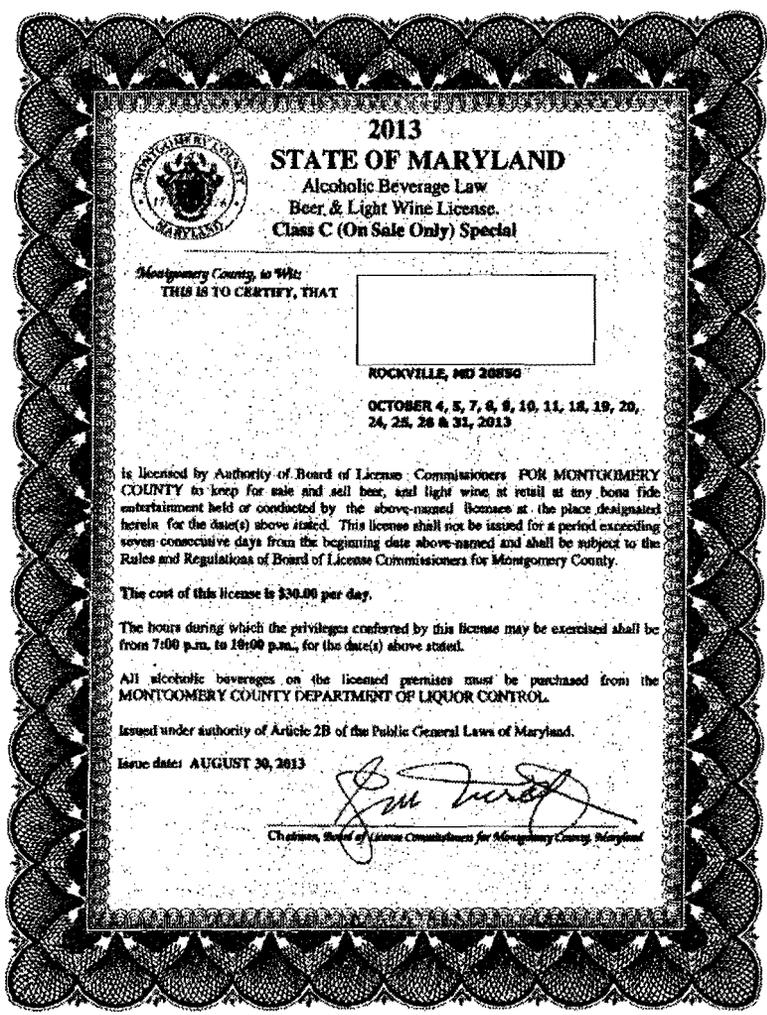
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## Temporary “One-Day” Licenses

*State law provides that the Montgomery County Board of License Commissioners may issue a **non-profit** club, society or association a special One-Day license to sell or serve alcoholic beverages at a specific event.*

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# Montgomery County Department of Liquor Control One-Day Alcoholic Beverage Licenses



*We found multiple instances where DLC's current practices regarding One-Day licenses appear to conflict with Maryland law.*

- No License Numbers
- Valid for more than 7 consecutive days
- Not always approved by Board
- Notice and Posting Requirements



Montgomery County Department of Liquor Control  
One-Day Alcoholic Beverage Licenses

***There is little documentation of processes or internal controls regarding the issuance of One-Day licenses and handling of payments.***

- One-Day license applications and fees are not recorded at the time that they are received.
- The accounting entry for One-Day license applications is made after the Board considers the application, as a lump sum amount covering fees of all applications approved at that day's Board meeting.
- Checks received from One-Day license applicants are not restrictively endorsed or deposited daily, but instead are stored in open, unlocked areas until the Board considers the application.
- Procedures for the issuance of One-Day licenses and handling of cash and checks are not clearly documented.



## Montgomery County Department of Liquor Control One-Day Alcoholic Beverage Licenses

### Recommendations:

1. DLC should align its practices with the requirements of Maryland law.
2. DLC should maintain a daily log of all One-Day license applications received, including the date of receipt, name of the licensee, and fees collected or to be collected.
3. DLC should reconcile the daily log with funds received and deposited.
4. Checks received should be restrictively endorsed and deposited daily.
5. DLC should create formal, written policies and procedures regarding the issuance of One-Day licenses, including the handling of license payments.

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Final Report:  
**One-Day Alcoholic Beverage Licenses**

OIG Report Number 14-006

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**Montgomery County, Maryland  
Office of the Inspector General**

## **Office of the Inspector General Report**

### **One-Day Alcoholic Beverage Licenses**

**Report Number: 14-006**

#### **Introduction**

In April 2013, Clifton Larson Allen (CLA), on behalf of the Office of the Inspector General (OIG), analyzed selected financial and informational data files of the Montgomery County Department of Liquor Control (DLC). The purpose of that analysis was to identify transactions or data relationships that appear to be inconsistent with County or DLC policies. CLA's results identified a number of issues concerning license fees collected from One-Day license holders. CLA's results identified possible issues in other areas as well.

This report is the first of likely several arising from the CLA analysis.

In this limited review, we did not test any transactions or account balances, and we did not identify any misappropriated funds. However, findings 1 - 4 in this report appear to be violations of Maryland law. Additionally, in some way, all of the findings increase the County's risk of undetected losses.

While the total amount of One-Day license revenue is small (approximately \$25,000 per year), our findings demonstrate a lax conduct of the DLC's regulatory and enforcement responsibilities. Correction of these deficiencies would be helpful to strengthen DLC's internal controls. Additionally, we urge DLC to review other aspects of their operations to ensure that current practices are in agreement with law, regulation, and written policies.

#### **Objectives, Scope, and Methodology**

We documented and analyzed the policies, procedures, and internal controls specifically related to the issuance of Class C, Special Alcoholic Beverage Licenses, commonly referred to as "One-Day" licenses.

The objectives of our limited review related to the issuance of One-Day licenses were to:

- Evaluate DLC's current policies, procedures, and related internal controls from the standpoint of effectiveness, efficiency, and safeguarding of assets; and
- Determine whether there are any violations of law or regulation in the current procedures.

We interviewed DLC staff, conducted a physical inspection of the DLC licensing area, and reviewed selected license applications, payment records, and Board of License Commissioners' agendas related to One-Day licenses.

Our limited review was conducted from October 2013 - March 2014 in accordance with the standards contained in *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency (January 2012).

### **Background**

Maryland law requires that, under most circumstances, sellers of alcohol be licensed.<sup>1</sup> The County Board of License Commissioners (Board) issues alcoholic beverage licenses. It consists of five members appointed by the County Executive and subject to confirmation by the County Council.<sup>2</sup> At least three members of the Board, constituting a quorum, “who are present at the voting session, must concur in the approval, denial, revocation, suspension, or reclassification of an alcoholic beverage license.”<sup>3</sup>

Montgomery County offers any “club, society or association”<sup>4</sup> the opportunity to obtain a special One-Day license” to serve or sell alcoholic beverages”<sup>5</sup> at a specific event.<sup>6</sup> The DLC website and the application form state that an applicant is required to submit an application for a One-Day license at least 14 days in advance of an event. After a One-Day license application is submitted by the applicant, a DLC Office of Licensure, Regulation, and Education (LRE) case manager verifies that the application meets all necessary requirements and conducts internet research on the applicant and event.

All applications must contain:

- An IRS “letter of determination” proving the applicant’s non-profit status.
- An alcohol plan showing how alcohol will be served/sold, who will be checking identification, whether attendees under the legal drinking age will be permitted to attend, and alcohol policies related to responsible sales and how underage consumption will be prevented at the event.
- A security plan for all outdoor events and any other event expecting 300 or more attendees.

The case manager communicates with the applicant to ensure all County requirements are met. Additionally, for events held at a County facility, the case manager requests that a representative from the Office of the County Executive sign the application, giving permission to use the county facility for the function. DLC staff reported that police approval is sought via email for events held outdoors, at high risk facilities, or over 300 expected attendees. The case manager

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<sup>1</sup> Maryland Code, Article 2B § 1-201

<sup>2</sup> *Ibid.*, § 15-104 (c)(1)

<sup>3</sup> *Ibid.*, § 15-104 (c)(5)

<sup>4</sup> *Ibid.*, § 7-101(b)(1)

<sup>5</sup> *Regulations Regarding Class C, Special, Alcoholic Beverage Licenses (One-Day)* obtained from [http://www.montgomerycountymd.gov/DLCLRE/Resources/Files/pdffiles/regulations\\_regarding\\_class\\_c.pdf](http://www.montgomerycountymd.gov/DLCLRE/Resources/Files/pdffiles/regulations_regarding_class_c.pdf)

<sup>6</sup> Maryland Code, Article 2B §7-101. Under Maryland law, a One-Day license may be granted for a period not exceeding 7 consecutive days, at a cost of \$30 per day for a beer and wine license and \$60 per day for a beer, wine, and liquor license.

provides the completed application to the LRE Division Chief, who, if she approves, indicates her approval by initialing and dating the document.

Once the application is complete and initialed by the Division Chief, the event is added to the One-Day agenda for the next Board meeting. Board meetings are held every two weeks. The Board votes on each application. The Board's decision is recorded at the hearing by the LRE licensure manager, who subsequently emails the LRE office staff to inform them of the approval. The applicant is informed and LRE office staff prints the license onto cardstock license forms.

**Finding 1: One-Day licenses are issued without a license number.**

We noted that the DLC does not issue license numbers for One-Day licenses. See Appendix A. This is inconsistent with Maryland law which requires that "Every license shall be appropriately numbered by the official issuing the same<sup>7</sup>."

**Recommendation:**

1. One-Day licenses should bear sequential license numbers.

**Chief Administrative Officer's Response:**

*We agree with the recommendation. The Department of Liquor Control (DLC) has ordered pre-numbered license paper which, beginning in FY15, will be used exclusively for approved One-Day licenses. The number on each one-day license will correspond with the Board of License Commissioners (BLC) one-day agenda.*

**Finding 2: Issuance of One Day licenses is authorized by the LRE Division Chief without Board approval.**

The published rules for One-Day licenses state that "Applications must be submitted at least 14 days in advance of the event."<sup>8</sup> This allows time for the Board to meet to consider the application prior to the event. As previously stated, Maryland law requires that at least 3 members of the Board, constituting a quorum, concur on the approval of the issuance of an alcoholic beverage license.<sup>9</sup>

LRE staff reported that, in some cases, when an application is submitted after the 14 day deadline, LRE still accepts it and the LRE Division Chief approves the license without the Board voting on the matter. These licenses are then printed with the signature of the Chairman of the Board, creating the appearance that they were approved by the Board.<sup>10</sup>

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<sup>7</sup> Maryland Code, Article 2B § 9-102 (d)

<sup>8</sup> *Regulations Regarding Class C, Special, Alcoholic Beverage Licenses (One-Day)* obtained from [http://www.montgomerycountymd.gov/DLCLRE/Resources/Files/pdffiles/regulations\\_regarding\\_class\\_c.pdf](http://www.montgomerycountymd.gov/DLCLRE/Resources/Files/pdffiles/regulations_regarding_class_c.pdf)

<sup>9</sup> Maryland Code, Article 2B § 15-104 (c)(5)

<sup>10</sup> The Chairman's signature is printed by the LRE printer onto the license stock.

LRE staff reported that this allowance is made in rare circumstances where the applicant has obtained a One-Day license in the past or is considered extremely low-risk, such as a religious congregation.

Because One-Day licenses are not separately identified in the accounting system, and the DLC's only itemized list of One-Day licenses issued is the bi-monthly Board agenda (which does not include applications not heard by the Board), it is difficult to subsequently determine which licenses were approved by the Board and which were not. We were unable to determine how often One-Day licenses were issued without Board approval.

This procedure appears to violate Maryland law and the Board's published regulations, which quote Maryland Code, Article 2B § 15-104 (c)(5).<sup>11</sup>

**Recommendation:**

2. Under current Maryland law and Board regulations, only the Board should approve One-Day licenses. Applicants who do not apply for licenses within the published time constraints should be denied.

**Chief Administrative Officer's Response:**

*We do not agree with this finding and recommendation. The report appears to be based, in part, on a fundamental misunderstanding or misinterpretation of Maryland laws and regulations governing special event, One-Day licenses.*

*Most of the laws and regulations concerning "alcohol licenses" do not apply to special event "One-Day" licenses. For instance, there are distance requirement restrictions prohibiting alcohol licenses being issued for business locations in close proximity to churches and other places of worship, libraries, schools and recreation centers, courthouses and government facilities, etc. Ironically, the applicants for special event One-Day licenses are most often precisely the users of these facilities, and must be affiliated with a legitimate non-profit organization (as opposed to the businesses annually licensed to serve alcoholic beverages to the public.) Other licensing regulations include seating capacities, legal informational postings, sales ratios, server training, tax reporting and trade practice requirements, facility inspections, etc.*

*Our County Attorney's long-standing interpretation of state law clearly considers the special event One-Day license applications to be exempt from these provisions of state licensing law. Also attached for your information is a letter from the Comptroller's office concurring with our interpretation. However, in order to further clarify this issue, we will request an advisory opinion from the Maryland Attorney General regarding these areas of state law and its application by the Department of Liquor Control and the Board of License Commissioners. Once*

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<sup>11</sup> Rules and Regulations Board of License Commissioners of Montgomery County Maryland, Section 1.1(b) - Effective January 1, 2007 and last amended May 2, 2013

*we receive clarification from the Attorney General, we will address any needed operational modifications.*

*Please note that it is DLC's practice to process all One-Day applications through the (BLC) for final approval. However, there are instances in which an event application is submitted after a board hearing and the event will occur prior to the next scheduled hearing. In these cases, the DLC Division Chief has the authority to approve a One-Day event application only after all requirements are met. In addition, DLC has also surveyed other Licensing Boards throughout Maryland and found that other board staffs also approve one-day event applications.*

*As stated above, we will consult with the Office of the Attorney General to seek advice regarding the DLC staffs authority, on a limited basis, for granting One-Day event licenses when it is not practical for the Board to convene.*

**OIG Response:**

We requested all written opinions related to the DLC from the Office of the County Attorney, and none were provided regarding this matter. We agree that you should follow-up with the Attorney General to seek advice on the matter.

**Finding 3: Licenses were issued to two local non-profit organizations at an amount less than that required by law.**

LRE has been providing Class C Beer and Light Wine One-Day Licenses to a performing arts facility and a recreational facility at a discounted fee for multi-day events. DLC permits both non-profits to purchase a One-Day license for \$10 per day for events lasting 3 or more days. Additionally, two-day events are billed at \$30. One employee stated that the discount has been offered for at least the past two years, and the Division Chief recalled meeting with the DLC Director "a few years ago" to discuss the discounted fee. No written documentation was available to determine when the practice began.

This practice is not provided for in Maryland law, which states that "In Montgomery County... the fee is \$30.00 per day" for Special Class C Beer and Wine licenses (One-Day licenses).<sup>12</sup> Additionally, the price actually paid by at least one of these licensees is different from the amount stated on the printed licenses they received, which state, "The cost of this license is \$30.00 per day."

It is our understanding that, as of April 1, 2014, a bill allowing performing arts facilities to obtain an annual liquor license passed both the House and Senate of the Maryland General Assembly. This pending legislation may render this finding moot.<sup>13</sup>

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<sup>12</sup> Maryland Code, Article 2B §7-101 (b)(10)(i)

<sup>13</sup> Maryland House Bill 146 and Maryland Senate Bill 311

**Recommendation:**

3. All One-Day license applicants should be required to pay the fee codified in Maryland law. If DLC believes discounts are appropriate, it should seek a change in legislation.

**Chief Administrative Officer's Response:**

*We disagree with this Finding. It is important to point out that One-Day licenses are issued only to non-profit organizations. Moreover, there is a strong policy in place internally to screen events through research, proof of non-profit status, as well as requiring an alcohol plan and proper security plan. There are also internal criteria that require other county agencies to be involved in the screening process.*

*One-Day licenses were never discounted. The two "local non-profit organizations" cited were the Montgomery County Department of Recreation, and a government-owned public arts facility. The DLC Director, as the authorized official, determined that the Department of Recreation license application referred to in this report was for a specific class (rather for each individual session of the advertised class.) The Recreation class was appropriately licensed at the appropriate fee, and not, as suggested by this finding, at "an amount less than that required by law".*

*Similarly, the arts facility classes were for a total of six hours (consistent with a single event) held over three sessions; only one or two bottles of wine were used per session. As the number of One-Day license applications for the arts facility increased, the DLC began discussing with the performing arts facility the development of legislation for a potential annual license. It should be noted that last year the performing arts facility spent a total of approximately \$7,000 for One-Day licenses, three times the amount of the most expensive annual license in the County. As you know, a Community Performing Arts License has been created for the facilities holding classes and they will no longer require One-Day licenses to operate. The new Montgomery County Community Performing Arts License will be available July 1, 2014.*

**OIG Response:**

Maryland law states that One-Day license fees are to be assessed "per day," not per event. However, we agree that the new legislation may render this issue moot. It is our understanding that the state passed the bill allowing performing arts facilities to obtain an annual liquor license earlier this week. (Signed by the governor on May 5, 2014.) Assuming that both discounted facilities obtain an annual license, this finding would no longer apply.

**Finding 4: Additional LRE One-Day license procedures appear to conflict with law or regulation.**

The OIG found the following additional current practices that appear to conflict with published law and regulation.

First, Maryland Code Article 2B §7-101(b) (1) states that a One-Day license can be issued “for a period not exceeding seven consecutive days from the effective date thereof.” During our limited review we found cases where One-Day licenses were issued for more than 7 days, including periods up to 21 non-consecutive days. (See Appendix A.)

A performing arts facility was the recipient of all of the licenses we noticed that were issued for more than the 7 day period allowed by law. For the 7 month period that we sampled, the performing arts facility received approximately 52 One-Day licenses, authorizing 197 events. The performing arts facility received so many One-Day licenses that they had, in effect, a permanent license, although at a much higher annual cost and without the required inspections and regulation required of an annual licensee. LRE staff reported that the performing arts facility was forced to obtain such a large number of temporary licenses because no annual license category existed that included that facility. On May 5, 2014, the governor approved legislation allowing a Performing Arts Facility to obtain an annual Alcoholic Beverage License<sup>14</sup> The new law could eliminate the need for this facility to make repetitive use of One-Day licenses, which does not comply with the letter or spirit of the temporary license described in Maryland Code, Article 2B.

Second, Maryland Code requires that before the Board “approves any application for a license, the Board shall cause a notice of the application to be published two times in two successive weeks.”<sup>15</sup> Additionally, the Board is required to cause a suitable sign to be posted on the premises described in the application for 30 days at least thirty days before the public hearing.<sup>16</sup> Board regulations also paraphrase the same notice and posting requirements included in the Maryland Code.<sup>17</sup>

As One-Day licenses are temporary in nature, and often applied for and received quickly, these requirements are not enforced.

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<sup>14</sup> Maryland House Bill 146

<sup>15</sup> Maryland Code, Article 2B §10-202(a)

<sup>16</sup> *Ibid.*, §10-202(m), “In Montgomery County, before a license is issued or transferred, the Board of License Commissioners shall cause a suitable sign or notice to be posted and to remain posted for a period of thirty days in a conspicuous place on the premises described in the application.”

<sup>17</sup> *Rules and Regulations Board of License Commissioners of Montgomery County Maryland*, Section 4.2(a) - Effective January 1, 2007 and last amended May 2, 2013

Third, the Board regulations requiring alcohol awareness training and the presence of a trained person during the hours when alcohol may be sold<sup>18</sup> do not exempt One-Day licenses, as Maryland law does.<sup>19</sup> LRE staff reported that participation in an alcohol awareness program is encouraged, but not required, for One-Day licensees.

**Recommendations:**

4. DLC should align its practices with the requirements contained in Maryland law. DLC should consider the need to request that the Maryland Code be amended to exempt One-Day licenses from the notice and posting requirements. (Anne Arundel County has such an exemption.)<sup>20</sup>
5. The DLC and the Board should ensure consistency between the Maryland law, the Board's Regulations, and current practices.

**Chief Administrative Officer's Response:**

*We agree that there have been occasions when One-Day licenses have been issued for more than seven non-consecutive days. In the future, to align practices with the notice and posting requirements contained in Maryland law, DLC will issue separate, numbered licenses for each event up to seven consecutive days. As you know, there is no limit to the number of One-Day licenses that can be granted to a non-profit in a year. In addition, we may consider your recommendation and submit county-sponsored legislation to amend Article 2B to make explicit exceptions that certain annual license requirements do not apply to one-day licenses.*

*Article 2B does require all licenses to be posted for 30 days at the facility and published two times in two successive weeks. However, due to the short turn around required for One-Day event licenses, this is an impractical requirement that was clearly intended for annual licenses. In fact, article 2B, Section 10-202, subsection 5, refers to "the operation of the business." In Title 7, Section 7-101, no reference is made to a requirement of public notice. The statutory requirements if applied would likely prevent most One-Day alcohol licenses from being issued. The premises where one-day events are held are usually not owned, leased, or operated by the license applicant.*

*Article 2B, Section 13-101 currently exempts One-Day license holders from the requirement of Alcohol Awareness certification. For purposes of consistency and clarification, the Board of License Commissioners will consider adding the exemption to the County Rules and Regulations.*

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<sup>18</sup> Ibid., Section 5.4

<sup>19</sup> Maryland Code, Article 2B § 13-101(b)(2)(i)

<sup>20</sup> Maryland Code, Article 2B § 7-101(b)(2)(ii)

*Please note that the report highlights some understandable confusion on Article 2B of the Maryland Code regarding the requirements for regular (full time/annual) licenses versus the temporary, special event One-Day licenses that are the focus of this review. Many of the requirements for license applications do not apply to the special One-Day licenses. A few of these exemptions are explicit, as in the case of Section 13-101 (b) (2) (i) that is cited in the report. Others are implied by the location of the provisions in Article 2B, or by other provisions of state law. DLC will request clarification in this general area from the Maryland Attorney General.*

*In the future DLC will explicitly cite the existing exemption found in State law (Article 2B, Section 13-101) in our County BLC license application materials and LRE process documents.*

**Finding 5: Checks received from One-Day license applicants are not deposited daily, but instead are stored in an open, unlocked area until the Board considers the application.**

The Office of Licensure, Regulation, and Education is located in a facility in Gaithersburg, MD. When entering the building, the public immediately encounters a glass window through which one can submit applications or payments, and speak to LRE staff. The door adjacent to the window is locked and thus there is an appearance that the cash collection area is locked and secure. However, the public can easily walk down a side hallway to gain access to this area. Additionally, the majority of LRE staff work in an open cubicle area with immediate access to one another's office space, including the cash and check collection area.

Particularly with mailed-in applications, a check to cover the licensing cost sometimes accompanies the application. LRE does not restrictively endorse checks at time of receipt. A rubber endorsement stamp is available to LRE staff. However, staff informed us that it is rarely used. From time of receipt until the license has been approved and picked up, checks are clipped to the license application and stored unsecured in the office. Checks are deposited only after the license has been approved and picked up.

We did not test whether any checks had been misplaced or misappropriated.

**Recommendations:**

6. All checks received by LRE should be immediately restrictively endorsed.
7. All payments received, including checks accompanying license applications, should be deposited daily.

**Chief Administrative Officer's Response:**

*We agree with the recommendations. Effective immediately, all checks for One-Day license applications will be restrictively endorsed (stamped) upon receipt and kept in a locked cabinet. Further, we have adopted a policy of making a bank deposit on a routine basis.*

**Finding 6: One-Day license applications and fees received are not recorded at the time that they are received. The accounting entry for One-Day license applications is made after the Board considers the application, as a lump sum amount covering fees of all applications approved.**

DLC makes no accounting entry when a One-Day license application is received. Instead, as stated earlier, LRE clips the check (if any) to the license application and stores them unsecured in the office. When the application is approved, LRE issues the license, deposits the check, and maintains copies of the license application and the actual license in a paper file. LRE makes a single accounting entry to record the total deposit of the fees for the One-Day licenses approved that day.

Recording transactions only as lump sums can cause challenges. For example, if an organization paid for and received a license for an event three months from now and then lost the license, the DLC would turn to either its paper copy of each application and license or the list of licenses approved by the Board. However, paper files may be incomplete and are sometimes misplaced, and certain licenses are not approved by the Board (see Finding 2). In these events, no one could prove the organization ever received a license.

Further, since the amount of each license fee varies, recording license fees only in a lump sum limits the ability to subsequently determine the accuracy of total fees deposited.

**Recommendation:**

8. LRE should maintain a daily log of all One-Day license applications received. This entry would include the date of receipt, name of the licensee, and fees collected or to be collected. The employee who deposits license fees should reconcile the log with funds deposited. Other line items included in the log entry could include the license type, dates of event, and date of ultimate Board approval.

**Chief Administrative Officer's Response:**

*We agree with this finding. Currently, One-Day license receipts are scanned into Zyweb (along with all One-Day license data,) which can be searched by event name and/or date. Additionally, adding pre-printed license numbers, as identified in Finding 1, will allow for ease of tracking in Zyweb. However, we will review the current process and, as suggested above, will develop a daily log of all One-Day license applications received and a reconciliation process with the related funds deposited.*

**Finding 7: LRE procedures for the issuance of One-Day licenses and handling of financial instruments are not clearly documented.**

While the staff interviewed was knowledgeable and experienced in LRE procedures, there is little documentation of the processes or internal controls regarding One-Day license issuance. With the exception of a one-page flow chart (which was updated twice during our limited review) outlining the licensing process, LRE had no written policies or procedures. Additionally, variances from normal processes are not formally documented.

**Recommendation:**

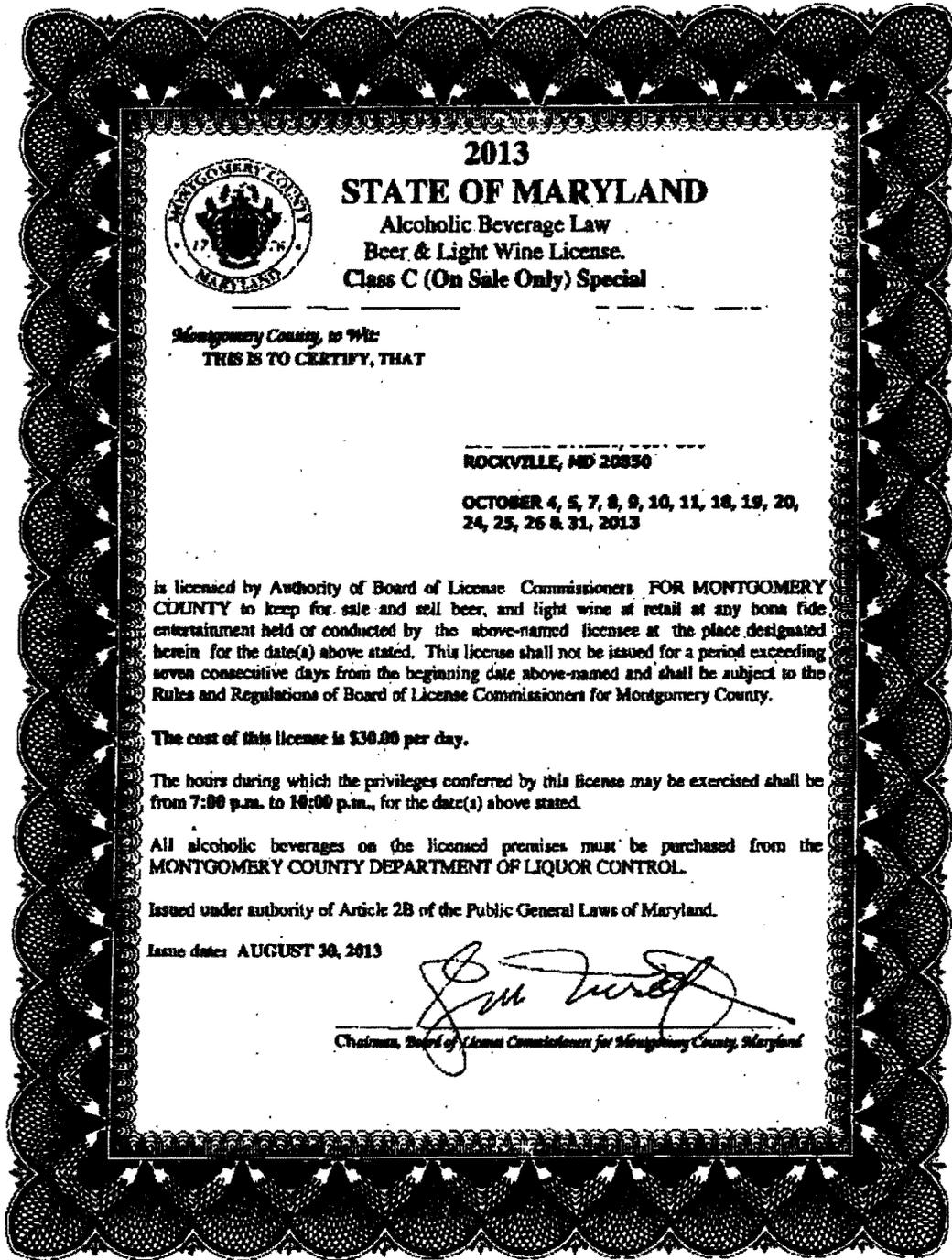
9. LRE should create formal, written policies and procedures regarding issuance of One-Day licenses, including the handling of license payments.

**Chief Administrative Officer's Response:**

*We agree with this finding. LRE will develop [and (sic)] document the standard operating procedure for the issuance of One-Day licenses. The one-day license flow process was adjusted after the initial review by the Inspector General, and a variance file has been added.*

The Chief Administrative Officer's Response is included in its entirety as Appendix B.

Appendix A: Sample One-Day license



**Appendix B: Chief Administrative Officer's Response (Complete Document)**



OFFICES OF THE COUNTY EXECUTIVE

Isiah Leggett  
County Executive

MEMORANDUM

Timothy L. Firestine  
Chief Administrative Officer

May 1, 2014

TO: Edward L. Blansitt III, Inspector General

FROM: Timothy L. Firestine, Chief Administrative Officer *Timothy L. Firestine*

SUBJECT: Inspector General Review of Department of Liquor Control One-Day Licenses

I am in receipt of your memo dated April 10, 2014, regarding your review of Department of Liquor Control One-Day Licenses. I appreciate the work conducted by the Office of the Inspector General in issuing this report. Specific comments concerning each of the review's findings and recommendations are found below.

**IG Finding 1 and Recommendation:** One-Day licenses are issued without a license number. One-Day licenses should bear sequential license numbers.

**CAO Response:** We agree with the recommendation. The Department of Liquor Control (DLC) has ordered pre-numbered license paper which, beginning in FY15, will be used exclusively for approved One-Day licenses. The number on each one-day license will correspond with the Board of License Commissioners (BLC) one-day agenda.

**IG Finding 2 and Recommendation:** Issuance of One-Day licenses is authorized by the LRE Division Chief without Board Approval. Under current Maryland law and Board regulations, only the Board should approve One-Day licenses. Applicants who do not apply for licenses within the published time constraints should be denied.

**CAO Response:** We do not agree with this finding and recommendation. The report appears to be based, in part, on a fundamental misunderstanding or misinterpretation of Maryland laws and regulations governing special event, One-Day licenses.

Most of the laws and regulations concerning "alcohol licenses" do not apply to special event "One-Day" licenses. For instance, there are distance requirement restrictions prohibiting alcohol licenses being issued for business locations in close proximity to churches and other places of worship, libraries, schools and recreation centers, courthouses and government facilities, etc. Ironically, the applicants for special event One-Day licenses are most often precisely the users of these facilities, and must be affiliated with a legitimate non-profit organization (as opposed to the businesses annually licensed to serve alcoholic beverages to the public.) Other licensing

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[montgomerycountymd.gov/311](http://montgomerycountymd.gov/311)



240-773-3556 TTY

Edward L. Blansitt III, Inspector General  
May 1, 2014  
Page 2

regulations include seating capacities, legal informational postings, sales ratios, server training, tax reporting and trade practice requirements, facility inspections, etc.

Our County Attorney's long-standing interpretation of state law clearly considers the special event One-Day license applications to be exempt from these provisions of state licensing law. Also attached for your information is a letter from the Comptroller's office concurring with our interpretation. However, in order to further clarify this issue, we will request an advisory opinion from the Maryland Attorney General regarding these areas of state law and its application by the Department of Liquor Control and the Board of License Commissioners. Once we receive clarification from the Attorney General, we will address any needed operational modifications.

Please note that it is DLC's practice to process all One-Day applications through the (BLC) for final approval. However, there are instances in which an event application is submitted after a board hearing and the event will occur prior to the next scheduled hearing. In these cases, the DLC Division Chief has the authority to approve a One-Day event application only after all requirements are met. In addition, DLC has also surveyed other Licensing Boards throughout Maryland and found that other board staffs also approve one-day event applications.

As stated above, we will consult with the Office of the Attorney General to seek advice regarding the DLC staff's authority, on a limited basis, for granting One-Day event licenses when it is not practical for the Board to convene.

**IG Finding 3 and Recommendation:** Licenses were issued to two local non-profit organizations at an amount less than that required by law. All One-Day license applicants should be required to pay the fee codified in Maryland law. If DLC believes discounts are appropriate, it should seek a change in legislation.

**CAO Response:** We disagree with this Finding. It is important to point out that One-Day licenses are issued only to non-profit organizations. Moreover, there is a strong policy in place internally to screen events through research, proof of non-profit status, as well as requiring an alcohol plan and proper security plan. There are also internal criteria that require other county agencies to be involved in the screening process.

One-Day licenses were never discounted. The two "local non-profit organizations" cited were the Montgomery County Department of Recreation, and a government-owned public arts facility. The DLC Director, as the authorized official, determined that the Department of Recreation license application referred to in this report was for a specific class (rather for each individual session of the advertised class.) The Recreation class was appropriately licensed at the appropriate fee, and not, as suggested by this finding, at "an amount less than that required by law".

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Edward L. Blansitt III, Inspector General  
May 1, 2014  
Page 3

Similarly, the arts facility classes were for a total of six hours (consistent with a single event) held over three sessions; only one or two bottles of wine were used per session. As the number of One-Day license applications for the arts facility increased, the DLC began discussing with the performing arts facility the development of legislation for a potential annual license. It should be noted that last year the performing arts facility spent a total of approximately \$7,000 for One-Day licenses, three times the amount of the most expensive annual license in the County. As you know, a Community Performing Arts License has been created for the facilities holding classes and they will no longer require One-Day licenses to operate. The new Montgomery County Community Performing Arts License will be available July 1, 2014.

**IG Finding 4 and Recommendations:** Additional LRE One-Day license procedures appear to conflict with law or regulation. DLC should align its practices with the requirements contained in Maryland law. DLC should consider the need to request that the Maryland Code be amended to exempt One-Day licenses from the notice and posting requirements. (Anne Arundel County has such an exemption.) The DLC and the Board should ensure consistency between the Maryland law, the Board's Regulations, and current practices.

**CAO Response:** We agree that there have been occasions when One-Day licenses have been issued for more than seven non-consecutive days. In the future, to align practices with the notice and posting requirements contained in Maryland law, DLC will issue separate, numbered licenses for each event up to seven consecutive days. As you know, there is no limit to the number of One-Day licenses that can be granted to a non-profit in a year. In addition, we may consider your recommendation and submit county-sponsored legislation to amend Article 2B to make explicit exceptions that certain annual license requirements do not apply to one-day licenses.

Article 2B does require all licenses to be posted for 30 days at the facility and published two times in two successive weeks. However, due to the short turn around required for One-Day event licenses, this is an impractical requirement that was clearly intended for annual licenses. In fact, article 2B, Section 10-202, subsection 5, refers to "the operation of the business." In Title 7, Section 7-101, no reference is made to a requirement of public notice. The statutory requirements if applied would likely prevent most One-Day alcohol licenses from being issued. The premises where one-day events are held are usually not owned, leased, or operated by the license applicant.

Article 2B, Section 13-101 currently exempts One-Day license holders from the requirement of Alcohol Awareness certification. For purposes of consistency and clarification, the Board of License Commissioners will consider adding the exemption to the County Rules and Regulations.

Please note that the report highlights some understandable confusion on Article 2B of the Maryland Code regarding the requirements for regular (full time/annual) licenses versus the temporary, special event One-Day licenses that are the focus of this review. Many of the

Edward L. Blansitt III, Inspector General  
May 1, 2014  
Page 4

requirements for license applications do not apply to the special One-Day licenses. A few of these exemptions are explicit, as in the case of Section 13-101 (b) (2) (i) that is cited in the report. Others are implied by the location of the provisions in Article 2B, or by other provisions of state law. DLC will request clarification in this general area from the Maryland Attorney General.

In the future DLC will explicitly cite the existing exemption found in State law (Article 2B, Section 13-101) in our County BLC license application materials and LRE process documents.

**IG Finding 5 and Recommendations:** Checks received from One-Day license applicants are not deposited daily, but instead are stored in an open, unlocked area until the Board considers the application. All checks received by LRE should be immediately restrictively endorsed, and all payments received, including checks accompanying license applications, should be deposited daily.

**CAO Response:** We agree with the recommendations. Effective immediately, all checks for One-Day license applications will be restrictively endorsed (stamped) upon receipt and kept in a locked cabinet. Further, we have adopted a policy of making a bank deposit on a routine basis.

**IG Finding 6 and Recommendation:** One-Day license applications and fees received are not recorded at the time that they are received. The accounting entry for One-Day license applications is made after the Board considers the application, as a lump sum amount covering fees of all applications approved. LRE should maintain a daily log of all One-Day license applications received. This entry would include the date of receipt, name of the licensee, and fees collected or to be collected. The employee who deposits license fees should reconcile the log with funds deposited. Other line items included in the log entry could include the license type, dates of event, and date of ultimate Board approval.

**CAO Response:** We agree with this finding. Currently, One-Day license receipts are scanned into Zyweb (along with all One-Day license data,) which can be searched by event name and/or date. Additionally, adding pre-printed license numbers, as identified in Finding 1, will allow for ease of tracking in Zyweb. However, we will review the current process and, as suggested above, will develop a daily log of all One-Day license applications received and a reconciliation process with the related funds deposited.

**IG Finding 7 and Recommendation:** LRE procedures for the issuance of One-Day licenses and handling of financial instruments are not clearly documented. LRE should create formal, written policies and procedures regarding issuance of One-Day licenses, including the handling of license payments.

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Edward L. Blansitt III, Inspector General  
May 1, 2014  
Page 5

**CAO Response:** We agree with this finding. LRE will develop document the standard operating procedure for the issuance of One-Day licenses. The one-day license flow process was adjusted after the initial review by the Inspector General, and a variance file has been added.

If you have any questions, please feel free to contact me or Assistant Chief Administrative Officer Fariba Kassiri, who can be reached at (240) 777-2512 or [Fariba.Kassiri@montgomerycountymd.gov](mailto:Fariba.Kassiri@montgomerycountymd.gov).

TLF:gg

cc: Fariba Kassiri, Assistant Chief Administrative Officer  
George F. Griffin, Director, Department of Liquor Control  
Marc Hansen, County Attorney



Peter Franchot  
Comptroller

Jeffrey A Kelly  
Director  
Field Enforcement Division

04/11/2014

I have been asked to respond to an inquiry from your office regarding Special Class "C", one-day licenses. Your staff requested that I explain the requirements contained in Article 2B and how they apply to the one-day alcoholic beverage licenses with respect to: 1) Advertising the application in a periodical in 2 successive issues, 2) Posting a public notice at the proposed license location in the form of a sign, for 30 days prior to the license hearing before the Board of License Commissioners, and 3) Fingerprint the license applicant as part of the background investigation.

During my 37 year career with the State Comptroller's Office dealing with alcoholic beverage matters at both the State and Local levels, it is my opinion that the aforementioned requirements only apply to an annual type of alcoholic beverage license. Due to the fact that the one-day license is brief in nature, a quick turn-around is required, the license is only issued on behalf of a non-profit organization, normal requirements that apply to an annual type of alcoholic beverage license application are not applied to a one-day license application. To apply the advertising, signage, and fingerprinting of a license applicant for an application for a class "C" one day license is impractical. Further, during my career, I know, first hand, that none of the 25 County Liquor Boards across the State of Maryland apply these requirements to any application for a one-day liquor license.

I trust this reply has been responsive. Please feel free to contact me should it be necessary and I would be glad to further discuss this matter. I can be reached at 410-260-7392.

Lou Berman  
Trade Practice Manager  
Field Enforcement Division