

Resolution No.:	<u>18-239</u>
Introduced:	<u>June 30, 2015</u>
Adopted:	<u>July 28, 2015</u>

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Ad Hoc Committee on Liquor Control

SUBJECT: Resolution to Support Reforms to Improve the Department of Liquor Control Operations and Expand Choice for Consumers and Businesses

Background

1. In December 2014, the County Council established the Ad Hoc Committee on Liquor Control to study issues related to the distribution and sale of alcoholic beverages by Montgomery County. The Committee was tasked to review alternative models and construct a recommendation that better aligns Montgomery County's alcohol regulations and policies with its economic development, quality of life and public safety goals. The Committee is chaired by Hans Riemer and includes Council President George Leventhal, chair of the Council's Health and Human Services Committee, and Marc Elrich, chair of the Council's Public Safety Committee.
2. Montgomery County's alcohol distribution system is a "control" model – the County Government Department of Liquor Control (DLC) controls the wholesale distribution of all alcoholic beverage products (with limited exceptions) and controls the retail sale of all packaged liquor products sold in the County. Montgomery County is the only control jurisdiction in the State of Maryland – all other Maryland counties are "license" jurisdictions – where private sector businesses manage wholesale and retail sales of beer, wine, and liquor. In the United States, 33 states are license jurisdictions and 17 states are control jurisdictions.
3. DLC earns a profit from the sale of alcoholic beverages to retail licensees in the County. Over the past five years, DLC has transferred, on average, \$25.7 million to the County general fund annually from profits from the sale of alcoholic beverages.
4. As a basis for its analysis, the Committee reviewed Office of Legislative Oversight Report No. 2015-6 – *Review of Alcohol Control in Montgomery County*, an examination of the alcoholic beverage distribution system in the County. The OLO report described five options to change DLC's operations in the County – four options that would change the structure of alcohol distribution in Montgomery County and one option that recommended changes to the Department of Liquor Control's (DLC) practices within the current

structure. OLO also outlined four alternative ways to generate revenue for the County Government from the sale of alcohol in the County.

5. The Committee held meetings in February, March, May and June 2015 and heard testimony from stakeholder groups, including DLC customers, restaurateurs, beer and wine store owners, Municipal and County Government Employees Organization (MCGEO) representatives, private wholesalers, public health experts, members of the Alcohol Beverage Advisory Board, and DLC and Executive Branch staff, including representatives of the Police and Health and Human Services Departments. The Committee studied the current system that controls liquor distribution to County-operated retail stores, to private beer and wine stores, and to restaurants and reviewed the history of temperance and the establishment of the DLC in the County. Committee members also received numerous letters, emails, and phone calls from County residents and other stakeholders and various materials provided by the DLC.
6. At the same time the Committee was convening meetings, DLC developed an Improvement Action Plan that Executive Branch staff presented at the Committee's June 19, 2015 meeting. The Committee strongly recommends that the Executive Branch move forward immediately to implement these planned improvements for DLC's systems and operations. One important aspect of this Action Plan that the Committee strongly endorses is a plan to expand the number of county-run retail outlets and improve the customer experience at all stores – to generate significant additional profits for the County.
7. The Committee received information summarizing a significant amount of feedback from retail licensees in Montgomery County who are dissatisfied with DLC's process for distributing the category of products that DLC calls "special order" products – which are products not regularly carried as inventory in DLC's warehouse, but instead are purchased by DLC in response to a specific order from a licensee, retail store, or customer at a retail store.
8. During the Committee's deliberations, Committee members concluded that Option 4 from OLO Report 2015-6 – which would allow the wholesale distribution of special order beer and wine products in Montgomery County by private wholesalers – presents an opportunity to improve DLC operations and better serve restaurant and beer and wine store owners without disrupting DLC's profits or County Government jobs. OLO's report estimates that the County could lose up to \$5-7 million in gross profit annually and up to 15 employee positions by implementing this change. OLO also estimates that these losses would be mitigated by expanding DLC's retail operation and/or establishing a fee for private distributors. In the FY16 Budget, the Council supported the Executive's proposal to open three new DLC retail stores, adding approximately 22 new positions. The County's current stores generated an average of \$795,000 in gross profit per store in FY13, so three new stores could be expected to generate at least an additional \$2,385,000 annually. The

Committee urged the Executive to develop a strategic plan for continuing to expand and modernize DLC's retail operation.

9. The Committee also concluded that the County Government should establish a fee on the private wholesale distribution of alcoholic beverages in the County to replace all or a portion of DLC profits lost due to private wholesale distribution of special order beer and wine in the County.
10. The Committee also supports this change because it simply shifts the sale and distribution of products already sold in the County from one wholesaler (DLC) to another (private wholesalers). Consequently, the change may not have a direct impact on the quantity of alcohol consumed in Montgomery County – mitigating impacts on public health.
11. The Ad Hoc Committee on Liquor Control recommended that the Council adopt a resolution urging the Montgomery County Delegation, the Maryland General Assembly, and the Governor to amend State law to allow private businesses to sell wholesale “special order” beer and wine products in Montgomery County and allow Montgomery County to institute a wholesale distribution fee or charge in the County.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

For many years, Councilmembers have received feedback from stakeholders in the County outlining dissatisfaction with certain aspects of DLC's operations. The County Council established the Ad Hoc Committee on Liquor Control to conduct a thorough examination of the structure and operations of the Department of Liquor Control and determine appropriate changes to the structure of alcohol distribution in Montgomery County.

During the Committee's deliberations, one of the most significant recurring issues brought to the Committee's attention was persistent concern by retail licensees in the County (owners of restaurants and private beer and wine stores) with DLC's current process for the sale and distribution of special order products – particularly special order beer and wine. Licensees described problems with DLC's systems that impact their ability to obtain the alcoholic beverage products that they rely upon to run their businesses. It is the sense of the County Council that, to date, the DLC has not been able to effectively manage the special order system, therefore allowing the private wholesale distribution of special order beer and wine to County retail licensees will help alleviate licensees' concerns and positively impact their businesses while having the least amount of impact on DLC employees and revenue generated by DLC. The Council believes that this change should include a formal process for determining what products are special order. The Council believes that this change must be effectively revenue neutral with the implementation of a wholesale distribution fee or charge and the expansion of the County's retail liquor outlets and that private special order distribution should not proceed until necessary state legislation is enacted to generate those revenues. The Council believes that this change will make Montgomery County more competitive in attracting high quality restaurants, entertainment venues, and beer and wine stores, which will improve quality of economic activity for County businesses.

Therefore, the Montgomery County Council requests that the Montgomery County Delegation, the General Assembly, and the Governor enact legislation allowing private licensed wholesalers to distribute "special order" beer and wine products in Montgomery County to retail alcoholic beverage license holders. The Council further requests that the Governor and Maryland General Assembly enact legislation allowing the Montgomery County Government to implement a wholesale alcoholic beverage distribution fee or charge in the County to replace the County's lost revenue from this change.

The Council requests the amendment of State law to implement the following changes to Montgomery County's alcohol distribution system:

1. Enable Montgomery County to allow private licensed Maryland wholesalers to sell and distribute special order beer and wine products to retail licensees in Montgomery County. DLC would also continue to sell and distribute special order beer and wine products for distributors that would prefer not to deliver directly to customers in the County. DLC would maintain control of the sales and distribution of all stock beer and wine products.
2. Allow the Montgomery County Government to establish a fee or charge on private wholesalers selling special order beer and wine to Montgomery County licensees – either through a direct fee or through establishment of a permit charge. The cost of the fee or charge should:
 - a. Be based on the volume of alcohol sold by private distributors only to retail licensees in Montgomery County.
 - b. Replace DLC estimated revenue lost by allowing the sale of special order beer and wines by private wholesalers.
 - c. Be structured in a way that does not impact prices in other jurisdictions.
 - d. Be set and charged by Montgomery County.

County Government representatives from the Executive and Legislative branches will consult with State legislators to draft appropriate legislation.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council