MEMORANDUM

TO: County Council

FROM: Craig Howard, Senior Legislative Analyst, OLO
       Leslie Rubin, Senior Legislative Analyst, OLO
       Justin J. Ferber, Legislative Analyst, Council Staff

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

The Ad Hoc Committee on Liquor Control recommends 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. The attached resolution at ©1 supports reforms to improve the Department of Liquor Control (DLC) operations and expand choice for consumers and businesses.

Amended Resolution

The proposed resolution was introduced on June 30, 2015. A public hearing was held on July 21, 2015. Twenty-two speakers presented views in support of the resolution and seven speakers presented views in opposition. Several speakers had recommendations for Committee consideration. A summary of public hearing testimony is attached at ©10.

Committee members recommend the resolution be amended to address concerns raised by the County Executive and other speakers at the hearing. Members of the Committee agreed to amend the resolution to place more emphasis on the need for enabling legislation with less discussion about process.

Upon adoption of the resolution, copies will be sent from the Council President to the Montgomery County Delegation requesting that State legislation be drafted in time for the next State legislative session.

Background

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 DLC 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 Committee that, to date, 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 Committee believes that this change must be effectively revenue neutral with the implementation of a wholesale distribution fee or charge and 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 Committee 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.

The Ad Hoc Committee on Liquor Control recommends the Council approve a resolution to take the following action:

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.

The resolution introduced on June 30, 2015, was amended and is attached at ©1.

Additional Background Information on the Work of the Ad Hoc Committee on Liquor Control

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. It should be noted that Councilmembers Sidney Katz and Roger Berliner attended and participated in some or all of the Committee’s meetings.

Montgomery County’s alcohol distribution system is a “control” model – the County 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.

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.
As a basis for its analysis, the Committee reviewed Office of Legislative Oversight Report 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.

The Committee held seven 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, 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 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 DLC.

The topics and issues discussed at each of the seven Committee meetings are summarized below:

**February 27:** The Committee was briefed on OLO Report 2015-6. OLO staff reviewed the Maryland framework for the sale of alcoholic beverages; summarized research on alcohol control and social costs; detailed key DLC financial, product, and program data; and summarized feedback on DLC's performance and operations from informational interviews and a formal survey of County alcoholic beverage license holders. The Committee discussed the five options for changing Montgomery County's alcohol structure and the revenue alternatives presented in the report. Also at the February meeting, the Directors of Liquor Control and Finance discussed with the Committee the options presented in the OLO report.

**March 6:** The Committee received an update from Inspector General Edward Blansitt and Deputy Inspector General Mollie Habermeier on Preliminary Inquiry Memoranda issued on 12/23/14 and 1/12/15 by the IG. These IG Memoranda reviewed complaints or issues related to DLC’s warehouse operations and licensing, regulation, and education functions. OLO provided additional information on estimating the potential value of “cross-border” alcohol sales based on Montgomery County consumption rates compared to neighboring jurisdictions. The Committee also held a discussion with DLC Director George Griffin and MCGEO President Gino Renne on DLC management and operations issues.

**March 20:** The Committee received testimony from Dr. Christopher Leinberger, Professor at GWU and a Fellow at the Brookings Institution on Alcohol Policy and Quality of Life. The Committee also held a broad discussion with several licensees, distributors and manufacturers on many aspects of DLC’s operations and performance, including: customer service, delivery operations, special order products, DLC’s recently implemented ordering system, pricing, product availability, and economic competitiveness.
March 27: The Committee was briefed on public health and safety issues at its March 27 meeting by Dr. David Jernigan, Director of the Center on Alcohol Marketing and Youth (CAMY) and an Associate Professor in the Department of Health, Behavior and Society at the Johns Hopkins Bloomberg School of Public Health. Dr. Uloder Tillman, Chief Health Officer, Public Health Services, Department of Health and Human Services, briefed the committee on the County’s role in public health and safety issues. Licensing and public health and safety issues were discussed with George Griffin, DLC Director, Kathie Durbin, Chief, Licensure, Regulation and Education (LRE), Lee Williams, Inspector, LRE, and Captain Thomas Didone, Montgomery County Police Department, Alcohol Initiatives Section. The Committee also was briefed by Inspector General Edward Blansitt on his Final Report: DLC Warehouse Inventory Management. Following-up on the survey of licensees included in Report 2015-6, and as requested by the Committee, OLO staff presented the results of a second survey on DLC’s operations and performance that was sent to 808 County alcoholic beverage license holders.

May 8: DLC Director and staff from the Transform MCG Technology Modernization project (ERP) briefed the Committee on the implementation of DLC’s new ordering and inventory system that launched February 1, 2015. Committee members discussed with Executive Branch staff many of the concerns, issues, and/or frustrations they heard from licensees and restaurateurs on the new ordering system.

June 12: Patricia Andersen, Librarian for the Montgomery County Historical Society, made a presentation about the history of "Temperance" and DLC in Montgomery County. OLO staff presented their follow-up report to OLO Report 2015-6: Further Analysis of Option 4 -- Private Wholesale Distribution of Special Order Beer and Wine. This follow-up memorandum analyzed potential implementation methods and issues if the Council were to endorse implementing Option 4.

June 19: DLC presented its Action Plan to the Committee which includes plans for improvements in six major categories: customer service, warehouse operations, special orders, retail operations, delivery and fleet operations, and financial controls and general operations. DLC also provided information on wholesale pricing comparisons prepared by CountyStat.

At the same time the Committee was convening meetings, DLC developed an Improvement Action Plan. 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.

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.

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.

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.

The Committee supported 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 sold in Montgomery County – mitigating impacts on public health.

Attachment: Amended Resolution, clean copy ©1
Marked Up Resolution ©5
Summary of Testimony and Correspondence ©10
Resolution No.:  
Introduced: June 30, 2015  
Adopted:  

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, Council members 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
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.

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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.

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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

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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:

[The classification of special order items will be the final responsibility of the County Department of Liquor Control.]

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.

[Establish the following process for DLC to classify items as stock or special order:

a. At the time when State legislation goes into effect, all items classified by DLC as special order items would remain classified as special order unless the entity from which DLC purchases the item (either producer or wholesaler) agrees in writing, after a formal request from DLC, that the item should become a stock item or a sufficient volume is achieved which warrants reclassification as a stock item.

b. As under current practice, producers or distributors would be required to list products for sale in Montgomery County with DLC. DLC should process requests to list items for sale expeditiously.

c. When a producer or wholesaler lists with DLC an item that is new to the national (or Maryland) market, DLC must determine at that time whether the item will be classified as stock or special order. Items that DLC classifies as special order would remain special order unless the entity registering the item agrees in writing, after a formal request from DLC, that the item should be a stock item or a sufficient volume is achieved which warrants reclassification as a stock item.
d. DLC can choose to reclassify a stock item as a special order item at any time. Once an item has been reclassified as special order, the item will remain special order unless the entity from which DLC purchases the item agrees in writing that the item should be a stock item or a sufficient volume is achieved which warrants reclassification as a stock item.

e. DLC should maintain a list of special order items for sale in the County and the name of the wholesalers from which licensees can purchase the items.

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 [to institute a fee or charge].

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

F:\FERBER\Ad Hoc Committee on Liquor Control 2015\Draft DLC Resolution 7-28-15 - marked up version.docx

Underlining Added to proposed resolution
[Single boldface brackets] Deleted from proposed resolution
SUMMARY OF PUBLIC HEARING TESTIMONY

Resolution to support reforms to improve the Department of Liquor Control operations and expand choice for consumers and businesses

1. Bonnie Kirkland, ACAO County Executive
County Executive shares the Council’s desire to improve business operations and efficiency in the DLC. Does not oppose the Resolution but feels a determination should be made whether flexibility in the special order system can be achieved within parameters of existing State law. Recommends caution before pursuing State legislative changes. Could support enabling legislation giving authority to the County to implement local level organizational or operational changes. DLC operations have shown improvement, and Executive staff will update the Committee in the fall on progress of “DLC Improvements Action Plan”.

2. Gordon Brenne Taxpayers League
Does not support the Resolution. Supports full privatization of DLC. Feels current DLC system does not earn what a private system could, imposes extra economic costs, presents conflicts of interests, does not foster job growth, and pushes residents to buy elsewhere. Favors phasing in full privatization over two or three years.

3. Frank Shull RW Restaurant Group
Supports the Resolution. Has six restaurants in Montgomery County but has trouble with orders which hurts business and keeps RW Group from expanding its business here. Usually takes three weeks to get special order products which is not good for products with a short shelf life. Price equality takes away ability of buyers and sellers to react to market opportunities. Proximity to D.C. makes it more difficult to compete.

4. Gino Renne United Food and Commercial Workers Union, Local 1994
Supports the Resolution if its implementation ends the debate about privatization of DLC. Employees are not opposed to improvements and expansion of DLC. Opposed to privatization of County services. Provided a response to purported inaccuracies in the Taxpayer League’s letter.

5. Julie Verratti Denizens Brewing Company
Supports the Resolution. Private special order delivery will be a big help to the local craft beer industry. Currently does not trust that beer products will be handled with care by DLC. Feels that private special order delivery will increase competition and that competition is good for business by providing more taps for local craft beers. Licensees have trouble getting special order beers from DLC and face revenue losses when products are unavailable for customers. Things need to change. Don’t make the fee too expensive.
6. Torrie Cooke  
**FOP Lodge 35**  
Does not support the Resolution. Does not support privatization of DLC. Feels that it does not make good fiscal sense to eliminate a $30 million revenue stream. Suggest working to eliminate inefficiencies in DLC.

7. Brian Vasile  
**Bethesda Chevy Chase Chamber of Commerce – Brickside Food and Drink**  
Supports the Resolution as a first step, although the Chamber ultimately prefers full privatization. In D.C. orders are delivered the next day. In Montgomery County orders can take over five weeks to be delivered which is not good business. Also, expanding the number of DLC stores is harmful to small private beer and wine stores. Favor new DLC Customer Service Center.

8. Larry Stafford  
**Progressive MD, Acting Executive Director**  
Does not support the Resolution. Does not support full privatization of DLC. Control and oversight are important. Loss of revenue and jobs to privatization not prudent. In control jurisdictions there are nearly 10% less deaths from underage impaired driving.

9. Melvin Thompson  
**The Restaurant Association of Maryland**  
Supports the Resolution. Resolution is a good first step; but would like to see additional reform. For unconditional support, would like to see the details of the State legislation and fees and will work with the Delegation on crafting the legislation. Would like to see benchmarks or an evaluation process in State legislation that allows for broader reform at a later date. There are challenges for restaurants in acquiring high quality beer and wine and this becomes a customer service issue.

10. Jeff Eagan  
**Individual**  
Does not support the Resolution. Reminds Council that there are $30 million reasons not to privatize and there are 400 families currently with good jobs and benefits which would not occur under privatization. Urges continued improvements to DLC.

11. Jane Redicker  
**Greater Silver Spring Chamber of Commerce**  
Supports the Resolution as a first step in addressing impediments to licensees in obtaining products. DLC needs to do a better job in customer service. Feels that the wording in the resolution that defines special orders will create more confusion and believes additional clarification is necessary to make the definition of “special orders” more reliable and predictable. Encourages more reform.

12. Michael Mendelevitz  
**Individual**  
Feels resolution is limited in scope. Sees this as a unique opportunity to restructure DLC and wants more reform. Feels the County should not retain the current system and there are better ways to operate such as making DLC into a Cooperative. The Cooperative would
be owned by all stakeholders including DLC employees. DLC does not follow best practices and needs to modernize.

13. Justin McInerny  Capital Beer and Wine
Supports the Resolution. Feels DLC will make more revenue with privatization of special order delivery because there will be savings in distribution costs. Suggests there should not be a fee due to the savings. Frustrated as a retailer by the inability to complete simple business transactions with DLC. Believes there are missed opportunities for DLC to earn revenue.

14. Jos Williams  AFL-CIO
Does not support privatization of DLC. Feels it is bad public policy and that DLC jobs would be replaced by minimum wage jobs. Quotes the Pennsylvania Governor’s comments on Pennsylvania liquor department privatization: “Don’t sell an asset before maximizing its value.”

15. Evan Glass  Individual
Supports the Resolution. Recommends adding spirits to the special order delivery legislation. Feels DLC needs progressive reforms. Some suppliers, producers, importers don’t sell to DLC because of its cumbersome procedures and distribution problems. There is a surge in public interest in craft beer, small-batch liquor and family-run wineries, but the current system stymies residents and restaurateurs who want to try new products.

16. Fritz Hirst  Individual
Does not support the Resolution because it continues the status quo. Feels that privatization with free enterprise is best. Believes that the new special order process could create confusion. Suggests the County learn from other jurisdictions how they operate. If no action is taken now to provide for dramatic reforms, then it will take another generation to make changes.

17. Patricia Stevens  Global Wines MD
Feels that proposed reforms may alleviate some of the problems but will not reduce prices. Suggests that the proposal may not benefit small wholesalers due to costs. The proposal leaves out details on the amount and structure of fees which makes it difficult to support. Most of Global Wines business is special orders and the County needs a simplified system.

18. Chip Berman  Liquor Task Force of 1993
Does not support privatization of DLC. State law states that the County’s major alcohol control priorities are to foster moderation and safety. Feels more work needs to be done; keep the current model but streamline DLC and make it more efficient.

19. Kathy Trumbull  Monsieur Touton Selection
Supports the Resolution. Direct private delivery will allow licensees to serve customers more efficiently and accurately and result in more sales. Opposes a distribution fee because of increased costs to distributors for gas and delivery expenses. Distributors should not
have to pay a fee for a service DLC is not providing. If a fee is initiated, then it should have an expiration date requiring legislative renewal including an impact analysis to determine if renewal is needed.

20. **Mark Moore**  
**Tyber Bierhaus**  
Supports the Resolution. When beer and wine orders are made in D.C. restaurants they are delivered the next day as they are in most cities. In Montgomery County, delivery of products takes days and sometimes they don’t arrive. It is not a pleasant experience doing business with DLC. Have 20 taps but only 14 or 15 are used because of problems with product delivery. This hurts business because it angers customers who then complain on social media.

21. **Molly Horn**  
**All Set Restaurant and Bar**  
Supports the Resolution. It is disheartening to want to do business as a Montgomery County native but you can’t get product for up to two months and sometimes never. There is yet to be a week when All Set receives the exact order submitted to DLC. Special order items cost significantly more than across the border. Private delivery of special order items is a good first step. Suggest the Committee address the issue of training and education for DLC order takers. Would like to see an end to DLC monopoly. Asks that liquor be included in special order items for private delivery.

22. **Ken Markison**  
**Individual**  
Supports the Resolution. Feels it is a modest change; not really reform. Feels real reform would allow businesses to operate without DLC. If more freedom is not allowed, more businesses and money will flow out of the County. Suggests phasing out DLC operations or putting the issue to the voters to whether Montgomery County should leave the alcohol business.

23. **Geoff Tracy**  
**Chef Geoff’s**  
Supports the Resolution. Notes that purchasing and stocking quality wines and beers in Montgomery County is a much bigger challenge than it should be. Feels DLC has difficulty because it has over 75,000 products to handle and its processes are inefficient. Wrong products are delivered or products are unavailable and it is a minimum of a week to resolve issues. Prices are overly inflated and not competitively priced versus the same product in D.C. or Virginia. Private delivery of special order items will help restaurants and DLC.

24. **Hans Olson**  
**Clyde’s Tower Oaks Lodge**  
Supports the Resolution. Things seem to get worse at DLC. For example, have had trouble getting an order for eight weeks and have now received an eight page email on why the order is not filled. Customers don’t understand and blame retailers. Why does DLC run out of Grey Goose and Maker’s Mark?

25. **Mike Hill**  
**Adega Wine Cellars**  
Supports the Resolution. It is an 8-day plus turn-around from beer/wine order to delivery; this is too long; for D.C. it is one day. A better delivery system will help attract and retain businesses in the County. As more and more special items become available, DLC gets worse.
26. Charleen Merkel Bradley Food and Beverage
Supports the Resolution. Feels DLC prices to licensees are too high and better discounts are given to County store customers. County liquor stores unfairly compete with private beer and wine stores and the climate is not conducive to success for licensees.

27. Vijay Mhera Individual
Supports the Resolution. Feels DLC takes too long to deliver. Private delivery will help. DLC stores compete with licensee stores. Licensees can’t get what they want in a timely manner and customers write bad reviews; social media hurts retailers. Specialty items sold by licensees soon become stock items in DLC store which hurts licensee sales.

28.* Chris Bradbury Individual
Supports the Resolution. Notes that the restaurant industry creates a lot of jobs. Believes DLC needs to change its pricing structure. DLC enforces state laws which protect community health and safety.

30. Mark Longsworth The Country Vintner
Supports the Resolution. Feels that pricing of items should be more competitive after the change. Country Vintner is the largest supplier of special order products to DLC. Efficiencies are lost by having DLC as a third party. DLC is not set up for bottle orders but Country Vintner is. The Oracle system has had a dramatic impact on special orders, making the special order process less efficient.

31. Mike Jones American Tap Room
Supports the Resolution. Feels County should find a way to make private delivery work. Feels more things should be done to improve operations.

*Speaker 29 was not present at the hearing.

A summary of correspondence commenting on the proposed resolution follows.
SUMMARY OF CORRESPONDENCE

Mark and Erin Baldwin – Supports the Resolution. Would like to see overhaul or change in structure for alcohol sales.

Johana Benson, Gilly’s Beer and Fine Wine – Supports the Resolution. Notes that Montgomery County is about three weeks behind the rest of the country on limited release items. Has had difficulty with special orders since implementation of the new ordering system which is not working well at all. Orders are missing products and DLC warehouse has difficulty locating products. Finds that invoices do not match up with COD charges. Feels that County retail stores compete with licensees. Suggests that DLC is missing opportunities with specialty/craft liquors. Does not support beer and wines sales by grocery stores or Total Wine.

Peter Frank, Talbert’s Ice & Beverage Service – Does not support the Resolution. Feels DLC should be pressed to make workable changes on handling special orders and that recent DLC failures are the fault of the new ordering system. Opposes any expansion of County stores because they unfairly compete with private stores. Asks that beer and wine be removed from County stores.

Licensed Beverage Distributors of Maryland, Inc. - Kevin Dunn, Reliable-Churchill and Tom White, Republic National Distributing Company – Feels that some wholesalers will not be able to deliver special orders for economic reasons. By their nature, special orders are for small quantities and the profit on such a small transaction will not cover their delivery costs. Feels that the proposed fee is counter-productive and the County should lower prices. Suggests the County let private wholesalers deal directly with licensees. Recommends that the County designate vehicles as “special order” trucks.

Jackie Greenbaum, Quarry House Tavern and Jackie’s Restaurant – Supports the Resolution. Advises that 100% of wine sold at her restaurants are special order and 297 of the 300 beers sold are special order. Notes that wine must be ordered more than a week prior to delivery, must be ordered by the case, delivery dates are inflexible and deliveries are almost always incorrect. Feels that DLC staff has very little knowledge about products and is not sure that wines have been stored properly by DLC. Notes that purchasing wine by the case is a challenge to small licensees. Feels that special order beer is a worse problem in that it can take months for orders to be delivered and orders stack up which makes it impossible to maintain a steady inventory of products.

Kathy Hollinger, President and CEO, Restaurant Association Metropolitan Washington – Supports the Resolution. States that restaurants hesitate to expand into Montgomery County because of the current alcoholic beverage distribution system. The current system poses challenges to restaurants when acquiring high quality beer and wine and customers question why their favorite item is not available in a Montgomery County location or is offered at a much higher price in the County. Feels that it is important to include opportunities for evaluation in the State legislation to ensure the necessary and intended improvements are achieved.

Chuck and Anne Marie Martinez – Do not want DLC privatized and want to retain County jobs.

Catherine Reeves – Supports the Resolution. Believes the current system is archaic.
**John Snyder** – Does not support the current DLC system. Notes that DLC does not carry the types of products he wants therefore he buys in other jurisdictions.