

Introduced by: Councilmember Henry Clarke *m. d. k. h. j. k. h. Costello Purcell 2/18*

Prepared by: Department of Legislative Reference *Bullock* Date: October 23, 2018

Referred to: **JUDICIARY AND LEGISLATIVE INVESTIGATIONS** Committee

*DORSEY
NEED
Reisinger
Bullock
Barnett*

Also referred for recommendation and report to municipal agencies listed on reverse.

CITY COUNCIL *18-0302*

A BILL ENTITLED

AN ORDINANCE concerning

Late-Night Commercial Operations – Licensing

FOR the purpose of deleting an exception for the sale of motor vehicle fuels; authorizing the issuance of a conditional license for certain delivery services; and generally related to the licensing of late-night commercial operations.

BY repealing and reordaining, with amendments
Article 15 - Licensing and Regulation
Section(s) 9-4(b)
Baltimore City Code
(Edition 2000)

BY adding
Article 15 - Licensing and Regulation
Section(s) 9-6.1
Baltimore City Code
(Edition 2000)

[Handwritten signatures and initials, including names like Dorsey, Bullock, and others]

****The introduction of an Ordinance or Resolution by Councilmembers at the request of any person, firm or organization is a courtesy extended by the Councilmembers and not an indication of their position.**

Agencies

Department of Public Works	Baltimore City Public School System
Department of Real Estate	Baltimore Development Corporation
Department of Recreation and Parks	City Solicitor
Department of Transportation	Comptroller's Office
Fire Department	Department of Audits
Health Department	Department of Finance
Mayor's Office of Employment Development	Department of General Services
Mayor's Office of Human Services	Department of Housing and Community Development
Mayor's Office of Information Technology	Department of Human Resources
Office of the Mayor	Department of Planning
Police Department	Other: _____
Other: _____	Other: _____
Other: _____	Other: _____
Other: _____	Other: _____
Environmental Control Board	Board of Estimates
Fire & Police Employees' Retirement System	Board of Ethics
Labor Commissioner	Board of Municipal and Zoning Appeals
Parking Authority Board	Comm. for Historical and Architectural Preservation
Planning Commission	Commission on Sustainability
Wage Commission	Employees' Retirement System
Other: _____	Other: _____
Other: _____	Other: _____
Other: _____	Other: _____

Boards and Commissions

Department of Public Works	Baltimore City Public School System
Department of Real Estate	Baltimore Development Corporation
Department of Recreation and Parks	City Solicitor
Department of Transportation	Comptroller's Office
Fire Department	Department of Audits
Health Department	Department of Finance
Mayor's Office of Employment Development	Department of General Services
Mayor's Office of Human Services	Department of Housing and Community Development
Mayor's Office of Information Technology	Department of Human Resources
Office of the Mayor	Department of Planning
Police Department	Other: _____
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Parking Authority Board	Comm. for Historical and Architectural Preservation
Planning Commission	Commission on Sustainability
Wage Commission	Employees' Retirement System
Other: _____	Other: _____
Other: _____	Other: _____
Other: _____	Other: _____

CITY OF BALTIMORE
ORDINANCE **19-259**
Council Bill 18-0302

Introduced by: Councilmembers Henry, Clarke, Middleton, Scott, Costello, Pinkett, Cohen,
Dorsey, Sneed, Reisinger, Bullock, Burnett

Introduced and read first time: October 29, 2018

Assigned to: Judiciary and Legislative Investigations Committee

Committee Report: Favorable with amendments

Council action: Adopted

Read second time: June 11, 2019

AN ORDINANCE CONCERNING

Late-Night Commercial Operations – Licensing

FOR the purpose of ~~deleting an exception for the sale of motor vehicle fuels~~; authorizing the issuance of a conditional license for certain delivery services; and generally related to the licensing of late-night commercial operations.

~~BY repealing and reordaining, with amendments~~

~~Article 15 - Licensing and Regulation~~

~~Section(s) 9-4(b)~~

~~Baltimore City Code~~

~~(Edition 2000)~~

BY adding

Article 15 - Licensing and Regulation

Section(s) 9-6.1

Baltimore City Code

(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 15. Licensing and Regulation

Subtitle 9. Late-Night Commercial Operations

Part 1. Definitions, General Provisions

Explanation: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike-out~~ indicates matter stricken from the bill by amendment
or deleted from existing law by amendment.

Council Bill 18-0302

1 ~~§ 9-4. Scope:~~

2 ~~(b) Exceptions:~~

3 This subtitle does not apply to:

4 ~~(1) a hotel or motel;~~

5 ~~(2) a restaurant or tavern operating during hours authorized by its alcoholic beverage~~
6 ~~license;~~

7 ~~[(3) the sale of motor vehicle fuels;]~~

8 ~~(3) [(4)] the provision of emergency medical or veterinary care;~~

9 ~~(4) [(5)] a video lottery facility operating during hours authorized by its State Video~~
10 ~~Lottery Operating license; or~~

11 ~~(5) [(6)] drive-through food-service windows, if:~~

12 ~~(i) all indoor sales and dining areas are closed to the public during~~
13 ~~late-night hours; and~~

14 ~~(ii) no pedestrians are served at these windows during late-night hours.~~

15 *Part 2. Licensing*

16 **§ 9-6.1. CONDITIONAL LICENSE FOR LATE-NIGHT DELIVERY SERVICES.**

17 THE FINANCE DEPARTMENT MAY ISSUE A LATE-NIGHT OPERATIONS LICENSE FOR A BUSINESS
18 TO OPERATE A LATE-NIGHT DELIVERY-ONLY SERVICE, CONDITIONED UPON ALL INDOOR SALES
19 AND DINING AREAS BEING CLOSED TO THE PUBLIC DURING LATE-NIGHT HOURS.

20 SECTION 2. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day
21 after the date it is enacted.

Council Bill 18-0302

Certified as duly passed this _____ day of JUN 11 2019, 20__




President, Baltimore City Council

Certified as duly delivered to his Honor, the Mayor,
this _____ day of JUN 11 2019, 20__



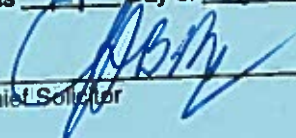
Chief Clerk

Approved this 17 day of June, 2019



Mayor, Baltimore City

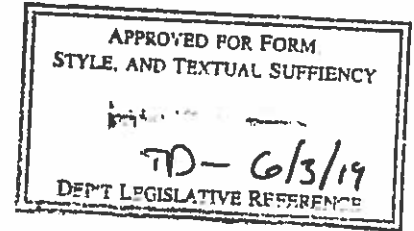
Approved For Form and Legal Sufficiency
This 17th day of June 2019.



Chief Solicitor

AMENDMENTS TO COUNCIL BILL 18-0302
(1st Reader Copy)

By: Judiciary and Legislative Investigations Committee



Amendment No. 1

On page 1, in line 3, strike “deleting an exception for the sale of motor vehicle fuels;”; and, on that same page, strike line 21 in its entirety; and, on that same page, strike lines 6 through 10 in their entireties; and, on page 2, strike lines 1 through 14 in their entireties.

ADOPTED

**BALTIMORE CITY COUNCIL
JUDICIARY AND LEGISLATIVE INVESTIGATIONS COMMITTEE
VOTING RECORD**

BILL#: CC-18-0302

DATE: 5/28/19

TITLE: Late-Night Commercial Operations - Licensing

MOTION BY: Clarke SECONDED BY: Pinkett


FAVORABLE

FAVORABLE WITH AMENDMENTS

UNFAVORABLE

WITHOUT RECOMMENDATION

NAME	YEAS	NAYS	ABSENT	ABSTAIN
Costello, E., Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clarke, M., Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bullock, J.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pinkett, L.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reisinger, E.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott, B.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stokes, R.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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TOTALS	5	0	1	0

CHAIRPERSON: 

COMMITTEE STAFF: Matthew L. Peters, Initials: MLP



HEARING NOTES

Bill: 18-0302

Late-Night Commercial Operations - Licensing

Committee: Judiciary and Legislative Investigations

Chaired By: Councilmember Eric Costello

Hearing Date: November 27, 2018
Time: 10:05 AM to 10:55 AM
Location: Clarence "Du" Burns Chamber
Total Attendance: ~50
Committee Members in Attendance:
Eric Costello Mary Pat Clarke Brandon Scott
Leon Pinkett Robert Stokes John Bullock

Bill Synopsis in the file? yes no n/a
Attendance sheet in the file? yes no n/a
Agency reports read? yes no n/a
Hearing televised or audio-digitally recorded? yes no n/a
Certification of advertising/posting notices in the file? yes no n/a
Evidence of notification to property owners? yes no n/a
Final vote taken at this hearing? yes no n/a
Motioned by: n/a
Seconded by: n/a
Final Vote: n/a

Major Speakers

(This is not an attendance record.)

- Kathleen Byrne, Department of Housing and Community Development
- Hilary Ruley, Law Department

Major Issues Discussed

1. Chairman Costello opened the proceedings and introduced the committee members in attendance.
2. Councilman Henry discussed his reasons for introducing the bill.
3. Chairman Costello reviewed the agency reports and recommendations.
4. A representative from the Police Department testified in support of the bill. According to the Department 25 to 30 percent of violent crime occurs during late-night hours, and it frequently occurs around businesses selling fuel.
5. Representatives from the Department of Housing and Community Development presented proposed revisions to Article 15, Subtitle 9 of the Baltimore City Code (attached), and requested that the committee recommend amendments to include those changes in the bill.
6. A member of the public testified in favor of the bill and described the negative impacts that late-night businesses have had on her community.
7. Lobbyists representing fuel stations and distributors testified that their members do not want to cause problems for surrounding communities, but the current law and the bill do not provide fairness and due process for their members' businesses. They further noted that some businesses may not be able to sustain themselves with the proposed licensing process, and that having fewer gas stations creates hardships for communities.
8. Chairman Costello announced that the committee would schedule a work session on the bill in the near future and recessed the hearing.

Further Study

Was further study requested?

Yes No

If yes, describe. The Committee asked the Departments of Housing and Community Development, Finance, and Law to consider and discuss the changes proposed by the Department of Housing and Community Development. The Committee will schedule a work session on the bill at a later date.

Committee Vote

E. Costello:

M. Clarke:

J. Bullock:

L. Pinkett:

E. Reisinger:

B. Scott:

R. Stokes:

Matthew Peters

Matthew L. Peters, Committee Staff

Date: November 27, 2018

cc: Bill File
OCS Chrono File

LATE-NIGHT COMMERCIAL OPERATIONS

Part 1. Definitions; General Provisions

§ 9-1. Definitions.

(a) In general.

In this subtitle, the following terms have the meanings indicated.

(b) {Vacant}

(c) Business.

"Business" means any place of business or commercial activity conducted by a person, whether sales, service, rental, professional, or otherwise.

(d) Finance Department; Department.

"Finance Department" or "Department" means the Baltimore City Department of Finance.

(d-1) Finance Director; Director.

"Finance Director" or "Director" means the Director of the Finance Department or the Director's designee.

(e) Impact area.

"Impact area" means the area:

(1) within the same election precinct as that in which a business is located;
and

(2) if a different precinct, within the election precinct of the block face opposing the block face in which a business is located.

(f) Includes; including.

"Includes" or "including" means by way of illustration and not by way of limitation.

(g) Late-night operations license; license.

"Late-night operations license" or "license" means a license issued under this subtitle.

(h) Person.

(1) In general.

"Person" means:

- (i) an individual;
- (ii) a partnership, firm, association, corporation, or other entity of any kind; or
- (iii) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind.

(2) Exclusions.

"Person" does not include, unless otherwise expressly provided, a governmental entity or an instrumentality or unit of a governmental entity.

§ 9-2. Mandatory, prohibitory, and permissive terms.

(a) Mandatory terms.

"Must" and "shall" are each mandatory terms used to express a requirement or to impose a duty.

(b) Prohibitory terms.

"Must not" and "may not" are each mandatory negative terms used to establish a prohibition.

(c) Permissive terms.

"May" is permissive.

§ 9-3. Rules, regulations, and forms.

(a) Department to adopt.

The Finance Department must adopt rules, regulations, and forms to carry out this subtitle.

(b) Filing.

A copy of the rules, regulations, and forms and of any amendments to them must be filed with the Department of Legislative Reference before they take effect.

§ 9-4. Scope.

(a) In general.

Except as specified in subsection (b) of this section, this subtitle applies to all businesses that are located in any Residential Zoning District, Office-Residential Zoning District, or any C-1, C-1-E, C-1-VC, C-2, or C-3 Commercial Zoning District, or I-MU Industrial District, or any Transit Oriented District.

(b) Carry-out food shop. This license applies to any carry-out food shop as defined under City Code Article 32 §1-303(t) that remains open for delivery service.

(bc) Exceptions.

This subtitle does not apply to:

(1) a hotel or motel;

(2) a restaurant or tavern operating during hours authorized by its alcoholic beverage license;

~~(3) the sale of motor vehicle fuels;~~

(4) the provision of emergency medical or veterinary care;

(5) a video lottery facility operating during hours authorized by its State Video Lottery Operating license; or

(6) drive-through ~~food-service windows facility as defined under City Code Article 32 §1-305(h) (Zoning Code Definitions)~~, if:

(i) all indoor sales and dining areas are closed to the public during late-night hours; and

(ii) no pedestrians are served at these windows during late-night hours.

§ 9-5. {Reserved}

Part 2. Licensing

§ 9-6. License required.

No business in a Residential Zoning District, Office-Residential Zoning District, ~~or C-1, C-1-E, C-1-VG, C-2, or C-3~~ Commercial Zoning District, I-MU Industrial District or any Transit Oriented District may be open to the public at any time between the hours of midnight and 5 a.m. without having first obtained a late-night operations license under this subtitle.

§ 9-7. Applications.

(a) In general.

Every application for an initial or renewal license must be in the form and contain the information that the ~~Finance~~ Department requires.

(b) Multiple businesses owned or franchised by same person.

Any person that owns or is the franchisor of 2 or more businesses subject to this subtitle may:

(1) submit a joint application for an initial or renewal license for each of those businesses; And

(2) remit in one lump-sum payment the aggregate fees owed for those businesses.

§ 9-8. Posting and notice; Objections.

(a) Posting and notice required.

On filing an application for an initial license, the applicant must, in accordance with the Finance Department's rules and regulations:

- (1) post the premises for 15 days; and
- (2) within 5 days of the filing, send notice of the application by email or by certified or registered mail to the City Councilmember who represents the Councilmanic District in which the business is located.

(b) 9 or fewer objections.

(1) If, within the 15-day posting period, the Department receives no more than 9 written objections from real property owners, commercial tenants that are not themselves holders of or applicants for a late-night operations license, or residents within the impact area of the business, the Department must grant or deny the license within 15 days after the last day of the 15-day posting period.

(2) A denial must be based solely on one or more of the following factors:

- (i) any cause for denial that is specified in § 9-16 ("Denial, suspension, or revocation") of this subtitle;
 - (ii) the specific days and hours proposed for late-night operations;
 - (iii) the lack or inadequacy of an indoor and outdoor security plan;
- and

(iv) the inability or unwillingness of the applicant to accept reasonable conditions on the license to protect the public health, safety, and welfare

(3) The notice of a denial must:

- (i) state the reasons for the denial; and
- (ii) notify the applicant of the applicant's right to appeal to the Finance Director.

(4) Within 30 days of receiving the notice of denial, the applicant may appeal to the Finance Director for an administrative review of the application.

(c) 10 or more objections.

(1) If, within the 15-day posting period, the Department receives 10 or more written objections from real property owners, commercial tenants that are not themselves holders of or applicants for a late-night operations license, or residents within the impact area of the business, the Department must:

- (i) deny the application; and
- (ii) within 7 days after the last day of the 15-day posting period, notify the applicant of the denial and of the applicant's right to appeal to the Finance Director.

(2) Within 30 days of receiving the notice of denial, the applicant may appeal to the Finance Director for an administrative review of the application.

(d) Objection on the basis of public health and safety

If the application is objected to by the Police Department or any other public, health or safety agency on the basis of a tangible public health or safety concern, the Director shall deny the application.

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§ 9-9. Decision on review.

(a) Finance Director to decide Within 30 days after the timely filing of an appeal, the Finance Director must notify the applicant in writing of his or her decision:

- (1) to affirm the denial of the license; or
- (2) to direct the Department to grant the license.

(b) Considerations.

In reviewing an application, the Finance Director must consider:

(1) ~~(1)~~ all letters submitted in opposition to the application, including comments from police or any other public, health or safety agency or support of the application;

(2) all letters submitted in support of the application;

(3) any cause for denial that is specified in § 9-16 {"Denial, suspension, or revocation"} of this subtitle;

(4) the specific days and hours proposed for late-night operations;

(5) the adequacy of an indoor and outdoor security plan, ~~including any evaluation made by the Police Commissioner or his or her designee;~~ and

(6) the ability and willingness of the applicant to accept reasonable conditions on the license to protect the public health, safety, and welfare.

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§ 9-10. Term and renewal of license.

(a) Term.

Each late-night operations license expires annually on the anniversary of its issuance August 1st of each calendar year and is renewable as provided in this section.

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(b) Application for renewal.

To renew a license, the licensee must:

(1) apply no less than 60 days nor more than 90 days before the license expires;

and

(2) in accordance with the Finance Department's rules and regulations, post the premises for 15 days.

(c) Approval.

On filing the renewal application and payment of the renewal fee, the Finance Department may approve the application, except as provided in subsection (d) of this section.

(d) Objections; Review.

(1) If, within the 15-day posting period, 10 or more written objections from real property owners, commercial tenants that are not themselves holders of or applicants for a late-night operations license, or residents within the impact area of the business, the Department must:

(i) deny the application; and

(ii) within 7 days after the last day of the 15-day posting period, notify the applicant of the denial and of the applicant's right to appeal to the Finance Director.

(2) Within 30 days of receiving the notice of denial, the applicant may appeal to the Finance Director for an administrative review of the application.

(3) The filing of an appeal to the Finance Director does not stay the decision of the Department pending the Director's decision.

(4) The considerations and decision of the Finance Director shall be as provided in § 9-9 of this subtitle.

§ 9-11. Fee for license.

The annual license fee is \$460 per business, subject to adjustment in accordance with the City Fee Policy.

§ 9-12. Waiting period after denial.

If a license or renewal license is denied under this subtitle, the applicant may not reapply for at least 12 months from the date of the final decision of the Department or, if judicial review of that decision was obtained, from the date of the final court decision.

§ 9-16. Denial, suspension, or revocation.

The Finance Department or, on appeal, the Finance Director may deny, suspend, or revoke a late night operations license or renewal license for any of the following causes:

(1) failing to pay the applicable license fee on or before the due date;

(2) making any material false statement in any application for an initial or renewal license;

(3) failing to abate within 30 days of receipt any notice or citation for violating any provision of the City Building, Fire, and Related Codes Article, Health Code Article, or Zoning Code Article; or

(4) failing to comply with any provision of:

(i) this subtitle;

(ii) a rule or regulation adopted under this subtitle; or

(iii) a condition imposed under this subtitle on the license

(iv).

§ 9-17. Fines.

For any violation that is cause for suspending or revoking a license, the Finance Department or, on appeal, the Finance Director may, instead of or in addition to suspending or revoking the license, impose a civil fine of:

- (1) for a 1st offense, not more than \$500; and
- (2) for any subsequent offense, not more than \$1,000.

§ 9-178. Appeal to Finance Director.

(a) Scope of section.

This section does not apply to the denial of a license or a renewal license under § 9-8 or § 9-10(d).

(b) Appeal.

(1) Within 30 days of receiving the Department's decision to deny, suspend, or revoke a license or to impose a civil fine, an aggrieved applicant or licensee may appeal the sanction imposed to the Finance Director for an administrative review.

(2) The filing of an appeal to the Finance Director stays the decision of the Department pending the Director's decision.

(3) Within 30 days after the timely filing of an appeal, the Finance Director must notify the applicant or licensee in writing of his or her decision.

(4) The Finance Director may affirm, reject, increase, or otherwise modify any or all of the sanctions from which the appeal was taken.

§ 9-198. Judicial and appellate review.

(a) Judicial review.

A person aggrieved by a decision of the Finance Director may seek judicial review of that decision by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

(b) Stays.

(1) The filing of a petition for judicial review does not stay the decision of the Finance Director.

(2) However, on motion and after hearing, the Court may grant a stay as provided in the Maryland Rules of Procedure.

(c) Appellate review.

A party to the judicial review may appeal the court's final judgment to the Court of Special Appeals in accordance with the Maryland Rules of Procedure.

§ 9-2019. (Reserved)

Part 4. EnforcementPenalties

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§ 9-201. Enforcement generallyPenalties.

(a) In general.

Any person who violates or who neglects or refuses to comply with any provision of this subtitle or of any rule or regulation adopted under this subtitle, the Finance Director or his designee may cause to be instituted any appropriate enforcement action.

Any person who violates or who neglects or refuses to comply with any provision of this subtitle or of any rule or regulation adopted under this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500 or imprisonment for not more than 6 months or both fine and imprisonment.

(b) Each day a separate offense.

Each day that a violation continues after notification constitutes a separate offense

(c) Remedies not exclusive.

In pursuing a violation, the Finance Director may use any one or more available remedies or enforcement actions. The initiation of any one remedy or enforcement action does not preclude pursuing any other remedy or enforcement action authorized by law.

(d) "Person responsible" defined.

In this subtitle, "person responsible" means any owner, operator, manager, or tenant of a property or use subject to this Code, or any other person responsible for or having the care, control, or possession of that property or use, whether as a principal or as an agent, personal representative, trustee, guardian, or otherwise, and whether alone or jointly with any other person.

§ 9-21. Types of proceedings. Enforcement proceedings may include:

(a) Enforcement by citation,

(1) an environmental citation under City Code Article 1, Subtitle 40 ["Environmental Control Board"];

(2) a civil citation under City Code Article 1, Subtitle 41 ["Civil Citations"]; and

(3) a pre-payable criminal citation under City Code Article 19, Subtitle 71 ["Special Enforcement Officers"]

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(b) Criminal penalties. Any person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine of no more than \$500 or imprisonment for not more than 30 days or both fine and imprisonment for each offense.

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(c) Civil court proceedings.

(1) In general. The Finance Director, on behalf of the Mayor and City Council, may file a petition in District Court to compel compliance with or obtain other relief under this Code.

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(2) Judicial relief. In an action brought under this section, the court may compel compliance with this Code by

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a. Issuing an order to cease and desist from a violation;

b. Granting other injunctive relief as appropriate to restrain, correct or abate a violation

c. Impose a civil fine up to \$500 for each day that a violation continues; and

d. Award to the city reasonable enforcement costs and attorney's fees whether or not the attorney is a salaried employee of the City.

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2. Councilman Henry explained the bill as it was drafted, and his reasons for introducing it. He went on to note that he has had several conversations concerning the provision of the bill that would remove the existing exception to the late-night operations license requirements for businesses selling motor vehicle fuels. As a result of those conversations, Councilman Henry proposed an amendment to the bill to remove that provision.
3. City agencies confirmed the recommendations in their written reports.
4. Councilmembers asked the following questions:
 - a. Can the Department of Finance provide the name of and contact information for the person responsible for processing late-night operations license applications? Yes.
 - b. How much does the City charge for a late-night operations license? The current fee is \$460.
 - c. What factors does the Department of Finance consider when deciding whether to grant a license? The Department considers the factors identified in the law, including whether the business is in good standing, outstanding citations, and community complaints indicating possible nuisance.
 - d. Has the Department of Finance denied licenses based on community complaints? Yes, and it will provide a list.
 - e. What is the enforcement mechanism for businesses operating without a license? The Police Department can issue a civil citation and padlock the business if it still fails to comply.
 - f. Can the Department of Finance provide a list of gas stations with late-night operations licenses and their compliance status by council district? Yes, the Department will provide a list by the end of the week.
5. Members of the public testified in support of the bill with Councilman Henry's amendment, and noted the need to revisit the licensing and appeals processes to provide an opportunity for a hearing.
6. The Committee considered and adopted Councilman Henry's amendment (attached).

Further Study

Was further study requested?

Yes No

If yes, describe.

The Committee asked the Department of Finance to provide:

1. The name of and contact information for the person responsible for processing late-night operations license applications at the Department of Finance;
2. A list of late-night operations license applications denied based on community complaints;
3. A list of gas stations with late-night operations licenses and their compliance status, by council district.

Committee Vote:

E. Costello: **Yea**
M. Clarke: **Yea**
R. Stokes: **Yea**
J. Bullock: **Yea**
L. Pinkett: **Yea**
E. Reisinger: **Absent**

Matthew Peters

Matthew L. Peters, Committee Staff

Date: May 28, 2019

Cc: Bill File
OCS Chrono File

**AMENDMENTS TO COUNCIL BILL 18-0302
(1st Reader Copy)**

By: Councilmember Henry
{To be offered to the Judiciary and Legislative Investigations Committee}

Amendment No. 1

On page 1, in line 3, strike “deleting an exception for the sale of motor vehicle fuels;”; and, on that same page, strike lines 6 through 10 in their entireties; and, on page 2, strike lines 1 through 14 in their entireties.

applicants for a late-night operations license, or residents within the impact area of the business, the Department must:

- (i) deny the application; and
- (ii) within 7 days after the last day of the 15-day posting period, notify the applicant of the denial and of the applicant's right to appeal to the Finance Director as provided in § 9-10 {"Appeal of decision on issuance or renewal"} of this subtitle.

(Ord. 12-011; Ord. 15-336.)

§ 9-9. Term and renewal of license.

(a) *Term.*

Each late-night operations license expires annually on the anniversary of its issuance and is renewable as provided in this section.

(b) *Application for renewal.*

To renew a license, the licensee must:

- (1) apply no less than 60 days nor more than 90 days before the license expires; and
- (2) in accordance with the Finance Department's rules and regulations, post the premises for 15 days.

(c) *Approval.*

On filing the renewal application and payment of the renewal fee, the Finance Department may approve the application, except as provided in subsection (d) of this section.

(d) *Objections; Review.*

- (1) If, within the 15-day posting period, 10 or more written objections from real property owners, commercial tenants that are not themselves holders of or applicants for a late-night operations license, or residents within the impact area of the business, the Department must:
 - (i) deny the application; and
 - (ii) within 7 days after the last day of the 15-day posting period, notify the applicant of the denial and of the applicant's right to appeal to the Finance Director as provided in § 9-10 {"Appeal of decision on issuance or renewal"} of this subtitle.
- (2) Within 30 days of receiving the notice of denial, the applicant may appeal to the Finance Director for an administrative appeal of the application.
- (3) The filing of an appeal to the Finance Director stays the decision of the Department pending the Director's decision.
- (4) The considerations and decision of the Finance Director shall be as provided in § 9-10 of this subtitle.

§ 9-10. Appeal of decision on issuance or renewal.

(a) Administrative Appeal

- (1) No license may be denied, suspended, revoked, or not renewed hereunder without the applicant or licensee first being afforded an opportunity for a hearing.
- (2) Within 30 days of notice of action by the Finance Department on the applicant's request for an initial license or a renewal license, the applicant may request a formal hearing before the Finance Director.
- (3) The Finance Director shall grant a hearing and shall give the applicant reasonable notice of the time, date, and place of the hearing.
- (4) Unless the applicant agrees to a later date, the hearing must be held within 30 days of when the filing of the request for formal hearing.
- (5) At the hearing, the applicant or licensee, parties in interest, and citizens must be given an opportunity to be heard.

(b) Conduct of hearing.

The Director shall have the power:

- (1) To administer oaths; and
- (2) To prescribe all necessary and reasonable rules for the conduct of a hearing.

(c) Finance Director's decision.

Within 15 days after conclusion of the hearing, the Finance Director:

- (1) shall affirm the denial of the issuance or renewal of the license; or
- (2) direct the Finance Department to grant the license or the renewal license.

(d) Required Considerations.

As a guide to deciding to issue or renew the license, the Finance Director must consider:

- (1) all letters submitted in opposition to or in support of the application;
- (2) any cause for denial that is specified in §9-16 {"Denial, suspension, or revocation"} of this subtitle;
- (3) the specific days and hours proposed for late-night operations;
- (4) the adequacy of an indoor and outdoor security plan, including any evaluation made by the Police Commissioner or his or her designee; and
- (5) the ability and willingness of the applicant to accept reasonable conditions on the license to protect the public health, safety, and welfare.

Part 3. Administrative Sanctions**§ 9-16. Denial, suspension, or revocation.**

The Finance Department or, on appeal, the Finance Director, may deny, suspend, or revoke a late-night operations license or renewal license for any of the following causes:

- (1) failing to pay the applicable license fee on or before the due date;
- (2) making any material false statement in any application for an initial or renewal license;
- (3) failing to abate within 30 days of receipt any notice or citation for violating any provision of the City Building, Fire, and Related Codes Article, Health Code Article, or Zoning Code Article; or
- (4) failing to comply with any provision of:
 - (i) this subtitle;
 - (ii) a rule or regulation adopted under this subtitle; or
 - (iii) a condition imposed under this subtitle on the license.

(Ord. 12-011; Ord. 15-336; 15-427.)

§ 9-17. Fines.

For any violation that is cause for suspending or revoking a license, the Finance Department or, on appeal, the Finance Director may, instead of or in addition to suspending or revoking the license, impose a civil fine of:

- (1) for a 1st offense, not more than \$500; and
- (2) for any subsequent offense, not more than \$1,000.

(Ord. 12-011; Ord. 15-336.)

§ 9-18. Hearing.**(a) Scope of subsection.**

This subsection does not apply to the denial of a license or a renewal license under § 9-8 or § 9-9(d).

(b) In general; hearing required.

No sanctions under this Part 3 may be imposed without the applicant or licensee first being afforded an opportunity for a hearing.

(c) Notice

- (1) At least 15 calendar days prior to the date set for the hearing, the Department shall send the applicant written notice of the intent to impose sanctions; and
- (2) An opportunity to be heard as to why sanctions should not be imposed.

(d) Appeal.

- (1) Within 30 days of receiving the Department's decision to impose sanctions under this subsection, an aggrieved applicant or licensee may file an appeal and request for a hearing before the Finance Director.
- (2) The filing of an appeal to the Finance Director stays the decision of the Department pending the Director's decision.
- (3) The Finance Director shall grant a hearing and shall give the applicant reasonable notice of the time, date, and place of the hearing.
- (4) Unless the applicant agrees to a later date, the hearing must be held within 30 days of when the filing of the request for formal hearing.
- (5) At the hearing, the applicant or licensee, parties in interest, and citizens must be given an opportunity to be heard.
- (6) The Finance Director may affirm, reject, increase, or otherwise modify any or all of the sanctions from which the appeal was taken.

§ 9-19. Judicial and appellate review.

(a) Judicial review.

A person aggrieved by a decision of the Finance Director may seek judicial review of that decision by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

(b) Stays.

- (1) The filing of a petition for judicial review does not stay the decision of the Finance Director.
- (2) However, on motion and after hearing, the Court may grant a stay as provided in the Maryland Rules of Procedure.

(c) Appellate review.

A party to the judicial review may appeal the court's final judgment to the Court of Special Appeals in accordance with the Maryland Rules of Procedure.

(Ord. 12-011; Ord. 15-336.)

§ 9-20. {Reserved}

Part 4. Penalties

§ 9-21. Penalties.

(a) In general.

Any person who violates or who neglects or refuses to comply with any provision of this subtitle or of any rule or regulation adopted under this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500 or imprisonment for not more than 6 months or both fine and imprisonment.

- (i) an individual;
- (ii) a partnership, firm, association, corporation, or other entity of any kind; or
- (iii) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind.

(2) *Exclusions.*

“Person” does not include, unless otherwise expressly provided, a governmental entity or an instrumentality or unit of a governmental entity.

(Ord. 12-011; Ord. 15-336; Ord. 16-496.)

§ 9-2. Mandatory, prohibitory, and permissive terms.

(a) *Mandatory terms.*

“Must” and “shall” are each mandatory terms used to express a requirement or to impose a duty.

(b) *Prohibitory terms.*

“Must not” and “may not” are each mandatory negative terms used to establish a prohibition.

(c) *Permissive terms.*

“May” is permissive.

(Ord. 12-011.)

§ 9-3. Rules, regulations, and forms.

(a) *Department to adopt.*

The Finance Department must adopt rules, regulations, and forms to carry out this subtitle.

(b) *Filing.*

A copy of the rules, regulations, and forms and of any amendments to them must be filed with the Department of Legislative Reference before they take effect.

(Ord. 12-011.)

§ 9-4. Scope.

(a) *In general.*

Except as specified in subsection (b) of this section, this subtitle applies to all businesses that are located in any Residential Zoning District, Office-Residential Zoning District, or C-1, C-1-E, C-1-VC, C-2, or C-3 Commercial Zoning District.

(b) *Exceptions.*

This subtitle does not apply to:

- (1) a hotel or motel;
- (2) a restaurant or tavern operating during hours authorized by its alcoholic beverage license;
- (3) the sale of motor vehicle fuels;
- (4) the provision of emergency medical or veterinary care;
- (5) a video lottery facility operating during hours authorized by its State Video Lottery Operating license; or
- (6) drive-through food-service windows, if:
 - (i) all indoor sales and dining areas are closed to the public during late-night hours; and
 - (ii) no pedestrians are served at these windows during late-night hours.

(Ord. 12-011; Ord. 15-336; Ord. 16-496; Ord. 16-581.)

§ 9-5. *{Reserved}*

Part 2. Licensing

§ 9-6. **License required.**

No business in a Residential Zoning District, Office-Residential Zoning District, or C-1, C-1-E, C-1-VC, C-2, or C-3 Commercial Zoning District may be open to the public at any time between the hours of midnight and 5 a.m. without having first obtained a late-night operations license under this subtitle.

(Ord. 12-011; Ord. 16-496; Ord. 16-581.)

§ 9-7. **Applications.**

(a) *In general.*

Every application for an initial or renewal license must be in the form and contain the information that the Finance Department requires.

(b) *Multiple businesses owned or franchised by same person.*

Any person that owns or is the franchisor of 2 or more businesses subject to this subtitle may:

- (1) submit a joint application for an initial or renewal license for each of those businesses; and

(2) remit in one lump-sum payment the aggregate fees owed for those businesses.
(Ord. 12-011; Ord. 15-336.)

§ 9-8. Posting and notice; Objections.

(a) *Posting and notice required.*

On filing an application for an initial license, the applicant must, in accordance with the Finance Department's rules and regulations:

- (1) post the premises for 15 days; and
- (2) within 5 days of the filing, send notice of the application by email or by certified or registered mail to the City Councilmember who represents the Councilmanic District in which the business is located.

(b) *9 or fewer objections.*

(1) If, within the 15-day posting period, the Department receives no more than 9 written objections from real property owners, commercial tenants that are not themselves holders of or applicants for a late-night operations license, or residents within the impact area of the business, the Department must grant or deny the license within 15 days after the last day of the 15-day posting period.

(2) A denial must be based solely on one or more of the following factors:

- (i) any cause for denial that is specified in § 9-16 {"Denial, suspension, or revocation"} of this subtitle;
- (ii) the specific days and hours proposed for late-night operations;
- (iii) the lack or inadequacy of an indoor and outdoor security plan; and
- (iv) the inability or unwillingness of the applicant to accept reasonable conditions on the license to protect the public health, safety, and welfare

(3) The notice of a denial must:

- (i) state the reasons for the denial; and
- (ii) notify the applicant of the applicant's right to appeal to the Finance Director: as provided in § 9-10 {"Appeal of decision on issuance or renewal"} of this subtitle.

~~(4) Within 30 days of receiving the notice of denial, the applicant may appeal to the Finance Director for an administrative review of the application.~~

(c) *10 or more objections.*

(1) If, within the 15-day posting period, the Department receives 10 or more written objections from real property owners, commercial tenants that are not themselves holders of or

~~(b)~~(d) Appeal.

(1) Within 30 days of receiving the Department's decision ~~to deny, suspend, or revoke a license or to impose a civil fine~~ sanctions under this subsection, an aggrieved applicant or licensee may file an appeal ~~the sanction imposed to~~ and request for a hearing before the Finance Director ~~for an administrative review.~~

(2) The filing of an appeal to the Finance Director stays the decision of the Department pending the Director's decision.

(3) The Finance Director shall grant a hearing and shall give the applicant reasonable notice of the time, date, and place of the hearing.

~~(4) Within~~ Unless the applicant agrees to a later date, the hearing must be held within 30 days after of when the timely filing of an appeal, the Finance Director must notify the request for formal hearing.

(5) At the hearing, the applicant or licensee in writing of his or her decision, parties in interest, and citizens must be given an opportunity to be heard.

~~(3)~~(6) The Finance Director may affirm, reject, increase, or otherwise modify any or all of the sanctions from which the appeal was taken.

~~(Ord. 12-011; Ord. 15-336.)~~

§ 9-19. Judicial and appellate review.

(a) Judicial review.

A person aggrieved by a decision of the Finance Director may seek judicial review of that decision by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

(b) Stays.

(1) The filing of a petition for judicial review does not stay the decision of the Finance Director.

(2) However, on motion and after hearing, the Court may grant a stay as provided in the Maryland Rules of Procedure.

(c) Appellate review.

A party to the judicial review may appeal the court's final judgment to the Court of Special Appeals in accordance with the Maryland Rules of Procedure.

~~(Ord. 12-011; Ord. 15-336.)~~

§ 9-20. {Reserved}

Part 3. Administrative Sanctions

§ 9-16. Denial, suspension, or revocation.

The Finance Department or, on appeal, the Finance Director, may deny, suspend, or revoke a late-night operations license or renewal license for any of the following causes:

- (1) failing to pay the applicable license fee on or before the due date;
- (2) making any material false statement in any application for an initial or renewal license;
- (3) failing to abate within 30 days of receipt any notice or citation for violating any provision of the City Building, Fire, and Related Codes Article, Health Code Article, or Zoning Code Article; or
- (4) failing to comply with any provision of:
 - (i) this subtitle;
 - (ii) a rule or regulation adopted under this subtitle; or
 - (iii) a condition imposed under this subtitle on the license.

(Ord. 12-011; Ord. 15-336; 15-427.)

§ 9-17. Fines.

For any violation that is cause for suspending or revoking a license, the Finance Department or, on appeal, the Finance Director may, instead of or in addition to suspending or revoking the license, impose a civil fine of:

- (1) for a 1st offense, not more than \$500; and
- (2) for any subsequent offense, not more than \$1,000.

(Ord. 12-011; Ord. 15-336.)

§ 9-18. Appeal to Finance Director. Hearing.

(a) Scope of ~~sections~~ subsection.

This sections subsection does not apply to the denial of a license or a renewal license under § 9-8 or § 9-409(d).

(b) In general; hearing required.

No sanctions under this Part 3 may be imposed without the applicant or licensee first being afforded an opportunity for a hearing.

(c) Notice

(1) At least 15 calendar days prior to the date set for the hearing, the Department shall send the applicant written notice of the intent to impose sanctions; and

(+)(2) An opportunity to be heard as to why sanctions should not be imposed.

The Director shall have the power:

(1) To administer oaths; and

(2) To prescribe all necessary and reasonable rules for the conduct of a hearing.

(c) Finance Director's decision.

Within 15 days after conclusion of the hearing, the Finance Director:

(1) shall affirm the denial of the issuance or renewal of the license; or

(2) direct the Finance Department to grant the license or the renewal license.

(d) Required Considerations.

As a guide to deciding to issue or renew the license, the Finance Director must consider:

(1) all letters submitted in opposition to or in support of the application;

(2) any cause for denial that is specified in §9-16 {"Denial, suspension, or revocation"} of this subtitle;

(3) the specific days and hours proposed for late-night operations;

(4) the adequacy of an indoor and outdoor security plan, including any evaluation made by the Police Commissioner or his or her designee; and

(5) the ability and willingness of the applicant to accept reasonable conditions on the licenseto protect the public health, safety, and welfare.

§ 9-11. Fee for license.

The annual license fee is \$460 per business, subject to adjustment in accordance with the City Fee Policy.

(Ord. 12-011.)

§ 9-12. Waiting period after denial.

- (1) apply no less than 60 days nor more than 90 days before the license expires; and
- (2) in accordance with the Finance Department's rules and regulations, post the premises for 15 days.

(c) *Approval.*

On filing the renewal application and payment of the renewal fee, the Finance Department may approve the application, except as provided in subsection (d) of this section.

(d) *Objections; Review.*

- (1) If, within the 15-day posting period, 10 or more written objections from real property owners, commercial tenants that are not themselves holders of or applicants for a late-night operations license, or residents within the impact area of the business, the Department must:

- (i) deny the application; and

- (ii) within 7 days after the last day of the 15-day posting period, notify the applicant of the denial and of the applicant's right to appeal to the Finance Director as provided in § 9-10 {"Appeal of decision on issuance or renewal"} of this subtitle.

- (2) Within 30 days of receiving the notice of denial, the applicant may appeal to the Finance Director for an administrative review/appeal of the application.

- (3) The filing of an appeal to the Finance Director ~~does not stay~~ stays the decision of the Department pending the Director's decision.

- (4) The considerations and decision of the Finance Director shall be as provided in § 9-910 of this subtitle.

(Ord. 12-011; Ord. 15-336.)

§ 9-10. Appeal of decision on issuance or renewal.

(a) Administrative Appeal

(1) No license may be denied, suspended, revoked, or not renewed hereunder without the applicant or licensee first being afforded an opportunity for a hearing.

(2) Within 30 days of notice of action by the Finance Department on the applicant's request for an initial license or a renewal license, the applicant may request a formal hearing before the Finance Director.

(3) The Finance Director shall grant a hearing and shall give the applicant reasonable notice of the time, date, and place of the hearing.

(4) Unless the applicant agrees to a later date, the hearing must be held within 30 days of when the filing of the request for formal hearing.

(5) At the hearing, the applicant or licensee, parties in interest, and citizens must be given an opportunity to be heard.

(b) Conduct of hearing.

applicants for a late-night operations license, or residents within the impact area of the business, the Department must:

- (i) deny the application; and
- (ii) within 7 days after the last day of the 15-day posting period, notify the applicant of the denial and of the applicant's right to appeal to the Finance Director as provided in § 9-10 {"Appeal of decision on issuance or renewal"} of this subtitle.

~~(2) Within 30 days of receiving the notice of denial, the applicant may appeal to the Finance Director for an administrative review of the application.~~

~~(Ord. 12-011; Ord. 15-336.)~~

§ 9-9. ~~Decision on review.~~

~~(a) Finance Director to decide.~~

~~Within 30 days after the timely filing of an appeal, the Finance Director must notify the applicant in writing of his or her decision:~~

~~to affirm the denial of the license; or~~

~~to direct the Department to grant the license.~~

~~(b) Considerations.~~

~~In reviewing an application, the Finance Director must consider:~~

~~all letters submitted in opposition to or support of the application;~~

~~any cause for denial that is specified in § 9-16 {"Denial, suspension, or revocation"} of this subtitle;~~

~~the specific days and hours proposed for late night operations;~~

~~the adequacy of an indoor and outdoor security plan, including any evaluation made by the Police Commissioner or his or her designee; and~~

~~the ability and willingness of the applicant to accept reasonable conditions on the license to protect the public health, safety, and welfare.~~

~~(Ord. 12-011; Ord. 15-336.)~~

§ 9-10. ~~Term and renewal of license.~~

~~(a) Term.~~

~~Each late-night operations license expires annually on the anniversary of its issuance and is renewable as provided in this section.~~

~~(b) Application for renewal.~~

~~To renew a license, the licensee must:~~

Michael:

Following up on our conversation yesterday, I attach our proposed amendments to the Late Night Commercial Operations law which incorporate a hearing procedure for the denial or non-renewal of a license. For ease of review and for discussion purposes, we are submitting these in a redlined format so you can easily see the proposed changes. We will prepare formal amendments in advance of Monday's hearing. I also attach a clean version showing the law with the amendments incorporated. We have used language that already exists in current City Code provisions relating to towing licenses (Article 15, Subtitle 22) and sales and use taxes on controlled substances (Article 28, Subtitle 28) that requires a hearing in the event a license is denied. Please note that our client has not yet reviewed the proposed language, but we are circulating it to you in the interest of time and must reserve the right to suggest additional amendments after consultation with our client.

Due process requires notice and an opportunity to be heard, and these amendments simply attempt to create due process under for an operator who is denied a license to have the ability to argue his case.

We look forward to discussing these with you and the committee.

Please let us know if you have any questions.

Caroline L. Hecker

Rosenberg Martin Greenberg, LLP
25 South Charles Street, 21st Floor
Baltimore, Maryland 21201
(410) 727-6600
(410) 727-1115 Fax



**Rosenberg
Martin
Greenberg** LLP



Peters, Matthew

From: Costello, Eric
Sent: Thursday, November 29, 2018 11:02 PM
To: Ellen Valentino
Cc: Huber, Michael; 'Fine, Stanley'; 'Hecker, Caroline'; Peters, Matthew
Subject: RE: CCB# 18-0302 - Late Night Commercial Operations Licenses - Proposed Due Process Amendments
Attachments: Redline Comparison of Interlineated Proposed Amendments to CCB # 18-306.....docx; Interlineated Proposed Amendments to CCB #18-306.docx

Matt, please add attached to bill file.

Eric T. Costello
Baltimore City Council, 11th District
(m) 443-813-1457 | (o) 410-396-4816
(e) eric.costello@baltimorecity.gov
[Twitter](#) | [Facebook](#) | [Instagram](#)

From: Ellen Valentino [mailto:evalentino@ellenvaleentino.com]
Sent: Thursday, November 29, 2018 9:02 PM
To: Costello, Eric
Cc: Huber, Michael; 'Fine, Stanley'; 'Hecker, Caroline'
Subject: FW: CCB# 18-0302 - Late Night Commercial Operations Licenses - Proposed Due Process Amendments

Chairman Costello:

Please know that I am aligned with the amendments submitted by Stanley Fine.
I do not understand the quick timing on such a huge public policy with implications to good small business owners.

But, understanding that democracy happens regardless of my client's position – I plan to be there on Monday to express concern and speak to the amendments.

Thank you.

Ellen Valentino

From: Hecker, Caroline <checker@rosenbergmartin.com>
Sent: Thursday, November 29, 2018 5:35 PM
To: Huber, Michael <Michael.Huber@baltimorecity.gov>
Cc: Fine, Stanley <SFine@rosenbergmartin.com>; Williams, Justin <JWilliams@rosenbergmartin.com>; Ellen Valentino <evalentino@ellenvaleentino.com>
Subject: CCB# 18-0302 - Late Night Commercial Operations Licenses - Proposed Due Process Amendments

City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland
21202

Meeting Agenda - Final

Judiciary and Legislative Investigations

Tuesday, May 28, 2019

10:00 AM

Du Burns Council Chamber, 4th floor, City Hall

18-0302

CALL TO ORDER

INTRODUCTIONS

ATTENDANCE

ITEMS SCHEDULED FOR PUBLIC HEARING

18-0302

Late-Night Commercial Operations - Licensing

For the purpose of deleting an exception for the sale of motor vehicle fuels; authorizing the issuance of a conditional license for certain delivery services; and generally related to the licensing of late-night commercial operations.

Sponsors:

Bill Henry, Mary Pat Clarke, Sharon Green Middleton, Brandon M. Scott, Eric T. Costello, Leon F. Pinkett, III, Zeke Cohen, Ryan Dorsey, Shannon Sneed, Edward Reisinger, John T. Bullock, Kristerfer Burnett

ADJOURNMENT

THIS MEETING IS OPEN TO THE PUBLIC



BILL SYNOPSIS

Committee: Judiciary and Legislative Investigations

Bill 18-0302

Late-Night Commercial Operations – Licensing

Sponsor: Councilmember Henry, et al

Introduced: October 29, 2018

Purpose:

For the purpose of deleting an exception for the sale of motor vehicle fuels; authorizing the issuance of a conditional license for certain delivery services; and generally related to the licensing of late-night commercial operations.

Effective: 30th day after the date it is enacted.

Hearing Date/Time/Location: May 28, 2019/10:00 AM/Clarence 'Du' Burns Chamber

AGENCY REPORTS

Baltimore Development Corporation	Favorable
Department of Planning	Favorable with Amendments
Department of Housing and Community Development	Favorable with Amendments
Department of Health	No Objection
Department of Finance	Favorable with Amendments
Police Department	Favorable
City Solicitor	Favorable

ANALYSIS

Current Law

Article 15, Subtitle 9 of the Baltimore City Code governs late-night commercial operations. Section 9-6 of the Subtitle requires any business in a Residential Zoning District, Office-Residential Zoning District, or C-1, C-1-E, C-1-VC, C-2, or C-3 Commercial Zoning District to obtain a late-night operations license from the Department of Finance if it will be open to the public at any time between the hours of midnight and 5 AM.

Section 9-4 (b) provides exceptions allowing certain types of business operations, including the sale of motor vehicle fuels, during late-night hours without the business obtaining a late-night operations permit.

Bill Summary

The bill deletes the exception for the sale of motor vehicle fuels from Section 9-4 (b). As a result, businesses selling motor vehicle fuels in the specified zoning districts will be required to obtain late-night operations licenses if they will be open to the public at any time between the hours of midnight and 5 AM.

The bill also authorizes the Department of Finance to issue a new type of late-night operations license for businesses to operate late-night delivery-only services. In order for a business to qualify for the new licenses all indoor sales and dining areas of the business must be closed during late-night hours.

ADDITIONAL INFORMATION

Fiscal Note: None

Information Source(s): Baltimore City Code, Reporting Agencies, Bill 18-0302



Analysis by: Matthew L. Peters
Analysis Date: May 24, 2019

Direct Inquiries to: (410) 396-1268

City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland
21202

Meeting Minutes - Final

Judiciary and Legislative Investigations

Tuesday, November 27, 2018

10:00 AM

Du Burns Council Chamber, 4th floor, City Hall

18-0302

CALL TO ORDER

INTRODUCTIONS

ATTENDANCE

Present 6 - Member Eric T. Costello, Member Mary Pat Clarke, Member Leon F. Pinkett III, Member John T. Bullock, Member Brandon M. Scott, and Member Robert Stokes Sr.

Absent 1 - Member Edward Reisinger

ITEMS SCHEDULED FOR PUBLIC HEARING

18-0302

Late-Night Commercial Operations - Licensing

For the purpose of deleting an exception for the sale of motor vehicle fuels; authorizing the issuance of a conditional license for certain delivery services; and generally related to the licensing of late-night commercial operations.

Sponsors: Bill Henry, Mary Pat Clarke, Sharon Green Middleton, Brandon M. Scott, Eric T. Costello, Leon F. Pinkett, III, Zeke Cohen, Ryan Dorsey, Shannon Sneed, Edward Reisinger, John T. Bullock, Kristerfer Burnett

Hearing recessed. The Judiciary and Legislative Investigations Committee will schedule a work session on Bill 18-0302 at a future date.

**Testimony of Lisa O'Reilly and Phyllis Gilmore
For the Baltimore City Council Judicial and Legislative Investigations Committee**

**Re: Bill # 18-0302 Late Night Commercial Operating Licenses
Position: Support**

Thank you, Mr. Chairman and Members of the Committee.

My name is Lisa O'Reilly. I am on the Leadership Committee of the York Road Partnership and I co-chair the Business Engagement Committee. I am here with Phyllis Gilmore, the President of the Woodbourne McCabe Community Association. I am testifying on behalf of the York Road Partnership and the neighborhoods of Woodbourne McCabe, Mid Govans and York/Homeland.

We support the Late Night Commercial Operating License bill. And to illustrate why, let us give you a snapshot of life on the York Road corridor and for neighborhoods on streets around the carryouts and gas stations operating after midnight. We live on a corridor with a long commercial strip that directly abuts residential neighborhoods.

Before the Late Night Operating law passed: Gas stations and carryout restaurants open all night and attracting problems such as:
Two murders at the Crown gas station, along with nightly drug dealing
Loitering, fighting and noise spilling onto residential streets around the corner from carryout restaurants
Gang graffiti
Loud and dangerous traffic
Litter and overflowing corner cans bringing rats and vermin
Residents in adjacent streets were selling or attempting to sell their homes to escape the degradation and craziness. At last count one street has 5 properties for active sale, not to mention the vacants.

*All of these issues have been concentrating in the 5100-5400 blocks of York Road and causing the police to have to dedicate extra resources with police overtime and police cars parked with lights flashing in hopes of suppressing crime. The York Road corridor was in crisis. The communities of the York Road Partnership decided to focus efforts on dealing with these late night issues in these blocks.

Since the Late Night Commercial Operating License law has gone into effect:

These businesses have had to apply to operate past midnight. Community members met with businesses. After a number of meetings with businesses to outline concerns and the wishes of the community, we shared that we would not support late night operations for one year so that we could see how having businesses not open after midnight would improve the public safety and health of the corridor.

Now that these businesses are not operating after midnight, we have found the following:

Vast reduction in the amount of loitering, littering, shouting and dealing drugs on the street

Streets are quieter

Traffic is quieter

Large gatherings of youths after midnight is better

The police have told us multiple times how much quieter it is on these blocks after midnight

We are very clear that we are not anti-business. We shop at these businesses. We are OK with gas being sold after midnight. We are OK with carryouts delivering food. But as a city and as a corridor, we are struggling with open-air drug markets and business owners are being intimidated by these dealers inside and outside their own establishments. We totally oppose these drug dealers using these businesses as their front offices. We support each business not only in purchasing their goods, but support them actively in looking for ways to improve their premises through various grant opportunities which the Business engagement committee can source.

We feel that the Late Night Operating License law is working for the community and we support keeping it in place with provisions for restaurants to deliver food and we support gas stations selling gas after midnight with a late night license.

We are committed to working with each and every business to ensure that they can be successful and the community can be safe and healthy.

Thank you for your time.

November 25, 2018

Mr. Eric Costello
Chair, Judiciary & Legislative Investigations Committee
100 Holliday Street
Suite 500
Baltimore, MD 21202

Subject: Support for City Council Bill 18-0302 - "Late Night Commercial Operations - Licensing"

Dear Councilman Costello:

The Baltimore Good Neighbors Coalition (BGNC) supports the proposed deletion of the exception to late night commercial operations licensing for the sale of motor vehicle fuels as contained in Bill 18-0302.

While the focus of the BGNC has largely been directed at advocating for alcohol policies in Baltimore City and/or statewide policies with local implications that will protect the public's health, safety and quality of life, we are aware of the significant harm done to some communities and individuals by gas station managers/owners who ignore the crime and disorder surrounding their businesses and the impact on their neighbors.

The police have identified the exception to late night commercial operations licensing for the sale of motor vehicle fuels as an impediment to addressing the troublesome behavior associated with some gas stations. Perhaps, more importantly, the lack of licensing for these late night operations also prevents community organizations and individuals from seeking relief from the toxic behavior associated with the gas stations and their patrons. The police need to have the means of combating criminal and nuisance behavior originating from a business operation and communities need to have the leverage to bring these businesses to the negotiating table to present their grievances. We believe that these very positive outcomes of the proposed bill should be given significant weight in your deliberations.

Sincerely,

Baltimore Good Neighbors Coalition
POC: Barbara Valeri
410-547-1296
bhvaleri@yahoo.com



Mid-Govans
Neighborhood Association

November 18, 2018

Bill 18-0302, Late Night Commercial Operations

The Mid-Govan's Neighborhood Association fully support the bill to allow carry outs be open for delivery but closed to walk up service.

Our community has seen the change in not allowing stores to be open after mid-night. As most are aware Mid-Govan's had a severe drug market along the corridor of York Rd. and Tunbridge Rd. just over a year ago. Since all the late-night licenses were protested and carry outs forced to close at Mid-Night, the drugs and loiters are no longer a problem.

We have seen first hand how the law impacts the community and know that being open and giving people a place to hang around is the real problem.

So therefore, we feel that this bill will allow the business owners an avenue to operate, but not to allow the drug dealers and others to have a place to hang out at.

Sincerely

Cedric E. Crump
President



City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland
21202

Meeting Agenda - Final

Judiciary and Legislative Investigations

Tuesday, November 27, 2018

10:00 AM

Du Burns Council Chamber, 4th floor, City Hall

18-0302

CALL TO ORDER

INTRODUCTIONS

ATTENDANCE

ITEMS SCHEDULED FOR PUBLIC HEARING

18-0302

Late-Night Commercial Operations - Licensing

For the purpose of deleting an exception for the sale of motor vehicle fuels; authorizing the issuance of a conditional license for certain delivery services; and generally related to the licensing of late-night commercial operations.

Sponsors:

Bill Henry, Mary Pat Clarke, Sharon Green Middleton, Brandon M. Scott, Eric T. Costello, Leon F. Pinkett, III, Zeke Cohen, Ryan Dorsey, Shannon Sneed, Edward Reisinger, John T. Bullock, Kristerfer Burnett

ADJOURNMENT

THIS MEETING IS OPEN TO THE PUBLIC

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



OFFICE OF COUNCIL SERVICES

LARRY E. GREENE, Director
415 City Hall, 100 N. Holliday Street
Baltimore, Maryland 21202
410-396-7215 / Fax: 410-545-7596
email: larry.greene@baltimorecity.gov

BILL SYNOPSIS

Committee: Judiciary and Legislative Investigations

Bill 18-0302

Late-Night Commercial Operations - Licensing

Sponsor: Councilmember Henry, et al

Introduced: October 29, 2018

Purpose:

For the purpose of deleting an exception for the sale of motor vehicle fuels; authorizing the issuance of a conditional license for certain delivery services; and generally related to the licensing of late-night commercial operations.

Effective: 30th day after the date it is enacted.

Hearing Date/Time/Location: November 27, 2018/10:00 a.m./Clarence "Du" Burns Chamber

AGENCY REPORTS

Baltimore Development Corporation	Favorable
Department of Planning	Favorable with Amendment
Department of Housing and Community Development	
Department of Health	
Department of Finance	
City Solicitor	
Police Department	

ANALYSIS

Current Law

Article 15, Subtitle 9 of the Baltimore City Code governs late-night commercial operations. Section 9-6 of the Subtitle requires any business in a Residential Zoning District, Office-Residential Zoning District, or C-1, C-1-E, C-1-VC, C-2, or C-3 Commercial Zoning District to

obtain a late-night operations license from the Department of Finance if it will be open to the public at any time between the hours of midnight and 5 a.m.

Section 9-4 (b) provides exceptions allowing certain types of business operations, including the sale of motor vehicle fuels, during late-night hours without the business obtaining a late-night operations license.

Bill Summary

The bill deletes the exception for the sale of motor vehicle fuels from Section 9-4 (b). As a result, businesses selling motor vehicle fuels in the specified zoning districts will be required to obtain late-night operations licenses if they will be open to the public at any time between the hours of midnight and 5 a.m.

The bill also authorizes the Department of Finance to issue a new type of late-night operations license for businesses to operate late-night delivery-only services. In order for a business to qualify for the new license all indoor sales and dining areas of the business must be closed during late-night hours.

ADDITIONAL INFORMATION

Fiscal Note: None

Information Source(s): Baltimore City Code, Bill 18-0302.

Analysis by:



Matthew L. Peters

Direct Inquiries to: (410) 396-1268

Analysis Date:

November 23, 2018



CITY OF BALTIMORE CITY COUNCIL HEARING ATTENDANCE RECORD

Committee: Judiciary and Legislative Investigations

Chairperson: Eric Costello

Date: November 27, 2018

Time: 10:00 AM

Place: Clarence "Du" Burns Chambers

Subject: Ordinance - Late-Night Commercial Operations - Licensing

CC Bill Number: 18-0302

PLEASE PRINT

IF YOU WANT TO TESTIFY PLEASE CHECK HERE



FIRST NAME	LAST NAME	ST. #	ADDRESS/ORGANIZATION NAME	ZIP	EMAIL ADDRESS	TESTIFY	FOR	AGAINST	YES	NO
John	Doe	100	North Charles Street	21202	Johndoenbmore@yahoo.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tyler Bennett	Bennett		Compass Government Relations	21401	tbennett@cgpartners.com				<input checked="" type="checkbox"/>	
Pat	SenKins		DHCD		Isso@HagoutShoata.com					
Katy	Byrne		300 E. Lebarber		BathleenByrne@Baltimorecity.gov					
Deborah	Protection		York board partnership		centuriorgate11c@gmail.com					
Lisa O'Reilly	O'Reilly		York board partnership		glendabryk@glacp.net.com	<input checked="" type="checkbox"/>				
PHILIP Gilmore	Gilmore		YRP/WKMA	21202	pgilmore19@gmail.com					
Caroline	Hecker		RMG-25 S. Conway St. 21st	21201	checker@pswebgwmbh.com				<input checked="" type="checkbox"/>	
Tyuan	Piro		WCS							
Ellen	Vakutino		MA PDA		evakutino@ellenvakutino.com				<input checked="" type="checkbox"/>	
Kick	McCauley		WMDA		KMcCauley@WMDA.net	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

(* NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD. REGISTRATION IS A SIMPLE PROCESS. FOR INFORMATION AND FORMS, CALL OR WRITE: BALTIMORE CITY BOARD OF ETHICS, C/O DEPARTMENT OF LEGISLATIVE REFERENCE, 626 CITY HALL, BALTIMORE, MD 21202. TEL: 410-396-4730. FAX: 410-396-8483.



CITY OF BALTIMORE CITY COUNCIL HEARING ATTENDANCE RECORD

Committee: Judiciary and Legislative Investigations

Chairperson: Eric Costello

Date: November 27, 2018

Time: 10:00 AM

Place: Clarence "Du" Burns Chambers

Subject: Ordinance - Late-Night Commercial Operations - Licensing

CC Bill Number: 18-0302

PLEASE PRINT

IF YOU WANT TO TESTIFY PLEASE CHECK HERE



FIRST NAME	LAST NAME	ST. #	ADDRESS/ORGANIZATION NAME	ZIP	EMAIL ADDRESS	TESTIFY	FOR	AGAINST	YES	NO
John	Doe	100	North Charles Street	21202	Johndoenbmore@yahoo.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vishul	Velezgaroli		Stokos	21212	vishul313@gmail.com	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DAJIT	SINGH		Stokos	21212	Sdajit2@gmail.com	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DAJIT	humbria		BAHE	21212	jimbria@heaci.org	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tamara	BROWN		Law / mwboc			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(*) NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD. REGISTRATION IS A SIMPLE PROCESS. FOR INFORMATION AND FORMS, CALL OR WRITE: BALTIMORE CITY BOARD OF ETHICS, C/O DEPARTMENT OF LEGISLATIVE REFERENCE, 626 CITY HALL, BALTIMORE, MD 21202. TEL: 410-396-4730. FAX: 410-396-8483.

**CITY OF BALTIMORE
COUNCIL BILL 18-0302
(First Reader)**

Introduced by: Councilmembers Henry, Clarke, Middleton, Scott, Costello, Pinkett, Cohen,
Dorsey, Sneed, Reisinger, Bullock, Burnett

Introduced and read first time: October 29, 2018

Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Housing and Community
Development, Department of Planning, Baltimore Development Corporation, Police Department,
Department of Finance, Health Department

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Late-Night Commercial Operations – Licensing**

3 FOR the purpose of deleting an exception for the sale of motor vehicle fuels; authorizing the
4 issuance of a conditional license for certain delivery services; and generally related to the
5 licensing of late-night commercial operations.

6 BY repealing and reordaining, with amendments

7 Article 15 - Licensing and Regulation

8 Section(s) 9-4(b)

9 Baltimore City Code

10 (Edition 2000)

11 BY adding

12 Article 15 - Licensing and Regulation

13 Section(s) 9-6.1

14 Baltimore City Code

15 (Edition 2000)

16 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
17 Laws of Baltimore City read as follows:

18 **Baltimore City Code**

19 **Article 15. Licensing and Regulation**

20 **Subtitle 9. Late-Night Commercial Operations**

21 ***Part 1. Definitions; General Provisions***

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 18-0302

1 § 9-4. Scope.

2 (b) *Exceptions.*

3 This subtitle does not apply to:

4 (1) a hotel or motel;

5 (2) a restaurant or tavern operating during hours authorized by its alcoholic beverage
6 license;

7 [(3) the sale of motor vehicle fuels;]

8 (3) [(4)] the provision of emergency medical or veterinary care;

9 (4) [(5)] a video lottery facility operating during hours authorized by its State Video
10 Lottery Operating license; or

11 (5) [(6)] drive-through food-service windows, if:

12 (i) all indoor sales and dining areas are closed to the public during
13 late-night hours; and

14 (ii) no pedestrians are served at these windows during late-night hours.

15 *Part 2. Licensing*

16 § 9-6.1. CONDITIONAL LICENSE FOR LATE-NIGHT DELIVERY SERVICES.

17 THE FINANCE DEPARTMENT MAY ISSUE A LATE-NIGHT OPERATIONS LICENSE FOR A BUSINESS
18 TO OPERATE A LATE-NIGHT DELIVERY-ONLY SERVICE, CONDITIONED UPON ALL INDOOR SALES
19 AND DINING AREAS BEING CLOSED TO THE PUBLIC DURING LATE-NIGHT HOURS.

20 SECTION 2. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day
21 after the date it is enacted.

INTRODUCTORY*
CITY OF BALTIMORE
COUNCIL BILL _____

Introduced by: Councilmember Henry

A BILL ENTITLED

AN ORDINANCE concerning

Late-Night Commercial Operations – Licensing

FOR the purpose of deleting an exception for the sale of motor vehicle fuels; authorizing the issuance of a conditional license for certain delivery services; and generally related to the licensing of late-night commercial operations.

BY repealing and reordaining, with amendments

Article 15 - Licensing and Regulation
Section(s) 9-4(b)
Baltimore City Code
(Edition 2000)

BY adding

Article 15 - Licensing and Regulation
Section(s) 9-6.1
Baltimore City Code
(Edition 2000)

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Baltimore City Code

Article 15. Licensing and Regulation

Subtitle 9. Late-Night Commercial Operations

Part 1. Definitions; General Provisions

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* WARNING: THIS IS AN UNOFFICIAL, INTRODUCTORY COPY OF THE BILL.
THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER COPY.

§ 9-4. Scope.

(b) *Exceptions.*

This subtitle does not apply to:

- (1) a hotel or motel;
- (2) a restaurant or tavern operating during hours authorized by its alcoholic beverage license;
- [(3) the sale of motor vehicle fuels;]
- (3) [(4)] the provision of emergency medical or veterinary care;
- (4) [(5)] a video lottery facility operating during hours authorized by its State Video Lottery Operating license; or
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Part 2. Licensing

§ 9-6.1. CONDITIONAL LICENSE FOR LATE-NIGHT DELIVERY SERVICES.

THE FINANCE DEPARTMENT MAY ISSUE A LATE-NIGHT OPERATIONS LICENSE FOR A BUSINESS TO OPERATE A LATE-NIGHT DELIVERY-ONLY SERVICE, CONDITIONED UPON ALL INDOOR SALES AND DINING AREAS BEING CLOSED TO THE PUBLIC DURING LATE-NIGHT HOURS.

SECTION 2. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.

ACTION BY THE CITY COUNCIL

OCT 29 2018

FIRST READING (INTRODUCTION) _____ 20 _____

PUBLIC HEARING HELD ON May 28, 2019 _____ 20 _____

COMMITTEE REPORT AS OF June 11, 2019 _____ 20 _____

_____ FAVORABLE _____ UNFAVORABLE FAVORABLE AS AMENDED _____ WITHOUT RECOMMENDATION

C.V. [Signature]

Chair

COMMITTEE MEMBERS:

COMMITTEE MEMBERS:

SECOND READING: The Council's action being favorable (unfavorable), this City Council bill was (was not) ordered printed for Third Reading on:

JUN 11 2010

Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING _____ 20 _____

_____ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING (ENROLLED) _____ 20 _____

_____ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING (RE-ENROLLED) _____ 20 _____

WITHDRAWAL _____ 20 _____

There being no objections to the request for withdrawal, it was so ordered that this City Council Ordinance be withdrawn from the files of the City Council.

President

Chief Clerk