

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

April 28, 2016

The Honorable President and Members
of the Baltimore City Council
Attn: Natawna B. Austin, Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 16-0639 – Late-Night Commercial Operations –
Extended Scope

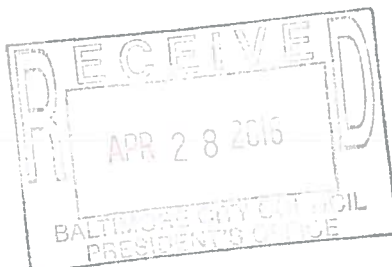
The Law Department has reviewed City Council Bill 16-0639 for form and legal sufficiency. The bill extends the licensing, regulation and related requirements governing late-night commercial operations to the B-3 Business Zoning District.

The City has authority to license late-night commercial operations pursuant to Section 17 of Article II of the Baltimore City Charter. The equal protection provisions of the Fourteenth Amendment, however, require that any classifications for the purpose of licensing be reasonable and rationally related to a legitimate government purpose. *See Baltimore Gas and Elec. Co. v. Heintz*, 760 F.2d 1408, 1417 (4th Cir. 1985), *citing Western & Southern L.I. Co. v. Board of Equalization*, 451 U.S. 648, 668 (1981)(classifications must reasonably promote the government's legitimate purpose to survive an Equal Protection challenge). Currently, the licensing of late-night operations applies to the Residence, Office-Residence, B-1 and B-2 Zoning Districts. This bill brings the B-3 Zoning District within the City's licensing requirement. Although only businesses that operate late at night in these Zoning Districts are being required to obtain a license, the scheme would likely be considered rationally related to a legitimate government purpose because it is designed to enable the City to cope with the additional burden on Police and other City agencies created by commercial establishments that remain open between midnight and 5 a.m.

There is no legal impediment to extending the scope of Article 15, Subtitle 9, to the B-3 Zoning District. Therefore, the Law Department approves the bill for form and legal sufficiency.

Sincerely,

Jennifer Landis
Assistant Solicitor



F

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena R. DiPietro, Chief Solicitor, General Counsel Division
Hilary Ruley, Chief Solicitor
Victor K. Tervalva, Chief Solicitor