

**Special Joint Subcommittee
of the
House Committee on General Laws
and the
Senate Committee on Rehabilitation and Social Services
Studying Certain Alcoholic Beverage Control (ABC) laws
Tuesday, October 25, 2016
10:00 AM
Senate Room B
General Assembly Building**

Suggested Agenda

1. Call to order.
2. Continuation of Study Plan: Issue: 45 Percent Food-to-beverage ratio for Mixed Beverage Licensees.
3. Alternative Approaches to Current Ratio.
At its first three meetings, the Joint Subcommittee expressed concern that the current 45 percent food-to-beverage ratio was difficult to understand and apply. The Joint Subcommittee seeks to simplify the current food-to-beverage ratio by exploring alternative approaches with the goal of simplifying the process for mixed beverage licensees and the Department of Alcoholic Beverage Control, bringing rules of compliance up to date with the marketplace, avoiding a proliferation of establishments that sell mixed beverages, and addressing public safety concerns.
 - Review of Alternative Approaches to Current Ratio. *See Appendix A for Alternative Approaches to Current Ratio.*
 - Subcommittee legislative recommendations.
4. Disposition of 2016 "Ratio" bills referred to Study¹:
HB 171 (Albo) Mixed beverage ratio;
HB 219 (Taylor) Mixed beverage ratio;

¹ Summaries of the following bills may be found in Appendix B

SB 373: (Ebbin) Mixed beverage ratio;
SB 488 (DeSteph) Mixed beverage ratio; and
SB 489 (DeSteph) Mixed beverage ratio.

5. Continuation of Study Plan: Issue: "Boutique" Licenses (§ 4.1–206), including day spa, meal assembly kitchens, art studio license, retail cigar shops, etc.); feasibility of creating a single licensing category for these nonretail licenses and review of related bills referred by 2016 General Assembly.

HB 835; (Greason) Art instruction studio license-- Alcoholic beverage control; privileges of licensed art instruction studios.

Expands the privileges of an art instruction studio licensee to allow the consumption of lawfully acquired alcoholic beverages on its premises by any bona fide customer and provides that the licensee may allow any bona fide customer to host a private gathering or special event where such customer has obtained a banquet license or a mixed beverage special events license issued by the Alcoholic Beverage Control Board.

HB 904 (Landes) Retail cigar shop license--Alcoholic beverage control; limited mixed beverage license for retail cigar shops. Creates a new limited mixed beverage license for retail cigar shops. The bill sets out the privileges of this new license, including that the licensee may serve wine, beer, or mixed beverages on the premises to any such bona fide customer; however, the licensee shall not give more than (i) two five-ounce glasses of wine, (ii) two 12-ounce glasses of beer, or (iii) two glasses mixed beverages provided that each glass of mixed beverages contains no more than two ounces of spirits, to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine, beer, or mixed beverages served or consumed. The privileges of this license shall be limited to the premises of the cigar shop regularly occupied and utilized as such. Such license shall be deemed a retail license for the purposes of this title. The bill also defines cigar shop and sets out the state and local license taxes for this license.

SB 410 (Barker) Brewery Tour Guides-- Alcoholic beverage control; consumption of samples by brewery tour guides. Requires the Alcoholic Beverage Control Board to adopt regulations that prescribe the terms and conditions under which tour guides employed by certain licensed breweries may consume up to three four-ounce samples of beer while conducting tours of the premises for the purpose of featuring and educating the public about the beer being tasted.

6. Public Comment.

7. Discussion.

8. Other Business.

- Delegate Albo's recommendation concerning mixed beverage licenses for performing arts venues.

9. Adjournment.

Special Joint Subcommittee Membership

Delegate Barry Knight, Co-Chair Senator John Cosgrove, Co-Chair

Delegate Todd Gilbert Senator Bryce Reeves

Delegate Dave Albo Senator Bill DeSteph

Delegate Luke Torian Senator Rosalyn Dance

Staff

Maria J.K. Everett, Senior Attorney

David May, Staff Attorney

Eric Bingham Senate Committee Operations

APPENDIX A

ALTERNATIVES TO CURRENT FOOD-BEVERAGE RATIO

Option No.	Option:	Interested Members:
1.	Food required to be sold at any time alcohol is sold (included in every option below)	Dance
2.	Maintain status quo	Dance Albo
3.	Maintain current ratio, but give ABC discretion, upon petition by licensee, to craft alternatives for those who can't/don't meet ratio	Dance Albo Torian
4.	Current ratio, but based on "purchase" vs. "sale" price	Albo Torian
5.	Lower current ratio	
6.	Set minimum food sale requirement (\$4,000-\$10,000)	DeSteph
6a.	Set minimum food sale requirement (\$4,000-\$10,000) with alternative option of complying with current ratio	Knight Torian
		Knight

6b.	Set minimum food sale requirement (\$4,000–\$10,000) with alternative option of complying with a lower ratio	Torian
7.	Establish a tiered minimum food sale requirement based on Certificate of Occupancy (CO) for establishment	DeSteph Albo
8.	Create a new MB "tavern" or "entertainment" license (separate and distinct from MB restaurants and caterers subject to ratio)	Albo
9.	Establish tiered annual license tax based on food sales	
10.	Set ratio based on proof-gallon	Albo
11.	Enter into MOU with Department of Taxation to verify sales	Albo
12.	Maintain status quo but authorize funding to ABC for additional auditing agents to ensure MBAR compliance	

**APPENDIX B
RATIO BILLS REFERRED FOR STUDY
BILL SUMMARIES**

HB 171

Albo

Alcoholic beverage control; food-beverage ratio for certain mixed beverage licensees.

Provides that for persons holding a mixed beverage restaurant, caterer's, or limited caterer's license, in calculating the minimum 45 percent ratio of food to mixed beverage and food, such licensees shall include the gross receipts from the sale of nonalcoholic beverages served on the premises in calculating the gross receipts from the sale of food. The bill provides that it declarative of existing law.

HB 219

Taylor

Alcoholic beverage control; food-beverage ratio.

Reduces from 45 to 25 percent the requirement for mixed beverage restaurant licensees for the ratio of combined gross receipts from the sale of food consumed on the premises and nonalcoholic beverages served on the premises and the combined gross receipts from the sale of mixed beverages, food, and nonalcoholic beverages. The bill provides that gross receipts be calculated on the basis of the price that the licensee paid for the food, nonalcoholic beverages, or mixed beverages sold, rather than the price at which the licensee sells such items to consumers.

SB 373

Ebbin

Alcoholic beverage control; food sale requirements. Provides that a business may be considered a restaurant for purposes of mixed beverage licenses if it regularly sells foods, rather than meals, prepared on the premises. The bill also provides that in calculating the gross receipts from the sale of food for purposes of the food-to-beverage ratio, mixed beverage restaurant licensees, mixed beverage caterer's licensees, mixed beverage limited caterer's licensees, and limited mixed beverage restaurant licensees shall include the gross receipts from the sale of nonalcoholic beverages.

SB 488

DeSteph

Pilot project for mixed beverage licensees of the Alcoholic Beverage Control Board; alternative calculation for the 45 percent food-to-beverage ratio based on price paid by the licensee. Creates a two-year pilot project that directs participating mixed beverage restaurant licensees to calculate the required food-to-beverage ratio (i) on the basis of the price such licensee paid for the food, nonalcoholic beverages, and mixed beverages sold and (ii) on the basis of

the price such licensee sold such food, nonalcoholic beverages, and mixed beverages to patrons. The bill provides that participating licensees shall be deemed to be in compliance with law if they meet the required food-to-beverage ratio based on either of the above calculations. The bill also requires participating licensees to serve food during any period of time mixed beverages are served and allows the Alcoholic Beverage Control Board to summarily suspend the license of participants for 24 hours for violation of this requirement.

SB 489
DeSteph

Alcoholic beverage control; food-beverage ratio. Provides that a mixed beverage restaurant licensee meets the required food-beverage ratio if its gross receipts from the sale of food and nonalcoholic beverages amount to at least (i) \$5,000 per month or (ii) 25 percent of the gross receipts from the sale of mixed beverages and food. The bill also provides that mixed beverage caterer and limited mixed beverage caterer licensees meet the required food-beverage ratio if their gross receipts from the sale of food and nonalcoholic beverages amount to at least 25 percent of their gross receipts from the sale of mixed beverages and food. Under current law, mixed beverage restaurant, mixed beverage caterer, and limited mixed beverage caterer licensees' gross receipts from the sale of food and nonalcoholic beverages must amount to at least 45 percent of their gross receipts from the sale of mixed beverages and food. The bill also requires such licensees to serve food during any period of time mixed beverages are served and allows the Alcoholic Beverage Control Board to summarily suspend a license for a maximum of 24 hours for failure to comply with this provision.

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