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April 26, 2007

The Honorable Martin O'Malley
Governor of Maryland
State House
Annapolis, Maryland 21401-1991

Re: Senate Bill 571

Dear Governor O'Malley:

We have reviewed for constitutionality and legal sufficiency Senate Bill 571, "Baltimore City - 46th Alcoholic Beverages District - Licenses." While we approve the bill for signing, we note that an issue is raised as to the adequacy of a portion of the bill's title, i.e., that describing the alteration of the minimum amount of capital investment for restaurants required for the issuance of a certain alcoholic beverage license. Although an argument can be made that the title is constitutionally sufficient, it is our view that it would be advisable to revise the title in next year's curative bill.

Senate Bill 571 changes references to the 47th alcoholic beverages district to be the 46th alcoholic beverages district to be consistent with the Maryland Court of Appeals legislative redistricting plan of 2002. It further authorizes the issuance of a Class C beer, wine and liquor license to certain nonprofit organizations. Finally, the bill increases from \$250,000 to \$500,000 the minimum capital investment that a holder of a Class B (on-sale hotels and restaurants) beer, wine and liquor license in Baltimore City and Baltimore County must have in a restaurant facility in order to obtain an additional license.

Article III, § 29 of the Maryland Constitution provides, in relevant part, that "every Law enacted by the General Assembly shall embrace but one subject, and that shall be described in its title." Generally, this provision requires that the title "should not only fairly indicate the general subject of the Act, but should be sufficiently comprehensive in its scope to cover, to a reasonable extent, all its provisions and must not be misleading by what it says

or omits to say.” *Somerset County v. Pocomoke Bridge Co.*, 109 Md.1 (1908).

The short title to SB 571 makes reference only to Baltimore City, as do four of the purpose paragraph clauses. The title makes no mention of Baltimore County. This gives the reader the impression that the bill pertains only to Baltimore City, and thus raises the issue of whether the bill adequately describes the bill. However, the purpose paragraph clause relating to the minimum capital investment provides “altering the minimum amount of capital investment for restaurant facilities required for the issuance of a certain license for use by a restaurant.” By making no reference to a geographical subdivision, an argument can be made that clause is general enough to include both the City and County. To eliminate any doubt about the provision’s description in the bill’s title, we recommend that a revised title be included in next year’s curative bill.

Very truly yours,

/ s /

Douglas F. Gansler
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cc: Joseph Bryce
Secretary of State
Karl Aro