



Committee: PS
Committee Review: At a future date
Staff: Christine Wellons, Senior Legislative Attorney
Purpose: To introduce agenda item – no vote expected

AGENDA ITEM #2D
February 28, 2023
Introduction

SUBJECT

Bill 14-23, Police – Late Night Business Safety Plan

Lead Sponsor: Council President at the Request of the County Executive

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A

DESCRIPTION/ISSUE

Bill 14-23 would:

- (1) require that certain businesses obtain an approved late night business safety plan before operating in certain areas of the County;
- (2) authorize the Department of Police to review and approve a proposed late night business safety plan;
- (3) authorize the Department of Police to establish the requirements of a late night business plan; and
- (4) generally amend the law regarding public safety and the operation of late night businesses in the County.

SUMMARY OF KEY DISCUSSION POINTS

- N/A

This report contains:

Staff Report	Pages 1-2
Bill 14-23	© 1
Legislative Request Report	© 6
Fiscal Impact Statement	© 7
County Executive Memorandum	© 8

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MEMORANDUM

February 23, 2023

TO: County Council

FROM: Christine Wellons, Senior Legislative Attorney

SUBJECT: Bill 14-23, Police – Late Night Business Safety Plan

PURPOSE: Introduction – no Council votes required

Bill 14-23, Police – Late Night Business Safety Plan, sponsored by the Council President at the request of the County Executive, is scheduled for introduction on February 28, 2023. A public hearing is tentatively scheduled for March 14, 2023 and a Public Safety Committee worksession is tentatively scheduled for March 27, 2023.

Bill 14-23 would:

- (1) require that certain businesses obtain an approved late night business safety plan before operating in certain areas of the County;
- (2) authorize the Department of Police to review and approve a proposed late night business safety plan;
- (3) authorize the Department of Police to establish the requirements of a late night business plan; and
- (4) generally amend the law regarding public safety and the operation of late night businesses in the County.

BACKGROUND

In a memorandum requesting Bill 14-23, the County Executive explained:

Many businesses have worked collaboratively with the Montgomery County Police Department (MCPD) to enact such measures and have seen significant reductions in calls for service in and around their facilities. Unfortunately, other establishments have been less cooperative in their engagement with MCPD or unwilling to broaden safety protocols and infrastructure. This Bill would ensure a uniform process for those businesses in areas experiencing higher than normal call volume in the late-night hours.

BILL SPECIFICS

Under Bill 14-23, a late night business would be defined to include a business located within a “priority” police response area if the business: (1) has liquor, tobacco, or food sold and consumed on the premises; and (2) operates between the hours of midnight and 6:00 a.m.

A late night business would be required to submit to the Montgomery County Police Department (MCPD), every three years, a late night business safety plan. The plan would be subject to MCPD approval and, if the plan is disapproved, the late night business would not be permitted to operate from midnight to 6:00 a.m.

The features of a late night business plan would depend upon the business and could include, among other things: security personnel and training; exterior lighting; digital security cameras; and clearing exterior windows. If security cameras are required, then the plan would also have to require that the late night business must provide video recordings to MCPD upon demand if MCPD is investigating a violent felony. MCPD could recommend, but not require, a business to search patrons by the use of metal detectors, magnetometers, or pat downs.

Violations of the late night business requirements would constitute Class A violations. The bill would require MCPD to develop Method (2) regulations to implement the bill’s requirements.

This packet contains:

	<u>Circle #</u>
Bill 14-23	1
Legislative Request Report	6
Fiscal Impact Statement	7
County Executive Memorandum	8

Bill No. 14-23
Concerning: Police – Late
Night Business Safety Plan
Revised: 2/23/2023 Draft No. 1
Introduced: February 28, 2023
Expires: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN ACT to:

- (1) require that certain businesses obtain an approved late night business safety plan before operating in certain areas of the County;
- (2) authorize the Department of Police to review and approve a proposed late night business safety plan;
- (3) authorize the Department of Police to establish the requirements of a late night business plan; and
- (4) generally amend the law regarding public safety and the operation of late night businesses in the County.

By adding
Montgomery County Code
Chapter 35, Police
Section 35-13D

Boldface	<i>Heading or a defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland, approves the following act:

1 **Sec 1. Section 35-13D is added as follows:**

2 **35-13D. Late Night Business Safety Plan.**

3 (a) Definitions. In this Section, the following terms have the meaning
4 indicated.

5 Business means a business that has an “other tobacco products retailer”
6 license, a food license, or a liquor license where the products sold are
7 meant to be or are regularly consumed on-site.

8 Department means the Montgomery County Police Department.

9 Late night business means any business located in a priority area that is
10 open to the public at any time between midnight and 6:00 AM.

11 Late night business safety plan means a plan approved by the
12 Department in accordance with this Section.

13 Priority area means one or more police response areas (PRA) identified
14 and published by the Department, based upon public safety indicators,
15 including crime levels, as areas where late night businesses would
16 benefit by operating in accordance with a late night safety plan.

17 (b) Requirements.

18 (1) A person must not own or operate a late night business without
19 first submitting a proposed late night business safety plan to the
20 Department.

21 (2) A person must not own or operate a late night business after the
22 Department provides written notice that it has disapproved the
23 proposed late night business safety plan.

24 (3) After the Department approves a proposed late night business
25 safety plan, a person who owns or operates a late night business

26 must do so in accordance with that approved plan.

27 (4) A late night business plan expires three years after approval, after
28 which a late night business must obtain a new approved late night
29 business plan from the Department in order to continue
30 operating.

31 (c) Regulations. The Department must promulgate Method (2) regulations
32 to implement the requirements of this Section. The regulations must:

33 (1) establish the methodology used to identify a police response area
34 (PRA) as a priority area;

35 (2) establish the process for the owner or operator of a late night
36 business to submit a proposed late night business safety plan to
37 the Department;

38 (3) establish the process for the Department to consider and approve
39 a proposed late night business safety plan;

40 (4) establish a process for the Department to periodically verify
41 compliance with a late night business safety plan; and

42 (5) establish the requirements of a late night business safety plan,
43 which may require any or all of the following:

44 (A) security personnel and training;

45 (B) exterior lighting;

46 (C) high-definition digital security cameras that provide
47 continuous, 24-hour video monitoring and recording,
48 without audio recording capacity, of the interior and
49 exterior of each entryway into the late night business and
50 the cash register or till;

51 (D) clearing all exterior windows of paint or debris such that
52 the interior can be viewed from the outside; and

53 (E) all bathroom doors must be free opening at all times.

54 (d) Security Camera Requirements. If a late night business safety plan
55 requires the use of security cameras, then the plan must also:

56 (1) require that the late night business owner or operator post signage
57 in a conspicuous location on the interior and exterior of the
58 business notifying the public that the late night business is
59 subject to 24-hour video surveillance monitoring;

60 (2) require that the late night business must provide video recordings
61 to the Department upon demand;

62 (3) provide that the Department may demand a security camera
63 video recording from a late night business only in connection
64 with the investigation or prosecution of a violent felony;

65 (4) require that the late night business retain the video recordings for
66 not less than 14 but not more than 30 days;

67 (5) establish requirements for the retention, collection,
68 dissemination, use, and disposal of security camera video
69 recordings by the Department; and

70 (6) include a time-limited waiver requirement for a late night
71 business that has a noncompliant security camera video
72 recording system already in place.

73 (e) The Department may recommend, but must not require, that a late night
74 business search patrons by the use of metal detectors, magnetometers,
75 or pat downs.

76 (f) Penalty for violating Section.

77 (1) Any violation of this Section is a class A violation.

78 (2) Each day a violation continues is a separate offense.

79 **Sec. 2. Implementation.**

80 The Department must promulgate and submit proposed regulations to the
81 Council for review within 180 days after this Act becomes law. Within 90 days after
82 notice of the approved regulations is published in the County Register, each late
83 night business must submit a proposed late night business safety plan to the
84 Department for review. The County Executive should make a good faith attempt to
85 notify each affected late night business of its obligation to submit a proposed safety
86 plan.

LEGISLATIVE REQUEST REPORT

BILL: XX-23

DESCRIPTION: Bill XX-23 establishes a requirement for certain establishments that operate in the late night/early morning hours, in areas with higher calls for service during those hours, to develop a Safety Plan. That Safety Plan shall include appropriate lighting, cameras, and other security enhancing measures as defined by regulations developed by the Montgomery County Police Department.

PROBLEM: Because we have seen an increase in violent crime, associated with or nearby late-night business typically in our urban corridors.

GOALS AND OBJECTIVES

- 1) Ensuring uniformity in collaborating with Montgomery County to ensure safety during late night/early morning hours
- 2) Develop a common operating procedure
- 3) Establish police review of facility-based plans to meet those standards
- 4) Developing penalties for non-participation

COORDINATION: The Office of the County Executive.

FISCAL IMPACT: Office of Management and Budget

ECONOMIC IMPACT: Office of Legislative Oversight

EVALUATION: N/A

EXPERIENCE ELSEWHERE: N/A

SOURCE OF INFORMATION Earl Stoddard, PhD, MPH, CEM, Assistant Chief Administrative Officer
Yaakov “Jake” Weissmann, Esq., Assistant Chief Administrative Officer
Edward Lattner, Chief, Division of Government Operations, Office of the County Attorney
MCPD

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: Class A violation, each day a violation continues, is a separate offense



Fiscal Impact Statement

Office of Management and Budget

Bill XX-23

Late Night Business Safety Plan

Bill Summary

Bill XX-23 requires businesses that operate late night in areas of high police calls for service develop and operate under a safety plan approved by MCPD. The safety plan requirements will be established by MCPD and MCPD will be responsible for reviewing safety plans for regulatory compliance.

Fiscal Impact Summary

Implementation of the bill will not result in additional expenditures or have an impact on County revenues.

Fiscal Year	0	0	0	0	0	0	Total
Personnel Costs	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Operating Expenses	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Expenditures	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Revenues	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Impact	\$0	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00	

Fiscal Impact Analysis

There is no anticipated fiscal impact from this legislation, as the work associated with developing regulation, annual review of high call volume areas, and ongoing plan review would be assigned to existing staff within the Department. Staff time to support these activities are expected to be limited, particularly after the initial establishment of regulation and initial plan reviews. There is no anticipated change in revenue.

Staff Impact

It is estimated that approximately 40 hours will be required to establish regulations in the first year of implementation and to support initial plan review for all businesses. Staff time to support the annual update of high call for service areas and annual review of new business plans is estimated to be approximately 20 hours annually after year one.

Actuarial Analysis

The bill is not expected to impact retiree pension or group insurance costs.

Information Technology Impact

The bill is not expected to impact the County Information Technology (IT) or Enterprise Resource Planning (ERP) systems.

Other Information

Later actions that may impact revenue or expenditures if future spending is projected

The bill does not authorize future spending.

Contributors

Earl Stoddard, Ph.D., Office of the County Executive
Darren Francke, Montgomery County Police Department
Derrick D. Harrigan, Office of Management and Budget






OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

February 1, 2023

TO: Evan Glass, President
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Transmission of Proposed Bill XX-23: Late Night Business Safety Plan

A vibrant nightlife is a key goal for the continued economic growth of our urban areas and County as a whole. The County must continue to balance those needs with additional steps to address public safety challenges that the County has experienced during the early morning hours often associated with or occurring nearby late-night establishments. For more than a year, my team and I have engaged in public and private conversations with Councilmembers, business leaders, and members of the public how to best address these issues.

In response, I am transmitting proposed Bill XX-23, which amends Section 35-13D of the Montgomery County Code. This Bill will help to ensure that the County public safety agencies and businesses are working synergistically to ensure there are improvements to the balance of safety and vibrancy throughout our County. Bill XX-23 establishes a requirement for certain establishments that operate in the late night/early morning hours, in areas with higher calls for service during those hours, to develop a Safety Plan. That Safety Plan shall include appropriate lighting, cameras, and other security enhancing measures.

Many businesses have worked collaboratively with the Montgomery County Police Department (MCPD) to enact such measures and have seen significant reductions in calls for service in and around their facilities. Unfortunately, other establishments have been less cooperative in their engagement with MCPD or unwilling to broaden safety protocols and infrastructure. This Bill would ensure a uniform process for those businesses in areas experiencing higher than normal call volume in the late-night hours.

I believe this Bill is a strong first step in addressing the challenges of balance between vibrancy and safety. However, even if this Bill is enacted, we must continue to maintain vigilance and assess results. If compliance continues to be an issue, it may become necessary for us to collectively revisit the approved operating hours of various business classes in our urban sectors to protect and promote public safety. We hope this Bill, together with cooperation from our business community, and continued enforcement from our county Departments, will serve as an important step that makes any such additional limitations unnecessary.

I look forward to a dialogue with the County Council on these issues. I look forward to engaging on other enhancements to this Bill through a collaborative process, and with additional community input associated with the bill review process. I also look forward to discussing ideas permeating from the Council, as to addressing public safety issues throughout the County.

Staff from my office are available to answer any questions you may have on these bills.

ME:lb

Enclosures

cc: Sidney Katz, Public Safety Chair, County Council
Marlene Michaelson, Executive Director, County Council
Craig Howard, Deputy Director, County Council
Susan Farag, Legislative Analyst, County Council
Richard S. Madaleno, Chief Administrative Officer, Office of the County Executive
Earl P. Stoddard, PhD, MPH, CEM, Assistant Chief Administrative Officer, Office of the County Executive
Yaakov "Jake" Weissmann, Esq., Assistant Chief Administrative Officer, Office of the County Executive
Debbie Spielberg, Special Assistant to County Executive Marc Elrich, Office of the County Executive
Dale Tibbitts, Special Assistant to County Executive Marc Elrich, Office of the County Executive
Ken Hartman, Director of Strategic Partnerships, Office of the County Executive

Bill No. _____
Concerning: _____
Revised: _____ Draft No.5
Introduced: _____
Expires: _____
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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20 Department provides written notice that it has disapproved the
21 proposed late night business safety plan.

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23 plan, a person who owns or operates a late night business must do so in
24 accordance with that approved plan.

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26 a late night business must obtain a new approved late night business
27 plan from the Department in order to continue operating.

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29 implement the requirements of this Section. The regulations must:

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31 as a priority area;

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33 to submit a proposed late night business safety plan to the Department;

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35 proposed late night business safety plan;

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37 compliance with a late night business safety plan; and

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39 may require any or all of the following:

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41 (B) exterior lighting;

42 (C) high-definition digital security cameras that provide continuous,
43 24-hour video monitoring and recording, without audio
44 recording capacity, of the interior and exterior of each entryway
45 into the late night business and the cash register or till;

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47 interior can be viewed from the outside; and

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50 the use of security cameras, then the plan must also:

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52 conspicuous location on the interior and exterior of the business
53 notifying the public that the late night business is subject to 24-hour
54 video surveillance monitoring;
- 55 (2) require that the late night business must provide video recordings to the
56 Department upon demand;
- 57 (3) provide that the Department can demand a security camera video
58 recording from a late night business only in connection with the
59 investigation or prosecution of a violent felony;
- 60 (4) require that the late night business retain the video recordings for not
61 less than 14 but not more than 30 days;
- 62 (5) establish requirements for the retention, collection, dissemination, use,
63 and disposal of security camera video recordings by the Department;
64 and
- 65 (6) include a time-limited waiver requirement for a late night business that
66 has a noncompliant security camera video recording system already in
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69 business search patrons by the use of metal detectors, magnetometers, or pat
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78 night business must submit a proposed late night business safety plan to the
79 Department for review. The County Executive should make a good faith attempt to
80 notify each affected late night business of its obligation to submit a proposed safety
81 plan.

Approved:

Evan Glass, President, County Council

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Judy Rupp, Clerk of the Council

Date

Approved as to form and legality



Edward B. Lattner
Office of the County Attorney
Jan. 23, 2023