

Clerk's Note: On Line 18, the “(1)” has been corrected to “(1)”. The period at the end of Line 22 has been underlined.

CORRECTED COPY

Expedited Bill No. 14-23
Concerning: Police – Late
Night Business Safety Plan
Revised: 5/16/2023 Draft No. 3
Introduced: February 28, 2023
Enacted: May 16, 2023
Executive: May 24, 2023
Effective: May 24, 2023
Sunset Date:
Ch. 17, Laws of Mont. Co. 2023

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED 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]] Office of the County Executive, or an office or department designated by the Executive, to review and approve a proposed late night business safety plan;
- (3) authorize the [[Department of Police]] Executive to establish the requirements of a late night business plan;
- (4) establish a grant program to promote late night business safety; and
- [[(4)]] (5) 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, a license for on-site cannabis consumption, or a
7 liquor license where the products sold are ~~[[meant to be or are~~
8 regularly]] consumed on-site at tables or at other areas designated for
9 consumption by the business.

10 Business does not include lodging or hospitals, as those terms are
11 defined under Chapter 59.

12 Department means the ~~[[Montgomery County Police Department]]~~
13 Office of the County Executive or one or more offices or departments
14 designated by the County Executive.

15 Late night business means any business ~~[[located in a priority area]]~~
16 that:

17 (1) is open to the public at any time between ~~[[midnight]]~~ 2:00 AM
18 and ~~[[6:00 AM]]~~ 5:00 AM; or

19 (2) is open to the public at any time between midnight and 2:00 AM
20 and, within the previous 12 months, has been the subject of 2 or
21 more service calls for law enforcement regarding alleged serious
22 incidents occurring on or originating from the premises.

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

25 ~~[[Priority area~~ means one or more police response areas (PRA)
26 identified and published by the Department, based upon public safety

27 indicators, including crime levels, as areas where late night businesses
28 would benefit by operating in accordance with a late night safety plan.]]

29 Relevant departments mean the Montgomery County Police
30 Department, the Department of Environmental Protection, the
31 Department of Permitting Services, the Department of Health and
32 Human Services, the Regional Service Centers, and the Board of
33 License Commissioners.

34 Serious incident means a crime identified as a serious incident by the
35 Department in Method (2) regulations.

36 (b) Requirements.

37 (1) [[A]] Without first submitting a proposed late night business
38 safety plan to the Department, a person must not [[own or]]
39 operate a late night business:

40 (A) between the hours of 2:00 AM and 5:00 AM; and

41 (B) between the hours of midnight and 2:00 AM, if the
42 business is a late night business under paragraph (2) of the
43 definition of late night business [[without first submitting
44 a proposed late night business safety plan to the
45 Department]].

46 (2) [[A]] After the Department provides written notice that the
47 Department has disapproved a proposed late night business plan,
48 a person must not [[own or]] operate [[a]] the late night business:

49 (A) between the hours of 2:00 AM and 5:00 AM; and

50 (B) between the hours of midnight and 2:00 AM, if the
51 business is a late night business under paragraph (2) of the
52 definition of late night business [[after the Department

53 provides written notice that it has disapproved the
54 proposed late night business safety plan]].

55 (3) After the Department approves a proposed late night business
56 safety plan, a person who owns or operates [[a]] the late night
57 business must do so in accordance with that approved plan.

58 (4) A late night business plan expires three years after approval, after
59 which a late night business must obtain a new approved late night
60 business plan from the Department in order to continue
61 operating:

62 (A) between the hours of 2:00 AM and 5:00 AM; and

63 (B) between the hours of midnight and 2:00 AM, if the
64 business is a late night business under paragraph (2) of the
65 definition of late night business.

66 (c) *Regulations.* The Department, after consultation with other relevant
67 departments, must promulgate Method (2) regulations to implement the
68 requirements of this Section. The regulations must establish:

69 (1) [[establish the methodology used to identify a police response
70 area (PRA) as a priority area;

71 (2)]] the process for the owner or operator of a late night business to
72 submit a proposed late night business safety plan to the
73 Department;

74 [[(3)]] (2) the process for the Department to consider and approve,
75 after consultation with other relevant departments, a proposed
76 late night business safety plan;

77 [[(4)]] (3) a process for the Department and other relevant agencies
78 to provide training to businesses regarding safety and to

79 periodically verify compliance with a late night business safety
80 plan; ~~[[and]]~~

81 ~~[[5]]~~ (4) in consultation with relevant departments, a template that
82 a late night business must use to submit a proposed late night
83 business safety plan; and

84 ~~[[6]]~~ (5) the minimum requirements of a late night business safety
85 plan, which:

86 (A) must require:

87 (i) an emergency evacuation plan;

88 (ii) 24-hour contact information for the business owner
89 or manager;

90 (iii) exterior bathroom doors that are free opening at all
91 times, if the bathroom facilities use bathroom stalls;

92 (iv) an acknowledgement that the business has received
93 late night business training from the County; and

94 (v) an acknowledgement that the business is in
95 compliance with applicable law, and a statement
96 regarding any resolved or pending citations issued
97 by a government entity within the prior 3 years; and

98 (B) may require, with written justification, any or all of the
99 following:

100 ~~[[A]]~~ (i) security personnel and training;

101 ~~[[B]]~~ (ii) exterior lighting; and

102 ~~[[C]]~~ (iii) high-definition digital security cameras that provide
103 ~~[[continuous, 24-hour]]~~ video monitoring and
104 recording, without audio recording capacity, of the

105 interior and exterior of each entryway into the late
106 night business and the cash register or till[;].

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

109 (E) all bathroom doors must be free opening at all times;]

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

112 (1)] require that the late night business owner or operator post signage
113 in a conspicuous location on the interior and exterior of the
114 business notifying the public that the late night business is
115 subject to [[24-hour]] video surveillance monitoring[;

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

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

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

123 (5) establish requirements for the retention, collection,
124 dissemination, use, and disposal of security camera video
125 recordings by the Department; and

126 (6) include a time-limited waiver requirement for a late night
127 business that has a noncompliant security camera video
128 recording system already in place]].

129 (e) The Department [[may recommend, but] must not require[, that] a
130 late night business to:

- 131 (1) search patrons by the use of metal detectors, magnetometers, or
132 pat downs; or
- 133 (2) provide video recordings to the Department or other relevant
134 departments except as required by law.
- 135 (f) Appeals. A late night business may appeal the disapproval of a plan, or
136 the identification of a business as a late night business under paragraph
137 (2) of the definition of late night business, to the Board of Appeals
138 under Chapter 2.
- 139 (g) Penalty for violating Section.
- 140 (1) Any violation of this Section is a class A violation.
- 141 (2) Each day a violation continues is a separate offense.
- 142 (h) Voluntary plans for certain businesses.
- 143 (1) Any business that operates between the hours of midnight and
144 2:00 AM may submit to the Department a late night business
145 safety plan.
- 146 (2) The Department must:
- 147 (A) review a plan submitted under this subsection; and
- 148 (B) provide recommendations to the business regarding the
149 plan.
- 150 (i) Grant program.
- 151 (1) Program established. There is a late night business safety grant
152 program.
- 153 (2) Criteria to receive a grant. A late night business, or a business
154 that has submitted a plan and agrees to implement Department
155 recommendations under subsection (h), may qualify to receive a
156 grant under the program if:

157 (A) the grant is used solely to offset the costs of implementing
158 an approved or recommended late night business safety
159 plan; and

160 (B) the grant application is submitted in the form and manner
161 prescribed by the Department.

162 (3) Funding and limitations.

163 (A) Grants provided under the program are subject to
164 appropriation.

165 (B) The Department must prioritize awarding grants to late
166 night businesses over awarding grants to businesses that
167 submit plans voluntarily under subsection (h).

168 (C) The Department may seek federal or state funding to
169 support the program.

170 (j) Annual Reporting. The Department annually must report to the County
171 Council regarding:

172 (1) plans reviewed under this Section;

173 (2) late night businesses that have not submitted late night business
174 safety plans;

175 (3) recommendations for the improvement of late night business
176 safety;

177 (4) grants provided under this Section; and

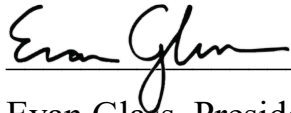
178 (5) crime data for the area of each late night business before and after
179 the approval of a late night business safety plan for the business.

180 **Sec. 2. Implementation.** The Department must promulgate and submit
181 proposed regulations to the Council for review within 180 days after this Act
182 becomes law. Within 90 days after notice of the approved regulations is published

183 in the County Register, each late night business must submit a proposed late night
184 business safety plan to the Department for review. The County Executive should
185 make a good faith attempt to notify each affected late night business of its obligation
186 to submit a proposed safety plan.

187 **Sec. 3. Expedited Effective Date; Transition.** The Council declares that this
188 legislation is necessary for the immediate protection of the public interest. This Act
189 takes effect on the date on which it becomes law. The requirements of Section 35-
190 13D(b), added by Section 1 of this Act, must not take effect until 90 days after notice
191 of approved regulations is published in the County Register under Section 2 of this
192 Act.

Approved:



5/19/2023

Evan Glass, President, County Council

Date

Approved:



5/24/2023

Marc Elrich, County Executive

Date

This is a correct copy of Council action.



5/24/2023

Sara R. Tenenbaum, Clerk of the Council

Date