The Maryland General Assembly adjourned Sine Die on Monday night, April 9th, but it was perhaps the most exciting ending to a session in decades. A battle was fought all day between the House and Senate over slots and the budget. Brinksmanship between the two, with the Senate wanting passage of a slots bill for Prince George’s County to emerge from the House and the House wanting to pass the budget, went down to the wire. The House took the step of extending the regular session at 11:30 pm, but later adjourned at the normal midnight hour when the Senate refused to join the House in the extension. The result was that the Budget bill passed, but the related legislation raising taxes and making statutory changes to implement the budget did not. The likely result is a summer special session to resolve the slots and budget issues.

Nevertheless, much of the legislation affecting MSLBA was acted upon. A summary is posted below.

**Online Lottery (FAILED)**

The MD Lottery reported in December that it planned to offer games online. Upon learning of this information, Jack Milani and Steve Wise met with Lottery Director Stephen Martino about these plans and raised questions about the proposal, including whether online games will take away existing customers from retailers, whether the full menu of games will be offered online, and what the projected effect would be if games like Keno and Racetrack were offered online. The Lottery assured us that measures would be put in place to protect ‘brick and mortar’ sales, but assurances in the form of statutory restrictions were never offered. Faced with the General Assembly adjourning and no restrictions in place prohibiting the Lottery from moving forward with online games, MSLBA joined other organizations in supporting language in the Senate version of the Budget bill that would prohibit the Lottery from moving forward for one year.

When the House reviewed the Budget bill, it stripped the Senate language. This led to a lively exchange on the House floor during the budget debate. Delegate Charles Barkley (D-Montgomery), who also Chairs the House Alcohol Subcommittee, rose on the House Floor to question whether the Legislature should allow the Lottery to proceed without further study, or at least some restrictions. He was joined by Delegate Michael Smigiel (R-Cecil), Delegate Steve Schuh (R-Anne Arundel), Sonny Minnick (D-Balt Co), Kathy Szeliga (R-Balt Co), Glen Glass (R-Harford) and Justin Ready (R-Carroll). Despite their help and a very close vote, the House bill was adopted in a way that let the Lottery proceed. However, the Budget Conference
Committee adopted the Senate language, effectively prohibiting the Lottery from moving forward for one year.

On a related note, lottery commissions were set to return to 5.5% in July of this year, if the General Assembly did not act. The Legislature froze commissions for one more year at the current 5.0%. This issue will return along with the online lottery issue next year.

**Prince George’s County Chain Stores (FAILED)**

MSLBA members testified before the Prince George’s Delegation in opposition to PG 307-12 (HB 817), which would allow a chain store in the City of Bowie to obtain an off-premise license. At least 40 or more retailers attended various hearings, many of whom stood and spoke against the measure, and we were joined by the MD Beer Wholesalers. The strong showing of retailers was a welcomed change from past years and it clearly had an impact.

The bill’s sponsor, Delegate Valentino-Smith, later introduced an amendment to her own bill that stripped its current language entirely and no longer included any provision relating to chains.

**Chain Stores – Statewide (FAILED)**

**House Bill 1271** and **Senate Bill 762** – Alcoholic Beverages - Multiple Licenses - Chain Stores and Out-of-State Licenses would have allowed Trone (owner of Beltway Fine Wine & Spirits in Towson) and other large-scale alcohol retailers to hold up to 5 licenses. It would have opened the world of package stores to chains and large scale retailers and spelled the end of the locally owned store. It also deleted the current law that prohibits a company holding a license in another state from holding one here in MD. Over 25 MSLBA licensees turned out to oppose the bill, and it was an excellent showing with representatives from over 7 different counties appearing. The Senate EHE Committee killed the bill and the House cross-filed bill was withdrawn.

**Sunday Sales (FAILED)**

**House Bill 1266** – Sunday Sales would have allowed each local board to determine whether Sunday Sales are to be allowed, rather than that decision being made by elected officials. Jack Milani and Steve Wise testified against the measure, arguing that Sunday Sales laws are a function of statute and are to be decided upon by local delegations, not liquor boards.

The measure was promptly defeated by the House Economic Matters Committee.

**Restaurant Chains (AMENDED AND PASSED)**

**House Bill 767**/ **Senate Bill 627** – Class B Licenses—Restaurants would have expanded in every jurisdiction the number of licenses available to chain restaurants. While MSLBA is not opposed to allowing restaurant chains a suitable number of licenses, it must be done on a local basis and in numbers commensurate with local need. As drafted, this bill would have created additional restaurant licenses in every jurisdiction by allowing companies that operate different restaurant concepts, like Outback which operates Roy’s, Fleming’s, Carraba’s and others, to obtain the maximum number of licenses for each concept. For example, Outback, which has 5 brands,
would be able to obtain 6 licenses for each brand in Anne Arundel County, or a total of 30 licenses.

The sponsors of the bills are very much friends of the industry, Senator Conway and Delegate Davis. So, MSLBA expressed a willingness to work with them through amendments that raise the luxury restaurant license limits in certain local jurisdictions, including Anne Arundel, Baltimore City, Howard, Calvert and Charles. These amendments stripped the original bill, and instead incrementally increased the maximum number of licenses that each chain can hold. This approach is consistent with the manner that chain restaurant limits have been raised in prior years.

Baltimore County enacted its own revision of restaurant licenses (HB 737 SB 654), which also passed, months of negotiations by Jack Milani and Goose Kaiser with county officials resulted in a compromise.

**Alcohol Sales Tax (PASSED)**

*Senate Bill 852 House Bill 918* made adjustments to the alcohol sales tax adopted last year, making clear that services related to the service of alcohol, such as catering, were not subject to the higher tax.

Related to these bills, MSLBA hoped to introduce legislation to increase the sales tax vendor allowance for alcohol retailers, since retailers are indeed incurring higher credit card transaction fees as a result of the tax. While we did not put in a bill, we did take a step forward in that regard. House Ways & Means Committee Chair, Sheila Hixson, agreed at Steve Wise’s request to ask the Comptroller for data on this issue. This will provide the Legislature with some information from an independent source on how much those fees have increased and how much the vendor allowance should be adjusted to compensate for it. In short, this will set the table for legislative action in 2013.

**Growlers (AMENDED & PASSED)**

*Senate Bill 874 House Bill 401*—Baltimore City and *House Bill 1047*—Howard County, would have allowed Class B restaurant licensees to obtain off-premise “growler” licenses. MSLBA opposed this measure because it gives an off-premise privilege to what has always been an on-premise license. We argued that if such a measure is enacted, it should make clear that all existing off-premise licensees are able to obtain the same privilege.

After numerous meetings with Senator Bill Ferguson and Delegate Brian McHale, amendments were agreed upon that gave off-premise licensees the opportunity to sell growlers upon application with the local liquor board. Restaurants can obtain this privilege too, but only after a full notice and hearing, just as if it were a new license. While these are local bills, they will be the model for the rest of the State so we attempted to craft them very carefully.

**Dram Shop (FAILED)**

*House Bill 1000 (Civil Action—Wrongfully Selling or Furnishing Alcoholic Beverages)* i.e. the “Dram Shop” bill was introduced for the second consecutive year. The bill would have imposed
liability upon any licensee if a person caused injury to a third party after leaving the premises and was either a minor or caused the injury in a motor vehicle accident. Maryland is among the minority of states which currently do not impose such liability on licensees.

Jay Schwartz testified in opposition to the bill and was joined by a number of insurance companies, which indicated their willingness to cover bars and restaurants would diminish significantly if the bill passed. Keep in mind, however, that the genesis of this issue is a court case from Montgomery County which is presently before the Court of Special Appeals. While that Court has consistently stated that any change in the current law would have to come from the General Assembly, the Court of Appeals—the next step up the appellate ladder—is not so constrained. Indeed, other states highest courts have made the change in lieu of action by the legislative branch. So, while we prevailed in the Legislature this year, we will have to keep a close eye on the courts.

**Corkage (AMENDED & PASSED)**

**House Bill 228 / Senate Bill 755**—Consuming Wine Not Bought on Premises – Restaurants, Clubs, and Hotels, also known as the “Corkage” bill was enacted. The Restaurant Association agreed to take no position if several amendments were included. These required the restaurant to obtain another permit from the local liquor board, and prohibiting any wines already offered by the restaurant from being brought onto the premises. MSLBA followed the lead of the Restaurant Association, and also took no position on the bills once these amendments were adopted.