

**Department of Legislative Services**  
Maryland General Assembly  
2018 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 628

(Senators Smith and Benson)

Judicial Proceedings

Economic Matters and Ways and Means

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**Criminal Law – Alcohol Offenses and Gaming – Civil Offenses**

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This bill decriminalizes and/or alters the penalties for various alcohol- and betting/gambling-related offenses under §§ 6-321 and 6-322 of the Alcoholic Beverages Article and §§ 12-102 and 12-103 of the Criminal Law Article.

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**Fiscal Summary**

**State Effect:** Minimal increase in general fund revenues from fines. Minimal decrease in general fund incarceration expenditures.

**Local Effect:** Minimal decrease in local revenues from fines. Minimal decrease in local incarceration expenditures.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The bill alters the classifications of and/or penalties for several offenses, as shown in **Exhibit 1**.

**Exhibit 1**  
**Classifications and Penalties under Current Law and under the Bill**

<b>Offense</b>	<b>Current Penalty</b>	<b>Penalty under the Bill</b>
Consuming alcohol in public  (§ 6-321 of the Alcoholic Beverages Article)	Misdemeanor  Maximum fine of \$100	Civil offense  Maximum fine of \$100
Possessing alcohol in an open container in specified public areas  (§ 6-322 of the Alcoholic Beverages Article)	Misdemeanor  Maximum fine of \$100	Civil offense  Maximum fine of \$100
Betting, wagering, and gambling  (Moved from § 12-102 to § 12-103 of the Criminal Law Article)	Misdemeanor  Imprisonment for at least 6 months and up to 1 year and/or a fine of at least \$200 and up to \$1,000	Civil offense  Maximum fine of \$500 if the violation involves money/consideration of up to \$100  Maximum fine of \$1,000 if the violation involves money/consideration exceeding \$100
Remaining offenses under § 12-102 of the Criminal Law Article involving running illegal gambling operations	Misdemeanor  Imprisonment for at least 6 months and up to 1 year and/or a fine of at least \$200 and up to \$1,000	Misdemeanor  Imprisonment for up to 6 months and/or a fine of up to \$5,000
Playing specified games and any other gaming device or fraudulent trick  (The bill removes references to specified games)  (§ 12-103 of the Criminal Law Article)	Misdemeanor  Imprisonment for at least 6 months and up to 2 years and/or a fine of up to \$100	Civil offense  Maximum fine of \$500 if the violation involves money/consideration of up to \$100  Maximum fine of \$1,000 if the violation involves money/consideration exceeding \$100

Source: Department of Legislative Services

The bill additionally specifies that the alcohol-related civil offenses are subject to existing civil citation and code violation procedures under provisions of the Criminal Law Article and makes conforming changes. The bill authorizes prepayment of fines for possession of alcohol in an open container in specified public areas. The bill establishes civil citation and code violation procedures for the betting/gambling-related civil offenses, including authorization for prepayment of the associated fines.

## **Current Law:**

### *Alcohol-related Criminal Offenses*

A person may not consume an alcoholic beverage on public property. Further, a person may not consume an alcoholic beverage or possess an alcoholic beverage in an open container:

- on the mall, adjacent parking area, or other outside area of a shopping center;
- on an adjacent parking area or other outside area of any other retail establishment;  
or
- in a parked vehicle located in one of the aforementioned areas.

An individual may consume an alcoholic beverage or possess an alcoholic beverage in an open container in one of the aforementioned areas with proper authorization, as specified. Violators are guilty of a misdemeanor punishable by a fine of up to \$100.

### *Betting/Gambling-related Criminal Offenses*

A person may not:

- bet, wager, or gamble;
- make or sell a book or pool on the result of a race, contest, or contingency;
- establish, keep, rent, use, or occupy or knowingly allow to be established, kept, rented, used, or occupied, a building, vessel, or place for the purpose of betting, wagering, or gambling or making, selling, or buying books or pools on the result of a race, contest, or contingency; or
- receive, become the depository of, record, register, or forward, or propose, agree, or pretend to forward, money or any other thing or consideration of value to be bet, wagered, or gambled on the result of a race, contest, or contingency.

A person who violates betting, wagering, and gambling laws is guilty of a misdemeanor and on conviction is subject to imprisonment for six months to one year and/or a fine ranging from \$200 to \$1,000.

A person who commits a violation in Baltimore City may be charged by a citation, which may be issued to a person by a police officer authorized to make arrests in Baltimore City if there is probable cause to believe that the person is committing or has committed a violation. The citation must contain specified information, and the police officer who issued the citation must forward a copy of the citation to the appropriate court. The court must promptly schedule the case for trial and schedule the defendant to appear. Willful failure of the defendant to respond to the summons is contempt of court.

A person may not play the following games for money or any other thing or consideration of value: thimbles; little joker; dice or craps; or any other gaming device or fraudulent trick. Violators are guilty of a misdemeanor, punishable by imprisonment between six months and two years and/or a fine of up to \$100.

**Background:** Exhibit 2 shows the number of violations in the District Court and circuit courts for specified alcohol- and betting/gambling-related offenses.

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**Exhibit 2**  
**Violations of Specified Alcohol- and Betting/Gambling-related Offenses**

<b>Offense</b>	<b>District Court Violations</b>	<b>Circuit Court Violations</b>
Consuming alcohol in public (§ 6-321 of the Alcoholic Beverages Article)	916	4
Possessing alcohol in an open container in specified public areas (§ 6-322 of the Alcoholic Beverages Article)	1,358	7
Betting, wagering, and gambling (§ 12-102 of the Criminal Law Article)	3	0
Running illegal gambling operations (Remaining offenses under § 12-102 of the Criminal Law Article)	4	0
Playing specified games and any other gaming device or fraudulent trick (§ 12-103 of the Criminal Law Article)	113	38

Note: A violation is a charge/count filed with the court. It is not a conviction, and one defendant may be associated with multiple violations. Further, there may be some overlap between District Court and circuit court violations.

Source: Judiciary (Administrative Office of the Courts)

**State Revenues:** General fund revenues increase minimally from fines imposed in the District Court for specified betting/gambling-related offenses.

Although the bill decriminalizes specified alcohol-related offenses, the bill does not alter the maximum fine that may be imposed for such offenses. Thus, this analysis assumes that the bill does not materially affect fine revenues from these offenses.

**State Expenditures:** General fund expenditures decrease minimally as a result of the bill's repeal of incarceration penalties for specified betting/gambling-related offenses.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,800 per month. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

**Local Revenues:** Revenues decrease minimally from fines imposed in the circuit courts for specified betting/gambling-related offenses.

As noted previously, although the bill decriminalizes specified alcohol-related offenses, the bill does not alter the maximum fine that may be imposed for such offenses. Thus, this analysis assumes that the bill does not materially affect fine revenues from these offenses.

Based on the distribution of violations for the betting/gambling offenses affected by the bill, it appears that significantly more individuals are charged with violations of § 12-103 of the Criminal Law Article (151 violations in fiscal 2017) than are charged for violating § 12-102 (7 violations in fiscal 2017). The bill's decriminalization of the offenses under § 12-103 shifts some of these cases (and their fine revenues) from the circuit courts to the District Court. However, the bill also significantly increases the maximum monetary penalty for a misdemeanor violation of specified offenses under § 12-102 of the Criminal Law Article, some of which may result in circuit court cases. This estimate assumes that

the net effect of these two elements of the bill is a minimal decrease in local revenues from fines imposed in the circuit courts.

**Local Expenditures:** Expenditures decrease minimally as a result of the bill’s elimination of existing incarceration penalties for specified betting/gambling-related offenses. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$40 to \$170 per inmate in recent years.

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### **Additional Information**

**Prior Introductions:** Bills with similar gambling provisions were introduced in the 2017 and 2016 legislative sessions. SB 940 of 2017 received a hearing in the Senate Budget and Taxation Committee, but no further action was taken. Its cross file, HB 377, received a hearing in the House Ways and Means Committee, but no further action was taken. HB 242 of 2016 passed the House as amended and received a hearing in the Senate Budget and Taxation Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Baltimore, Charles, Frederick, and Montgomery counties; cities of Frederick and Havre de Grace; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Department of State Police; Department of Legislative Services

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