

HOUSE BILL 277

A1, C7, E1

8lr0418
CF 8lr1812

By: **Delegates Moon, Atterbeary, Proctor, Sanchez, and Sydnor**

Introduced and read first time: January 19, 2018

Assigned to: Economic Matters and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Alcohol Offenses and Gaming – Civil Offenses**
3 **(Decriminalization of Petty Nonviolent Offenses Act)**

4 FOR the purpose of making it a civil rather than a criminal offense to consume an alcoholic
5 beverage in public under certain circumstances or to possess an alcoholic beverage
6 in an open container under certain circumstances; requiring certain offenders to be
7 issued a citation under certain circumstances; providing a certain maximum fine;
8 altering the penalty for certain conduct relating to betting, wagering, or gambling;
9 making certain conduct relating to betting, wagering, or gambling a civil offense;
10 establishing that adjudication of a violation under a certain provision of this Act is
11 not a criminal conviction for any purpose and does not impose any of the civil
12 disabilities that may result from a criminal conviction; altering certain penalties;
13 authorizing a certain police officer to issue a certain citation under certain
14 circumstances; establishing certain requirements for a citation issued under this Act;
15 requiring the form of a certain citation to be uniform throughout the State and to be
16 prescribed by the District Court; requiring the Chief Judge of the District Court to
17 establish a schedule for the prepayment of a certain fine; requiring a certain issuing
18 jurisdiction to forward a copy of a certain citation and request for trial to a certain
19 court; providing that a person may request a trial in a certain manner within a
20 certain time period after the issuance of a citation; providing that the District Court
21 may impose a certain fine and costs and find a person guilty of a certain violation
22 under certain circumstances; providing that a certain defendant is liable for certain
23 costs of a certain proceeding; specifying the costs of a certain proceeding; providing
24 that the State has the burden to prove the guilt of a certain defendant by a certain
25 standard; requiring a court to apply certain evidentiary standards; requiring a court
26 to ensure that a certain defendant has received a copy of certain charges and that
27 the defendant understands those charges; providing that a certain defendant is
28 entitled to take certain actions under certain circumstances; providing that a certain
29 defendant is entitled to be represented by a certain counsel at the expense of the
30 defendant; authorizing a certain defendant to enter a certain plea; specifying a
31 certain verdict; authorizing a certain State's Attorney to prosecute a certain Code

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 violation in a certain manner; providing that a certain person under a certain age
2 who is issued a citation for a certain violation is subject to certain procedures and
3 dispositions; making certain conforming changes; and generally relating to alcohol
4 offenses and gaming.

5 BY repealing and reenacting, with amendments,
6 Article – Alcoholic Beverages
7 Section 6–321 and 6–322
8 Annotated Code of Maryland
9 (2016 Volume and 2017 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article – Criminal Law
12 Section 10–119, 12–102, and 12–103
13 Annotated Code of Maryland
14 (2012 Replacement Volume and 2017 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Alcoholic Beverages**

18 6–321.

19 (a) In this section, “public property” includes property that is:

20 (1) a structure, road, parking area, or grounds; and

21 (2) located on land owned, leased, or operated by:

22 (i) the State;

23 (ii) a county;

24 (iii) a municipality;

25 (iv) the Washington Suburban Sanitary Commission;

26 (v) the Maryland–National Capital Park and Planning Commission;

27 (vi) the Montgomery County Revenue Authority; or

28 (vii) the Washington Metropolitan Area Transit Authority.

29 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection, an
30 individual may not consume an alcoholic beverage:

- 1 (i) on public property;
- 2 (ii) on the mall, adjacent parking area, or other outside area of a
3 shopping center;
- 4 (iii) on an adjacent parking area or other outside area of any other
5 retail establishment; and
- 6 (iv) in a parked vehicle located in an area described under item (i),
7 (ii), or (iii) of this paragraph.

8 (2) An individual may consume an alcoholic beverage on:

- 9 (i) public property if authorized by the governmental entity that has
10 authority over the property; or
- 11 (ii) private property described under paragraph (1)(ii) through (iv) of
12 this subsection if authorized by the owner of the property.

13 (3) If the owner or operator of a motor home or chartered bus has consented
14 to the consumption of the alcoholic beverages, paragraph (1) of this subsection does not
15 apply to passengers:

- 16 (i) in the living quarters of a motor home equipped with a toilet and
17 central heating; or
- 18 (ii) of a chartered bus in transit.

19 (c) **(1) A VIOLATION OF THIS SECTION IS A CODE VIOLATION AND A CIVIL
20 OFFENSE.**

21 **(2) A person who violates this section [is guilty of a misdemeanor and on
22 conviction is subject to a fine not exceeding \$100]:**

23 **(I) SHALL BE ISSUED A CITATION UNDER § 10-119 OF THE
24 CRIMINAL LAW ARTICLE; AND**

25 **(II) IS SUBJECT TO A FINE NOT EXCEEDING \$100.**

26 6-322.

27 (a) (1) Except as provided in paragraph (2) of this subsection, an individual
28 may not possess an alcoholic beverage in an open container while:

- 29 (i) on the mall, adjacent parking area, or other outside area of a
30 shopping center;

1 (ii) on an adjacent parking area or other outside area of any other
2 retail establishment; or

3 (iii) in a parked vehicle located in an area described under item (i) or
4 (ii) of this paragraph.

5 (2) An individual may possess an alcoholic beverage in an open container
6 on private property described under paragraph (1) of this subsection if the individual is
7 authorized by the owner of the establishment.

8 (b) (1) **A VIOLATION OF THIS SECTION IS A CODE VIOLATION AND A CIVIL**
9 **OFFENSE.**

10 (2) A person who violates this section [is guilty of a misdemeanor and on
11 conviction is subject to a fine not exceeding \$100]:

12 (I) **SHALL BE ISSUED A CITATION UNDER § 10-119 OF THE**
13 **CRIMINAL LAW ARTICLE; AND**

14 (II) **IS SUBJECT TO A FINE NOT EXCEEDING \$100.**

15 **Article – Criminal Law**

16 10-119.

17 (a) (1) A person [who violates §§ 10-113 through 10-115 or § 10-118 of this
18 part] shall be issued a citation under this section **IF THE PERSON VIOLATES:**

19 (I) **§§ 10-113 THROUGH 10-115 OR § 10-118 OF THIS PART; OR**

20 (II) **§ 6-321 OR § 6-322 OF THE ALCOHOLIC BEVERAGES**
21 **ARTICLE.**

22 (2) A minor who violates § 10-116 or § 10-117(a) of this part shall be issued
23 a citation under this section.

24 (b) (1) A citation for a violation of §§ 10-113 through 10-115 or a violation of
25 § 10-118 of this part **OR § 6-321 OR § 6-322 OF THE ALCOHOLIC BEVERAGES ARTICLE**
26 may be issued by:

27 (i) a police officer authorized to make arrests;

1 (ii) in State forestry reservations, State parks, historic monuments,
2 and recreation areas, a forest or park warden under § 5–206(a) or (b) of the Natural
3 Resources Article; and

4 (iii) subject to paragraphs (2) and (3) of this subsection, in Anne
5 Arundel County, Frederick County, Harford County, Kent County, Montgomery County,
6 Prince George’s County, and Talbot County, and only in the inspector’s jurisdiction, an
7 alcoholic beverages inspector who investigates license violations under the Alcoholic
8 Beverages Article.

9 (2) In Anne Arundel County, Frederick County, Harford County, Kent
10 County, Montgomery County, Prince George’s County, and Talbot County, the inspector
11 shall successfully complete an appropriate program of training in the proper use of arrest
12 authority and pertinent police procedures as required by the board of license
13 commissioners.

14 (3) In Anne Arundel County, Harford County, Kent County, Montgomery
15 County, Prince George’s County, and Talbot County, the inspector may not carry a firearm
16 in the performance of the inspector’s duties.

17 (c) A person authorized under this section to issue a citation shall issue it if the
18 person has probable cause to believe that the person charged is committing or has
19 committed a Code violation.

20 (d) (1) Subject to paragraph (2) of this subsection, the form of citation issued
21 to an adult shall be as prescribed by the District Court and shall be uniform throughout
22 the State.

23 (2) The citation issued to an adult shall contain:

24 (i) the name and address of the person charged;

25 (ii) the statute allegedly violated;

26 (iii) the location, date, and time that the violation occurred;

27 (iv) the fine that may be imposed;

28 (v) a notice stating that prepayment of the fine is not allowed;

29 (vi) a notice that the District Court shall promptly send the person
30 charged a summons to appear for trial;

31 (vii) the signature of the person issuing the citation; and

32 (viii) a space for the person charged to sign the citation.

1 (3) The form of citation issued to a minor shall:
2 (i) be prescribed by the State Court Administrator;
3 (ii) be uniform throughout the State; and
4 (iii) contain the information listed in § 3–8A–33(b) of the Courts
5 Article.

6 (e) (1) Except for a citation subject to the jurisdiction of a circuit court, the
7 issuing jurisdiction shall forward a copy of the citation and a request for trial to the District
8 Court in the district having venue.

9 (2) (i) The District Court shall promptly schedule the case for trial and
10 summon the defendant to appear.

11 (ii) Willful failure of the defendant to respond to the summons is
12 contempt of court.

13 (f) (1) For purposes of this section, a violation of §§ 10–113 through 10–115 or
14 a violation of § 10–118 of this part **OR § 6–321 OR § 6–322 OF THE ALCOHOLIC**
15 **BEVERAGES ARTICLE** is a Code violation and is a civil offense.

16 (2) A person charged who is under the age of 18 years shall be subject to
17 the procedures and dispositions provided in Title 3, Subtitle 8A of the Courts Article.

18 (3) A person charged who is at least 18 years old shall be subject to the
19 provisions of this section.

20 (4) Adjudication of a Code violation is not a criminal conviction for any
21 purpose, and it does not impose any of the civil disabilities ordinarily imposed by a criminal
22 conviction.

23 (g) In any proceeding for a Code violation:

24 (1) the State has the burden to prove the guilt of the defendant to the same
25 extent as is required by law in the trial of criminal causes, and in any such proceeding, the
26 court shall apply the evidentiary standards as prescribed by law or rule for the trial of
27 criminal causes;

28 (2) the court shall ensure that the defendant has received a copy of the
29 charges against the defendant and that the defendant understands those charges;

30 (3) the defendant is entitled to cross-examine all witnesses who appear
31 against the defendant, to produce evidence or witnesses on behalf of the defendant, or to
32 testify on the defendant's own behalf, if the defendant chooses to do so;

1 (4) the defendant is entitled to be represented by counsel of the defendant's
2 choice and at the expense of the defendant;

3 (5) the defendant may enter a plea of guilty or not guilty, and the verdict
4 of the court in the case shall be:

5 (i) guilty of a Code violation; or

6 (ii) not guilty of a Code violation; and

7 (6) before rendering judgment, the court may place the defendant on
8 probation in the same manner and to the same extent as is allowed by law in the trial of a
9 criminal case.

10 (h) (1) **THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO COMMITS**
11 **A CODE VIOLATION UNDER § 6-321 OR § 6-322 OF THE ALCOHOLIC BEVERAGES**
12 **ARTICLE.**

13 (2) Except as provided in paragraph [(2)] (3) of this subsection, if the
14 District Court finds that a person has committed a Code violation, the court shall require
15 the person to pay:

16 (i) a fine not exceeding \$500; or

17 (ii) if the violation is a subsequent violation, a fine not exceeding
18 \$1,000.

19 [(2)] (3) If the District Court finds that a person has committed a Code
20 violation under § 10-117 of this subtitle, the court shall require the person to pay:

21 (i) a fine not exceeding \$2,500; or

22 (ii) if the violation is a subsequent violation, a fine not exceeding
23 \$5,000.

24 [(3)] (4) The Chief Judge of the District Court may not establish a
25 schedule for the prepayment of fines for a Code violation under this part.

26 (i) When a defendant has been found guilty of a Code violation and a fine has
27 been imposed by the court:

28 (1) the court may direct that the payment of the fine be suspended or
29 deferred under conditions that the court may establish; and

1 (2) if the defendant willfully fails to pay the fine imposed by the court, that
2 willful failure may be treated as a criminal contempt of court, for which the defendant may
3 be punished by the court as provided by law.

4 (j) (1) The defendant is liable for the costs of the proceedings in the District
5 Court and for payment to the Criminal Injuries Compensation Fund.

6 (2) The court costs in a Code violation case in which costs are imposed are
7 \$5.

8 (k) (1) In this subsection, “driver’s license” means a license or permit to drive
9 a motor vehicle that is issued under the laws of this State or any other jurisdiction.

10 (2) This subsection applies only to:

11 (i) a person who is at least 18 but under 21 years of age; or

12 (ii) a minor if the minor is subject to the jurisdiction of the court.

13 (3) If a person is found guilty of a Code violation under § 10–113 of this
14 part that involved the use of a driver’s license or a document purporting to be a driver’s
15 license, the court shall notify the Motor Vehicle Administration of the violation.

16 (4) The Chief Judge of the District Court, in conjunction with the Motor
17 Vehicle Administrator, shall establish uniform procedures for reporting Code violations
18 described in this subsection.

19 (l) (1) A defendant who has been found guilty of a Code violation has the right
20 to appeal or to file a motion for a new trial or a motion for a revision of a judgment provided
21 by law in the trial of a criminal case.

22 (2) A motion shall be made in the same manner as provided in the trial of
23 criminal cases, and the court, in ruling on the motion has the same authority provided in
24 the trial of criminal cases.

25 (m) (1) The State’s Attorney for any county may prosecute a Code violation in
26 the same manner as prosecution of a violation of the criminal laws of this State.

27 (2) In a Code violation case the State’s Attorney may:

28 (i) enter a nolle prosequi in or place the case on the stet docket; and

29 (ii) exercise authority in the same manner as prescribed by law for
30 violation of the criminal laws of this State.

1 (a) A person may not:

2 (1) [bet, wager, or gamble;

3 (2)] make or sell a book or pool on the result of a race, contest, or
4 contingency;

5 [(3)] (2) establish, keep, rent, use, or occupy, or knowingly allow to be
6 established, kept, rented, used, or occupied, all or a part of a building, vessel, or place, on
7 land or water, within the State, for the purpose of:

8 (i) betting, wagering, or gambling; or

9 (ii) making, selling, or buying books or pools on the result of a race,
10 contest, or contingency; or

11 [(4)] (3) receive, become the depository of, record, register, or forward, or
12 propose, agree, or pretend to forward, money or any other thing or consideration of value,
13 to be bet, wagered, or gambled on the result of a race, contest, or contingency.

14 (b) A person who violates this section is guilty of a misdemeanor and on conviction
15 is subject to imprisonment [for not less than 6 months and] not exceeding [1 year or a fine
16 of not less than \$200 and not exceeding \$1,000 or both] **6 MONTHS OR A FINE NOT
17 EXCEEDING \$5,000 OR BOTH.**

18 (c) (1) The provisions of this subsection apply only in Baltimore City.

19 (2) A person who violates this section may be charged by a citation.

20 (3) A citation for a violation of this section may be issued to a person by a
21 police officer authorized to make arrests in Baltimore City if there is probable cause to
22 believe that the person is committing or has committed a violation of this section.

23 (4) A citation issued under this subsection shall contain:

24 (i) the name and address of the person charged;

25 (ii) the statute allegedly violated;

26 (iii) the location, date, and time that the violation occurred;

27 (iv) the fine or term of imprisonment that may be imposed;

28 (v) a notice stating that prepayment of a fine is not allowed;

1 (vi) a notice that the court shall promptly send the person charged a
2 summons to appear for trial; and

3 (vii) the signature of the police officer issuing the citation.

4 (5) (i) The police officer who issued the citation shall forward to the
5 appropriate court a copy of the citation.

6 (ii) The court shall promptly schedule the case for trial and summon
7 the defendant to appear.

8 (iii) Willful failure of the defendant to respond to the summons is
9 contempt of court.

10 12–103.

11 (a) For money or any other thing or consideration of value, a person may not
12 [play]:

13 (1) [the game called “thimbles”;

14 (2) the game called “little joker”;

15 (3) dice or the game commonly called “craps”] **BET, WAGER, OR GAMBLE;**
16 or

17 **[(4) (2) PLAY any other gaming device or fraudulent trick.**

18 [(b) A person who violates this section is guilty of a misdemeanor and on conviction
19 is subject to imprisonment for not less than 6 months and not exceeding 2 years or a fine
20 not exceeding \$100 or both.]

21 **(B) (1) A VIOLATION OF THIS SECTION IS A CIVIL OFFENSE PUNISHABLE**
22 **BY A FINE NOT EXCEEDING:**

23 **(I) \$500, IF THE VIOLATION INVOLVES MONEY OR ANY OTHER**
24 **THING OR CONSIDERATION OF VALUE NOT EXCEEDING \$100; OR**

25 **(II) \$1,000, IF THE VIOLATION INVOLVES MONEY OR ANY OTHER**
26 **THING OR CONSIDERATION OF VALUE THAT EXCEEDS \$100.**

27 **(2) ADJUDICATION OF A VIOLATION UNDER THIS SECTION:**

28 **(I) IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE; AND**

1 **(II) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES THAT**
2 **MAY RESULT FROM A CRIMINAL CONVICTION.**

3 **(C) (1) A CITATION FOR A VIOLATION OF THIS SECTION MAY BE ISSUED**
4 **TO A PERSON BY A POLICE OFFICER AUTHORIZED TO MAKE ARRESTS IF THERE IS**
5 **PROBABLE CAUSE TO BELIEVE THAT THE PERSON IS COMMITTING OR HAS**
6 **COMMITTED A VIOLATION OF THIS SECTION.**

7 **(2) A CITATION ISSUED UNDER THIS SUBSECTION SHALL CONTAIN:**

8 **(I) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE PERSON**
9 **CHARGED;**

10 **(II) THE STATUTE ALLEGEDLY VIOLATED;**

11 **(III) THE DATE AND TIME THAT THE VIOLATION OCCURRED;**

12 **(IV) THE LOCATION AT WHICH THE VIOLATION OCCURRED;**

13 **(V) THE FINE THAT MAY BE IMPOSED;**

14 **(VI) A NOTICE STATING THAT PREPAYMENT OF THE FINE IS**
15 **ALLOWED;**

16 **(VII) A NOTICE IN BOLDFACE TYPE THAT STATES THAT THE**
17 **PERSON SHALL:**

18 **1. PAY THE FULL AMOUNT OF THE PRESET FINE; OR**

19 **2. REQUEST A TRIAL DATE AT THE DATE, TIME, AND**
20 **PLACE ESTABLISHED BY THE DISTRICT COURT BY WRIT OR TRIAL NOTICE; AND**

21 **(VIII) THE SIGNATURE OF THE POLICE OFFICER ISSUING THE**
22 **CITATION.**

23 **(3) THE FORM OF THE CITATION SHALL BE UNIFORM THROUGHOUT**
24 **THE STATE AND SHALL BE PRESCRIBED BY THE DISTRICT COURT.**

25 **(4) (I) THE CHIEF JUDGE OF THE DISTRICT COURT SHALL**
26 **ESTABLISH A SCHEDULE FOR THE PREPAYMENT OF A FINE.**

27 **(II) PREPAYMENT OF A FINE SHALL BE CONSIDERED A PLEA OF**
28 **GUILTY TO A CIVIL CODE VIOLATION.**

1 **(5) THE ISSUING JURISDICTION SHALL FORWARD A COPY OF THE**
2 **CITATION AND A REQUEST FOR TRIAL TO THE DISTRICT COURT IN THE DISTRICT**
3 **HAVING VENUE.**

4 **(6) A PERSON MAY REQUEST A TRIAL BY SENDING A REQUEST FOR**
5 **TRIAL TO THE DISTRICT COURT IN THE JURISDICTION WHERE THE CITATION WAS**
6 **ISSUED WITHIN 30 DAYS AFTER THE ISSUANCE OF THE CITATION.**

7 **(7) IF A PERSON DOES NOT REQUEST A TRIAL OR PREPAY THE FINE**
8 **WITHIN 30 DAYS AFTER THE ISSUANCE OF THE CITATION, THE DISTRICT COURT MAY**
9 **IMPOSE THE MAXIMUM FINE AND COSTS AGAINST THE PERSON AND FIND THE**
10 **PERSON GUILTY OF A CODE VIOLATION FOR THE PURPOSES OF THIS SECTION.**

11 **(8) (I) THE DEFENDANT IS LIABLE FOR THE COSTS OF THE**
12 **PROCEEDINGS IN THE DISTRICT COURT.**

13 **(II) THE COURT COSTS IN A CODE VIOLATION CASE UNDER THIS**
14 **SECTION IN WHICH COSTS ARE IMPOSED ARE \$5.**

15 **(D) IN ANY PROCEEDING FOR A CODE VIOLATION UNDER THIS SECTION:**

16 **(1) THE STATE HAS THE BURDEN TO PROVE THE GUILT OF THE**
17 **DEFENDANT BY A PREPONDERANCE OF THE EVIDENCE;**

18 **(2) THE COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS**
19 **PRESCRIBED BY LAW OR RULE FOR THE TRIAL OF A CRIMINAL CASE;**

20 **(3) THE COURT SHALL ENSURE THAT THE DEFENDANT HAS RECEIVED**
21 **A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE DEFENDANT**
22 **UNDERSTANDS THOSE CHARGES;**

23 **(4) THE DEFENDANT IS ENTITLED TO CROSS-EXAMINE ALL**
24 **WITNESSES WHO APPEAR AGAINST THE DEFENDANT, TO PRODUCE EVIDENCE OR**
25 **WITNESSES ON BEHALF OF THE DEFENDANT, AND TO TESTIFY ON THE DEFENDANT'S**
26 **OWN BEHALF, IF THE DEFENDANT CHOOSES TO DO SO;**

27 **(5) THE DEFENDANT IS ENTITLED TO BE REPRESENTED BY COUNSEL**
28 **OF THE DEFENDANT'S CHOICE AND AT THE EXPENSE OF THE DEFENDANT; AND**

29 **(6) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY,**
30 **AND THE VERDICT OF THE COURT IN THE CASE SHALL BE:**

1 **(I) GUILTY OF A CODE VIOLATION;**

2 **(II) NOT GUILTY OF A CODE VIOLATION; OR**

3 **(III) PROBATION BEFORE JUDGMENT, IMPOSED BY THE COURT**
4 **IN THE SAME MANNER AND TO THE SAME EXTENT AS IS ALLOWED BY LAW IN THE**
5 **TRIAL OF A CRIMINAL CASE.**

6 **(E) (1) THE STATE’S ATTORNEY FOR ANY COUNTY MAY PROSECUTE A**
7 **CODE VIOLATION UNDER THIS SECTION IN THE SAME MANNER AS PROSECUTION OF**
8 **A VIOLATION OF THE CRIMINAL LAWS OF THE STATE.**

9 **(2) IN A CODE VIOLATION CASE UNDER THIS SECTION, THE STATE’S**
10 **ATTORNEY MAY:**

11 **(I) ENTER A NOLLE PROSEQUI OR MOVE TO PLACE THE CASE ON**
12 **THE STET DOCKET; AND**

13 **(II) EXERCISE AUTHORITY IN THE SAME MANNER AS**
14 **PRESCRIBED BY LAW FOR VIOLATION OF THE CRIMINAL LAWS OF THE STATE.**

15 **(F) A PERSON ISSUED A CITATION FOR A VIOLATION OF THIS SECTION WHO**
16 **IS UNDER THE AGE OF 18 YEARS SHALL BE SUBJECT TO THE PROCEDURES AND**
17 **DISPOSITIONS PROVIDED IN TITLE 3, SUBTITLE 8A OF THE COURTS ARTICLE.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2018.