HOUSE BILL 88

A1, E1 HB 277/18 – ECM & W&M

By: Delegates Charkoudian, Acevero, Boyce, Bridges, Crutchfield, Dumais, Hettleman, Kelly, Kerr, Korman, R. Lewis, Lierman, Love, Moon, Mosby, Stewart, Washington, Wells, and Wilkins

Introduced and read first time: January 17, 2019 Assigned to: Economic Matters and Ways and Means

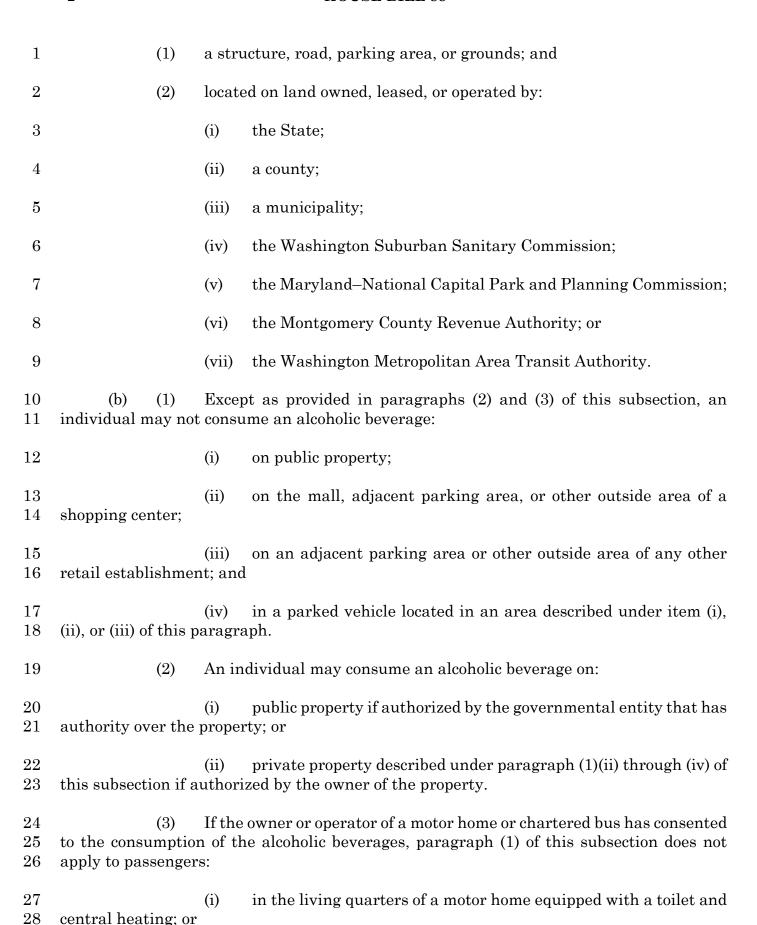
A BILL ENTITLED

1	AN ACT concerning
2	Criminal Law – Alcohol Offenses – Civil Offenses (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	making certain conforming changes; and generally relating to alcohol offenses.
9	BY repealing and reenacting, with amendments,
10	Article – Alcoholic Beverages
11	Section 6–321 and 6–322
12	Annotated Code of Maryland
13	(2016 Volume and 2018 Supplement)
14	BY repealing and reenacting, with amendments,
15	Article – Criminal Law
16	Section 10–119
17	Annotated Code of Maryland
18	(2012 Replacement Volume and 2018 Supplement)
19	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
20	That the Laws of Maryland read as follows:
21	Article - Alcoholic Beverages
22	6–321.
23	(a) In this section, "public property" includes property that is:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



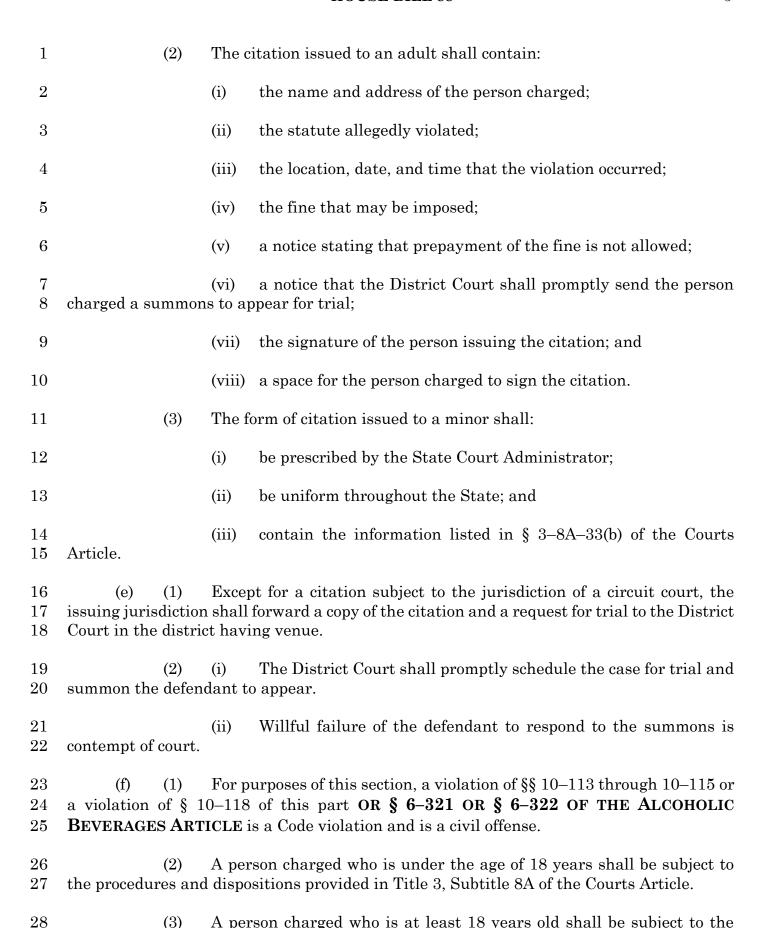


1	(ii) of a chartered bus in transit.
2 3	(c) (1) A VIOLATION OF THIS SECTION IS A CODE VIOLATION AND A CIVIL OFFENSE.
4 5	(2) A person who violates this section [is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100]:
6 7	(I) SHALL BE ISSUED A CITATION UNDER § 10–119 OF THE CRIMINAL LAW ARTICLE; AND
8	(II) IS SUBJECT TO A FINE NOT EXCEEDING \$100.
9	6–322.
10	(a) (1) Except as provided in paragraph (2) of this subsection, an individual may not possess an alcoholic beverage in an open container while:
12 13	(i) on the mall, adjacent parking area, or other outside area of a shopping center;
14 15	(ii) on an adjacent parking area or other outside area of any other retail establishment; or
16 17	(iii) in a parked vehicle located in an area described under item (i) or (ii) of this paragraph.
18 19 20	(2) An individual may possess an alcoholic beverage in an open container on private property described under paragraph (1) of this subsection if the individual is authorized by the owner of the establishment.
21 22	(b) (1) A VIOLATION OF THIS SECTION IS A CODE VIOLATION AND A CIVIL OFFENSE.
23 24	(2) A person who violates this section [is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100]:
25 26	(I) SHALL BE ISSUED A CITATION UNDER § 10–119 OF THE CRIMINAL LAW ARTICLE; AND
27	(II) IS SUBJECT TO A FINE NOT EXCEEDING \$100.

Article - Criminal Law

28

- 1 10–119.
- 2 (a) (1) A person [who violates §§ 10–113 through 10–115 or § 10–118 of this 3 part] shall be issued a citation under this section IF THE PERSON VIOLATES:
- 4 (I) §§ 10–113 THROUGH 10–115 OR § 10–118 OF THIS PART; OR
- 5 (II) § 6–321 OR § 6–322 OF THE ALCOHOLIC BEVERAGES 6 ARTICLE.
- 7 (2) A minor who violates § 10–116 or § 10–117(a) of this part shall be issued 8 a citation under this section.
- 9 (b) (1) A citation for a violation of §§ 10–113 through 10–115 or a violation of § 10–118 of this part **OR** § 6–321 **OR** § 6–322 **OF THE ALCOHOLIC BEVERAGES ARTICLE** 11 may be issued by:
- 12 (i) a police officer authorized to make arrests;
- 13 (ii) in State forestry reservations, State parks, historic monuments, and recreation areas, a forest or park warden under § 5–206(a) or (b) of the Natural
- 15 Resources Article; and
- 16 (iii) subject to paragraphs (2) and (3) of this subsection, in Anne
- 17 Arundel County, Frederick County, Harford County, Kent County, Montgomery County,
- 18 Prince George's County, and Talbot County, and only in the inspector's jurisdiction, an
- 19 alcoholic beverages inspector who investigates license violations under the Alcoholic
- 20 Beverages Article.
- 21 (2) In Anne Arundel County, Frederick County, Harford County, Kent
- 22 County, Montgomery County, Prince George's County, and Talbot County, the inspector
- 23 shall successfully complete an appropriate program of training in the proper use of arrest
- 24 authority and pertinent police procedures as required by the board of license
- 25 commissioners.
- 26 (3) In Anne Arundel County, Harford County, Kent County, Montgomery 27 County, Prince George's County, and Talbot County, the inspector may not carry a firearm 28 in the performance of the inspector's duties
- 28 in the performance of the inspector's duties.
- 29 (c) A person authorized under this section to issue a citation shall issue it if the 30 person has probable cause to believe that the person charged is committing or has 31 committed a Code violation.
- 32 (d) (1) Subject to paragraph (2) of this subsection, the form of citation issued 33 to an adult shall be as prescribed by the District Court and shall be uniform throughout 34 the State.



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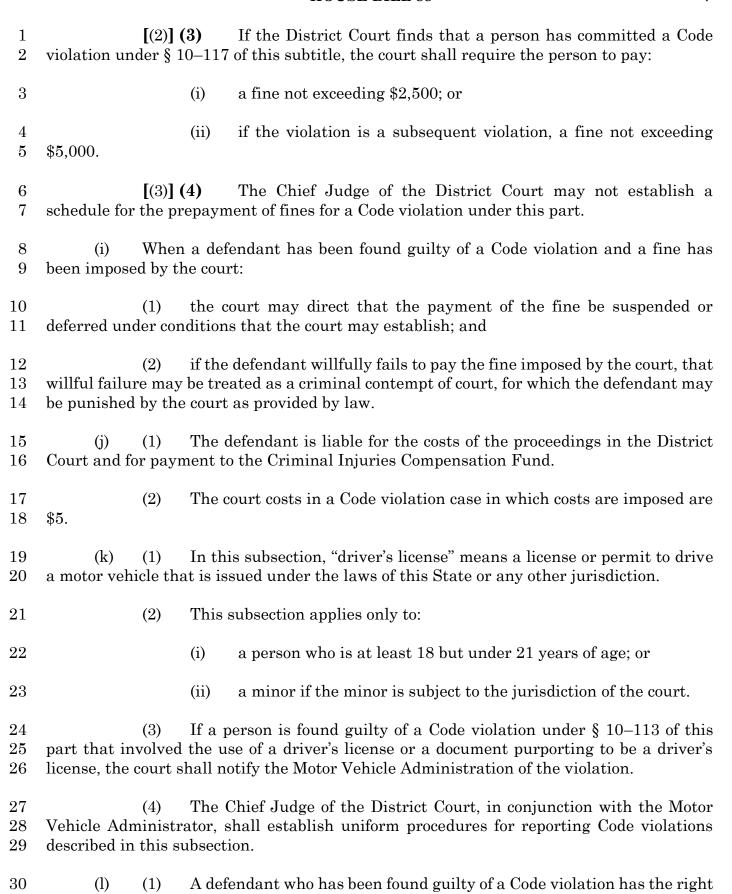
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\$1,000.

(ii)

1	provisions of this section.
2 3 4	(4) Adjudication of a Code violation is not a criminal conviction for any purpose, and it does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.
5	(g) In any proceeding for a Code violation:
6 7 8 9	(1) the State has the burden to prove the guilt of the defendant to the same extent as is required by law in the trial of criminal causes, and in any such proceeding, the court shall apply the evidentiary standards as prescribed by law or rule for the trial of criminal causes;
10 11	(2) the court shall ensure that the defendant has received a copy of the charges against the defendant and that the defendant understands those charges;
12 13 14	(3) the defendant is entitled to cross—examine all witnesses who appear against the defendant, to produce evidence or witnesses on behalf of the defendant, or to testify on the defendant's own behalf, if the defendant chooses to do so;
15 16	(4) the defendant is entitled to be represented by counsel of the defendant's choice and at the expense of the defendant;
17 18	(5) the defendant may enter a plea of guilty or not guilty, and the verdict of the court in the case shall be:
19	(i) guilty of a Code violation; or
20	(ii) not guilty of a Code violation; and
21 22 23	(6) before rendering judgment, the court may place the defendant or probation in the same manner and to the same extent as is allowed by law in the trial of a criminal case.
24 25 26	(h) (1) This subsection does not apply to a person who commits a Code violation under § 6–321 or § 6–322 of the Alcoholic Beverages Article.
27 28 29	(2) Except as provided in paragraph [(2)] (3) of this subsection, if the District Court finds that a person has committed a Code violation, the court shall require the person to pay:
30	(i) a fine not exceeding \$500; or

if the violation is a subsequent violation, a fine not exceeding



to appeal or to file a motion for a new trial or a motion for a revision of a judgment provided

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by law in the trial of a criminal case.

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1	(2) A motion shall be made in the same manner as provided in the trial of
2	criminal cases, and the court, in ruling on the motion has the same authority provided in
3	the trial of criminal cases.
4 5	(m) (1) The State's Attorney for any county may prosecute a Code violation in the same manner as prosecution of a violation of the criminal laws of this State.
6	(2) In a Code violation case the State's Attorney may:
7	(i) enter a nolle prosequi in or place the case on the stet docket; and
8 9	(ii) exercise authority in the same manner as prescribed by law for violation of the criminal laws of this State.
10 11	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.