
By: Montgomery County Delegation

Introduced and read first time: February 1, 1996

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County - Alcoholic Beverages - Sales to Minors and Intoxicated Persons**
3 **MC 603-96**

4 FOR the purpose of specifying that in Montgomery County, the granting of probation
5 before judgment to a licensee or employee of the licensee for violating the law
6 against selling alcoholic beverages to a minor or intoxicated person does not bar the
7 Board of License Commissioners from proceeding administratively against the
8 licensee for the violation; making a certain technical change; and generally relating
9 to the sale of alcoholic beverages to minors or intoxicated persons in Montgomery
10 County.

11 BY repealing and reenacting, with amendments,
12 Article 2B - Alcoholic Beverages
13 Section 12-108
14 Annotated Code of Maryland
15 (1994 Replacement Volume and 1995 Supplement)

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

18 **Article 2B - Alcoholic Beverages**

19 12-108.

20 (a) (1) A licensee licensed under this article, or any employee of the licensee,
21 may not sell or furnish any alcoholic beverages at any time to a person under 21 years of
22 age:

23 (i) For the underage person's own use or for the use of any other
24 person; or

25 (ii) To any person who, at the time of the sale, or delivery, is visibly
26 under the influence of any alcoholic beverage.

27 (2) Any licensee or any employee of the licensee who is charged with a
28 violation of this subsection shall receive a summons to appear in court on a certain day to
29 answer the charges placed against that person. The person charged may not be required
30 to post bail bond pending trial in any court of this State.

1 (3) (i) A licensee or employee of the licensee violating any of the
2 provisions of this subsection is guilty of a misdemeanor and, upon conviction, suffers the
3 penalties provided by § 16-503 of this article.

4 (ii) A licensee or employee of the licensee who is charged with selling
5 or furnishing any alcoholic beverages to a person under 21 years of age may not be found
6 guilty of a violation of this subsection, if the person establishes to the satisfaction of the
7 jury or the court sitting as a jury that the person used due caution to establish that the
8 person under 21 years of age was not, in fact, a person under 21 years of age if a
9 nonresident of the State.

10 (iii) If the person is a resident of the State of Maryland, the licensee or
11 employee of the licensee may accept, as proof of a person's age, the display of the
12 person's driver's license or identification card as provided for in the Maryland Vehicle
13 Law.

14 (iv) Except as OTHERWISE provided in [subsection (e) of] this
15 section, if any licensee or employee of the licensee is found not guilty, or placed on
16 probation without a verdict, of any alleged violation of this subsection, this finding
17 operates as a complete bar to any proceeding by any alcoholic beverage law enforcement
18 or licensing authorities against the licensee on account of the alleged violation.

19 (b) (1) A licensee under the provisions of this article, or any of his employees,
20 in Worcester County, may not sell or furnish any alcoholic beverages to a person under 21
21 years of age, either for his own use or for the use of any other person, or to any person
22 who at the time of the sale, or delivery, is visibly under the influence of alcoholic
23 beverages.

24 (2) Any licensee or employee of a licensee who is charged with a violation of
25 this subsection may be proceeded against in Worcester County either upon a charging
26 document duly issued by the District Court for Worcester County or by an indictment
27 duly returned by the grand jury of that county. Any licensee violating any of the provisions
28 of this subsection is guilty of a misdemeanor and, upon conviction, shall suffer the
29 penalties provided by § 16-503 of this article. However, a licensee charged with selling or
30 furnishing alcoholic beverages to an underaged person may not be found guilty of a
31 violation of this subsection if the person establishes to the satisfaction of the jury or court
32 sitting as a jury that he used due caution to establish that the person was not, in fact,
33 underaged. This subsection applies solely to Worcester County and stands in place and
34 stead of subsection (a) of this section as the subsection applies generally to the counties
35 of this State.

36 (c) (1) This subsection applies only in the following counties:

37 (i) Carroll County;

38 (ii) Frederick County;

39 (iii) Harford County;

40 (iv) Somerset County;

41 (v) Talbot County; and

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1 (vi) Wicomico County.

2 (2) A licensee under the provisions of this article, or any of the licensee's
3 employees, may not sell or furnish any alcoholic beverages at any time to a person under
4 21 years of age, either for that person's own use or for the use of anyother person, or to
5 any person who, at the time of such sale or delivery, is visibly under the influence of any
6 alcoholic beverage.

7 (3) The Liquor Control Board of Harford County may not find a licensee
8 guilty of violating this section if the licensee or employee of the licensee who is accused of
9 selling or furnishing alcoholic beverages to a person under 21 years ofage exercised due
10 caution to establish that the person was not, in fact, a person under 21 years of age.

11 (4) In Harford County, a licensee who is charged with selling or furnishing
12 alcoholic beverages to an underage person may not be found in violationof paragraph (2)
13 of this subsection if the licensee establishes to the satisfaction of the judge, jury, or Liquor
14 Control Board that the licensee used due caution to establish that the person was not, in
15 fact, underage.

16 (5) The provisions of subsection (a) of this section do not apply to the
17 counties which are listed in paragraph (1) of this subsection and the law in these counties
18 shall remain in the same force and effect as if not amended by this section.

19 (d) No licensee, proprietor, or operator of any establishment dispensing alcoholic
20 beverages shall permit the consumption or possession of any alcoholic beverages by a
21 person under the age of twenty-one years upon said premises no matter by whom such
22 alcoholic beverages shall have been purchased or from whom obtained. A violation of this
23 subsection is a misdemeanor punishable by a fine of not more than \$50 in addition to any
24 other penalties provided under this article.

25 (e) Notwithstanding any other provision of this section to the contrary, in Queen
26 Anne's County, if any licensee or employee of the licensee is placed onprobation before
27 judgment for any alleged violation of subsection (a) of this section, this finding may not
28 operate as a bar to any proceeding brought by the Board of License Commissioners
29 against the licensee on account of the alleged violation.

30 (f) In Howard [County,] COUNTY AND MONTGOMERY COUNTY, the granting
31 of probation before judgment to a licensee or employee of the licensee for violating
32 subsection (a) of this section does not bar the Board of License Commissioners from
33 proceeding administratively against the licensee for the violation.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 1996.