
By: **Delegate Benson**

Introduced and read first time: February 12, 1999

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Minors - Possession or Consumption of Alcoholic Beverages - Driver's**
3 **License Sanctions**

4 FOR the purpose of providing that, for purposes of the prohibition against possession
5 of alcoholic beverages by persons under age 21, the driver of a motor vehicle, if
6 the driver is under age 21, is deemed to be in possession of any alcoholic
7 beverages in the vehicle's passenger compartment; requiring the court to order
8 the Motor Vehicle Administration to suspend a minor's license for a certain
9 period of time for certain alcoholic beverages violations, including violations
10 concerning alcohol concentration of a person's blood or breath; requiring the
11 Motor Vehicle Administration to investigate the driving habits, driving ability,
12 and attempts at alcohol treatment of a certain child before reinstating certain
13 driving privileges; reducing a period of a license suspension by a certain amount
14 under certain circumstances; authorizing a police officer issuing a citation to a
15 child for certain alcoholic beverages violations to confiscate the child's license
16 and issue a temporary license to the child under certain circumstances;
17 providing for procedures for a police officer confiscating the license of a minor
18 for certain alcoholic beverages violations; providing for a hearing for a child
19 whose license is confiscated and who is issued a temporary license under
20 provisions of this Act; limiting the hearing to certain issues; providing that a
21 sworn statement provided by a police officer is prima facie evidence of a
22 violation of certain alcoholic beverages violations; providing that the Motor
23 Vehicle Administration may suspend a license under certain circumstances; and
24 generally relating to the possession or consumption of alcoholic beverages by
25 persons under the age 21.

26 BY repealing and reenacting, with amendments,
27 Article 27 - Crimes and Punishments
28 Section 400A
29 Annotated Code of Maryland
30 (1996 Replacement Volume and 1998 Supplement)

31 BY repealing and reenacting, with amendments,
32 Article - Courts and Judicial Proceedings

1 Section 3-820(d) and 3-835
2 Annotated Code of Maryland
3 (1998 Replacement Volume)

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

6 **Article 27 - Crimes and Punishments**

7 400A.

8 (A) It is unlawful for any person under the age of 21 years to have in his
9 possession, or under his charge or control, any alcoholic beverage unless the person is
10 a bona fide employee of the license holder, as defined in Article 2B, and has in his
11 possession, or under his charge or control, alcoholic beverages during regular working
12 hours and in the course of his employment.

13 (B) A PERSON UNDER THE AGE OF 21 YEARS IN THE DRIVER'S SEAT OF A
14 MOTOR VEHICLE IS DEEMED TO POSSESS ANY ALCOHOLIC BEVERAGE IN THE
15 PASSENGER COMPARTMENT OF THE MOTOR VEHICLE.

16 **Article - Courts and Judicial Proceedings**

17 3-820.

18 (d) (1) (i) Subject to the provisions of subparagraphs (ii) and (iv) AND (V)
19 of this paragraph, in making a disposition on a finding that the child has committed
20 the violation specified in a citation, the court may order the Motor Vehicle
21 Administration to initiate an action, under the motor vehicle laws, to suspend the
22 driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle
23 Administration for a specified period of not less than 30 days nor more than 90 days.

24 (ii) In this paragraph "driver's license" means a license or permit to
25 drive a motor vehicle that is issued under the laws of this State or any other
26 jurisdiction.

27 (iii) In making a disposition on a finding that the child has
28 committed a violation under Article 27, § 400 of the Code specified in a citation that
29 involved the use of a driver's license or a document purporting to be a driver's license,
30 the court may order the Motor Vehicle Administration to initiate an action under the
31 Maryland Vehicle Law to suspend the driving privilege of a child licensed to operate a
32 motor vehicle by the Motor Vehicle Administration:

- 33 1. For a first offense, for 6 months; and
34 2. For a second or subsequent offense, until the child is 21
35 years old.

1 (IV) 1. A COURT SHALL ORDER THE MOTOR VEHICLE
2 ADMINISTRATION TO INITIATE AN ACTION IN ACCORDANCE WITH THIS
3 SUBPARAGRAPH IF THE COURT MAKES A DISPOSITION ON A FINDING THAT THE
4 CHILD:

5 A. HAS COMMITTED A VIOLATION UNDER ARTICLE 27, § 400A
6 OF THE CODE SPECIFIED IN A CITATION THAT INVOLVED THE POSSESSION OF
7 ALCOHOLIC BEVERAGES; OR

8 B. HAS DRIVEN OR ATTEMPTED TO DRIVE A MOTOR VEHICLE
9 WITH AN ALCOHOL CONCENTRATION OF 0.02 OR MORE AS DETERMINED BY AN
10 ANALYSIS OF THE PERSON'S BLOOD OR BREATH.

11 2. THE COURT SHALL ORDER THE MOTOR VEHICLE
12 ADMINISTRATION TO INITIATE AN ACTION UNDER THE MARYLAND VEHICLE LAW TO
13 SUSPEND THE DRIVING PRIVILEGE OF A CHILD LICENSED TO OPERATE A MOTOR
14 VEHICLE BY THE MOTOR VEHICLE ADMINISTRATION:

15 A. FOR A FIRST OFFENSE, FOR 90 DAYS;

16 B. FOR A SECOND OFFENSE, FOR 1 YEAR; AND

17 C. FOR A THIRD OR SUBSEQUENT OFFENSE, UNTIL THE
18 CHILD IS 21 YEARS OLD.

19 3. NOTWITHSTANDING THE SUSPENSION PERIODS
20 SPECIFIED IN SUB-SUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE
21 ADMINISTRATION MAY REINSTATE A LICENSE OR PRIVILEGE TO DRIVE ONLY IF,
22 AFTER AN INVESTIGATION OF THE CHILD'S DRIVING HABITS, DRIVING ABILITY, AND
23 ATTEMPTS AT ALCOHOL TREATMENT, THE ADMINISTRATION IS SATISFIED IT WILL
24 BE SAFE TO REINSTATE THE CHILD'S LICENSE OR PRIVILEGE TO DRIVE.

25 4. THE COURT MAY REDUCE THE TIME OF SUSPENSION
26 SPECIFIED IN SUB-SUBPARAGRAPH 1 OF THIS SUBPARAGRAPH BY THE AMOUNT OF
27 TIME THE CHILD'S LICENSE HAS BEEN SUSPENDED BY THE MOTOR VEHICLE
28 ADMINISTRATION UNDER § 3-835 OF THIS ARTICLE.

29 [(iv)] (V) In making a disposition on a finding that the child has
30 committed a violation under § 26-103 of the Education Article, the court shall order
31 the Motor Vehicle Administration to initiate an action, under the motor vehicle laws,
32 to suspend the driving privilege of a child licensed to operate a motor vehicle by the
33 Motor Vehicle Administration for a specified period of not less than 30 days nor more
34 than 90 days.

35 [(v)] (VI) If a child subject to a suspension under this subsection
36 does not hold a license to operate a motor vehicle on the date of the disposition, the
37 suspension shall commence:

38 1. If the child is at least 16 years of age on the date of the
39 disposition, on the date of the disposition; or

1 be printed by the law enforcement agencies of the State and signed by the issuing
2 officer and shall contain:

3 (1) The name, address, and birth date of the child being charged with the
4 violation;

5 (2) The name and address of the child's parent or legal guardian;

6 (3) The statute allegedly violated;

7 (4) The time, place, and date of the violation;

8 (5) The driver's license number of the child, if the child possesses a
9 driver's license;

10 (6) The registration number of the motor vehicle, motorcycle, or other
11 vehicle, if applicable;

12 (7) The signature of the child; and

13 (8) The penalties which may be imposed under § 3-820 of this subtitle.

14 (c) A copy of the citation issued under this section shall be:

15 (1) Given to the child being charged;

16 (2) Retained by the officer issuing the citation;

17 (3) Mailed within 7 days to the child's parent or legal guardian; and

18 (4) Filed with the intake officer of the court having jurisdiction under
19 this subtitle.

20 (D) IF A POLICE OFFICER HAS REASONABLE GROUNDS TO BELIEVE A CHILD IS
21 VIOLATING ARTICLE 27, § 400A OF THE CODE INVOLVING POSSESSION OF ALCOHOLIC
22 BEVERAGES OR DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WITH AN
23 ALCOHOL CONCENTRATION OF 0.02 OR MORE AS DETERMINED BY AN ANALYSIS OF
24 THE PERSON'S BLOOD OR BREATH, THE POLICE OFFICER SHALL:

25 (1) DETAIN THE CHILD;

26 (2) IF THE CHILD HAS A DRIVER'S LICENSE ISSUED BY THE STATE,
27 CONFISCATE THE CHILD'S DRIVER'S LICENSE;

28 (3) IF THE CHILD HAS VIOLATED ARTICLE 27, § 400A OF THE CODE, ISSUE
29 A TEMPORARY LICENSE TO DRIVE;

30 (4) IF THE CHILD HAS VIOLATED ARTICLE 27, § 400A OF THE CODE,
31 INFORM THE CHILD THAT THE TEMPORARY LICENSE ALLOWS THE CHILD TO
32 CONTINUE DRIVING FOR 45 DAYS;

1 (5) INFORM THE CHILD THAT:

2 (I) THE CHILD HAS A RIGHT TO REQUEST, AT THAT TIME OR
3 WITHIN 10 DAYS, A HEARING TO SHOW CAUSE WHY THE DRIVER'S LICENSE SHOULD
4 NOT BE SUSPENDED CONCERNING THE POSSESSION OF ALCOHOLIC BEVERAGES AS
5 PROVIDED FOR IN § 3-820 OF THIS SUBTITLE;

6 (II) IF A HEARING REQUEST IS NOT MADE AT THAT TIME OR WITHIN
7 10 DAYS, BUT IS MADE WITHIN 30 DAYS, A HEARING TO SHOW CAUSE WHY THE
8 DRIVER'S LICENSE SHOULD NOT BE SUSPENDED CONCERNING THE POSSESSION OF
9 ALCOHOLIC BEVERAGES WILL BE SCHEDULED, BUT THE REQUEST DOES NOT
10 EXTEND THE 45 DAY TEMPORARY LICENSE PERIOD; AND

11 (III) ADMINISTRATIVE SANCTIONS SHALL BE IMPOSED IN THE
12 EVENT OF FAILURE TO REQUEST A HEARING, FAILURE TO ATTEND A REQUESTED
13 HEARING, OR UPON AN ADVERSE FINDING BY THE HEARING OFFICER; AND

14 (6) WITHIN 72 HOURS AFTER THE ISSUANCE OF THE ORDER OF
15 SUSPENSION, SEND ANY CONFISCATED DRIVER'S LICENSE, COPY OF THE
16 SUSPENSION ORDER, AND A SWORN STATEMENT TO THE ADMINISTRATION, THAT
17 STATES:

18 1. THE OFFICER HAD REASONABLE GROUNDS TO BELIEVE
19 THAT THE CHILD HAD BEEN IN VIOLATION OF ARTICLE 27, § 400A OF THE CODE
20 CONCERNING THE POSSESSION OF ALCOHOLIC BEVERAGES OR HAD DRIVEN OR
21 ATTEMPTED TO DRIVE A MOTOR VEHICLE WITH AN ALCOHOL CONCENTRATION OF
22 0.02 OR MORE AS DETERMINED BY AN ANALYSIS OF THE PERSON'S BLOOD OR
23 BREATH; AND

24 2. THE CHILD WAS FULLY ADVISED OF THE
25 ADMINISTRATIVE SANCTIONS THAT SHALL BE IMPOSED.

26 (E) (1) AT A HEARING UNDER THIS SECTION, THE CHILD HAS THE RIGHTS
27 DESCRIBED IN § 12-206 OF THE TRANSPORTATION ARTICLE, BUT AT THE HEARING
28 THE ONLY ISSUES SHALL BE:

29 (I) WHETHER THE POLICE OFFICER WHO STOPS OR DETAINS A
30 CHILD HAD REASONABLE GROUNDS TO BELIEVE THE CHILD HAD BEEN IN
31 VIOLATION OF ARTICLE 27, § 400A OF THE CODE CONCERNING THE POSSESSION OF
32 ALCOHOLIC BEVERAGES OR HAD DRIVEN OR ATTEMPTED TO DRIVE A MOTOR
33 VEHICLE WITH AN ALCOHOL CONCENTRATION OF 0.02 OR MORE AS DETERMINED BY
34 AN ANALYSIS OF THE PERSON'S BLOOD OR BREATH; OR

35 (II) WHETHER THERE WAS EVIDENCE OF POSSESSION BY THE
36 CHILD OF ALCOHOL.

37 (2) THE SWORN STATEMENT OF THE POLICE OFFICER SHALL BE PRIMA
38 FACIE EVIDENCE OF A VIOLATION OF ARTICLE 27, § 400A OF THE CODE CONCERNING
39 THE POSSESSION OF ALCOHOLIC BEVERAGES OR HAD DRIVEN OR ATTEMPTED TO

1 DRIVE A MOTOR VEHICLE WITH AN ALCOHOL CONCENTRATION OF 0.02 OR MORE AS
2 DETERMINED BY AN ANALYSIS OF THE PERSON'S BLOOD OR BREATH.

3 (F) AFTER A HEARING, THE ADMINISTRATION SHALL SUSPEND THE DRIVER'S
4 LICENSE OR PRIVILEGE TO DRIVE OF THE CHILD CHARGED UNDER ARTICLE 27, § 400A
5 OF THE CODE OR CHARGED WITH DRIVING OR ATTEMPTING TO DRIVE A MOTOR
6 VEHICLE WITH AN ALCOHOL CONCENTRATION OF 0.02 OR MORE AS DETERMINED BY
7 AN ANALYSIS OF THE PERSON'S BLOOD OR BREATH IF:

8 (1) THE POLICE OFFICER WHO STOPPED OR DETAINED THE CHILD HAD
9 REASONABLE GROUNDS TO BELIEVE THE CHILD HAD BEEN IN VIOLATION OF
10 ARTICLE 27, § 400A OF THE CODE CONCERNING THE POSSESSION OF ALCOHOLIC
11 BEVERAGES OR HAD DRIVEN OR ATTEMPTED TO DRIVE A MOTOR VEHICLE WITH AN
12 ALCOHOL CONCENTRATION OF 0.02 OR MORE AS DETERMINED BY AN ANALYSIS OF
13 THE PERSON'S BLOOD OR BREATH; OR

14 (2) THERE WAS EVIDENCE OF POSSESSION BY THE CHILD OF ALCOHOL.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 1999.