

SENATE BILL 528

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2000 Regular Session
0lr1603
CF 0lr1836

By: **Senators Forehand, Ruben, Green, Hooper, Kelley, Middleton, and
Roesser**

Introduced and read first time: February 4, 2000

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages - Possession and Consumption - Regulation**

3 FOR the purpose of authorizing certain political subdivisions to regulate the
4 possession or consumption of alcoholic beverages on a right-of-way; prohibiting
5 drinking an alcoholic beverage on the property of certain governmental entities;
6 prohibiting drinking an alcoholic beverage in a vehicle being driven or
7 attempted to be driven on public property; making consent or authorization to a
8 person under the age of 21 years to consume an alcoholic beverage under certain
9 circumstances invalid and not a defense; requiring the court to notify the Motor
10 Vehicle Administration of certain convictions or findings of a delinquent act;
11 prohibiting a person from possessing an alcoholic beverage in an open container
12 in a vehicle being driven or attempted to be driven on certain public roadways;
13 creating certain exceptions; requiring the Motor Vehicle Administration to
14 impose certain alcohol restrictions on licensees under the age of 21 years;
15 prohibiting a person from consuming an alcoholic beverage while attempting to
16 drive a motor vehicle on a right-of-way; authorizing a police officer to charge a
17 person with certain alcoholic beverages violations involving a vehicle; altering
18 certain definitions; defining certain terms; making certain stylistic changes;
19 providing for the construction of this Act; and generally relating to criminal
20 violations of alcoholic beverages laws.

21 BY repealing and reenacting, without amendments,
22 Article 2B - Alcoholic Beverages
23 Section 19-101(a)
24 Annotated Code of Maryland
25 (1998 Replacement Volume and 1999 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article 2B - Alcoholic Beverages
28 Section 19-102, 19-103, 19-201 through 19-204, and 19-301 through 19-303
29 Annotated Code of Maryland
30 (1998 Replacement Volume and 1999 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Transportation
3 Section 16-113(b), 21-903, and 26-201
4 Annotated Code of Maryland
5 (1999 Replacement Volume and 1999 Supplement)

6 BY repealing and reenacting, without amendments,
7 Article - Transportation
8 Section 27-101(b)
9 Annotated Code of Maryland
10 (1999 Replacement Volume and 1999 Supplement)

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

13 **Article 2B - Alcoholic Beverages**

14 19-101.

15 (a) A person may not:

16 (1) Be intoxicated and endanger the safety of another person or property;
17 or

18 (2) Be intoxicated or drink any alcoholic beverage in a public place and
19 cause a public disturbance.

20 19-102.

21 Any person who violates the provisions of this [subheading] SUBTITLE is guilty
22 of a misdemeanor and on conviction is subject to a fine not exceeding \$100 or
23 imprisonment not exceeding 90 days, or both.

24 19-103.

25 (a) The subdivisions enumerated in this subsection may adopt ordinances or
26 resolutions supplementing this [subheading] TITLE. This includes the authority to
27 regulate possession or consumption of any alcoholic beverage on any public property,
28 property used by the public in general, or on any highway OR RIGHT-OF-WAY:

29 (1) Anne Arundel County;

30 (2) Baltimore City;

31 (3) Baltimore County;

32 (4) Harford County;

33 (5) Prince George's County;

1 (6) St. Mary's County;

2 (7) Cecil County;

3 (8) Garrett County; and

4 (9) Frederick County.

5 (b) This [subheading] SECTION does not apply in the following subdivisions:

6 (1) Kent County; and

7 (2) Queen Anne's County.

8 (c) In the City of Annapolis and the City of Frederick, the Mayor and
9 Aldermen may regulate within the City limits the possession or consumption of any
10 alcoholic beverages on any public property owned by the City or on any public
11 highway OR RIGHT-OF-WAY.

12 19-201.

13 (a) (1) In this [subheading] SUBTITLE the following word has the meaning
14 indicated.

15 (2) "Public property" includes any building, ground, park, street,
16 highway, RIGHT-OF-WAY, alley, sidewalk, station, terminal or other structure, road or
17 parking area located on land owned, leased, or operated by:

18 (I) [this] THE State[.];

19 (II) [a] A county[.];

20 (III) [a municipality,] A MUNICIPAL CORPORATION;

21 (IV) A BICOUNTY OR MULTICOUNTY AGENCY INCLUDING THE
22 Washington Suburban Sanitary Commission, Maryland-National Capital Park and
23 Planning Commission, [Montgomery County Revenue Authority,] or Washington
24 Metropolitan Area Transit Authority;

25 (V) A PUBLIC AUTHORITY INCLUDING THE MONTGOMERY COUNTY
26 REVENUE AUTHORITY;

27 (VI) A COUNTY BOARD OF EDUCATION; OR

28 (VII) A SPECIAL TAXING DISTRICT.

29 (b) [This subheading] EXCEPT AS PROVIDED IN § 19-202(A)(5) OF THIS
30 SUBTITLE, THIS SUBTITLE does not apply in [the following subdivisions]:

31 (1) Charles County[.];

1 (2) Kent County[.]; AND

2 (3) Queen Anne's County.

3 19-202.

4 (a) A person may not drink any alcoholic beverage, as defined in this article,
5 while:

6 (1) On public property, unless authorized by a governmental entity that
7 has jurisdiction over the property;

8 (2) On the mall, adjacent parking area, or other outside area of any
9 combination of privately owned retail establishments, like a shopping center, where
10 the general public is invited for business purposes, unless authorized by the owner of
11 the shopping center;

12 (3) On an adjacent parking area or other outside area of any other retail
13 establishment, unless authorized by the owner of the establishment; [or]

14 (4) In any parked vehicle located on any of the places enumerated in this
15 subsection, unless authorized; OR

16 (5) IN ANY VEHICLE BEING DRIVEN OR ATTEMPTED TO BE DRIVEN ON
17 PUBLIC PROPERTY.

18 (b) Subsection (a) OF THIS SECTION does not apply to the consumption of
19 alcoholic beverages by passengers:

20 (1) [in] IN the living quarters of a motor home equipped with a toilet
21 and central heating; or

22 (2) [the passengers of a chartered bus] IN A VEHICLE DESIGNED,
23 MAINTAINED, OR USED PRIMARILY FOR TRANSPORTATION OF PERSONS FOR
24 COMPENSATION, IF THE VEHICLE IS in transit [if] AND the owner or AUTHORIZED
25 operator OF THE VEHICLE has consented to the PERSONS' consumption of the
26 beverages.

27 (C) A CONSENT OR AUTHORIZATION TO A PERSON UNDER THE AGE OF 21
28 YEARS TO CONSUME AN ALCOHOLIC BEVERAGE UNDER THIS SUBTITLE IS:

29 (1) INVALID AS A MATTER OF LAW; AND

30 (2) NOT A DEFENSE UNDER THIS SUBTITLE.

31 19-203.

32 As to public property, any local governmental entity that owns or otherwise has
33 jurisdiction over the property may adopt by local law or ordinance, as appropriate,
34 standards providing for the authorization of the consumption of alcoholic beverages,

1 otherwise prohibited by this [subheading] SUBTITLE, and consistent with the
2 intended use of the property by the general public.

3 19-204.

4 (A) Any person who violates the provisions of this [subheading] SUBTITLE is
5 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100.

6 (B) IF A PERSON WAS UNDER THE AGE OF 21 YEARS AT THE TIME OF A
7 VIOLATION OF THIS SUBTITLE INVOLVING A VEHICLE, THE COURT SHALL NOTIFY
8 THE MOTOR VEHICLE ADMINISTRATION OF ANY CONVICTION OR FINDING OF A
9 DELINQUENT ACT RESULTING FROM THE VIOLATION.

10 19-301.

11 [(a) (1) This definition applies only in the following jurisdictions:

12 (i) Carroll County;

13 (ii) Dorchester County;

14 (iii) Harford County; and

15 (iv) Montgomery County.

16 (2) In this section "unless authorized" means the possession and
17 presentation of a written consent by the owner of the property.]

18 (A) IN THIS SUBTITLE, "PUBLIC ROADWAY" MEANS A STREET, HIGHWAY,
19 RIGHT-OF-WAY, ALLEY, ROAD OR PARKING AREA LOCATED ON LAND OWNED,
20 LEASED, OR OPERATED BY:

21 (I) THE STATE;

22 (II) A COUNTY;

23 (III) A MUNICIPAL CORPORATION;

24 (IV) A BICOUNTY OR MULTICOUNTY AGENCY, INCLUDING THE
25 WASHINGTON SUBURBAN SANITARY COMMISSION, MARYLAND-NATIONAL CAPITAL
26 PARK AND PLANNING COMMISSION, OR WASHINGTON METROPOLITAN AREA TRANSIT
27 AUTHORITY;

28 (V) A PUBLIC AUTHORITY INCLUDING THE MONTGOMERY COUNTY
29 REVENUE AUTHORITY;

30 (VI) A COUNTY BOARD OF EDUCATION; OR

31 (VII) A SPECIAL TAXING DISTRICT.

1 (b) (1) (I) THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO HAS
2 THE AUTHORIZATION OF THE OWNER OF THE AFFECTED RETAIL ESTABLISHMENT.

3 (II) IN CARROLL COUNTY, DORCHESTER COUNTY, HARFORD
4 COUNTY, AND MONTGOMERY COUNTY, A PERSON MUST HAVE THE OWNER'S
5 AUTHORIZATION IN WRITING.

6 (2) A person may not possess in an open container any alcoholic
7 beverage, as defined in this article, while:

8 [(1)] (I) On the mall, adjacent parking area, or other outside area of any
9 combination of privately owned retail establishments, commonly known as a shopping
10 center, to which the general public is invited for business purposes[, unless
11 authorized by the owner of the establishment];

12 [(2)] (II) On an adjacent parking area or other outside area of any other
13 retail establishment[, unless authorized by the owner of the establishment]; or

14 [(3)] (III) In any parked vehicle located on any of the places enumerated
15 in this section[, unless authorized].

16 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
17 PERSON MAY NOT POSSESS IN AN OPEN CONTAINER ANY ALCOHOLIC BEVERAGE
18 WHILE IN A VEHICLE BEING DRIVEN OR ATTEMPTED TO BE DRIVEN ON A PUBLIC
19 ROADWAY.

20 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO AN
21 ALCOHOLIC BEVERAGE IN AN OPEN CONTAINER THAT IS:

22 (I) POSSESSED BY A PASSENGER IN THE LIVING QUARTERS OF A
23 MOTOR HOME EQUIPPED WITH A TOILET AND CENTRAL HEATING;

24 (II) POSSESSED BY A PASSENGER OF A VEHICLE DESIGNED,
25 MAINTAINED, OR USED PRIMARILY FOR TRANSPORTATION OF PERSONS FOR
26 COMPENSATION, IF THE VEHICLE IS IN TRANSIT AND THE OWNER OR AUTHORIZED
27 OPERATOR OF THE VEHICLE HAS CONSENTED TO THE POSSESSION OF THE OPEN
28 CONTAINER; OR

29 (III) PLACED IN THE TRUNK OF A VEHICLE, BEHIND THE LAST
30 UPRIGHT SEAT OF A VEHICLE OR IN AN AREA OF A VEHICLE NOT NORMALLY
31 OCCUPIED OR READILY ACCESSIBLE BY A DRIVER OR A PASSENGER OF A VEHICLE.

32 (D) A CONSENT OR AUTHORIZATION TO A PERSON UNDER THE AGE OF 21
33 YEARS TO POSSESS AN ALCOHOLIC BEVERAGE IN AN OPEN CONTAINER UNDER THIS
34 SUBTITLE IS:

35 (1) INVALID AS A MATTER OF LAW; AND

36 (2) NOT A DEFENSE UNDER THIS SUBTITLE.

1 19-302.

2 (A) Any person who violates the provisions of this [subheading] SUBTITLE is
3 guilty of a misdemeanor and upon conviction is subject to a fine not exceeding \$100.

4 (B) IF A PERSON WAS UNDER THE AGE OF 21 YEARS AT THE TIME OF A
5 VIOLATION OF THIS SUBTITLE INVOLVING A VEHICLE, THE COURT SHALL NOTIFY
6 THE MOTOR VEHICLE ADMINISTRATION OF A CONVICTION OR FINDING OF A
7 DELINQUENT ACT RESULTING FROM THE VIOLATION.

8 19-303.

9 (A) [This subheading] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS
10 SECTION, THIS SUBTITLE applies only in [the following counties]:

11 (1) Allegany County;

12 (2) Baltimore County[, including motorcycles located on any of the
13 places enumerated in § 19-301 of this subheading, unless authorized];

14 (3) Calvert County;

15 (4) Carroll County[, including motorcycles located on any of the places
16 enumerated in § 19-301 of this subheading, unless authorized];

17 (5) Cecil County;

18 (6) Charles County;

19 (7) Dorchester County;

20 (8) Frederick County;

21 (9) Garrett County;

22 (10) Harford County;

23 (11) Howard County;

24 (12) Montgomery County;

25 (13) St. Mary's County; and

26 (14) Somerset County.

27 (B) THE PROHIBITION AGAINST POSSESSING IN AN OPEN CONTAINER AN
28 ALCOHOLIC BEVERAGE WHILE IN A VEHICLE BEING DRIVEN OR ATTEMPTED TO BE
29 DRIVEN ON A PUBLIC ROADWAY THAT IS STATED UNDER § 19-301(C) OF THIS
30 SUBTITLE APPLIES THROUGHOUT THE STATE.

Article - Transportation

16-113.

(b) (1) Notwithstanding the licensee's driving record, the Administration shall impose on each licensee under the age of 21 years an alcohol restriction that prohibits the licensee from:

(I) [driving] DRIVING or attempting to drive a motor vehicle with an alcohol concentration of 0.02 or more as determined by an analysis of the licensee's blood or breath;

(II) POSSESSING AN OPEN ALCOHOLIC BEVERAGE CONTAINER IN A MOTOR VEHICLE; OR

(III) CONSUMING AN ALCOHOLIC BEVERAGE IN A MOTOR VEHICLE.

(2) An alcohol restriction imposed under this subsection expires when the licensee reaches the age of 21 years.

(3) This subsection may not be construed or applied to limit:

(i) The authority of the Administration to impose on a licensee an alcohol restriction described in subsection (a)(2) of this section; or

(ii) The application of any other provision of law that prohibits consumption of an alcoholic beverage by an individual under the age of 21 years.

(4) An individual under the age of 21 years who is convicted of a violation of § 21-902(a), (b), or (c) of this article may be required, for a period of not more than 3 years, to participate in the Ignition Interlock System Program in order to retain the individual's driver's license.

21-903.

A person may not consume an alcoholic beverage while driving OR ATTEMPTING TO DRIVE a motor vehicle on a highway OR RIGHT-OF-WAY of this State.

26-201.

(a) A police officer may charge a person with a violation of any of the following, if the officer has probable cause to believe that the person has committed or is committing [the] A violation OF:

(1) The Maryland Vehicle Law, including any rule or regulation adopted under any of its provisions;

(2) A traffic law or ordinance of any local authority;

(3) Title 9, Subtitle 2 of the Tax - General Article;

- 1 (4) Title 9, Subtitle 3 of the Tax - General Article; [or]
- 2 (5) Title 10, Subtitle 4 of the Business Regulation Article;
- 3 (6) ARTICLE 2B, TITLE 19, SUBTITLE 2 OF THE CODE INVOLVING A
4 VEHICLE; OR
- 5 (7) ARTICLE 2B, TITLE 19, SUBTITLE 3 OF THE CODE INVOLVING A
6 VEHICLE.
- 7 (b) A police officer who charges a person under this section shall issue a
8 written traffic citation to the person charged.
- 9 (c) A traffic citation issued to a person under this section shall contain:
- 10 (1) A notice to appear in court, including a notice that, if the offense is
11 not punishable by incarceration, the person may request a hearing regarding
12 sentencing and disposition in lieu of a trial as provided in § 26-204(b)(2) of this
13 subtitle;
- 14 (2) The name and address of the person;
- 15 (3) The number of the person's license to drive, if applicable;
- 16 (4) The State registration number of the vehicle, if applicable;
- 17 (5) The violation charged;
- 18 (6) Unless otherwise to be determined by the court, the time when and
19 place where the person is required to appear in court;
- 20 (7) A statement acknowledging receipt of the citation, to be signed by the
21 person;
- 22 (8) On the side of the citation to be signed by the person, a clear and
23 conspicuous statement that:
- 24 (i) The signing of the citation by the person does not constitute an
25 admission of guilt; and
- 26 (ii) The failure to sign may subject the person to arrest; and
- 27 (9) Any other necessary information.
- 28 (d) Unless the person charged demands an earlier hearing, a time specified in
29 the notice to appear shall be at least 5 days after the alleged violation.
- 30 (e) A place specified in the notice to appear shall be before a judge of the
31 District Court, as specified in § 26-401 of this title.

1 (f) An officer who discovers a vehicle stopped, standing, or parked in violation
2 of § 21-1003 of this article shall:

3 (1) Deliver a citation to the driver or, if the vehicle is unattended, attach
4 a citation to the vehicle in a conspicuous place; and

5 (2) Keep a copy of the citation, bearing his certification under penalty of
6 perjury that the facts stated in the citation are true.

7 (g) (1) A law enforcement officer who discovers a motor vehicle parked in
8 violation of § 13-402 of this article shall:

9 (i) Deliver a citation to the driver or, if the motor vehicle is
10 unattended, attach a citation to the motor vehicle in a conspicuous place; and

11 (ii) Keep a copy of the citation, bearing the law enforcement
12 officer's certification under penalty of perjury that the facts stated in the citation are
13 true.

14 (2) In the absence of the driver, the owner of the motor vehicle is
15 presumed to be the person receiving the citation or warning.

16 27-101.

17 (b) Except as otherwise provided in this section, any person convicted of a
18 misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is
19 subject to a fine of not more than \$500.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
21 construed to conform to the requirements of 23 U.S.C. § 154.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
23 effect October 1, 2000.