

HOUSE BILL 76

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HB 594/00 - JUD

2001 Regular Session
11r0462

(PRE-FILED)

By: **Delegates Petzold, W. Baker, Barkley, Barve, Bobo, Boutin, Brinkley, Bronrott, Cadden, Conroy, Cryor, D'Amato, James, Eckardt, Finifter, Heller, Howard, Goldwater, Hubbard, Hutchins, A. Jones, Kagan, Leopold, Mandel, Menes, Morhaim, Owings, Parrott, Pendergrass, Pitkin, Rawlings, Riley, Rosenberg, Rudolph, Sher, and Stocksdale**

Requested: September 11, 2000

Introduced and read first time: January 10, 2001

Assigned to: Judiciary

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 2000 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article 2B - Alcoholic Beverages

1 Section 19-102, 19-103, 19-201 through 19-204, and 19-301 through 19-303
2 Annotated Code of Maryland
3 (1998 Replacement Volume and 2000 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article - Transportation
6 Section 16-113(b), 21-903, and 26-201
7 Annotated Code of Maryland
8 (1999 Replacement Volume and 2000 Supplement)

9 BY repealing and reenacting, without amendments,
10 Article - Transportation
11 Section 27-101(b)
12 Annotated Code of Maryland
13 (1999 Replacement Volume and 2000 Supplement)

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

16 **Article 2B - Alcoholic Beverages**

17 19-101.

18 (a) A person may not:

19 (1) Be intoxicated and endanger the safety of another person or property;
20 or

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

23 19-102.

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

27 19-103.

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

32 (1) Anne Arundel County;

33 (2) Baltimore City;

- 1 (3) Baltimore County;
- 2 (4) Caroline County;
- 3 (5) Cecil County;
- 4 (6) Charles County;
- 5 (7) Frederick County;
- 6 (8) Garrett County;
- 7 (9) Harford County;
- 8 (10) Prince George's County; and
- 9 (11) St. Mary's County.

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

- 11 (1) Kent County; and
- 12 (2) Queen Anne's County.

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

17 19-201.

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

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

23 (I) [this] THE State[,];

24 (II) [a] A county[,];

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

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

30 (V) A PUBLIC AUTHORITY INCLUDING THE MONTGOMERY COUNTY
31 REVENUE AUTHORITY;

1 (VI) A COUNTY BOARD OF EDUCATION; OR

2 (VII) A SPECIAL TAXING DISTRICT.

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

5 (1) Charles County[.];

6 (2) Kent County[.]; AND

7 (3) Queen Anne's County.

8 19-202.

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

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

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

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

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

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

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

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

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

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

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

1 (2) NOT A DEFENSE UNDER THIS SUBTITLE.

2 19-203.

3 As to public property, any local governmental entity that owns or otherwise has
4 jurisdiction over the property may adopt by local law or ordinance, as appropriate,
5 standards providing for the authorization of the consumption of alcoholic beverages,
6 otherwise prohibited by this [subheading] SUBTITLE, and consistent with the
7 intended use of the property by the general public.

8 19-204.

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

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

15 19-301.

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

17 (i) Caroline County;

18 (ii) Carroll County;

19 (iii) Dorchester County;

20 (iv) Harford County; and

21 (v) Montgomery County.

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

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

27 (1) THE STATE;

28 (2) A COUNTY;

29 (3) A MUNICIPAL CORPORATION;

30 (4) A BICOUNTY OR MULTICOUNTY AGENCY, INCLUDING THE
31 WASHINGTON SUBURBAN SANITARY COMMISSION, MARYLAND-NATIONAL CAPITAL
32 PARK AND PLANNING COMMISSION, OR WASHINGTON METROPOLITAN AREA TRANSIT
33 AUTHORITY;

1 (5) A PUBLIC AUTHORITY INCLUDING THE MONTGOMERY COUNTY
2 REVENUE AUTHORITY;

3 (6) A COUNTY BOARD OF EDUCATION; OR

4 (7) A SPECIAL TAXING DISTRICT.

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

7 (II) IN CAROLINE COUNTY, CARROLL COUNTY, DORCHESTER
8 COUNTY, HARFORD COUNTY, AND MONTGOMERY COUNTY, A PERSON MUST HAVE
9 THE OWNER'S AUTHORIZATION IN WRITING.

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

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

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

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

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

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

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

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

33 (III) PLACED IN THE TRUNK OF A VEHICLE BEHIND THE LAST
34 UPRIGHT SEAT OF A VEHICLE OR IN AN AREA OF A VEHICLE NOT NORMALLY
35 OCCUPIED OR READILY ACCESSIBLE BY A DRIVER OR A PASSENGER OF A VEHICLE.

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

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

5 (2) NOT A DEFENSE UNDER THIS SUBTITLE.

6 19-302.

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

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

13 19-303.

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

16 (1) Allegany County;

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

19 (3) Calvert County;

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

22 (5) Cecil County;

23 (6) Charles County;

24 (7) Dorchester County;

25 (8) Frederick County;

26 (9) Garrett County;

27 (10) Harford County;

28 (11) Howard County;

29 (12) Montgomery County;

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

1 (14) Somerset County.

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

6 **Article - Transportation**

7 16-113.

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

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

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

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

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

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

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

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

24 (4) An individual under the age of 21 years who is convicted of a violation
25 of § 21-902(a), (b), or (c) of this article may be required, for a period of not more than
26 3 years, to participate in the Ignition Interlock System Program in order to retain the
27 individual's driver's license.

28 21-903.

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

31 26-201.

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

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

1 (d) Unless the person charged demands an earlier hearing, a time specified in
2 the notice to appear shall be at least 5 days after the alleged violation.

3 (e) A place specified in the notice to appear shall be before a judge of the
4 District Court, as specified in § 26-401 of this title.

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

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

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

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

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

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

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

20 27-101.

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

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

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
27 effect October 1, 2001.