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By: **Delegates Barkley, Boschert, Bronrott, Burns, Cole, Giannetti, Gladden,  
Grosfeld, Hutchins, Menes, Petzold, Valderrama, and Vallario**

Introduced and read first time: February 2, 2001

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages - Underage Violations - Misdemeanors**

3 FOR the purpose of altering certain underage alcoholic beverages violations from civil  
4 offenses to misdemeanors; altering the amount a court may charge a defendant  
5 for court costs in a proceeding for certain underage alcoholic beverages  
6 violations; establishing that a court may place a defendant on probation before  
7 judgment for certain alcoholic beverages offenses; making stylistic changes; and  
8 generally relating to underage alcoholic beverages violations.

9 BY repealing and reenacting, without amendments,  
10 Article 27 - Crimes and Punishments  
11 Section 400, 400B, 401, 401A, and 401B  
12 Annotated Code of Maryland  
13 (1996 Replacement Volume and 2000 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article 27 - Crimes and Punishments  
16 Section 400A and 403  
17 Annotated Code of Maryland  
18 (1996 Replacement Volume and 2000 Supplement)

19 BY repealing and reenacting, without amendments,  
20 Article - Transportation  
21 Section 16-206(c)(3)  
22 Annotated Code of Maryland  
23 (1999 Replacement Volume and 2000 Supplement)

24 BY repealing and reenacting, with amendments,  
25 Article - Transportation  
26 Section 16-206(c)(4)  
27 Annotated Code of Maryland  
28 (1999 Replacement Volume and 2000 Supplement)

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

3 **Article 27 - Crimes and Punishments**

4 400.

5 It is unlawful for a person to knowingly and willfully make a misrepresentation  
6 or false statement as to the age of that person or another to any person licensed to sell  
7 alcoholic beverages or engaged in the sale of alcoholic beverages, for the purpose of  
8 unlawfully obtaining, procuring, having unlawfully furnished to a person, or inducing  
9 to unlawfully furnish to a person an alcoholic beverage.

10 400A.

11 It is unlawful for any person under the age of 21 years to have in [his] THE  
12 PERSON'S possession, or under [his] THE PERSON'S charge or control, any alcoholic  
13 beverage unless the person is a bona fide employee of the license holder, as defined in  
14 Article 2B, and has in [his] THE PERSON'S possession, or under [his] THE PERSON'S  
15 charge or control, alcoholic beverages during regular working hours and in the course  
16 of [his] THE PERSON'S employment.

17 400B.

18 An individual under the age of 21 years may not possess a card or document that  
19 falsely identifies the age of the individual under circumstances that reasonably  
20 indicate an intention to violate the provisions of this subheading.

21 401.

22 It is unlawful for any person to obtain any alcoholic beverages from any person  
23 licensed to sell alcoholic beverages for consumption by any person under 21 years of  
24 age, knowing that the person is under 21 years of age.

25 401A.

26 (a) Except as provided in subsection (c) of this section, a person may not  
27 furnish any alcoholic beverage to another person if:

28 (1) The person furnishing the beverage knows that the person is under  
29 21 years of age; and

30 (2) The alcoholic beverage is furnished for the purpose of consumption by  
31 the person under 21 years of age.

32 (b) Except as provided in subsection (c) of this section, an adult may not  
33 knowingly and willfully allow an individual under 21 years of age to actually possess  
34 or consume an alcoholic beverage at the residence, or within the curtilage of the  
35 residence, that:

1 (1) The adult owns and in which the adult resides; or

2 (2) The adult leases as a tenant and in which the adult resides.

3 (c) (1) The prohibition set forth in subsection (a) of this section does not  
4 apply if the person furnishing the alcoholic beverage and the person to whom the  
5 alcoholic beverage is served:

6 (i) Are members of the same immediate family, and the beverage is  
7 furnished and consumed in a private residence or within the curtilage of the  
8 residence; or

9 (ii) Are participants in a religious ceremony.

10 (2) The prohibition set forth in subsection (b) of this section does not  
11 apply if the adult allowing the possession or consumption of the alcoholic beverage  
12 and the individual under the age of 21 years who possesses or consumes the alcoholic  
13 beverage:

14 (i) Are members of the same immediate family, and the beverage is  
15 possessed and consumed in a private residence, or within the curtilage of the  
16 residence, of the adult; or

17 (ii) Are participants in a religious ceremony.

18 401B.

19 (a) Except for a person licensed as an alcoholic beverages licensee under  
20 Article 2B of the Code that possesses a keg in the course of that person's business, a  
21 person may not knowingly:

22 (1) Possess a keg that has not been registered under or does not have a  
23 registration form affixed to it as required by Article 2B, § 21-106 of the Code; or

24 (2) Remove, alter, or obliterate, or allow to be removed, altered, or  
25 obliterated, a registration form that is affixed to a keg.

26 (b) A person may not permit an individual under 21 years of age to consume  
27 any of the contents of a keg purchased by that person.

28 403.

29 (a) For purposes of this section, a violation of [the provisions of this  
30 subheading is deemed]:

31 (1) § 400, § 400A, OR §400B OF THIS SUBHEADING IS a Code violation and  
32 is a civil offense; AND

33 (2) § 401, § 401A, OR § 401B OF THIS SUBHEADING IS A MISDEMEANOR.

1 (b) A law enforcement officer authorized to make arrests shall issue a citation  
2 to a person if the officer has probable cause to believe that [a] THE person is  
3 committing or has committed a Code violation OR A MISDEMEANOR UNDER THIS  
4 SUBHEADING.

5 (c) (1) A citation issued under this section shall be signed by the issuing  
6 officer and shall contain:

7 (i) The name and address of the person charged;

8 (ii) The person's signature;

9 (iii) The statute allegedly violated;

10 (iv) The date, location, and time that the violation occurred;

11 (v) The fine that may be imposed;

12 (vi) A notice stating that prepayment of the fine is not permitted;

13 and

14 (vii) A notice stating that the District Court shall promptly send the  
15 person a summons to appear for trial.

16 (2) The form of the citation issued under this section should be uniform  
17 throughout the State and shall be as prescribed by the District Court.

18 (d) The Chief Judge of the District Court may not establish a schedule for the  
19 prepayment of fines.

20 (e) (1) The issuing jurisdiction shall forward to the District Court having  
21 venue a copy of the citation and a request for a trial.

22 (2) The District Court shall promptly schedule the case for trial and  
23 summon the defendant to appear. The defendant's failure to respond to the summons  
24 shall be contempt of court.

25 (f) (1) If a person is found by the District Court to have committed a Code  
26 violation OR A MISDEMEANOR UNDER THIS SUBHEADING, that person shall be  
27 required to pay a fine in an amount not to exceed \$500.

28 (2) If the violation is a repeat offense, that person shall be required to  
29 pay a fine in an amount not to exceed \$1,000.

30 (3) (i) In this paragraph "driver's license" means a license or permit to  
31 drive a motor vehicle that is issued under the laws of this State or any other  
32 jurisdiction.

33 (ii) This paragraph applies only to:

34 1. A person who is at least 18 but under 21 years of age; or



1 (I) THE COURT SHALL ENSURE THAT THE DEFENDANT HAS  
2 RECEIVED A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE  
3 DEFENDANT UNDERSTANDS THOSE CHARGES. IN SUCH PROCEEDINGS, THE  
4 DEFENDANT IS ENTITLED TO CROSS-EXAMINE ALL WITNESSES WHO APPEAR  
5 AGAINST THE DEFENDANT, TO PRODUCE EVIDENCE OR WITNESSES IN THE  
6 DEFENDANT'S OWN BEHALF, OR TO TESTIFY IN THE DEFENDANT'S OWN BEHALF, IF  
7 THE DEFENDANT ELECTS TO DO SO; AND

8 (II) THE DEFENDANT IS ENTITLED TO BE REPRESENTED BY  
9 COUNSEL OF THE DEFENDANT'S OWN SELECTION AND AT THE DEFENDANT'S OWN  
10 EXPENSE.

11 (2) BEFORE RENDERING A JUDGMENT, THE COURT MAY PLACE THE  
12 DEFENDANT ON PROBATION FOR A FIRST OFFENSE ONLY.

13 (i) The court costs in a Code violation OR A MISDEMEANOR case UNDER THIS  
14 SUBHEADING in which costs are imposed are [\$5] THOSE DEEMED APPROPRIATE BY  
15 THE COURT. A defendant is liable for payment to the Criminal Injuries Compensation  
16 Fund.

17 (j) When a defendant has been found guilty of a Code violation OR A  
18 MISDEMEANOR UNDER THIS SUBHEADING and a fine has been imposed by the court,  
19 the court may direct that the payment of the fine be suspended or deferred under  
20 such conditions as the court may establish. When any defendant has been found  
21 guilty of a Code violation UNDER § 400, § 400A, OR § 400B OF THIS SUBHEADING and  
22 willfully fails to pay the fine imposed by the court, that willful failure may be treated  
23 as a criminal contempt of court, for which the defendant may be punished by the court  
24 as provided by law.

25 (k) A defendant who has been found guilty of a Code violation has the right to  
26 appeal or to file a motion for a new trial or a motion for a revision of a judgment  
27 provided by law in the trial of a criminal case. The motions shall be made in the same  
28 manner provided in the trial of criminal cases, and the court, in ruling on the motions,  
29 has the same authority provided in the trial of criminal cases.

30 (l) The State's Attorney of any county may prosecute a Code violation in the  
31 same manner as prosecution of a violation of the criminal laws of this State. The  
32 State's Attorney is authorized to enter a nolle prosequi in such cases or to place such  
33 cases on the stet docket, and to exercise authority in the same manner prescribed by  
34 law for violation of the criminal laws of this State.

### 35 **Article - Transportation**

36 16-206.

37 (c) (3) On receipt of a notice described under Article 27, § 403(f) of the Code,  
38 the administration shall suspend the license of an individual described under Article  
39 27, § 403(f) of the Code:

40 (i) For a first offense, for 6 months; and

1                   (ii)       For a second or subsequent offense, until the individual is 21  
2 years old or for a period of 1 year, whichever is longer.

3                   (4)       If an individual subject to a suspension under paragraph (3) of this  
4 subsection does not hold a license to operate a motor vehicle on the date that the  
5 individual is found guilty of a Code violation UNDER ARTICLE 27, § 400 OF THE CODE,  
6 the suspension shall begin on the date that the license is issued, or after the  
7 individual applies and becomes qualified to receive a license, or on the individual's  
8 twenty-first birthday, whichever occurs first.

9       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2001.