

SENATE BILL 553

Emergency Bill

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2001 Regular Session
1r1348

By: **Senator Colburn**

Introduced and read first time: February 2, 2001

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Caroline County - Alcoholic Beverages - Disciplinary Proceedings Against**
3 **Licensees**

4 FOR the purpose of excepting Caroline County from the counties in which an
5 alcoholic beverages law enforcement or licensing authority may not proceed
6 against a licensee when the licensee or an employee of the licensee has been
7 found not guilty or given probation without a verdict in a criminal proceeding for
8 selling alcoholic beverages to a minor or an intoxicated person; excepting
9 Caroline County from the counties in which a certain bail bond prohibition and
10 a certain defense apply in a criminal proceeding against a licensee or employee
11 for selling alcoholic beverages to a minor or an intoxicated person; establishing
12 that in Caroline County the granting of probation before judgment to a licensee
13 or employee for selling alcoholic beverages to a minor or an intoxicated person
14 does not bar the Board of License Commissioners from proceeding
15 administratively against the licensee for the violation; making this Act an
16 emergency measure; and generally relating to disciplinary proceedings in
17 Caroline County against an alcoholic beverages licensee for selling alcoholic
18 beverages to a minor or an intoxicated person.

19 BY repealing and reenacting, without amendments,
20 Article 2B - Alcoholic Beverages
21 Section 12-108(a) and (c)(2) and (5)
22 Annotated Code of Maryland
23 (1998 Replacement Volume and 2000 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article 2B - Alcoholic Beverages
26 Section 12-108(c)(1) and (f)
27 Annotated Code of Maryland
28 (1998 Replacement Volume and 2000 Supplement)

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

Article 2B - Alcoholic Beverages

12-108.

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

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

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

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

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

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

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

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

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

(i) CAROLINE COUNTY;

(II) Carroll County;

[(ii)] (III) Frederick County;

[(iii)] (IV) Harford County;

- 1 [(iv)] (V) Somerset County;
2 [(v)] (VI) Talbot County; and
3 [(vi)] (VII) Wicomico County.

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

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

12 (f) (1) This subsection applies in the following jurisdictions:

- 13 (i) CAROLINE COUNTY;
14 (II) Dorchester County;
15 [(ii)] (III) Garrett County;
16 [(iii)] (IV) Howard County;
17 [(iv)] (V) Kent County;
18 [(v)] (VI) Montgomery County; and
19 [(vi)] (VII) St. Mary's County.

20 (2) The granting of probation before judgment to a licensee or employee
21 of the licensee for violating subsection (a) OR (C) of this section does not bar the Board
22 of License Commissioners from proceeding administratively against the licensee for
23 the violation.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
25 measure, is necessary for the immediate preservation of the public health and safety,
26 has been passed by a ye and nay vote supported by three-fifths of all the members
27 elected to each of the two Houses of the General Assembly, and shall take effect from
28 the date it is enacted.