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By: **Delegates Barkley and Petzold**  
Introduced and read first time: February 7, 2002  
Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Alcoholic Beverages - Sale to Underage Drinker or Intoxicated Person -**  
3                                   **Citation**

4 FOR the purpose of authorizing a police officer to issue a citation for the unlawful sale  
5 of an alcoholic beverage to an underage drinker or an intoxicated person; and  
6 generally relating to the sale of alcoholic beverages to underage drinkers or  
7 intoxicated persons.

8 BY repealing and reenacting, without amendments,  
9 Article 2B - Alcoholic Beverages  
10 Section 12-108  
11 Annotated Code of Maryland  
12 (2001 Replacement Volume)

13 BY repealing and reenacting, with amendments,  
14 Article - Criminal Procedure  
15 Section 4-101(b)  
16 Annotated Code of Maryland  
17 (2001 Volume)

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

20                                   **Article 2B - Alcoholic Beverages**

21 12-108.

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

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

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

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

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

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

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

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

25 (b) (1) A licensee under the provisions of this article, or any of his  
26 employees, in Worcester County, may not sell or furnish any alcoholic beverages to a  
27 person under 21 years of age, either for his own use or for the use of any other person,  
28 or to any person who at the time of the sale, or delivery, is visibly under the influence  
29 of alcoholic beverages.

30 (2) Any licensee or employee of a licensee who is charged with a violation  
31 of this subsection may be proceeded against in Worcester County either upon a  
32 charging document duly issued by the District Court for Worcester County or by an  
33 indictment duly returned by the grand jury of that county. Any licensee violating any  
34 of the provisions of this subsection is guilty of a misdemeanor and, upon conviction,  
35 shall suffer the penalties provided by § 16-503 of this article. However, a licensee  
36 charged with selling or furnishing alcoholic beverages to an underaged person may  
37 not be found guilty of a violation of this subsection if the person establishes to the  
38 satisfaction of the jury or court sitting as a jury that he used due caution to establish  
39 that the person was not, in fact, underaged. This subsection applies solely to  
40 Worcester County and stands in place and stead of subsection (a) of this section as the  
41 subsection applies generally to the counties of this State.

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

- 1 (i) Carroll County;
- 2 (ii) Frederick County;
- 3 (iii) Harford County;
- 4 (iv) Somerset County;
- 5 (v) Talbot County; and
- 6 (vi) Wicomico County.

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

12 (3) The Liquor Control Board of Harford County may not find a licensee  
13 guilty of violating this section if the licensee or employee of the licensee who is  
14 accused of selling or furnishing alcoholic beverages to a person under 21 years of age  
15 exercised due caution to establish that the person was not, in fact, a person under 21  
16 years of age.

17 (4) In Harford County, a licensee who is charged with selling or  
18 furnishing alcoholic beverages to an underage person may not be found in violation of  
19 paragraph (2) of this subsection if the licensee establishes to the satisfaction of the  
20 judge, jury, or Liquor Control Board that the licensee used due caution to establish  
21 that the person was not, in fact, underage.

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

25 (d) No licensee, proprietor, or operator of any establishment dispensing  
26 alcoholic beverages shall permit the consumption or possession of any alcoholic  
27 beverages by a person under the age of twenty-one years upon said premises no  
28 matter by whom such alcoholic beverages shall have been purchased or from whom  
29 obtained. A violation of this subsection is a misdemeanor punishable by a fine of not  
30 more than \$50 in addition to any other penalties provided under this article.

31 (e) Notwithstanding any other provision of this section to the contrary, in  
32 Queen Anne's County, if any licensee or employee of the licensee is placed on  
33 probation before judgment for any alleged violation of subsection (a) of this section,  
34 this finding may not operate as a bar to any proceeding brought by the Board of  
35 License Commissioners against the licensee on account of the alleged violation.

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

- 37 (i) Dorchester County;

- 1 (ii) Garrett County;
- 2 (iii) Howard County;
- 3 (iv) Kent County;
- 4 (v) Montgomery County; and
- 5 (vi) St. Mary's County.

6 (2) The granting of probation before judgment to a licensee or employee  
7 of the licensee for violating subsection (a) of this section does not bar the Board of  
8 License Commissioners from proceeding administratively against the licensee for the  
9 violation.

#### 10 **Article - Criminal Procedure**

11 4-101.

12 (b) (1) Subject to paragraph (2) of this subsection, in addition to any other  
13 law allowing a crime to be charged by citation, a police officer may issue a citation for:

14 (i) SALE OF AN ALCOHOLIC BEVERAGE TO AN UNDERAGE  
15 DRINKER OR INTOXICATED PERSON UNDER ARTICLE 2B, § 12-108 OF THE CODE;

16 (II) malicious destruction of property under Article 27, § 111(b) of  
17 the Code, if the amount of damage to the property is less than \$500;

18 [(ii)] (III) disturbing the peace or disorderly conduct under Article  
19 27, § 121 of the Code; or

20 [(iii)] (IV) misdemeanor theft under Article 27, § 342(f)(2) of the  
21 Code.

22 (2) A police officer may issue a citation to a defendant if the police officer  
23 is satisfied with the defendant's evidence of identity and reasonably believes that the  
24 defendant will comply with the citation.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2002.