

HOUSE BILL 813

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HB 484/01 - JUD

2002 Regular Session
2lr0417

By: **Delegates Barkley, Barve, Boschert, Bronrott, Cole, Grosfeld, Hutchins,
Kopp, Mandel, Menes, Petzold, Sher, and Stern**

Introduced and read first time: February 7, 2002

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of changing certain underage alcoholic beverage violations from civil
4 offenses to misdemeanors; and generally relating to certain underage alcoholic
5 beverages violations.

6 BY repealing and reenacting, without amendments,
7 Article 2B - Alcoholic Beverages
8 Section 22-101, 22-102, 22-103, 22-104, 22-105, and 22-106
9 Annotated Code of Maryland
10 (1998 Replacement Volume and 2001 Supplement)
11 (As enacted by Chapter __ (H.B. 11) of the Acts of the General Assembly of 2002)

12 BY repealing and reenacting, with amendments,
13 Article 2B - Alcoholic Beverages
14 Section 22-107
15 Annotated Code of Maryland
16 (1998 Replacement Volume and 2001 Supplement)
17 (As enacted by Chapter __ (H.B. 11) of the Acts of the General Assembly of 2002)

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 22-101.

22 An individual may not knowingly and willfully make a misrepresentation or
23 false statement as to the age of that individual or another to any person licensed to
24 sell alcoholic beverages or engaged in the sale of alcoholic beverages, for the purpose
25 of unlawfully obtaining, procuring, or having unlawfully furnished an alcoholic
26 beverage to an individual.

1 22-102.

2 An individual under the age of 21 years may not possess or have under the
3 individual's charge or control an alcoholic beverage unless the individual is a bona
4 fide employee of the license holder and the alcoholic beverage is in the possession or
5 under the charge or control of the individual in the course of the individual's
6 employment and during regular working hours.

7 22-103.

8 An individual under the age of 21 years may not possess a card or document that
9 falsely identifies the age of the individual under circumstances that reasonably
10 indicate an intention to violate the provisions of this subtitle.

11 22-104.

12 An individual may not obtain an alcoholic beverage from any person licensed to
13 sell alcoholic beverages for consumption by another who the individual obtaining the
14 beverage knows is under the age of 21 years.

15 22-105.

16 (a) Except as provided in subsection (c) of this section, a person may not
17 furnish an alcoholic beverage to an individual if:

18 (1) The person furnishing the beverage knows that the individual is
19 under the age of 21 years; and

20 (2) The beverage is furnished for the purpose of consumption by the
21 individual under the age of 21 years.

22 (b) Except as provided in subsection (c) of this section, an adult may not
23 knowingly and willfully allow an individual under the age of 21 years actually to
24 possess or consume an alcoholic beverage at a residence, or within the curtilage of a
25 residence, that the adult owns or leases and in which the adult resides.

26 (c) (1) The prohibition set forth in subsection (a) of this section does not
27 apply if the person furnishing the alcoholic beverage and the individual to whom the
28 alcoholic beverage is furnished:

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

32 (ii) Are participants in a religious ceremony.

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

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

4 (ii) Are participants in a religious ceremony.

5 22-106.

6 (a) Except for a person licensed as an alcoholic beverages licensee under this
7 article that possesses a keg in the course of that person's business, a person may not
8 knowingly:

9 (1) Possess a keg that has not been registered under or does not have a
10 registration form affixed to it as required by § 21-106 of this article; or

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

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

15 22-107.

16 (a) A person who violates §§ 22-101 through 22-106 of this subtitle shall be
17 issued a citation under this section.

18 (b) A citation for a violation of §§ 22-101 through 22-106 of this subtitle may
19 be issued by:

20 (1) A police officer authorized to make arrests;

21 (2) In State forestry reservations, State parks, historic monuments, and
22 recreation areas, a forest or park warden under § 5-206(a) of the Natural Resources
23 Article; and

24 (3) In Anne Arundel County, Frederick County, Harford County,
25 Montgomery County, and Prince George's County, an alcoholic beverages inspector
26 who investigates license violations under this article if the inspector:

27 (i) Has successfully completed an appropriate program of training
28 in the proper use of arrest authority and pertinent police procedures as required by
29 the board of license commissioners; and

30 (ii) Does not carry firearms in the performance of the inspector's
31 duties.

32 (c) A person authorized under this section to issue a citation shall issue it if
33 the person has probable cause to believe that person charged is committing or has
34 committed a Code violation OR A MISDEMEANOR UNDER THIS SUBTITLE.

1 (d) (1) Subject to paragraph (2) of this subsection, the form of citation shall
2 be as prescribed by the District Court and shall be uniform throughout the State.

3 (2) The citation shall contain:

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

5 (ii) The statute allegedly violated;

6 (iii) The location, date, and time that the violation occurred;

7 (iv) The fine that may be imposed;

8 (v) A notice stating that prepayment of the fine is not allowed;

9 (vi) A notice that the District Court shall promptly send the person
10 charged a summons to appear for trial;

11 (vii) The signature of the person issuing the citation; and

12 (viii) A space for the person charged to sign the citation.

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

15 (2) (I) The District Court shall promptly schedule the case for trial and
16 summon the defendant to appear.

17 (II) Failure of the defendant to respond to the summons is contempt
18 of court.

19 (f) (1) For purposes of this section, a violation of:

20 (I) §§ 22-101 through [22-106] 22-103 of this subtitle is a Code
21 violation and is a civil offense; AND

22 (II) §§ 22-104 THROUGH 22-106 OF THIS SUBTITLE IS A
23 MISDEMEANOR.

24 (2) A person charged who is under the age of 18 years shall be subject to
25 the procedures and dispositions provided in Title 3, Subtitle 8A of the Courts Article.

26 (3) A person charged who is at least 18 years old shall be subject to the
27 provisions of this section.

28 (4) Adjudication of a Code violation is not a criminal conviction for any
29 purpose, and it does not impose any of the civil disabilities ordinarily imposed by a
30 criminal conviction.

31 (g) In any proceeding for a Code violation:

1 (1) The State has the burden to prove the guilt of the defendant to the
2 same extent as is required by law in the trial of criminal causes, and in any such
3 proceeding, the court shall apply the evidentiary standards as prescribed by law or
4 rule for the trial of criminal causes;

5 (2) The court shall ensure that the defendant has received a copy of the
6 charges against the defendant and that the defendant understands those charges[.];

7 (3) [In the proceedings, the] THE defendant is entitled to cross-examine
8 all witnesses who appear against the defendant, to produce evidence or witnesses on
9 behalf of the defendant, or to testify on the defendant's own behalf, if the defendant
10 chooses to do so;

11 [(3)] (4) The defendant is entitled to be represented by counsel of the
12 defendant's choice and at the expense of the defendant; and

13 [(4)] (5) The defendant may enter a plea of guilty or not guilty, and the
14 verdict of the court in the case shall be:

15 (i) Guilty of a Code violation;

16 (ii) Not guilty of a Code violation; or

17 (iii) Before rendering judgment, the court may place the defendant
18 on probation in the same manner and to the same extent as is allowed by law in the
19 trial of a criminal case.

20 (H) IN A PROCEEDING FOR A MISDEMEANOR UNDER THIS SUBTITLE:

21 (1) THE COURT SHALL ENSURE THAT THE DEFENDANT RECEIVED A
22 COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE DEFENDANT
23 UNDERSTANDS THOSE CHARGES;

24 (2) THE DEFENDANT IS ENTITLED TO CROSS-EXAMINE ALL WITNESSES
25 WHO APPEAR AGAINST THE DEFENDANT, TO PRODUCE EVIDENCE OR WITNESSES ON
26 BEHALF OF THE DEFENDANT, OR TO TESTIFY ON THE DEFENDANT'S OWN BEHALF, IF
27 THE DEFENDANT CHOOSES TO DO SO; AND

28 (3) THE DEFENDANT IS ENTITLED TO BE REPRESENTED BY COUNSEL OF
29 THE DEFENDANT'S CHOICE AND AT THE EXPENSE OF THE DEFENDANT.

30 [(h)] (I) (1) If [the District Court finds that a person has committed] A
31 PERSON IS FOUND GUILTY OF a Code violation OR A MISDEMEANOR UNDER THIS
32 SUBTITLE, the court shall require the person to pay:

33 (i) A fine not exceeding \$500; or

34 (ii) If the violation is a repeat violation, a fine not exceeding \$1,000.

35 (2) The Chief Judge of the District Court may not establish a schedule
36 for the prepayment of fines.

1 [(i)] (J) When a defendant has been found guilty of a Code violation and a
2 fine has been imposed by the court:

3 (1) The court may direct that the payment of the fine be suspended or
4 deferred under conditions that the court may establish; and

5 (2) If the defendant willfully fails to pay the fine imposed by the court,
6 that willful failure may be treated as a criminal contempt of court, for which the
7 defendant may be punished by the court as provided by law.

8 [(j)] (K) (1) The defendant is liable for the costs of the proceedings in the
9 District Court and for payment to the Criminal Injuries Compensation Fund.

10 (2) The court costs in a Code violation case in which costs are imposed
11 are \$5.

12 [(k)] (L) (1) In this subsection "driver's license" means a license or permit to
13 drive a motor vehicle that is issued under the laws of this State or any other
14 jurisdiction.

15 (2) This subsection applies only to:

16 (i) A person who is at least 18 but under 21 years of age; or

17 (ii) A minor if the minor is subject to the jurisdiction of the court.

18 (3) If a person is found guilty of a Code violation under § 22-101 of this
19 subtitle that involved the use of a driver's license or a document purporting to be a
20 driver's license, the court shall notify the Motor Vehicle Administration of the
21 violation.

22 (4) The Chief Judge of the District Court, in conjunction with the Motor
23 Vehicle Administrator, shall establish uniform procedures for reporting Code
24 violations described in this subsection.

25 [(l)] (M) (1) A defendant who has been found guilty of a Code violation has
26 the right to appeal or to file a motion for a new trial or a motion for a revision of a
27 judgment provided by law in the trial of a criminal case.

28 (2) [A] IN A PROCEEDING FOR A CODE VIOLATION, A motion shall be
29 made in the same manner as provided in the trial of criminal cases, and the court, in
30 ruling on the motion has the same authority provided in the trial of criminal cases.

31 [(m)] (N) (1) The State's Attorney of any county may prosecute a Code
32 violation in the same manner as prosecution of a violation of the criminal laws of this
33 State.

34 (2) In a Code violation case the State's Attorney may:

35 (i) Enter a nolle prosequi in or place the case on the stet docket;

36 and

1 (ii) Exercise authority in the same manner as prescribed by law for
2 violation of the criminal laws of this State.

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