

HOUSE BILL 1083

Unofficial Copy
A2

2003 Regular Session
3r2397
CF 3r2560

By: **Delegates V. Clagett and McMillan**
Introduced and read first time: February 21, 2003
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **City of Annapolis - Alcoholic Beverages Licensing - Enforcement**

3 FOR the purpose of specifying that if an alcoholic beverages licensee or employee of
4 the licensee in the City of Annapolis is placed on probation before judgment for
5 a certain alleged violation, the placement does not bar the Annapolis Alcoholic
6 Beverage Control Board from taking certain action; authorizing the City of
7 Annapolis to provide that a violation of a certain provision of law is a municipal
8 infraction; altering the penalty for the violation of certain provisions;
9 authorizing the Annapolis Police Department to serve certain summonses;
10 authorizing the Annapolis Board of License Commissioners to impose a certain
11 fine, license suspension, or both under certain conditions; and generally relating
12 to alcoholic beverages in the City of Annapolis.

13 BY repealing and reenacting, without amendments,
14 Article 2B - Alcoholic Beverages
15 Section 12-108(a)
16 Annotated Code of Maryland
17 (2001 Replacement Volume and 2002 Supplement)

18 BY adding to
19 Article 2B - Alcoholic Beverages
20 Section 12-108(e-1)
21 Annotated Code of Maryland
22 (2001 Replacement Volume and 2002 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article 2B - Alcoholic Beverages
25 Section 12-202(b), 16-410(b)(2), and 16-507(c)(2)
26 Annotated Code of Maryland
27 (2001 Replacement Volume and 2002 Supplement)

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

1

Article 2B - Alcoholic Beverages

2 12-108.

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

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

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

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

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

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

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

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

32 (E-1) (1) THIS SUBSECTION APPLIES IN THE CITY OF ANNAPOLIS
33 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION.

34 (2) IF A LICENSEE OR EMPLOYEE OF A LICENSEE IS PLACED ON
35 PROBATION BEFORE JUDGMENT FOR AN ALLEGED VIOLATION OF SUBSECTION (A) OF
36 THIS SECTION, THE PLACEMENT DOES NOT BAR THE ALCOHOLIC BEVERAGE
37 CONTROL BOARD FROM PROCEEDING ADMINISTRATIVELY AGAINST THE LICENSEE
38 FOR THE ALLEGED VIOLATION.

1 (3) THE CITY COUNCIL MAY PROVIDE BY ORDINANCE THAT A VIOLATION
2 OF SUBSECTION (A)(3)(I) OF THIS SECTION IS A MUNICIPAL INFRACTION.

3 12-202.

4 (b) (1) It is unlawful for any licensee or other person to sell spirituous,
5 fermented or intoxicating liquor or to sell, give directly or indirectly, dispose of, barter,
6 furnish, hand over or deliver, within the corporate limits of the City of Annapolis, or
7 within 5 miles of the City, any alcoholic beverages other than beer and light wine in
8 any quantity whatever to any person under the age of 21 years for use by the
9 underage person or for the use of any other person, either with or without the written
10 order or consent of the parent or guardian of the person.

11 (2) Any person violating the provisions of this subsection is guilty of A
12 MUNICIPAL INFRACTION AS PROVIDED IN THE CODE OF THE CITY OF ANNAPOLIS OR
13 a misdemeanor[, and upon conviction shall be fined not more than \$100, or be
14 imprisoned in jail for not more than 60 days, or be both fined and imprisoned in the
15 discretion of the court].

16 (3) If any underage person wilfully represents that he is of full age and
17 obtains any spirituous liquors, and the person selling the spirituous liquor is able to
18 prove at the trial such misrepresentation, and that due caution was used in
19 ascertaining the age of the underage person before giving the alcohol to the underage
20 person and that in the exercise of reasonable caution he was deceived by the use of
21 documentary evidence and that for this reason he was unable to ascertain that the
22 underage person was in fact an underage person, then the person selling to the
23 underage person shall be acquitted of the charge.

24 16-410.

25 (b) (2) (i) All summonses shall be served by the sheriff, except that:

26 1. IN THE CITY OF ANNAPOLIS, SUMMONSES MAY ALSO BE
27 SERVED BY THE ANNAPOLIS POLICE DEPARTMENT;

28 2. In Anne Arundel County, summonses may also be served
29 by inspectors employed by the Board and by the Anne Arundel County Police
30 Department; and

31 [2.] 3. In Baltimore City, summonses may also be served by
32 inspectors employed by the Board of Liquor License Commissioners for Baltimore
33 City.

34 (ii) If any witness summoned refuses or neglects to attend, or if
35 attending, refuses to testify, the official issuing the summons shall report the facts to
36 the circuit court for the county. The court shall proceed by attachment against the
37 witness in all respects as if the witness summoned to appear in the court in a case
38 pending before it had neglected or refused to do so.

1 16-507.

2 (c) (2) In the City of Annapolis, the Board of License Commissioners may
3 impose a fine of not more than \$1,000 [in lieu of suspension of] OR a license
4 SUSPENSION OR BOTH for any violation that is cause for suspension under the
5 alcoholic beverage laws of the city.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2003.