

HOUSE BILL 1083

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A2

2003 Regular Session  
3lr2397  
CF 3lr2560

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By: ~~Delegates V. Clagett and McMillan~~ Anne Arundel County Delegation

Introduced and read first time: February 21, 2003  
Assigned to: Rules and Executive Nominations  
Re-referred to: Economic Matters, February 27, 2003

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 18, 2003

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CHAPTER \_\_\_\_\_

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~~ violations of a certain provision provisions  
8 of law ~~is a~~ are municipal infraction infractions; altering the penalty for the  
9 violation of certain provisions of law; authorizing the Annapolis Police  
10 Department to serve certain summonses; ~~authorizing the Annapolis Board of~~  
11 ~~License Commissioners to impose a certain fine, license suspension, or both~~  
12 ~~under certain conditions;~~ and generally relating to alcoholic beverages in the  
13 City of Annapolis.

14 BY repealing and reenacting, without amendments,  
15 Article 2B - Alcoholic Beverages  
16 Section 12-108(a)  
17 Annotated Code of Maryland  
18 (2001 Replacement Volume and 2002 Supplement)

19 BY adding to  
20 Article 2B - Alcoholic Beverages  
21 Section 12-108(e-1)  
22 Annotated Code of Maryland  
23 (2001 Replacement Volume and 2002 Supplement)

1 BY repealing and reenacting, with amendments,  
2 Article 2B - Alcoholic Beverages  
3 Section 12-202(b), and 16-410(b)(2), ~~and 16-507(e)(2)~~  
4 Annotated Code of Maryland  
5 (2001 Replacement Volume and 2002 Supplement)

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

8 **Article 2B - Alcoholic Beverages**

9 12-108.

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

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

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

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

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

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

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

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

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

3 ~~(2) IF A LICENSEE OR EMPLOYEE OF A LICENSEE IS PLACED ON~~  
4 ~~PROBATION BEFORE JUDGMENT FOR AN ALLEGED VIOLATION OF SUBSECTION (A) OF~~  
5 ~~THIS SECTION, THE PLACEMENT DOES NOT BAR THE ALCOHOLIC BEVERAGE~~  
6 ~~CONTROL BOARD FROM PROCEEDING ADMINISTRATIVELY AGAINST THE LICENSEE~~  
7 ~~FOR THE ALLEGED VIOLATION.~~

8 ~~(3)~~ (2) THE CITY COUNCIL MAY PROVIDE BY ORDINANCE THAT A  
9 VIOLATION OF SUBSECTION (A)(3)(I) OF THIS SECTION IS A MUNICIPAL INFRACTION.

10 12-202.

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

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

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

31 16-410.

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

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

35 2. In Anne Arundel County, summonses may also be served  
36 by inspectors employed by the Board and by the Anne Arundel County Police  
37 Department; and

1 [2.] 3. In Baltimore City, summonses may also be served by  
2 inspectors employed by the Board of Liquor License Commissioners for Baltimore  
3 City.

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

9 ~~46-507.~~

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

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