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By: **Senators Green and Giannetti**

Introduced and read first time: January 16, 2006

Assigned to: Education, Health, and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County - Alcoholic Beverages - Bottle Clubs**

3 FOR the purpose of prohibiting a bottle club in Prince George's County or an agent or  
4 employee of a bottle club from giving, serving, dispensing, keeping, or allowing  
5 to be consumed on the premises alcoholic beverages or certain other items after  
6 closing hours for certain establishments licensed to sell alcoholic beverages;  
7 prohibiting nudity and certain sexual displays from occurring at bottle clubs;  
8 establishing that a violation of this Act is a Code violation for which an inspector  
9 of the Board of License Commissioners may issue a civil citation; specifying the  
10 conditions under which an inspector shall issue a citation; providing for the form  
11 and contents of a citation; specifying that adjudication of a Code violation is not  
12 a criminal conviction for any purpose and does not impose any of the civil  
13 disabilities ordinarily imposed by a criminal conviction; providing for  
14 proceedings and procedures for adjudicating a Code violation; specifying certain  
15 civil penalties and court costs; providing for the jurisdiction of the District Court  
16 for certain violations under this Act; defining a certain term; and generally  
17 relating to bottle clubs in Prince George's County.

18 BY repealing and reenacting, with amendments,  
19 Article 2B - Alcoholic Beverages  
20 Section 16-408  
21 Annotated Code of Maryland  
22 (2005 Replacement Volume)

23 BY adding to  
24 Article 2B - Alcoholic Beverages  
25 Section 20-108.1  
26 Annotated Code of Maryland  
27 (2005 Replacement Volume)

28 BY repealing and reenacting, with amendments,  
29 Article - Courts and Judicial Proceedings  
30 Section 4-401(10)(xii) and (xiii)  
31 Annotated Code of Maryland

1 (2002 Replacement Volume and 2005 Supplement)

2 BY adding to  
3 Article - Courts and Judicial Proceedings  
4 Section 4-401(10)(xiv)  
5 Annotated Code of Maryland  
6 (2002 Replacement Volume and 2005 Supplement)

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

9 **Article 2B - Alcoholic Beverages**

10 16-408.

11 (A) The inspectors in Anne Arundel County, Frederick County, Harford  
12 County, Montgomery County, and Prince George's County who investigate license  
13 violations under this article may issue civil citations as provided in § 10-119 of the  
14 Criminal Law Article.

15 (B) THE INSPECTORS IN PRINCE GEORGE'S COUNTY MAY ISSUE CIVIL  
16 CITATIONS AS PROVIDED IN § 20-108.1 OF THIS ARTICLE.

17 20-108.1.

18 (A) (1) IN THIS SECTION, "BOTTLE CLUB" MEANS AN ESTABLISHMENT THAT  
19 SERVES, GIVES, OR ALLOWS ALCOHOLIC BEVERAGES TO BE CONSUMED BY PATRONS  
20 FROM SUPPLIES THAT THE PATRONS PREVIOUSLY PURCHASED OR RESERVED.

21 (2) "BOTTLE CLUB" DOES NOT INCLUDE AN ESTABLISHMENT FOR  
22 WHICH A LICENSE UNDER THIS ARTICLE HAS BEEN ISSUED.

23 (B) THIS SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

24 (C) A BOTTLE CLUB OR AN AGENT OR EMPLOYEE OF A BOTTLE CLUB MAY NOT  
25 GIVE, SERVE, DISPENSE, KEEP, OR ALLOW TO BE CONSUMED ON THE PREMISES  
26 ALCOHOLIC BEVERAGES OR OTHER COMPONENT PARTS OF MIXED ALCOHOLIC  
27 DRINKS AFTER LEGAL CLOSING HOURS FOR ESTABLISHMENTS UNDER § 11-303 OF  
28 THIS ARTICLE.

29 (D) THE PROHIBITIONS AGAINST NUDITY AND SEXUAL DISPLAYS UNDER §  
30 10-405 OF THIS ARTICLE APPLY TO BOTTLE CLUBS.

31 (E) A VIOLATION OF THIS SECTION IS A CODE VIOLATION AND A CIVIL  
32 OFFENSE.

33 (F) AN INSPECTOR OF THE BOARD OF LICENSE COMMISSIONERS SHALL ISSUE  
34 A CITATION IF THE INSPECTOR HAS PROBABLE CAUSE TO BELIEVE THAT THE

1 PERSON CHARGED IS COMMITTING OR HAS COMMITTED A VIOLATION OF THIS  
2 SECTION.

3 (G) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE FORM OF  
4 CITATION ISSUED TO AN ADULT SHALL BE AS PRESCRIBED BY THE DISTRICT COURT.

5 (2) THE CITATION ISSUED TO AN ADULT SHALL CONTAIN:

6 (I) THE NAME AND ADDRESS OF THE PERSON CHARGED;

7 (II) THE STATUTE ALLEGEDLY VIOLATED;

8 (III) THE LOCATION, DATE, AND TIME THAT THE VIOLATION  
9 OCCURRED;

10 (IV) THE FINE THAT MAY BE IMPOSED;

11 (V) A NOTICE STATING THAT PREPAYMENT OF THE FINE IS NOT  
12 ALLOWED;

13 (VI) A NOTICE THAT THE DISTRICT COURT SHALL PROMPTLY SEND  
14 THE PERSON CHARGED A SUMMONS TO APPEAR FOR TRIAL;

15 (VII) THE SIGNATURE OF THE PERSON ISSUING THE CITATION; AND

16 (VIII) A SPACE FOR THE PERSON CHARGED TO SIGN THE CITATION.

17 (H) (1) THE INSPECTOR WHO ISSUES A CITATION SHALL FORWARD A COPY  
18 OF THE CITATION AND A REQUEST FOR TRIAL TO THE DISTRICT COURT.

19 (2) (I) THE DISTRICT COURT SHALL PROMPTLY SCHEDULE THE CASE  
20 FOR TRIAL AND SUMMON THE DEFENDANT TO APPEAR.

21 (II) WILLFUL FAILURE OF THE DEFENDANT TO RESPOND TO THE  
22 SUMMONS IS CONTEMPT OF COURT.

23 (3) ADJUDICATION OF A CODE VIOLATION IS NOT A CRIMINAL  
24 CONVICTION FOR ANY PURPOSE, AND IT DOES NOT IMPOSE ANY OF THE CIVIL  
25 DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

26 (I) IN ANY PROCEEDING FOR A CODE VIOLATION:

27 (1) THE STATE HAS THE BURDEN TO PROVE THE GUILT OF THE  
28 DEFENDANT TO THE SAME EXTENT AS IS REQUIRED BY LAW IN THE TRIAL OF  
29 CRIMINAL CAUSES, AND IN ANY SUCH PROCEEDING, THE COURT SHALL APPLY THE  
30 EVIDENTIARY STANDARDS AS PRESCRIBED BY LAW OR RULE FOR THE TRIAL OF  
31 CRIMINAL CAUSES;

32 (2) THE COURT SHALL ENSURE THAT THE DEFENDANT HAS RECEIVED A  
33 COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE DEFENDANT  
34 UNDERSTANDS THOSE CHARGES;

5 (4) THE DEFENDANT IS ENTITLED TO BE REPRESENTED BY COUNSEL OF  
6 THE DEFENDANT'S CHOICE AND AT THE EXPENSE OF THE DEFENDANT; AND

7 (5) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY,  
8 AND THE VERDICT OF THE COURT IN THE CASE SHALL BE:

9 (I) GUILTY OF A CODE VIOLATION; OR

10 (II) NOT GUILTY OF A CODE VIOLATION.

11 (J) BEFORE RENDERING JUDGMENT, THE COURT MAY PLACE THE  
12 DEFENDANT ON PROBATION IN THE SAME MANNER AND TO THE SAME EXTENT AS IS  
13 ALLOWED BY LAW IN THE TRIAL OF A CRIMINAL CASE.

14 (K) IF THE DISTRICT COURT FINDS THAT A PERSON HAS COMMITTED A CODE  
15 VIOLATION, THE COURT SHALL REQUIRE THE PERSON TO PAY:

16 (1) A FINE NOT EXCEEDING \$5,000; OR

17 (2) IF THE VIOLATION IS A SUBSEQUENT VIOLATION, A FINE NOT  
18 EXCEEDING \$10,000.

19 (L) WHEN A DEFENDANT HAS BEEN FOUND GUILTY OF A CODE VIOLATION  
20 AND A FINE HAS BEEN IMPOSED BY THE COURT:

21 (1) THE COURT MAY DIRECT THAT THE PAYMENT OF THE FINE BE  
22 SUSPENDED OR DEFERRED UNDER CONDITIONS THAT THE COURT MAY ESTABLISH;  
23 AND

24 (2) IF THE DEFENDANT WILLFULLY FAILS TO PAY THE FINE IMPOSED  
25 BY THE COURT, THAT WILLFUL FAILURE MAY BE TREATED AS A CRIMINAL  
26 CONTEMPT OF COURT, FOR WHICH THE DEFENDANT MAY BE PUNISHED BY THE  
27 COURT AS PROVIDED BY LAW.

28 (M) (1) THE DEFENDANT IS LIABLE FOR THE COSTS OF THE PROCEEDINGS  
29 IN THE DISTRICT COURT AND FOR PAYMENT TO THE CRIMINAL INJURIES  
30 COMPENSATION FUND.

31 (2) THE COURT COSTS IN A CODE VIOLATION CASE IN WHICH COSTS ARE  
32 IMPOSED ARE \$20.

## 1 Article - Courts and Judicial Proceedings

2 4-401.

3 Except as provided in § 4-402 of this subtitle, and subject to the venue  
4 provisions of Title 6 of this article, the District Court has exclusive original civil  
5 jurisdiction in:

6 (10) A proceeding for adjudication of:

7 (xii) A violation under Title 10, Subtitle 1, Part III of the Criminal  
8 Law Article; [or]9 (xiii) A civil infraction relating to the storage of tobacco products  
10 under Article 24, Title 15 of the Code; OR11 (XIV) A CIVIL INFRACTION UNDER ARTICLE 2B, § 20-108.1 OF THE  
12 CODE.13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
14 effect June 1, 2006.