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By: **Senators Ruben, Forehand, Hollinger, Jacobs, Kramer, Lawlah, Stone,  
and Teitelbaum**

Introduced and read first time: January 25, 2006

Assigned to: Education, Health, and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2                           **Alcoholic Beverages - Removal of a Partially Consumed Bottle of Wine from**  
3                           **a Licensed Premises**

4 FOR the purpose of allowing a person who purchases at a licensed premises a meal  
5 and a bottle of wine, the contents of which are partially consumed with the meal,  
6 to remove the bottle and its contents from the licensed premises under certain  
7 circumstances; stating that a bottle of wine removed from a licensed premises in  
8 accordance with this Act is an open container for purposes of a certain provision  
9 of law concerning the possession of open containers of alcohol in a motor vehicle;  
10 and generally relating to the consumption of wine.

11 BY adding to  
12 Article 2B - Alcoholic Beverages  
13 Section 12-107.1  
14 Annotated Code of Maryland  
15 (2005 Replacement Volume)

16 BY repealing and reenacting, without amendments,  
17 Article - Criminal Law  
18 Section 10-123(i) and (j) and 10-125  
19 Annotated Code of Maryland  
20 (2002 Volume and 2005 Supplement)

21 BY repealing and reenacting, without amendments,  
22 Article - Transportation  
23 Section 21-903(a)(3)  
24 Annotated Code of Maryland  
25 (2002 Replacement Volume and 2005 Supplement)

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

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**Article 2B - Alcoholic Beverages**

2 12-107.1.

3 (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A PERSON  
4 WHO PURCHASES AT A LICENSED PREMISES A MEAL AND A BOTTLE OF WINE, THE  
5 CONTENTS OF WHICH ARE PARTIALLY CONSUMED WITH THE MEAL, MAY REMOVE  
6 THE BOTTLE AND ITS CONTENTS FROM THE LICENSED PREMISES IF THE LICENSE  
7 HOLDER OR AN EMPLOYEE OF THE LICENSE HOLDER INSERTS A CORK IN THE  
8 BOTTLE SO THAT THE TOP OF THE CORK IS LEVEL WITH THE LIP OF THE BOTTLE.

9 (B) A BOTTLE OF WINE THAT IS REMOVED FROM THE LICENSED PREMISES  
10 UNDER SUBSECTION (A) OF THIS SECTION IS AN "OPEN CONTAINER" FOR PURPOSES  
11 OF § 10-125 OF THE CRIMINAL LAW ARTICLE.

12

**Article - Criminal Law**

13 10-123.

14 (i) "Open container" means a bottle, can, or other receptacle:

15 (1) that is open;

16 (2) that has a broken seal; or

17 (3) from which the contents are partially removed.

18 (j) "Passenger area" has the meaning stated in § 21-903 of the Transportation  
19 Article.

20 10-125.

21 (a) (1) Except as otherwise provided in subsection (c) of this section, an  
22 occupant of a motor vehicle may not possess an open container that contains any  
23 amount of an alcoholic beverage in a passenger area of a motor vehicle on a highway.

24 (2) A driver of a motor vehicle may not be subject to prosecution for a  
25 violation of this subsection based solely on possession of an open container that  
26 contains any amount of an alcoholic beverage by another occupant of the motor  
27 vehicle.

28 (b) (1) This subsection does not apply to the driver of a motor vehicle.

29 (2) Except as otherwise provided in subsection (c) of this section, an  
30 occupant of a motor vehicle may not consume an alcoholic beverage in a passenger  
31 area of a motor vehicle on a highway.

32 (c) Subsections (a)(1) and (b)(2) of this section do not apply to an occupant,  
33 who is not the driver, in:

1 (1) a motor vehicle designed, maintained, and used primarily for the  
2 transportation of a person for compensation, including:

3 (i) a bus;

4 (ii) a taxicab; or

5 (iii) a limousine; or

6 (2) the living quarters of a motor home, motor coach, or recreational  
7 vehicle.

8 (d) Notwithstanding Article 2B, Title 19 of the Code or any other provision of  
9 law, the prohibitions contained in this section apply throughout the State.

10 (e) A violation of this section is not:

11 (1) a moving violation for the purposes of § 16-402 of the Transportation  
12 Article; or

13 (2) a traffic violation for the purposes of the Maryland Vehicle Law.

14 **Article - Transportation**

15 21-903.

16 (a) (3) (i) "Passenger area" means an area that:

17 1. Is designed to seat the driver and any passenger of a motor  
18 vehicle while the motor vehicle is in operation; or

19 2. Is readily accessible to the driver or a passenger of a motor  
20 vehicle while in their seating positions.

21 (ii) "Passenger area" does not include:

22 1. A locked glove compartment;

23 2. The trunk of a motor vehicle; or

24 3. If a motor vehicle is not equipped with a trunk, the area  
25 behind the rearmost upright seat or an area that is not normally occupied by the  
26 driver or a passenger of the motor vehicle.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 July 1, 2006.