

SB1036/514138/1

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL 1036
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “for” in line 5 down through “law” in line 6 and substitute “if a certain person alleges that the licensee has sold or furnished alcoholic beverages to a person under a certain age under certain circumstances”; in line 6, after “effect” insert “not longer than”; strike beginning with “specifying” in line 7 down through “license” in line 8 and substitute “requiring the Board to hold a hearing and give notice within a certain time; requiring that the licensee be allowed to resume the sale of alcoholic beverages under certain circumstances; specifying that this Act does not prevent a licensee from seeking certain relief”; and in line 13, after “10-401(a)(2)” insert “, 12-108(a), and 16-405”.

AMENDMENT NO. 2

On page 3, after line 32, insert:

“12-108.

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

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

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

(Over)

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

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

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

(iii) The licensee or employee of the licensee may accept, as proof of a person's age:

1. If the person is a resident of the State, the person's driver's license or identification card as provided for in the Maryland Vehicle Law; or
2. A United States military identification card.

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

AMENDMENT NO. 3

On page 4, strike beginning with “FOR” in line 6 down through “LICENSE.” in line 10 and substitute “IF A PERSON AUTHORIZED UNDER § 16-405 OF THIS ARTICLE ALLEGES THAT THE LICENSEE HAS SOLD OR FURNISHED ALCOHOLIC BEVERAGES TO A PERSON UNDER THE AGE OF 21 YEARS WITH SUCH FREQUENCY AND DURING SUCH A LIMITED TIME PERIOD SO AS TO DEMONSTRATE A WILLFUL FAILURE TO COMPLY WITH § 12-108(A) OF THIS ARTICLE.

(II) A SUSPENSION UNDER THIS PARAGRAPH MAY NOT EXCEED 7 DAYS.

(III) IF A LICENSE IS SUSPENDED UNDER THIS PARAGRAPH, THE BOARD SHALL:

1. HOLD A HEARING ON THE MATTER WITHIN 7 DAYS AFTER THE SUSPENSION; AND

2. GIVE NOTICE TO THE LICENSEE AT LEAST 2 DAYS BEFORE THE HEARING.

(IV) IF THE BOARD FAILS TO PROVIDE THE LICENSEE WITH NOTICE OF A HEARING BEFORE THE END OF THE FIFTH DAY FOLLOWING A SUSPENSION, THE SUSPENSION SHALL END, AND THE LICENSEE SHALL BE ALLOWED TO RESUME THE SALE OF ALCOHOLIC BEVERAGES ON THE NEXT DAY ALLOWED UNDER THE LICENSE.

(V) THIS PARAGRAPH DOES NOT PREVENT A LICENSEE WHOSE LICENSE IS SUSPENDED UNDER THIS PARAGRAPH FROM SEEKING AN INJUNCTION OR OTHER APPROPRIATE RELIEF.”;

(Over)

and after line 10, insert:

“16-405.

The Comptroller, his duly authorized deputies, inspectors and clerks, the board of license commissioners of the county or the city in which the place of business is located, its duly authorized agents and employees, and any peace officer of such county or city, or any of them, shall be fully authorized to inspect and search, without warrant, at all hours, any building, vehicle and premises in which any alcoholic beverages are authorized to be kept, transported, manufactured or sold under a license or permit issued under the provisions of this article, and any evidence discovered during any such inspections shall be admissible in any prosecution for the violation of the provisions of this or any other article, or upon any hearing for revocation, suspension or restriction of the license or permit. Any alcoholic beverages taken as evidence shall be returned to the license or permit holder if he be adjudged not guilty; otherwise it shall be sold to license holders, turned over to State institutions for medicinal use or destroyed. Receipts from such sales shall be credited to the general fund account of the State, county or Baltimore City as the case may be.”.