

HOUSE BILL 89

R4

71r0414

By: **Delegates Shewell, Anderson, Dwyer, Eckardt, Frank, George, Jennings, Kach, Krebs, McDonough, Minnick, Shank, Stocksdale, and Walkup**

Introduced and read first time: January 22, 2007

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverage Violations – Driver’s License Suspensions**

3 FOR the purpose of clarifying the elements of a certain alcoholic beverage Code
4 violation concerning a person furnishing an alcoholic beverage to an individual
5 under the age of 21 years; requiring a court to notify the Motor Vehicle
6 Administration of certain alcoholic beverage Code violations; requiring the
7 Court of Appeals, in conjunction with the Motor Vehicle Administrator, to
8 establish certain procedures for reporting certain violations; authorizing the
9 Administration to suspend the driver’s license of a person who is found guilty of
10 certain alcoholic beverage Code violations; providing certain exceptions for
11 persons subject to certain other penalties; and generally relating to driver’s
12 license suspensions for certain alcoholic beverage Code violations.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Law
15 Section 10–117 and 10–119(l) and (m)
16 Annotated Code of Maryland
17 (2002 Volume and 2006 Supplement)

18 BY adding to
19 Article – Criminal Law
20 Section 10–119(l)
21 Annotated Code of Maryland
22 (2002 Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Transportation
3 Section 16–206.2
4 Annotated Code of Maryland
5 (2006 Replacement Volume and 2006 Supplement)

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

8 **Article – Criminal Law**

9 10–117.

10 (a) Except as provided in subsection (c) of this section, a person may not
11 **KNOWINGLY AND WILLFULLY** furnish an alcoholic beverage to an individual [if:

12 (1) the person furnishing the alcoholic beverage knows that the
13 individual is under the age of 21 years; and

14 (2) the alcoholic beverage is furnished for the purpose of consumption
15 by the individual under the age of 21 years]**UNDER THE AGE OF 21 YEARS FOR THE**
16 **PURPOSE OF CONSUMPTION BY THE INDIVIDUAL UNDER THE AGE OF 21 YEARS.**

17 (b) Except as provided in subsection (c) of this section, an adult may not
18 knowingly and willfully allow an individual under the age of 21 years actually to
19 possess or consume an alcoholic beverage at a residence, or within the curtilage of a
20 residence that the adult owns or leases and in which the adult resides.

21 (c) (1) The prohibition set forth in subsection (a) of this section does not
22 apply if the person furnishing the alcoholic beverage and the individual to whom the
23 alcoholic beverage is furnished:

24 (i) are members of the same immediate family, and the
25 alcoholic beverage is furnished and consumed in a private residence or within the
26 curtilage of the residence; or

27 (ii) are participants in a religious ceremony.

28 (2) The prohibition set forth in subsection (b) of this section does not
29 apply if the adult allowing the possession or consumption of the alcoholic beverage and
30 the individual under the age of 21 years who possesses or consumes the alcoholic
31 beverage:

1 (i) are members of the same immediate family, and the
2 alcoholic beverage is possessed and consumed in a private residence, or within the
3 curtilage of the residence, of the adult; or

4 (ii) are participants in a religious ceremony.

5 10–119.

6 **(L) (1) IF A PERSON IS FOUND GUILTY OF KNOWINGLY AND**
7 **WILLFULLY FURNISHING AN ALCOHOLIC BEVERAGE TO AN INDIVIDUAL UNDER**
8 **THE AGE OF 21 YEARS OR KNOWINGLY AND WILLFULLY ALLOWING THE**
9 **POSSESSION OR CONSUMPTION OF AN ALCOHOLIC BEVERAGE BY AN**
10 **INDIVIDUAL UNDER THE AGE OF 21 YEARS AT THE PERSON’S RESIDENCE IN**
11 **VIOLATION OF § 10–117 OF THIS PART, THE COURT SHALL NOTIFY THE MOTOR**
12 **VEHICLE ADMINISTRATION OF THE VIOLATION.**

13 **(2) THE COURT OF APPEALS, IN CONJUNCTION WITH THE MOTOR**
14 **VEHICLE ADMINISTRATOR, SHALL ESTABLISH UNIFORM PROCEDURES FOR**
15 **REPORTING CODE VIOLATIONS DESCRIBED IN THIS SUBSECTION.**

16 **[(1)] (M) (1)** A defendant who has been found guilty of a Code violation
17 has the right to appeal or to file a motion for a new trial or a motion for a revision of a
18 judgment provided by law in the trial of a criminal case.

19 (2) A motion shall be made in the same manner as provided in the
20 trial of criminal cases, and the court, in ruling on the motion has the same authority
21 provided in the trial of criminal cases.

22 **[(m)] (N) (1)** The State’s Attorney for any county may prosecute a Code
23 violation in the same manner as prosecution of a violation of the criminal laws of this
24 State.

25 (2) In a Code violation case the State’s Attorney may:

26 (i) enter a nolle prosequi in or place the case on the stet docket;
27 and

28 (ii) exercise authority in the same manner as prescribed by law
29 for violation of the criminal laws of this State.

Article – Transportation**16-206.2.**

(A) SUBJECT TO THE PROVISIONS OF SUBSECTIONS (B) AND (C) OF THIS SECTION, ON RECEIPT OF A NOTICE DESCRIBED UNDER § 10-119(L) OF THE CRIMINAL LAW ARTICLE, THE ADMINISTRATION MAY:

(1) FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S LICENSE OF THE PERSON CONVICTED OF THE VIOLATION FOR NOT MORE THAN 6 MONTHS; AND

(2) FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND THE DRIVER'S LICENSE OF THE PERSON CONVICTED OF THE VIOLATION FOR NOT MORE THAN 1 YEAR.

(B) THE ADMINISTRATION MAY NOT SUSPEND THE DRIVER'S LICENSE OF A PERSON IF:

(1) THE VIOLATION OF § 10-117 OF THE CRIMINAL LAW ARTICLE ON WHICH THE SUSPENSION IS BASED WAS COMMITTED WHILE THE PERSON WAS ACTING IN THE CAPACITY OF A LICENSEE, OR AN EMPLOYEE OF A LICENSEE, UNDER ARTICLE 2B OF THE CODE; AND

(2) THE PERSON HAS COMMITTED A VIOLATION OF, AND IS SUBJECT TO THE PENALTIES UNDER, ARTICLE 2B, § 12-108 OF THE CODE.

(C) SUBJECT TO THE PROVISIONS OF TITLE 12, SUBTITLE 2 OF THIS ARTICLE, A PERSON MAY REQUEST A HEARING ON A SUSPENSION UNDER THIS SECTION.

(D) THIS SECTION DOES NOT LIMIT THE AUTHORITY OF THE ADMINISTRATION TO ISSUE A RESTRICTIVE LICENSE OR MODIFY A SUSPENSION IMPOSED UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.