

# SENATE BILL 1036

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EMERGENCY BILL

71r3443

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By: **Senators DeGrange and Astle**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 27, 2007

Rules suspended

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 2, 2007

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Anne Arundel County – Alcoholic Beverages – Immediate Suspension of**  
3 **Licenses**

4 FOR the purpose of authorizing the Board of License Commissioners for Anne Arundel  
5 County to suspend a license immediately ~~for a violation of the alcoholic~~  
6 ~~beverages law~~ if a certain person alleges that the licensee has sold or furnished  
7 alcoholic beverages to a person under a certain age under certain circumstances;  
8 requiring that the suspension be in effect not longer than a certain amount of  
9 time; ~~specifying that an appeal does not stay the order of the Board suspending~~  
10 a license requiring the Board to hold a hearing and give notice within a certain  
11 time; requiring that the licensee be allowed to resume the sale of alcoholic  
12 beverages under certain circumstances; specifying that this Act does not  
13 prevent a licensee from seeking certain relief; making certain technical and  
14 stylistic changes; making this Act an emergency measure; and generally  
15 relating to the Board of License Commissioners for Anne Arundel County.

16 BY repealing and reenacting, without amendments,  
17 Article 2B – Alcoholic Beverages

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1           Section 10–401(a)(2), 12–108(a), and 16–405  
 2           Annotated Code of Maryland  
 3           (2005 Replacement Volume and 2006 Supplement)

4   BY repealing and reenacting, with amendments,  
 5           Article 2B – Alcoholic Beverages  
 6           Section 10–401(a)(3), 10–403(a), and 15–112(c)(1)  
 7           Annotated Code of Maryland  
 8           (2005 Replacement Volume and 2006 Supplement)

9   BY adding to  
 10          Article 2B – Alcoholic Beverages  
 11          Section 15–112(c)(6)  
 12          Annotated Code of Maryland  
 13          (2005 Replacement Volume and 2006 Supplement)

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

16   **Article 2B – Alcoholic Beverages**

17   10–401.

18           (a)   (2)   Any license or permit issued under the provisions of this article  
 19   may be revoked or suspended by the issuing authority for any cause which in the  
 20   judgment of the official, court or board, is necessary to promote the peace or safety of  
 21   the community in which the place of business is situated.

22           (3)   The license or permit must be revoked or suspended, except as  
 23   provided in § 10–402 of this subtitle **OR § 15–112(C)(6) OR (P) OF THIS ARTICLE**, for  
 24   the following causes:

25                   (i)   Conviction of the licensee or permittee for violation of any of  
 26   the provisions of the Tax – General Article that relate to the alcoholic beverage tax or  
 27   the provisions of this article;

28                   (ii)   Willful failure or refusal of any licensee or permittee to  
 29   comply with the provisions of the Tax – General Article that relate to the alcoholic  
 30   beverage tax or any provisions of this article, or any rule or regulation that may be  
 31   adopted in pursuance of this article or the provisions of the Tax – General Article that  
 32   relate to the alcoholic beverage tax;

1 (iii) Making of any material false statement in any application  
2 for a license or permit;

3 (iv) Two or more convictions of one or more of the clerks, agents,  
4 employees and servants of a licensee or permittee under the provisions of this article  
5 or the provisions of the Tax – General Article that relate to the alcoholic beverage tax  
6 of any violation on the premises subject to the license or permit, within a period of two  
7 years;

8 (v) Possession upon the premises of any retail dealer other than  
9 the holder of a Class E, Class F or Class G license of any alcoholic beverage upon  
10 which the tax imposed by § 5–102 of the Tax – General Article has not been paid;

11 (vi) Violation of the provisions of § 12–104 of this article;

12 (vii) Willful failure of any licensee or permittee to keep the  
13 records required by this article or the provisions of the Tax – General Article that  
14 relate to the alcoholic beverage tax or to allow any inspections of such records by a  
15 duly authorized person;

16 (viii) Possession of any alcoholic beverage which any licensee or  
17 permittee other than the holder of a Class E, Class F or Class G license is not licensed  
18 to sell;

19 (ix) Suspension or revocation of a permit issued to any licensee  
20 or permittee by the Federal Bureau of Alcohol, Tobacco and Firearms or for conviction  
21 of violating any federal laws relating to alcoholic beverages; and

22 (x) Failure to furnish bond as required by this article within  
23 fifteen days after notice from the Comptroller.

24 10–403.

25 (a) **(1)** The Comptroller or the Board of License Commissioners for any  
26 county or Baltimore City, as the case may be, may on its own initiative or upon the  
27 written complaint of ten or more citizens, residents, real estate owners and voters of  
28 the precinct in which any licensed place of business is situated or upon the complaint  
29 of any deputy or inspector employed by the Comptroller in the administration of this  
30 law, or any peace officer, or if the licensee is located within the corporate limits of any  
31 municipality, which is within a county, upon complaint of the mayor and council of  
32 that municipality, after a hearing upon charges to be framed by the officer or Board, or  
33 upon the complaint, notice of which shall be given to the licensee at least ten days

1 before the hearing, revoke or suspend any license issued under the provisions of this  
2 article.

3 (2) Nothing contained in this section shall prevent the immediate  
4 suspension of any license by:

5 (I) [the] **THE** Comptroller [as provided,];

6 (II) **THE BOARD OF LICENSE COMMISSIONERS FOR ANNE**  
7 **ARUNDEL COUNTY, UNDER § 15-112 (C)(6) OF THIS ARTICLE; OR**

8 (III) [nor in] **THE BOARD OF LICENSE COMMISSIONERS OF**  
9 **Kent County, [the remedies provided in] UNDER § 15-112(p) of this article.**

10 12-108.

11 (a) (1) A licensee licensed under this article, or any employee of the  
12 licensee, may not sell or furnish any alcoholic beverages at any time to a person under  
13 21 years of age:

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

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

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

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

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

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

3 1. If the person is a resident of the State, the person’s  
 4 driver’s license or identification card as provided for in the Maryland Vehicle Law; or

5 2. A United States military identification card.

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

11 15–112.

12 (c) (1) (I) This subsection applies only in Anne Arundel County.

13 (II) Except for paragraph (2) of this subsection, it does not apply  
 14 in the City of Annapolis.

15 (6) (I) **THE BOARD OF LICENSE COMMISSIONERS MAY**  
 16 **SUSPEND IMMEDIATELY AN ALCOHOLIC BEVERAGES LICENSE ~~FOR ANY~~**  
 17 **~~VIOLATION OF THIS ARTICLE, FOR NOT LESS THAN 15 DAYS AND NOT~~**  
 18 **~~EXCEEDING 90 DAYS.~~**

19 ~~(II) AN APPEAL DOES NOT STAY THE ORDER OF THE BOARD~~  
 20 ~~SUSPENDING A LICENSE. IF A PERSON AUTHORIZED UNDER § 16-405 OF THIS~~  
 21 ~~ARTICLE ALLEGES THAT THE LICENSEE HAS SOLD OR FURNISHED ALCOHOLIC~~  
 22 ~~BEVERAGES TO A PERSON UNDER THE AGE OF 21 YEARS WITH SUCH~~  
 23 ~~FREQUENCY AND DURING SUCH A LIMITED TIME PERIOD SO AS TO~~  
 24 ~~DEMONSTRATE A WILLFUL FAILURE TO COMPLY WITH § 12-108(A) OF THIS~~  
 25 ~~ARTICLE.~~

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

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

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

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

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

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

13 16-405.

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

28                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
29 measure, is necessary for the immediate preservation of the public health or safety,  
30 has been passed by a yea and nay vote supported by three-fifths of all the members  
31 elected to each of the two Houses of the General Assembly, and shall take effect from  
32 the date it is enacted.