

## CHAPTER 371

(Senate Bill 1036)

AN ACT concerning

### **Anne Arundel County – Alcoholic Beverages – Immediate Suspension of Licenses**

FOR the purpose of authorizing the Board of License Commissioners for Anne Arundel County to suspend a license immediately ~~for a violation of the alcoholic beverages law~~ if a certain person alleges that the licensee has sold or furnished alcoholic beverages to a person under a certain age under certain circumstances; requiring that the suspension be in effect not longer than a certain amount of time; ~~specifying that an appeal does not stay the order of the Board suspending a license~~ 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; making certain technical and stylistic changes; making this Act an emergency measure; and generally relating to the Board of License Commissioners for Anne Arundel County.

BY repealing and reenacting, without amendments,  
Article 2B – Alcoholic Beverages  
Section 10–401(a)(2), ~~12–108(a)~~, and ~~16–405~~  
Annotated Code of Maryland  
(2005 Replacement Volume and 2006 Supplement)

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

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

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

**Article 2B – Alcoholic Beverages**

10–401.

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

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

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

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

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

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

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

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

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

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

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

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

10–403.

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

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

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

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

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

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.

(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.

15-112.

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

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

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

**(II) AN APPEAL DOES NOT STAY THE ORDER OF THE BOARD SUSPENDING A LICENSE. 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.**

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.

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

**Approved by the Governor, May 8, 2007.**