

HOUSE BILL 76

A1, E1

(81r0352)

ENROLLED BILL

—Judiciary/Judicial Proceedings—

Introduced by **Delegates Shewell, Ali, Anderson, Aumann, Barnes, Bartlett, Bates, Beidle, Benson, Boteler, Burns, G. Clagett, V. Clagett, DeBoy, Dumais, Eckardt, Elliott, Elmore, Frank, Frush, George, Glenn, Holmes, Impallaria, James, Jennings, Kach, Kelly, King, Krebs, Lafferty, McComas, McConkey, McDonough, McIntosh, McKee, Miller, Minnick, Myers, Schuh, Shank, Sophocleus, Sossi, Stifler, Stocksdale, Stull, Valderrama, Waldstreicher, Walkup, and Weldon**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Furnishing an Alcoholic Beverage to Underage Individual – Penalty**

3 FOR the purpose of ~~making it a misdemeanor for a person knowingly and willfully to~~
4 ~~furnish an alcoholic beverage for consumption to an individual under the age of~~
5 ~~21 years under certain circumstances; imposing a certain criminal penalty;~~
6 ~~repealing certain provisions requiring the issuance of a civil citation to a person~~
7 ~~who violates the prohibition against furnishing an alcoholic beverage for~~
8 ~~consumption to an underage individual; clarifying the elements of a certain~~
9 ~~alcoholic beverage violation; *increasing the penalty for furnishing an alcoholic*~~

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.

Italics indicate opposite chamber / conference committee amendments.



1 beverage for consumption to an individual under the age of 21 years under
 2 certain circumstances; and generally relating to penalties for furnishing an
 3 alcoholic beverage to an underage individual.

4 BY repealing and reenacting, ~~with~~ without amendments,
 5 Article – Criminal Law
 6 Section 10–117 ~~and 10–119(a), (b), (f)(1), and (h)~~
 7 Annotated Code of Maryland
 8 (2002 Volume and 2007 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article – Criminal Law
 11 Section 10–119(h)
 12 Annotated Code of Maryland
 13 (2002 Volume and 2007 Supplement)

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

16 **Article – Criminal Law**

17 ~~10–117.~~

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

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

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

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

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

32 ~~(i) are members of the same immediate family, and the~~
 33 ~~alcoholic beverage is furnished and consumed in a private residence or within the~~
 34 ~~curtilage of the residence; or~~

35 ~~(ii) are participants in a religious ceremony.~~

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

5 ~~(i) are members of the same immediate family, and the~~
6 ~~alcoholic beverage is possessed and consumed in a private residence, or within the~~
7 ~~curtilage of the residence, of the adult; or~~

8 ~~(ii) are participants in a religious ceremony.~~

9 ~~(3) THE PROHIBITIONS SET FORTH IN SUBSECTIONS (A) AND (B)~~
10 ~~OF THIS SECTION DO NOT APPLY TO A PERSON WHO:~~

11 ~~(I) WAS ACTING IN THE CAPACITY OF A LICENSEE, OR AN~~
12 ~~EMPLOYEE OF A LICENSEE, UNDER ARTICLE 2B OF THE CODE; AND~~

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

15 ~~(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A~~
16 ~~MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT~~
17 ~~EXCEEDING 60 DAYS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.~~

18 ~~10-119.~~

19 ~~(a) A person who violates [§§ 10-113 through 10-118] § 10-113, § 10-114,~~
20 ~~§ 10-115, § 10-116, OR § 10-118 of this part shall be issued a citation under this~~
21 ~~section.~~

22 ~~(b) A citation for a violation of [§§ 10-113 through 10-118] § 10-113,~~
23 ~~§ 10-114, § 10-115, § 10-116, OR § 10-118 of this part may be issued by:~~

24 ~~(1) a police officer authorized to make arrests;~~

25 ~~(2) in State forestry reservations, State parks, historic monuments,~~
26 ~~and recreation areas, a forest or park warden under § 5-206(a) or (b) of the Natural~~
27 ~~Resources Article; and~~

28 ~~(3) in Anne Arundel County, Frederick County, Harford County,~~
29 ~~Montgomery County, and Prince George's County, and only in the inspector's~~
30 ~~jurisdiction, an alcoholic beverages inspector who investigates license violations under~~
31 ~~Article 2B of the Code if the inspector:~~

1 (i) ~~has successfully completed an appropriate program of~~
2 ~~training in the proper use of arrest authority and pertinent police procedures as~~
3 ~~required by the board of license commissioners; and~~

4 (ii) ~~does not carry firearms in the performance of the inspector's~~
5 ~~duties.~~

6 (f) (1) ~~For purposes of this section, a violation of [§§ 10-113 through~~
7 ~~10-118] § 10-113, § 10-114, § 10-115, § 10-116, OR § 10-118 of this part is a Code~~
8 ~~violation and is a civil offense.~~

9 (h) (1) ~~[Except as provided in paragraph (2) of this subsection, if] IF the~~
10 ~~District Court finds that a person has committed a Code violation, the court shall~~
11 ~~require the person to pay:~~

12 (i) ~~a fine not exceeding \$500; or~~

13 (ii) ~~if the violation is a subsequent violation, a fine not~~
14 ~~exceeding \$1,000.~~

15 ~~[(2) If the District Court finds that a person has committed a Code~~
16 ~~violation under § 10-117 of this subtitle, the court shall require the person to pay:~~

17 (i) ~~a fine not exceeding \$1,000; or~~

18 (ii) ~~if the violation is a subsequent violation, a fine not~~
19 ~~exceeding \$1,500.]~~

20 ~~[(3) (2) The Chief Judge of the District Court may not establish a~~
21 ~~schedule for the prepayment of fines.~~

22 10-117.

23 (a) Except as provided in subsection (c) of this section, a person may not
24 furnish an alcoholic beverage to an individual if:

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

27 (2) the alcoholic beverage is furnished for the purpose of consumption
28 by the individual under the age of 21 years.

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

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

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

7 (ii) are participants in a religious ceremony.

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

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

15 (ii) are participants in a religious ceremony.

16 10–119.

17 (h) (1) Except as provided in paragraph (2) of this subsection, if the
18 District Court finds that a person has committed a Code violation, the court shall
19 require the person to pay:

20 (i) a fine not exceeding \$500; or

21 (ii) if the violation is a subsequent violation, a fine not exceeding
22 \$1,000.

23 (2) If the District Court finds that a person has committed a Code
24 violation under § 10–117 of this subtitle, the court shall require the person to pay:

25 (i) a fine not exceeding [~~\$1,000~~] **\$2,500**; or

26 (ii) if the violation is a subsequent violation, a fine not exceeding
27 [~~\$1,500~~] **\$5,000**.

28 (3) The Chief Judge of the District Court may not establish a schedule
29 for the prepayment of fines.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.