

HOUSE BILL 76

A1, E1
HB 1395/07 – JUD

(PRE-FILED)

8lr0352

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**

Requested: April 12, 2007

Introduced and read first time: January 9, 2008

Assigned to: Judiciary

A BILL ENTITLED

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; and generally relating to penalties for furnishing
10 an alcoholic beverage to an underage individual.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Law
13 Section 10–117 and 10–119(a), (b), (f)(1), and (h)
14 Annotated Code of Maryland
15 (2002 Volume and 2007 Supplement)

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

18 **Article – Criminal Law**

19 10–117.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

18 (ii) are participants in a religious ceremony.

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

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

26 (ii) are participants in a religious ceremony.

27 **(3) THE PROHIBITIONS SET FORTH IN SUBSECTIONS (A) AND (B)**
28 **OF THIS SECTION DO NOT APPLY TO A PERSON WHO:**

29 **(I) WAS ACTING IN THE CAPACITY OF A LICENSEE, OR AN**
30 **EMPLOYEE OF A LICENSEE, UNDER ARTICLE 2B OF THE CODE; AND**

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

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

4 10–119.

5 (a) A person who violates [§§ 10–113 through 10–118] § **10–113**, § **10–114**,
6 § **10–115**, § **10–116**, OR § **10–118** of this part shall be issued a citation under this
7 section.

8 (b) A citation for a violation of [§§ 10–113 through 10–118] § **10–113**,
9 § **10–114**, § **10–115**, § **10–116**, OR § **10–118** of this part may be issued by:

10 (1) a police officer authorized to make arrests;

11 (2) in State forestry reservations, State parks, historic monuments,
12 and recreation areas, a forest or park warden under § 5–206(a) or (b) of the Natural
13 Resources Article; and

14 (3) in Anne Arundel County, Frederick County, Harford County,
15 Montgomery County, and Prince George’s County, and only in the inspector’s
16 jurisdiction, an alcoholic beverages inspector who investigates license violations under
17 Article 2B of the Code if the inspector:

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

21 (ii) does not carry firearms in the performance of the inspector’s
22 duties.

23 (f) (1) For purposes of this section, a violation of [§§ 10–113 through
24 10–118] § **10–113**, § **10–114**, § **10–115**, § **10–116**, OR § **10–118** of this part is a Code
25 violation and is a civil offense.

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

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

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

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

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

2 (ii) if the violation is a subsequent violation, a fine not
3 exceeding \$1,500.]

4 **[(3)] (2)** The Chief Judge of the District Court may not establish a
5 schedule for the prepayment of fines.

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