

HOUSE BILL 299

R3

9lr0234
CF SB 261

By: **The Speaker (By Request – Administration) (Task Force to Combat Driving Under the Influence of Drugs and Alcohol) and Delegates Dumais, Bronrott, Lafferty, and Waldstreicher**

Introduced and read first time: January 29, 2009

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2009

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Alcoholic Beverages – Underage Individuals – Prohibitions**
3 **and Penalties**

4 FOR the purpose of prohibiting an individual under a certain age from consuming, ~~or~~
5 ~~exhibiting certain effects from consuming, alcoholic beverages~~ an alcoholic
6 beverage; providing certain exceptions; making the furnishing of an alcoholic
7 beverage to a certain individual a crime under certain circumstances;
8 establishing certain penalties for certain violations of this Act; ~~requiring the~~
9 ~~Motor Vehicle Administration to suspend for a certain period of time the~~
10 ~~driver's license of a person who commits certain alcohol-related violations;~~
11 ~~authorizing the Motor Vehicle Administration to modify a certain suspension~~
12 ~~under certain circumstances;~~ and generally relating to certain alcoholic
13 beverage violations involving underage individuals under certain
14 circumstances.

15 BY repealing and reenacting, without amendments,
16 Article – Criminal Law
17 Section 10–113, 10–115, 10–117, 10–118, and 10–120
18 Annotated Code of Maryland
19 (2002 Volume and 2008 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Criminal Law
22 Section 10–114, 10–116, and 10–119

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.



Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

BY adding to
Article – Criminal Law
Section 10–121
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

~~BY repealing and reenacting, with amendments,
Article – Transportation
Section 16–205(g)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)~~

~~BY adding to
Article – Transportation
Section 16–206(e–1)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)~~

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

Article – Criminal Law

10–113.

An individual may not knowingly and willfully make a misrepresentation or false statement as to the age of that individual or another to any person licensed to sell alcoholic beverages or engaged in the sale of alcoholic beverages, for the purpose of unlawfully obtaining, procuring, or having unlawfully furnished an alcoholic beverage to an individual.

10–114.

(A) [An] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
AN individual under the age of 21 years may not:

(1) possess or have under the individual's charge or control an alcoholic beverage unless the individual is a bona fide employee of the license holder as defined in Article 2B, § 1–102 of the Code and the alcoholic beverage is in the possession or under the charge or control of the individual in the course of the individual's employment and during regular working hours[.]; OR

(2) **CONSUME AN ALCOHOLIC BEVERAGE;** ~~OR~~

~~(3) CONSUME AN ALCOHOLIC BEVERAGE AND EXHIBIT:~~

~~(I) THE ODOR OF AN ALCOHOLIC BEVERAGE ON THE
INDIVIDUAL'S BREATH; AND~~

~~(II) INDICATORS OF IMPAIRMENT CAUSED BY
CONSUMPTION OF THE ALCOHOLIC BEVERAGE.~~

(B) THE PROHIBITIONS SET FORTH IN SUBSECTION (A)(1) AND (2) OF
THIS SECTION DO NOT APPLY IF:

(1) (I) AN ADULT FURNISHES THE ALCOHOLIC BEVERAGE TO
THE INDIVIDUAL OR ALLOWS THE INDIVIDUAL TO POSSESS OR CONSUME THE
ALCOHOLIC BEVERAGE;

(II) THE INDIVIDUAL POSSESSING OR CONSUMING THE
ALCOHOLIC BEVERAGE AND THE ADULT WHO FURNISHED THE ALCOHOLIC
BEVERAGE TO THE INDIVIDUAL OR ALLOWED THE INDIVIDUAL TO POSSESS OR
CONSUME THE ALCOHOLIC BEVERAGE ARE MEMBERS OF THE SAME IMMEDIATE
FAMILY; AND

(III) THE ALCOHOLIC BEVERAGE IS FURNISHED AND
CONSUMED IN A PRIVATE RESIDENCE OF THE ADULT OR WITHIN THE
CURTILAGE OF THE RESIDENCE; OR

(2) THE INDIVIDUAL CONSUMES THE ALCOHOLIC BEVERAGE AS A
PARTICIPANT IN A RELIGIOUS CEREMONY.

10-115.

An individual under the age of 21 years may not possess a card or document
that falsely identifies the age of the individual under circumstances that reasonably
indicate an intention to violate the provisions of this part.

10-116.

An individual may not obtain, **OR ATTEMPT TO OBTAIN BY PURCHASE OR
OTHERWISE**, an alcoholic beverage from any person licensed to sell alcoholic
beverages for consumption by another who the individual obtaining **OR ATTEMPTING
TO OBTAIN** the beverage knows is under the age of 21 years.

10-117.

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

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

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

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

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

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

15 (ii) are participants in a religious ceremony.

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

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

23 (ii) are participants in a religious ceremony.

24 10–118.

25 (a) Except for a person licensed as an alcoholic beverages licensee under
26 Article 2B of the Code who possesses a keg in the course of that person's business, a
27 person may not knowingly:

28 (1) possess a keg that has not been registered under or does not have a
29 registration form affixed to it as required by Article 2B, § 21–106 of the Code; or

30 (2) remove, alter, or obliterate, or allow to be removed, altered, or
31 obliterated, a registration form that is affixed to a keg.

32 (b) A person may not allow an individual under the age of 21 years to
33 consume any of the contents of a keg purchased by that person.

34 10–119.

1 (a) **(1)** A person who violates §§ 10–113 through **10–115 OR** § 10–118 of
2 this part shall be issued a citation under this section.

3 **(2) A MINOR WHO VIOLATES § 10–116 OR § 10–117(A) OF THIS**
4 **PART SHALL BE ISSUED A CITATION UNDER THIS SECTION.**

5 (b) A citation for a violation of §§ 10–113 through **10–115 OR A VIOLATION**
6 **OF** § 10–118 of this part may be issued by:

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

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

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

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

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

20 (c) A person authorized under this section to issue a citation shall issue it if
21 the person has probable cause to believe that the person charged is committing or has
22 committed a Code violation.

23 (d) (1) Subject to paragraph (2) of this subsection, the form of citation
24 issued to an adult shall be as prescribed by the District Court and shall be uniform
25 throughout the State.

26 (2) The citation issued to an adult shall contain:

27 (i) the name and address of the person charged;

28 (ii) the statute allegedly violated;

29 (iii) the location, date, and time that the violation occurred;

30 (iv) the fine that may be imposed;

31 (v) a notice stating that prepayment of the fine is not allowed;

(vi) a notice that the District Court shall promptly send the person charged a summons to appear for trial;

(vii) the signature of the person issuing the citation; and

(viii) a space for the person charged to sign the citation.

(3) The form of citation issued to a minor shall:

(i) be prescribed by the State Court Administrator;

(ii) be uniform throughout the State; and

(iii) contain the information listed in § 3–8A–33(b) of the Courts Article.

(e) (1) [The] **EXCEPT FOR A CITATION SUBJECT TO THE JURISDICTION OF A CIRCUIT COURT, THE** issuing jurisdiction shall forward a copy of the citation and a request for trial to the District Court in the district having venue.

(2) **(I)** The District Court shall promptly schedule the case for trial and summon the defendant to appear.

(II) Willful failure of the defendant to respond to the summons is contempt of court.

(f) (1) For purposes of this section, a violation of §§ 10–113 through **10–115 OR A VIOLATION OF § 10–118** of this part is a Code violation and is a civil offense.

(2) A person charged who is under the age of 18 years shall be subject to the procedures and dispositions provided in Title 3, Subtitle 8A of the Courts Article.

(3) A person charged who is at least 18 years old shall be subject to the provisions of this section.

(4) Adjudication of a Code violation is not a criminal conviction for any purpose, and it does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

(g) In any proceeding for a Code violation:

(1) the State has the burden to prove the guilt of the defendant to the same extent as is required by law in the trial of criminal causes, and in any such

1 proceeding, the court shall apply the evidentiary standards as prescribed by law or
2 rule for the trial of criminal causes;

3 (2) the court shall ensure that the defendant has received a copy of the
4 charges against the defendant and that the defendant understands those charges;

5 (3) the defendant is entitled to cross-examine all witnesses who
6 appear against the defendant, to produce evidence or witnesses on behalf of the
7 defendant, or to testify on the defendant's own behalf, if the defendant chooses to do
8 so;

9 (4) the defendant is entitled to be represented by counsel of the
10 defendant's choice and at the expense of the defendant; and

11 (5) the defendant may enter a plea of guilty or not guilty, and the
12 verdict of the court in the case shall be:

13 (i) guilty of a Code violation;

14 (ii) not guilty of a Code violation; or

15 (iii) before rendering judgment, the court may place the
16 defendant on probation in the same manner and to the same extent as is allowed by
17 law in the trial of a criminal case.

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

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

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

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

26 (i) a fine not exceeding \$2,500; or

27 (ii) if the violation is a subsequent violation, a fine not
28 exceeding \$5,000.

29 (3) The Chief Judge of the District Court may not establish a schedule
30 for the prepayment of fines **FOR A CODE VIOLATION UNDER THIS PART.**

31 (i) When a defendant has been found guilty of a Code violation and a fine
32 has been imposed by the court:

(1) the court may direct that the payment of the fine be suspended or deferred under conditions that the court may establish; and

(2) if the defendant willfully fails to pay the fine imposed by the court, that willful failure may be treated as a criminal contempt of court, for which the defendant may be punished by the court as provided by law.

(j) (1) The defendant is liable for the costs of the proceedings in the District Court and for payment to the Criminal Injuries Compensation Fund.

(2) The court costs in a Code violation case in which costs are imposed are \$5.

(k) (1) In this subsection, “driver’s license” means a license or permit to drive a motor vehicle that is issued under the laws of this State or any other jurisdiction.

(2) This subsection applies only to:

(i) a person who is at least 18 but under 21 years of age; or

(ii) a minor if the minor is subject to the jurisdiction of the court.

(3) If a person is found guilty of a Code violation under § 10–113 of this part that involved the use of a driver’s license or a document purporting to be a driver’s license, the court shall notify the Motor Vehicle Administration of the violation.

(4) The Chief Judge of the District Court, in conjunction with the Motor Vehicle Administrator, shall establish uniform procedures for reporting Code violations described in this subsection.

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

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

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

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

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

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

10–120.

(a) A person being issued a citation under §§ 10–113 through 10–119 of this
part or § 26–103 of the Education Article may not fail or refuse to furnish proof of
identification and age on request of the person issuing the citation.

(b) A person who violates this section is guilty of a misdemeanor and on
conviction is subject to a fine not exceeding \$50.

(c) (1) The juvenile court has jurisdiction over a minor who is within the
age of juvenile court jurisdiction.

(2) If there is a waiver of juvenile jurisdiction with respect to a minor
who is otherwise subject to juvenile court jurisdiction, the District Court has
jurisdiction over the matter, notwithstanding any contrary provision of § 4–301 of the
Courts Article.

10–121.

(A) THIS SECTION DOES NOT APPLY TO A PERSON WHO:

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

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

~~**(A) (B) AN ADULT WHO VIOLATES § 10–116 OR § 10–117 OF THIS SUBTITLE
IS GUILTY OF A MISDEMEANOR.**~~

~~**(B) THE COURT SHALL REQUIRE AN ADULT CONVICTED OF A VIOLATION
OF § 10–116 OR § 10–117 OF THIS SUBTITLE TO PAY AND ON CONVICTION IS
SUBJECT TO:**~~

~~**(1) IMPRISONMENT NOT EXCEEDING 30 DAYS OR A FINE NOT
EXCEEDING \$2,500 OR BOTH FOR A FIRST OFFENSE; OR**~~

~~**(2) IMPRISONMENT NOT EXCEEDING 60 DAYS OR A FINE NOT
EXCEEDING \$5,000 OR BOTH FOR A SECOND OR SUBSEQUENT OFFENSE.**~~

~~Article Transportation~~~~16-205.~~

~~(g) When a suspension imposed under subsection (c), (d), (d-1), or (e) of this section or § 16-206(b) OR (C-1) of this subtitle expires, the Administration immediately shall return the license or reinstate the privilege of the driver, unless the license or privilege has been refused, revoked, suspended, or canceled under any other provisions of the Maryland Vehicle Law.~~

~~16-206.~~

~~(C-1) (1) ON RECEIVING A RECORD OF A FINDING THAT A PERSON VIOLATED § 10-114 OF THE CRIMINAL LAW ARTICLE OR OF A CONVICTION OF A PERSON FOR A VIOLATION OF § 10-114 OF THE CRIMINAL LAW ARTICLE, THE ADMINISTRATION SHALL SUSPEND THE PERSON'S LICENSE FOR A PERIOD OF 6 MONTHS.~~

~~(2) IF A PERSON SUBJECT TO A SUSPENSION UNDER THIS SUBSECTION DOES NOT HOLD A LICENSE TO OPERATE A MOTOR VEHICLE ON THE DATE OF THE SUSPENSION ORDER, THE SUSPENSION SHALL COMMENCE:~~

~~(I) IF THE PERSON HAS REACHED THE MINIMUM AGE OF LICENSURE, ON THE DATE OF THE SUSPENSION ORDER; OR~~

~~(II) IF THE PERSON HAS NOT REACHED THE MINIMUM AGE OF LICENSURE, ON THE DATE THE PERSON REACHES THE MINIMUM AGE OF LICENSURE.~~

~~(3) THE ADMINISTRATION MAY MODIFY A SUSPENSION IMPOSED UNDER THIS SUBSECTION AND ISSUE A RESTRICTIVE LICENSE IF THE PERSON HOLDS A LICENSE AND MUST DRIVE TO OR FROM:~~

~~(I) EMPLOYMENT OR DURING THE COURSE OF EMPLOYMENT;~~

~~(II) A SCHOOL CLASS OR OFFICIAL SCHOOL ACTIVITY;~~

~~(III) AN ALCOHOL EDUCATION OR TREATMENT PROGRAM;~~

~~(IV) MEDICAL DIAGNOSIS OR TREATMENT;~~

~~(V) AN OPPORTUNITY TO PARTICIPATE AS AN ATHLETE IN AN ATHLETIC EVENT OR RELATED TRAINING SESSION;~~

1 ~~(VI) AN ORGANIZED VOLUNTEER PROGRAM; OR~~

2 ~~(VII) A RELIGIOUS CEREMONY.~~

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.