

SENATE BILL 261

R3

9lr0180
CF 9lr0234

By: **The President (By Request – Administration) (Task Force to Combat Driving Under the Influence of Drugs and Alcohol) and Senators Forehand and Dyson**

Introduced and read first time: January 23, 2009

Assigned to: Judicial Proceedings

A BILL ENTITLED

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; providing certain
6 exceptions; making the furnishing of an alcoholic beverage to a certain
7 individual a crime under certain circumstances; establishing certain penalties
8 for certain violations of this Act; requiring the Motor Vehicle Administration to
9 suspend for a certain period of time the driver's license of a person who commits
10 certain alcohol-related violations; authorizing the Motor Vehicle
11 Administration to modify a certain suspension under certain circumstances; and
12 generally relating to certain alcoholic beverage violations involving underage
13 individuals under certain circumstances.

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

19 BY repealing and reenacting, with amendments,
20 Article – Criminal Law
21 Section 10–114, 10–116, and 10–119
22 Annotated Code of Maryland
23 (2002 Volume and 2008 Supplement)

24 BY adding to
25 Article – Criminal Law
26 Section 10–121

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2002 Volume and 2008 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Transportation
5 Section 16–205(g)
6 Annotated Code of Maryland
7 (2006 Replacement Volume and 2008 Supplement)

8 BY adding to
9 Article – Transportation
10 Section 16–206(c–1)
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2008 Supplement)

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

15 **Article – Criminal Law**

16 10–113.

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

22 10–114.

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

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

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

31 (3) **CONSUME AN ALCOHOLIC BEVERAGE AND EXHIBIT:**

32 (I) **THE ODOR OF AN ALCOHOLIC BEVERAGE ON THE**
33 **INDIVIDUAL’S BREATH; AND**

1 **(II) INDICATORS OF IMPAIRMENT CAUSED BY**
2 **CONSUMPTION OF THE ALCOHOLIC BEVERAGE.**

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

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

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

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

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

18 10-115.

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

22 10-116.

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

27 10-117.

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

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

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

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

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

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

13 (ii) are participants in a religious ceremony.

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

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

21 (ii) are participants in a religious ceremony.

22 10–118.

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

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

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

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

32 10–119.

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

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

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

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

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

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

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

16 (ii) does not carry firearms in the performance of the inspector's
17 duties.

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

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

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

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

26 (ii) the statute allegedly violated;

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

28 (iv) the fine that may be imposed;

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

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

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

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

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

4 (i) be prescribed by the State Court Administrator;

5 (ii) be uniform throughout the State; and

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

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

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

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

15 (f) (1) For purposes of this section, a violation of §§ 10–113 through
16 **10–115 OR A VIOLATION OF § 10–118** of this part is a Code violation and is a civil
17 offense.

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

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

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

26 (g) In any proceeding for a Code violation:

27 (1) the State has the burden to prove the guilt of the defendant to the
28 same extent as is required by law in the trial of criminal causes, and in any such
29 proceeding, the court shall apply the evidentiary standards as prescribed by law or
30 rule for the trial of criminal causes;

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

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

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

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

11 (i) guilty of a Code violation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (2) This subsection applies only to:

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

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

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

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

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

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

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

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

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

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

1 10–120.

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

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

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

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

13 **10–121.**

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

16 (B) **THE COURT SHALL REQUIRE AN ADULT CONVICTED OF A VIOLATION**
17 **OF § 10–116 OR § 10–117 OF THIS SUBTITLE TO PAY:**

18 (1) **A FINE NOT EXCEEDING \$2,500 FOR A FIRST OFFENSE; OR**

19 (2) **A FINE NOT EXCEEDING \$5,000 FOR A SECOND OR**
20 **SUBSEQUENT OFFENSE.**

21 **Article – Transportation**

22 16–205.

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

28 16–206.

29 (C–1) (1) **ON RECEIVING A RECORD OF A FINDING THAT A PERSON**
30 **VIOLATED § 10–114 OF THE CRIMINAL LAW ARTICLE OR OF A CONVICTION OF A**
31 **PERSON FOR A VIOLATION OF § 10–114 OF THE CRIMINAL LAW ARTICLE, THE**

1 **ADMINISTRATION SHALL SUSPEND THE PERSON'S LICENSE FOR A PERIOD OF 6**
2 **MONTHS.**

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

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

8 **(II) IF THE PERSON HAS NOT REACHED THE MINIMUM AGE**
9 **OF LICENSURE, ON THE DATE THE PERSON REACHES THE MINIMUM AGE OF**
10 **LICENSURE.**

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

14 **(I) EMPLOYMENT OR DURING THE COURSE OF**
15 **EMPLOYMENT;**

16 **(II) A SCHOOL CLASS OR OFFICIAL SCHOOL ACTIVITY;**

17 **(III) AN ALCOHOL EDUCATION OR TREATMENT PROGRAM;**

18 **(IV) MEDICAL DIAGNOSIS OR TREATMENT;**

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

21 **(VI) AN ORGANIZED VOLUNTEER PROGRAM; OR**

22 **(VII) A RELIGIOUS CEREMONY.**

23 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
24 **October 1, 2009.**