

SENATE BILL 261

R3

9lr0180
CF HB 299

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

Introduced and read first time: January 23, 2009

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 26, 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; requiring the existence of a certain
7 circumstance before an individual may be stopped on suspicion of or charged
8 with committing a certain offense; making the furnishing of an alcoholic
9 beverage to a certain individual a crime under certain circumstances;
10 establishing certain penalties for certain violations of this Act; ~~requiring the~~
11 ~~Motor Vehicle Administration to suspend for a certain period of time the~~
12 ~~driver's license of a person who commits certain alcohol related violations;~~
13 ~~authorizing the Motor Vehicle Administration to modify a certain suspension~~
14 ~~under certain circumstances~~; and generally relating to certain alcoholic
15 beverage violations involving underage individuals under certain
16 circumstances.

17 BY repealing and reenacting, without amendments,
18 Article - Criminal Law
19 Section 10-113, 10-115, 10-117, 10-118, and 10-120
20 Annotated Code of Maryland
21 (2002 Volume and 2008 Supplement)

22 BY repealing and reenacting, with amendments,

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.



1 Article – Criminal Law
 2 Section 10–114, 10–116, and 10–119
 3 Annotated Code of Maryland
 4 (2002 Volume and 2008 Supplement)

5 BY adding to
 6 Article – Criminal Law
 7 Section 10–121
 8 Annotated Code of Maryland
 9 (2002 Volume and 2008 Supplement)

10 ~~BY repealing and reenacting, with amendments,~~
 11 ~~Article – Transportation~~
 12 ~~Section 16–205(g)~~
 13 ~~Annotated Code of Maryland~~
 14 ~~(2006 Replacement Volume and 2008 Supplement)~~

15 ~~BY adding to~~
 16 ~~Article – Transportation~~
 17 ~~Section 16–206(e–1)~~
 18 ~~Annotated Code of Maryland~~
 19 ~~(2006 Replacement Volume and 2008 Supplement)~~

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

22 **Article – Criminal Law**

23 10–113.

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

29 10–114.

30 (A) [An] **EXCEPT AS PROVIDED IN SUBSECTION ~~(B)~~ (B)(1) OF THIS**
 31 **SECTION, AND SUBJECT TO SUBSECTION (B)(2) OF THIS SECTION, AN** individual
 32 under the age of 21 years may not:

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

1 (2) CONSUME AN ALCOHOLIC BEVERAGE; OR

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

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

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

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

9 ~~(I)~~ (I) ~~(I)~~ 1. AN ADULT FURNISHES THE ALCOHOLIC
10 BEVERAGE TO THE INDIVIDUAL OR ALLOWS THE INDIVIDUAL TO POSSESS OR
11 CONSUME THE ALCOHOLIC BEVERAGE;

12 ~~(II)~~ 2. THE INDIVIDUAL POSSESSING OR CONSUMING
13 THE ALCOHOLIC BEVERAGE AND THE ADULT WHO FURNISHED THE ALCOHOLIC
14 BEVERAGE TO THE INDIVIDUAL OR ALLOWED THE INDIVIDUAL TO POSSESS OR
15 CONSUME THE ALCOHOLIC BEVERAGE ARE MEMBERS OF THE SAME IMMEDIATE
16 FAMILY; AND

17 ~~(III)~~ 3. THE ALCOHOLIC BEVERAGE IS FURNISHED AND
18 CONSUMED IN A PRIVATE RESIDENCE OF THE ADULT OR WITHIN THE
19 CURTILAGE OF THE RESIDENCE; OR

20 ~~(2)~~ (II) THE INDIVIDUAL CONSUMES THE ALCOHOLIC
21 BEVERAGE AS A PARTICIPANT IN A RELIGIOUS CEREMONY.

22 (2) AN INDIVIDUAL MAY NOT BE STOPPED ON SUSPICION OF A
23 VIOLATION OF SUBSECTION (A)(1) OR (2) OF THIS SECTION OR CHARGED WITH A
24 VIOLATION OF SUBSECTION (A)(1) OR (2) OF THIS SECTION UNLESS THE
25 INDIVIDUAL IS OBSERVED IN POSSESSION OF AN ALCOHOLIC BEVERAGE.

26 10-115.

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

30 10-116.

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

5 10–117.

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

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

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

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

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

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

22 (ii) are participants in a religious ceremony.

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

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

30 (ii) are participants in a religious ceremony.

31 10–118.

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

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

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

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

7 10–119.

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

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

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

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

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

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

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

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

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

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

- 1 (2) The citation issued to an adult shall contain:
- 2 (i) the name and address of the person charged;
- 3 (ii) the statute allegedly violated;
- 4 (iii) the location, date, and time that the violation occurred;
- 5 (iv) the fine that may be imposed;
- 6 (v) a notice stating that prepayment of the fine is not allowed;
- 7 (vi) a notice that the District Court shall promptly send the
8 person charged a summons to appear for trial;
- 9 (vii) the signature of the person issuing the citation; and
- 10 (viii) a space for the person charged to sign the citation.

- 11 (3) The form of citation issued to a minor shall:
- 12 (i) be prescribed by the State Court Administrator;
- 13 (ii) be uniform throughout the State; and
- 14 (iii) contain the information listed in § 3–8A–33(b) of the Courts
15 Article.

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (i) guilty of a Code violation;

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

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

26 (h) (1) Except as provided in paragraph (2) of this subsection, 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:

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

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

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

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

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

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

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

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

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

20 (2) This subsection applies only to:

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

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

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

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

31 (1) (1) A defendant who has been found guilty of a Code violation has the
32 right to appeal or to file a motion for a new trial or a motion for a revision of a
33 judgment provided by law in the trial of a criminal case.

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

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

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

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

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

11 10–120.

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

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

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

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

23 **10–121.**

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

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

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

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

1 ~~(b)~~ ~~THE COURT SHALL REQUIRE AN ADULT CONVICTED OF A VIOLATION~~
2 ~~OF § 10-116 OR § 10-117 OF THIS SUBTITLE TO PAY AND ON CONVICTION IS~~
3 ~~SUBJECT TO:~~

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

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

7 ~~Article Transportation~~

8 ~~16-205.~~

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

14 ~~16-206.~~

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

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

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

25 ~~(H)~~ ~~IF THE PERSON HAS NOT REACHED THE MINIMUM AGE~~
26 ~~OF LICENSURE, ON THE DATE THE PERSON REACHES THE MINIMUM AGE OF~~
27 ~~LICENSURE.~~

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

31 ~~(i)~~ ~~EMPLOYMENT OR DURING THE COURSE OF~~
32 ~~EMPLOYMENT;~~

- 1 ~~(II) A SCHOOL CLASS OR OFFICIAL SCHOOL ACTIVITY;~~
- 2 ~~(III) AN ALCOHOL EDUCATION OR TREATMENT PROGRAM;~~
- 3 ~~(IV) MEDICAL DIAGNOSIS OR TREATMENT;~~
- 4 ~~(V) AN OPPORTUNITY TO PARTICIPATE AS AN ATHLETE IN~~
5 ~~AN ATHLETIC EVENT OR RELATED TRAINING SESSION;~~
- 6 ~~(VI) AN ORGANIZED VOLUNTEER PROGRAM; OR~~
- 7 ~~(VII) A RELIGIOUS CEREMONY.~~

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.