

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 261 (The President, *et al.*) (By Request - Administration)

Judicial Proceedings

Judiciary

**Criminal Law - Alcoholic Beverages - Underage Individuals - Prohibitions and Penalties**

This Administration bill creates a code violation for an individual younger than age 21 who consumes an alcoholic beverage. The bill also establishes misdemeanor penalties for adults who violate State law by knowingly obtaining or attempting to obtain an alcoholic beverage or furnishing or allowing consumption of alcohol by an individual younger than age 21.

**Fiscal Summary**

**State Effect:** Minimal increase in general fund revenues due to the bill's code violation and misdemeanor provisions. Enforcement can be handled with existing resources.

**Local Effect:** Enforcement can be handled with existing resources.

**Small Business Effect:** The Administration has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

**Analysis**

**Bill Summary:** An individual who is younger than age 21 may not consume an alcoholic beverage. A person who violates this prohibition commits a code violation. Such an individual may not be detained on suspicion of, or charged with a violation of, the prohibition against illegal possession or consumption of an alcoholic beverage unless the individual is observed possessing an alcoholic beverage. The prohibition does not apply if an adult furnishes the alcoholic beverage or allows possession or consumption,

the individual and the adult are members of the same immediate family, and the beverage is furnished and consumed within the private residence or curtilage of the residence of the adult. The prohibition also does not apply if the individual consumes the alcoholic beverage while participating in a religious ceremony.

The bill specifies that the prohibition against obtaining alcohol for consumption by another who the individual knows is younger than age 21 also applies to attempting to obtain, by purchase or otherwise, alcohol for underage consumption. An individual younger than age 21 who violates the prohibitions against misrepresentation of age, underage possession, or possessing documentation that falsely indicates that the individual is age 21 or older must be issued a citation for a code violation. An individual younger than age 18 who obtains or attempts to obtain an alcoholic beverage from a person licensed to sell alcoholic beverages or a minor who furnishes for consumption or facilitates the possession or consumption of an alcoholic beverage by an individual younger than age 21 must be issued a citation for a code violation. Prepayment of the fine for a code violation is not permitted. The violation requires the accused individual to appear in court.

The bill makes an adult guilty of a misdemeanor if the adult knowingly obtains or attempts to obtain alcohol for consumption by an individual younger than age 21 or furnishes or allows possession or consumption of alcohol, as specified, by such an individual. The adult is subject to a maximum fine of \$2,500 for a first offense or a maximum fine of \$5,000 for a second or subsequent offense. The bill clarifies that these criminal penalties do not alter the penalties applicable to alcoholic beverage licensees.

**Current Law:** Generally, code violations refer to specified violations of laws relating to the obtaining, possession, and consumption of alcoholic beverages that are committed by individuals between the ages of 18 and 21, and such violations are subject to the imposition of civil fines and administrative penalties that a court may order the Motor Vehicle Administration (MVA) to impose. Individuals younger than age 18 who commit such violations are committed to the jurisdiction of the juvenile court, unless otherwise specified. A juvenile court may also order MVA to impose driver's license suspension as an administrative sanction.

In making a disposition on a finding that a child has committed the violation of misrepresentation of age to obtain alcoholic beverages involving the use of a driver's license or purported driver's license, the juvenile court may order MVA to suspend the child's driver's license. For a first offense, the suspension period is six months. For a second or subsequent offense, the license must be suspended until the child is age 21.

In any other violation of alcoholic beverage law by a child, a court may notify MVA to initiate an action to suspend a child's driver's license for not less than 30 days but no

more than 90 days. The suspension periods are subject to modification by MVA for alcohol treatment, education, and employment purposes.

If a child subject to a suspension does not hold a driver's license on the date of the disposition, the suspension must begin on the date of the disposition if the child is at least 16 years old. If the child is younger than age 16 on the date of the court order, the suspension must begin on the child's sixteenth birthday.

In addition, the juvenile court may also counsel the child, parent, or both to participate in an alcohol education or rehabilitation program. The court may also order the child to participate in an alcohol education or rehabilitation program that is in the best interest of the child.

The District Court must notify MVA if a person who is at least age 18, but younger than age 21, is found guilty of a code violation of misrepresentation of age to obtain alcoholic beverages involving the use of a driver's license or purported driver's license. Upon receiving this notification, MVA must suspend the individual's driver's license for six months for a first offense, and for a second or subsequent offense, until the individual is age 21 or for a period of one year, whichever is longer. If a person subject to a suspension does not hold a license to operate a motor vehicle on the date that the individual is found guilty of a violation, the suspension must begin on the date the license is issued, after the individual qualifies for a driver's license, or on the individual's twenty-first birthday, whichever occurs first. The suspension periods are subject to modification by MVA for education, alcohol treatment, and employment purposes.

If the District Court finds that an adult has committed a code violation, the court must require the person to pay a maximum fine of \$500 for a first offense and a maximum fine of \$1,000 for a subsequent offense, except if the violation is furnishing or providing for underage consumption of alcohol. In that case, the maximum fine for a first offense is \$2,500 and the maximum fine for a subsequent offense is \$5,000. In addition, the defendant is liable to pay the Criminal Injuries Compensation Fund for the cost of District Court proceedings. The Chief Judge of the District Court and MVA must establish uniform procedures for reporting the specified code violations.

While a code violation is a civil offense, an individual charged may be prosecuted in the same manner as a prosecution for the violation of criminal laws, and that individual has the right to appeal the violation, the right to a trial, and the right to petition a court for revision of judgment.

## **Background:**

*The Task Force to Combat Driving Under the Influence of Drugs and Alcohol:* The bill contains provisions recommended by the Task Force to Combat Driving Under the Influence of Drugs and Alcohol. The task force also advises that a large number of states have acted to reduce underage drinking by linking that violation to the sanction of driver's license suspension. Thirty states have enacted no consumption laws for those younger than 21 and the task force has identified Alabama, California, Delaware, Louisiana, Pennsylvania, and the District of Columbia as jurisdictions with stringent "use and lose" laws. The task force also noted that, while it is a criminal offense for a retailer to sell alcohol to a minor, it is only a civil offense for an adult to knowingly buy alcohol for a minor. The bill is intended to eliminate this distinction.

The task force was created by Chapters 533 and 534 of 2007 and was required to submit an interim report in December of 2007 and a final report by October 31, 2008. The task force was required to:

- review achievements in combating impaired driving within the past 20 years;
- identify and assess current efforts to address impaired driving;
- identify national best practices for combating impaired driving;
- determine if any gaps exist between current State efforts and the identified national best practices;
- recommend necessary actions to implement national best practices in Maryland;
- recommend new State initiatives to address populations that are disproportionately responsible for driving fatalities due to impaired driving;
- recommend actions to sustain and enhance public awareness and concern for the dangers imposed by impaired driving; and
- recommend strategies for the improved coordination of management, funding, and resources at State and local levels.

The task force issued 42 recommendations focusing on initiatives in the Maryland Department of Transportation, law enforcement, treatment of alcohol- or drug-impaired drivers, the courts, education, and the legislature. Seven recommendations specifically were targeted to the Maryland General Assembly:

- pass legislation to discourage and punish underage drinking by linking the privilege of driving to abstention from alcohol and drugs;

- impose incarceration for the violation of an alcohol restriction on a driver's license;
- increase the time before a person is eligible for another probation before judgment (PBJ) after receiving the first one, from 5 to 10 years;
- make all driving while impaired offenses count toward repeat offender status;
- require law enforcement to request alcohol testing of all drivers involved in life-threatening or fatal crashes;
- require from all ignition interlock users at least six months of failure-free use before release from the program; and
- recodify all laws related to driving under the influence and driving while impaired.

*Impaired Driving Generally:* According to the U.S. Department of Transportation, alcohol-impaired driving is one of the nation's deadliest crimes. Although some progress has been made in reducing alcohol-impaired driving, most of that progress occurred in the 1980s and 1990s. From about 1982 to 1995, the percentage of fatally injured alcohol-impaired drivers who were 16 to 20 years old declined by more than half. Since then, the proportion of those fatalities has hovered around 25%. In 2007, over half of all fatally injured drivers in the 21 to 30 age group had blood alcohol concentration levels at or above 0.08%.

According to the Insurance Institute for Highway Safety, 20,281 alcohol-related traffic fatalities occurred nationwide in 2007, about 49% of the total traffic fatalities for that year. The nationwide number of alcohol-related traffic fatalities in 2007 declined, however, by 5.2% from the 21,497 alcohol-related traffic fatalities in 2006.

According to the Fatality Analysis Reporting System maintained by the U.S. Department of Transportation, alcohol-related fatalities in Maryland are somewhat below national rates. In 2007, a total of 614 traffic fatalities occurred in Maryland, a crash rate of 10.9 per 100,000 people. Of those fatalities, 272, or 44.2%, were alcohol-related. Ninety-four of those fatalities, or 34.5%, involved drivers with blood alcohol concentration levels at or above 0.08%. According to the District Court, 41,038 traffic citations involving alcohol- and/or drug-related driving were filed in fiscal 2008. There were guilty dispositions for 5,014 of those citations, and 6,025 citations were disposed of with PBJ.

## Additional Information

**Prior Introductions:** None.

**Cross File:** HB 299 (The Speaker, *et al.*) (By Request - Administration) - Judiciary.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, National Highway Traffic Safety Administration, Insurance Institute for Highway Safety, U.S. Department of Transportation, Department of Legislative Services

**Fiscal Note History:** First Reader - February 15, 2009  
ncs/ljm Revised - Senate Third Reader - April 6, 2009

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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Criminal Law - Alcoholic Beverages - Underage Individuals - Prohibitions and Penalties

BILL NUMBER: SB 261

PREPARED BY: Governor's Legislative Office

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.