

SENATE BILL 905

E2

2lr1991

By: **Senator Klausmeier**

Introduced and read first time: February 8, 2012

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Video Lottery Terminals – Playing by Individual Under 21**
3 **Years of Age**

4 FOR the purpose of prohibiting an individual under the age of 21 years from playing a
5 video lottery terminal; establishing penalties for a certain violation of this Act;
6 establishing that a person who violates this Act shall be issued a certain
7 citation; authorizing certain individuals to issue certain citations under certain
8 circumstances; requiring the District Court to prescribe a certain form of
9 citation; requiring the jurisdiction that issues a certain citation to forward a
10 copy of the citation and a request for trial to the District Court having a certain
11 venue; requiring the District Court to schedule a certain trial and summon a
12 certain defendant to appear; providing that a willful failure to respond to a
13 certain summons is contempt of court; establishing that a violation of a certain
14 provision of this Act is a Code violation and a civil offense; providing that a
15 minor is subject to certain procedures and dispositions; providing that an
16 individual who is under the age of 21 years but not a minor is subject to certain
17 provisions of this Act; establishing that an adjudication of a certain Code
18 violation is not a criminal conviction for any purpose and does not impose
19 certain disabilities; establishing certain procedures for a certain Code violation
20 proceeding; establishing certain penalties for a certain violation of this Act;
21 prohibiting the Chief Judge of the District Court from establishing a certain
22 schedule for the prepayment of fines; authorizing a court to direct the payment
23 of a certain fine be suspended or deferred; establishing that the willful failure to
24 pay a certain fine is criminal contempt of court; providing that a certain
25 defendant is liable for certain costs; establishing that a certain defendant has
26 certain rights to appeal or file certain motions; authorizing the State's Attorney
27 to prosecute a certain violation in a certain manner; establishing that a
28 violation of a certain provision of this Act is a violation for certain purposes;
29 authorizing a certain law enforcement officer to issue a citation to a child for a
30 violation of a certain provision of this Act under certain circumstances; defining

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 a certain term; making conforming changes; and generally relating to video
2 lottery terminal violations.

3 BY adding to

4 Article – Criminal Law

5 Section 10–136 and 10–137 to be under the new part “Part V. Video Lottery
6 Terminal Violations”

7 Annotated Code of Maryland

8 (2002 Volume and 2011 Supplement)

9 BY repealing and reenacting, with amendments,

10 Article – Courts and Judicial Proceedings

11 Section 3–8A–01(dd) and 3–8A–33(a)

12 Annotated Code of Maryland

13 (2006 Replacement Volume and 2011 Supplement)

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

16 **Article – Criminal Law**

17 **10–134. RESERVED.**

18 **10–135. RESERVED.**

19 **PART V. VIDEO LOTTERY TERMINAL VIOLATIONS.**

20 **10–136.**

21 **(A) IN THIS PART, “VIDEO LOTTERY TERMINAL” HAS THE MEANING**
22 **STATED IN § 9–1A–01 OF THE STATE GOVERNMENT ARTICLE.**

23 **(B) AN INDIVIDUAL UNDER THE AGE OF 21 YEARS MAY NOT PLAY A**
24 **VIDEO LOTTERY TERMINAL.**

25 **10–137.**

26 **(A) A PERSON WHO VIOLATES § 10–136 OF THIS PART SHALL BE ISSUED**
27 **A CITATION UNDER THIS SECTION.**

28 **(B) A CITATION FOR A VIOLATION OF § 10–136 OF THIS PART MAY BE**
29 **ISSUED BY:**

30 **(1) A POLICE OFFICER AUTHORIZED TO MAKE ARRESTS; AND**

1 **(2) IN STATE FORESTRY RESERVATIONS, STATE PARKS, HISTORIC**
2 **MONUMENTS, AND RECREATION AREAS, A FOREST OR PARK WARDEN UNDER §**
3 **5-206(A) OF THE NATURAL RESOURCES ARTICLE.**

4 **(C) A PERSON AUTHORIZED UNDER THIS SECTION TO ISSUE A CITATION**
5 **SHALL ISSUE THE CITATION IF THE PERSON HAS PROBABLE CAUSE TO BELIEVE**
6 **THAT THE PERSON CHARGED IS COMMITTING OR HAS COMMITTED A VIOLATION**
7 **OF § 10-136 OF THIS PART.**

8 **(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE FORM**
9 **OF CITATION ISSUED TO AN ADULT FOR A VIOLATION OF § 10-136 OF THIS PART**
10 **SHALL BE AS PRESCRIBED BY THE DISTRICT COURT AND SHALL BE UNIFORM**
11 **THROUGHOUT THE STATE.**

12 **(2) THE CITATION ISSUED TO AN ADULT SHALL CONTAIN:**

13 **(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;**

14 **(II) THE STATUTE ALLEGEDLY VIOLATED;**

15 **(III) THE LOCATION, DATE, AND TIME THAT THE ALLEGED**
16 **VIOLATION OCCURRED;**

17 **(IV) THE FINE THAT MAY BE IMPOSED;**

18 **(V) A NOTICE STATING THAT PREPAYMENT OF THE FINE IS**
19 **NOT ALLOWED;**

20 **(VI) A NOTICE THAT THE DISTRICT COURT PROMPTLY**
21 **SHALL SEND TO THE PERSON CHARGED A SUMMONS TO APPEAR FOR TRIAL;**

22 **(VII) THE SIGNATURE OF THE PERSON ISSUING THE**
23 **CITATION; AND**

24 **(VIII) A SPACE FOR THE PERSON CHARGED TO SIGN THE**
25 **CITATION.**

26 **(3) THE FORM OF CITATION ISSUED TO A MINOR SHALL:**

27 **(I) BE PRESCRIBED BY THE STATE COURT**
28 **ADMINISTRATOR;**

29 **(II) BE UNIFORM THROUGHOUT THE STATE; AND**

1 **(III) CONTAIN THE INFORMATION LISTED IN § 3-8A-33(B) OF**
2 **THE COURTS ARTICLE.**

3 **(E) (1) THE ISSUING JURISDICTION SHALL FORWARD A COPY OF THE**
4 **CITATION AND A REQUEST FOR TRIAL TO THE DISTRICT COURT IN THE**
5 **DISTRICT HAVING VENUE.**

6 **(2) THE DISTRICT COURT PROMPTLY SHALL SCHEDULE THE**
7 **CASE FOR TRIAL AND SUMMON THE DEFENDANT TO APPEAR.**

8 **(3) WILLFUL FAILURE OF THE DEFENDANT TO RESPOND TO A**
9 **SUMMONS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION IS CONTEMPT**
10 **OF COURT.**

11 **(F) (1) FOR PURPOSES OF THIS SECTION, A VIOLATION OF § 10-136**
12 **OF THIS PART IS A CODE VIOLATION AND IS A CIVIL OFFENSE.**

13 **(2) A PERSON CHARGED WHO IS UNDER THE AGE OF 18 YEARS**
14 **SHALL BE SUBJECT TO THE PROCEDURES AND DISPOSITIONS PROVIDED IN**
15 **TITLE 3, SUBTITLE 8A OF THE COURTS ARTICLE.**

16 **(3) A PERSON CHARGED WHO IS AT LEAST 18 YEARS OLD SHALL**
17 **BE SUBJECT TO THE PROVISIONS OF THIS SECTION.**

18 **(4) ADJUDICATION OF A CODE VIOLATION UNDER § 10-136 OF**
19 **THIS PART IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE AND DOES NOT**
20 **IMPOSE ANY OF THE CIVIL DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL**
21 **CONVICTION.**

22 **(G) IN ANY PROCEEDING FOR A CODE VIOLATION UNDER § 10-136 OF**
23 **THIS PART:**

24 **(1) THE STATE HAS THE BURDEN TO PROVE THE GUILT OF THE**
25 **DEFENDANT TO THE SAME EXTENT AS IS REQUIRED BY LAW IN THE TRIAL OF**
26 **CRIMINAL CAUSES;**

27 **(2) THE COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS**
28 **PRESCRIBED BY LAW OR RULE FOR THE TRIAL OF CRIMINAL CAUSES;**

29 **(3) THE COURT SHALL ENSURE THAT THE DEFENDANT HAS**
30 **RECEIVED A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE**
31 **DEFENDANT UNDERSTANDS THOSE CHARGES;**

1 **(4) THE DEFENDANT IS ENTITLED TO CROSS-EXAMINE ALL**
2 **WITNESSES WHO APPEAR AGAINST THE DEFENDANT, TO PRODUCE EVIDENCE OR**
3 **WITNESSES ON BEHALF OF THE DEFENDANT, OR TO TESTIFY ON THE**
4 **DEFENDANT'S OWN BEHALF, IF THE DEFENDANT CHOOSES TO DO SO;**

5 **(5) THE DEFENDANT IS ENTITLED TO BE REPRESENTED BY**
6 **COUNSEL OF THE DEFENDANT'S CHOICE AND AT THE EXPENSE OF THE**
7 **DEFENDANT; AND**

8 **(6) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT**
9 **GUILTY, AND THE VERDICT OF THE COURT IN THE CASE SHALL BE:**

10 **(I) GUILTY OF A CODE VIOLATION;**

11 **(II) NOT GUILTY OF A CODE VIOLATION; OR**

12 **(III) PROBATION BEFORE JUDGMENT, IMPOSED BY THE**
13 **COURT IN THE SAME MANNER AND TO THE SAME EXTENT AS IS ALLOWED BY LAW**
14 **IN THE TRIAL OF A CRIMINAL CASE.**

15 **(H) (1) IF THE DISTRICT COURT FINDS THAT A PERSON HAS**
16 **COMMITTED A CODE VIOLATION, THE COURT SHALL REQUIRE THE PERSON TO**
17 **PAY:**

18 **(I) FOR A FIRST VIOLATION, A FINE NOT EXCEEDING \$500;**
19 **OR**

20 **(II) FOR A SECOND OR SUBSEQUENT VIOLATION, A FINE NOT**
21 **EXCEEDING \$1,000.**

22 **(2) THE CHIEF JUDGE OF THE DISTRICT COURT MAY NOT**
23 **ESTABLISH A SCHEDULE FOR THE PREPAYMENT OF FINES FOR A VIOLATION**
24 **UNDER § 10-136 OF THIS PART.**

25 **(I) WHEN A DEFENDANT HAS BEEN FOUND GUILTY OF A CODE**
26 **VIOLATION AND A FINE HAS BEEN IMPOSED BY THE COURT:**

27 **(1) THE COURT MAY DIRECT THAT THE PAYMENT OF THE FINE BE**
28 **SUSPENDED OR DEFERRED UNDER CONDITIONS THAT THE COURT MAY**
29 **ESTABLISH; AND**

30 **(2) IF THE DEFENDANT WILLFULLY FAILS TO PAY THE FINE**
31 **IMPOSED BY THE COURT, THAT WILLFUL FAILURE MAY BE TREATED AS A**

1 CRIMINAL CONTEMPT OF COURT, FOR WHICH THE DEFENDANT MAY BE
2 PUNISHED BY THE COURT AS PROVIDED BY LAW.

3 (J) (1) THE DEFENDANT IS LIABLE FOR THE COSTS OF THE
4 PROCEEDINGS IN THE DISTRICT COURT AND FOR PAYMENT TO THE CRIMINAL
5 INJURIES COMPENSATION FUND.

6 (2) THE COURT COSTS IN A CODE VIOLATION CASE UNDER §
7 10-136 OF THIS PART IN WHICH COSTS ARE IMPOSED ARE \$5.

8 (K) (1) A DEFENDANT WHO HAS BEEN FOUND GUILTY OF A CODE
9 VIOLATION UNDER § 10-136 OF THIS PART HAS THE RIGHT TO APPEAL OR TO
10 FILE A MOTION FOR A NEW TRIAL OR A MOTION FOR A REVISION OF A
11 JUDGMENT PROVIDED BY LAW IN THE TRIAL OF A CRIMINAL CASE.

12 (2) A MOTION SHALL BE MADE IN THE SAME MANNER AS
13 PROVIDED IN THE TRIAL OF CRIMINAL CASES, AND THE COURT, IN RULING ON
14 THE MOTION, HAS THE SAME AUTHORITY PROVIDED IN THE TRIAL OF CRIMINAL
15 CASES.

16 (L) (1) THE STATE'S ATTORNEY FOR ANY COUNTY MAY PROSECUTE A
17 CODE VIOLATION UNDER § 10-136 OF THIS PART IN THE SAME MANNER AS
18 PROSECUTION OF A VIOLATION OF THE CRIMINAL LAWS OF THE STATE.

19 (2) IN A CODE VIOLATION CASE UNDER § 10-136 OF THIS PART,
20 THE STATE'S ATTORNEY MAY:

21 (I) ENTER A NOLLE PROSEQUI IN OR PLACE THE CASE ON
22 THE STET DOCKET; AND

23 (II) EXERCISE AUTHORITY IN THE SAME MANNER AS
24 PRESCRIBED BY LAW FOR VIOLATION OF THE CRIMINAL LAWS OF THE STATE.

25 **Article – Courts and Judicial Proceedings**

26 3-8A-01.

27 (dd) "Violation" means a violation for which a citation is issued under:

28 (1) § 10-113, § 10-114, § 10-115, or § 10-116 of the Criminal Law
29 Article;

30 (2) § 10-108 of the Criminal Law Article;

31 (3) § 10-132 of the Criminal Law Article; [or]

1 **(4) § 10–136 OF THE CRIMINAL LAW ARTICLE; OR**

2 **[(4)] (5)** § 26–103 of the Education Article.

3 3–8A–33.

4 (a) A law enforcement officer authorized to make arrests shall issue a
5 citation to a child if the officer has probable cause to believe that the child is violating:

6 (1) § 10–113, § 10–114, § 10–115, or § 10–116 of the Criminal Law
7 Article;

8 (2) § 10–108 of the Criminal Law Article;

9 (3) § 10–132 of the Criminal Law Article; [or]

10 **(4) § 10–136 OF THE CRIMINAL LAW ARTICLE; OR**

11 **[(4)] (5)** § 26–103 of the Education Article.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2012.