

HOUSE BILL 1196

D3, A1

6lr3258

By: **Delegates Angel, Carter, Fennell, Kramer, Morales, Oaks, Sanchez, Tarlau,
and A. Washington**

Introduced and read first time: February 12, 2016

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Action – Wrongfully Selling or Furnishing Alcoholic Beverages**

3 FOR the purpose of providing that a civil action for certain damages may be brought against
4 an alcoholic beverages license holder or the license holder’s employee who sold or
5 furnished under certain circumstances alcoholic beverages to an individual who is
6 under a certain age or under the influence of alcoholic beverages and who negligently
7 drove or attempted to drive a motor vehicle after consuming the alcoholic beverages;
8 requiring a trier of fact to determine whether a wrongful sale or furnishing of
9 alcoholic beverages was a proximate cause of certain damages; providing for a certain
10 standard of proof; establishing that an action may not be brought under this Act by
11 certain individuals; providing for the admissibility of certain evidence; providing for
12 a certain period of limitations for bringing an action under this Act; defining certain
13 terms; providing for the application of this Act; and generally relating to certain civil
14 liability for wrongfully selling or furnishing alcoholic beverages under certain
15 circumstances.

16 BY adding to

17 Article – Courts and Judicial Proceedings

18 Section 3–2101 through 3–2105 to be under the new subtitle “Subtitle 21. Wrongful
19 Sale or Furnishing of Alcoholic Beverages”

20 Annotated Code of Maryland

21 (2013 Replacement Volume and 2015 Supplement)

22 BY repealing and reenacting, with amendments,

23 Article – Courts and Judicial Proceedings

24 Section 5–105

25 Annotated Code of Maryland

26 (2013 Replacement Volume and 2015 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Courts and Judicial Proceedings**

4 **SUBTITLE 21. WRONGFUL SALE OR FURNISHING OF ALCOHOLIC BEVERAGES.**

5 **3–2101.**

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) “ALCOHOLIC BEVERAGE” HAS THE MEANING STATED IN § 1–101 OF THE
9 ALCOHOLIC BEVERAGES ARTICLE.

10 (C) (1) “DAMAGES” INCLUDES DAMAGES FOR DEATH AND PERSONAL
11 INJURY.

12 (2) “DAMAGES” DOES NOT INCLUDE PUNITIVE DAMAGES.

13 (D) “LICENSE HOLDER” HAS THE MEANING STATED IN § 1–101 OF THE
14 ALCOHOLIC BEVERAGES ARTICLE.

15 (E) “MOTOR VEHICLE” HAS THE MEANING STATED IN § 11–101 OF THE
16 TRANSPORTATION ARTICLE.

17 **3–2102.**

18 (A) EXCEPT AS PROVIDED IN § 3–2103 OF THIS SUBTITLE, A PERSON MAY
19 BRING AN ACTION UNDER THIS SUBTITLE AGAINST A LICENSE HOLDER OR A LICENSE
20 HOLDER’S EMPLOYEE WHO SELLS OR FURNISHES ALCOHOLIC BEVERAGES TO AN
21 INDIVIDUAL IF:

22 (1) THE LICENSE HOLDER OR THE LICENSE HOLDER’S EMPLOYEE
23 KNOWS OR REASONABLY SHOULD KNOW THAT THE INDIVIDUAL TO WHOM THE
24 ALCOHOLIC BEVERAGES ARE SOLD OR FURNISHED:

25 (I) IS UNDER THE AGE OF 21 YEARS; OR

26 (II) IS VISIBLY UNDER THE INFLUENCE OF ALCOHOLIC
27 BEVERAGES, REGARDLESS OF THE AGE OF THE INDIVIDUAL;

28 (2) THE LICENSE HOLDER OR THE LICENSE HOLDER’S EMPLOYEE
29 COULD HAVE REASONABLY FORESEEN THAT THE INDIVIDUAL MIGHT DRIVE OR

1 ATTEMPT TO DRIVE A MOTOR VEHICLE AFTER CONSUMING THE ALCOHOLIC
2 BEVERAGES;

3 (3) AFTER CONSUMING THE ALCOHOLIC BEVERAGES, THE
4 INDIVIDUAL NEGLIGENTLY DROVE OR ATTEMPTED TO DRIVE A MOTOR VEHICLE;
5 AND

6 (4) THE INDIVIDUAL'S NEGLIGENCE IN DRIVING OR ATTEMPTING TO
7 DRIVE THE MOTOR VEHICLE WAS A PROXIMATE CAUSE OF THE DAMAGES CLAIMED
8 IN THE ACTION.

9 (B) IN AN ACTION UNDER THIS SUBTITLE, THE TRIER OF FACT SHALL
10 DETERMINE BASED ON THE EVIDENCE WHETHER WRONGFULLY SELLING OR
11 FURNISHING ALCOHOLIC BEVERAGES, AS DESCRIBED IN SUBSECTION (A) OF THIS
12 SECTION, WAS A PROXIMATE CAUSE OF THE DAMAGES CLAIMED IN THE ACTION.

13 (C) A PERSON WHO BRINGS AN ACTION UNDER THIS SUBTITLE SHALL HAVE
14 THE BURDEN OF PROVING LIABILITY AS DESCRIBED IN THIS SECTION BY CLEAR AND
15 CONVINCING EVIDENCE.

16 **3-2103.**

17 AN ACTION UNDER THIS SUBTITLE MAY NOT BE BROUGHT BY THE INDIVIDUAL
18 TO WHOM THE ALCOHOLIC BEVERAGES WERE SOLD OR FURNISHED OR THE
19 PERSONAL REPRESENTATIVE, PARENT, LEGAL GUARDIAN, SPOUSE, CHILD,
20 DEPENDENT, OR BENEFICIARY OF THE INDIVIDUAL.

21 **3-2104.**

22 (A) IN AN ACTION UNDER THIS SUBTITLE, PROOF OF WHETHER THE
23 LICENSE HOLDER OR THE LICENSE HOLDER'S EMPLOYEE REQUESTED AND
24 EXAMINED A DRIVER'S LICENSE OR OTHER WRITTEN FORM OF IDENTIFICATION AND
25 AGE OF THE INDIVIDUAL IS ADMISSIBLE AS EVIDENCE.

26 (B) IN AN ACTION UNDER THIS SUBTITLE, PROOF OF WHETHER
27 RESPONSIBLE SERVING PRACTICES FOR ALCOHOLIC BEVERAGES WERE FOLLOWED
28 OR NOT FOLLOWED BY THE LICENSE HOLDER OR THE LICENSE HOLDER'S EMPLOYEE
29 IS ADMISSIBLE AS EVIDENCE.

30 (C) THIS SECTION DOES NOT LIMIT THE ADMISSIBILITY OF ANY OTHER
31 EVIDENCE OTHERWISE ADMISSIBLE UNDER LAW.

32 **3-2105.**

1 **NOTHING CONTAINED IN THIS SUBTITLE:**

2 **(1) LIMITS A DEFENDANT IN AN ACTION UNDER THIS SUBTITLE FROM**
3 **RAISING ASSUMPTION OF RISK OR CONTRIBUTORY NEGLIGENCE AS A DEFENSE; OR**

4 **(2) AFFECTS ANY LIMITATION ON DAMAGES UNDER ANY PROVISION**
5 **OF LAW THAT IS NOT IN THIS SUBTITLE.**

6 5–105.

7 An action for assault, libel, or slander **OR AN ACTION UNDER TITLE 3, SUBTITLE**
8 **21 OF THIS ARTICLE** shall be filed within one year from the date it accrues.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
10 apply only prospectively and may not be applied or interpreted to have any effect on or
11 application to any act or omission occurring before the effective date of this Act.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2016.