

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 409
Judiciary

(Delegate Fraser-Hidalgo, *et al.*)

Judicial Proceedings

Criminal Law - Providing Alcohol to Underage Drinkers - Penalties (Alex and Calvin's Law)

This bill prohibits an adult from knowingly and willfully allowing an individual younger than age 21 to possess or consume an alcoholic beverage at a residence or within the curtilage of a residence that the adult owns or leases and in which the adult resides or from furnishing an alcoholic beverage to an individual younger than age 21 for the purpose of consumption by that individual, if the adult (1) knew or reasonably should have known that the individual would operate a motor vehicle after consuming the alcoholic beverage and (2) as a result of operating a motor vehicle while under the influence of or impaired by alcohol, the individual causes serious physical injury or death to the individual or another. A violation is a misdemeanor subject to imprisonment for up to one year and/or a fine of up to \$5,000.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's penalty provision. Any increase on the District Court's caseload can be handled with existing resources. Enforcement can also be handled with existing resources.

Local Effect: Minimal increase in revenues and expenditures due to the bill's penalty provision. Any increase on the circuit courts' caseload can be handled with existing resources. Enforcement can also be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law: Under the Criminal Law Article, an individual may not obtain, or attempt to obtain, an alcoholic beverage from any person licensed to sell alcoholic beverages for another who the individual knows is younger than age 21.

Additionally, a person may not furnish an alcoholic beverage to an individual if the person knows that the individual is younger than age 21. An adult may not knowingly and willfully allow an individual younger than age 21 to possess or consume an alcoholic beverage at a residence or within the curtilage of a residence that the adult owns or leases and in which the adult resides. These prohibitions do not apply if the person furnishing, or allowing the possession or consumption of, the alcoholic beverage and the individual to whom the alcoholic beverage is furnished, or who possesses or consumes the alcoholic beverage, (1) are members of the same immediate family and the alcoholic beverage is furnished, possessed, or consumed in a private residence or the residence's curtilage or (2) are participants in a religious ceremony.

Adults who violate these provisions are guilty of a misdemeanor and on conviction are subject to a fine of up to \$2,500 for a first offense or a fine of up to \$5,000 for a second or subsequent offense. These penalties do not apply to licensed alcoholic beverage retailers who sell or furnish alcoholic beverages to individuals younger than age 21 and who are subject to penalties under the Alcoholic Beverages Article.

A minor who obtains, attempts to obtain, or furnishes an alcoholic beverage to an individual that the minor knows is younger than age 21 is subject to a citation. The bill does not alter the penalties for minors.

Background: According to a December 2015 *Washington Post* article, two 18-year-olds, Alex Murk and Calvin Li, were both killed in a high-speed, drunk-driving crash in June 2015 in Montgomery County. Police stated that the teenage driver of the car, in which Murk and Li were passengers, had a blood alcohol concentration level of between 0.07 and 0.09 and tested positive for drugs. The night of the crash, all of the teenagers had attended a party at a student's home where alcohol was served; the student's parent, who was present at the party, was later issued two criminal citations for allowing underage drinking in his home. The parent pled guilty and was ordered to pay the maximum \$5,000 fine.

According to the *Daily Record*, the Court of Appeals is considering two cases involving whether a parent or other adult who hosts an underage drinking party can be held civilly liable for the death of an intoxicated attendee of the party or injuries sustained by a person who was struck by an inebriated teenager driving from the event. Attorneys for one of the plaintiffs argued that the criminal statute that makes it a misdemeanor for an adult to knowingly and willfully allow a person younger than age 21 to possess or consume an

alcoholic beverage at the adult's home also creates a civil cause of action against the adult host. Defense counsel argued that the applicable criminal statute cannot be interpreted to create a civil cause of action, and that the legislature has the authority to enact a statute creating a civil cause of action in these situations. The court is expected to announce its decisions by August 2016.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalty due to more people being committed to State correctional facilities for convictions in Baltimore City. The number of people convicted of this proposed crime is expected to be minimal.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Additional Information

Prior Introductions: None.

Cross File: Although designated as a cross file, SB 564 (Senator Feldman, *et al.* – Judicial Proceedings) is different.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, State's Attorneys' Association, Department of Public Safety and Correctional Services, Department of State Police, *Daily Record*, *Washington Post*, Department of Legislative Services

Fiscal Note History:
min/kdm

First Reader - February 22, 2016
Revised - House Third Reader/Clarification - March 22, 2016
Revised - Enrolled Bill - May 16, 2016

Analysis by: Sasika Subramaniam

Direct Inquiries to:
(410) 946-5510
(301) 970-5510