A1, C7, E1 8lr0418 CF 8lr1812

By: Delegates Moon, Atterbeary, Proctor, Sanchez, and Sydnor

Introduced and read first time: January 19, 2018 Assigned to: Economic Matters and Ways and Means

## A BILL ENTITLED

## AN ACT concerning

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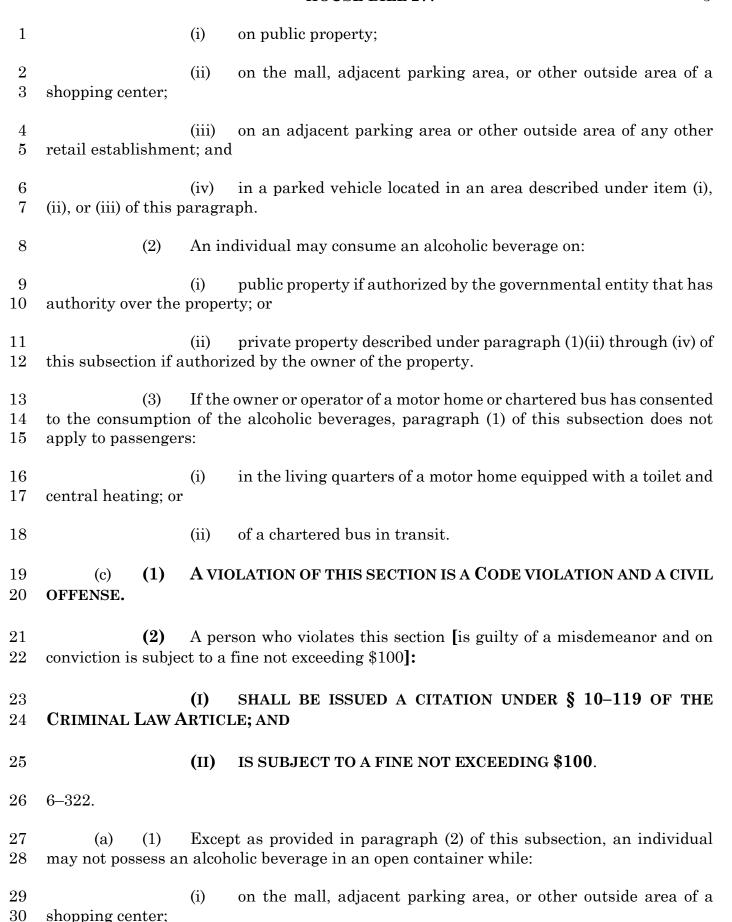
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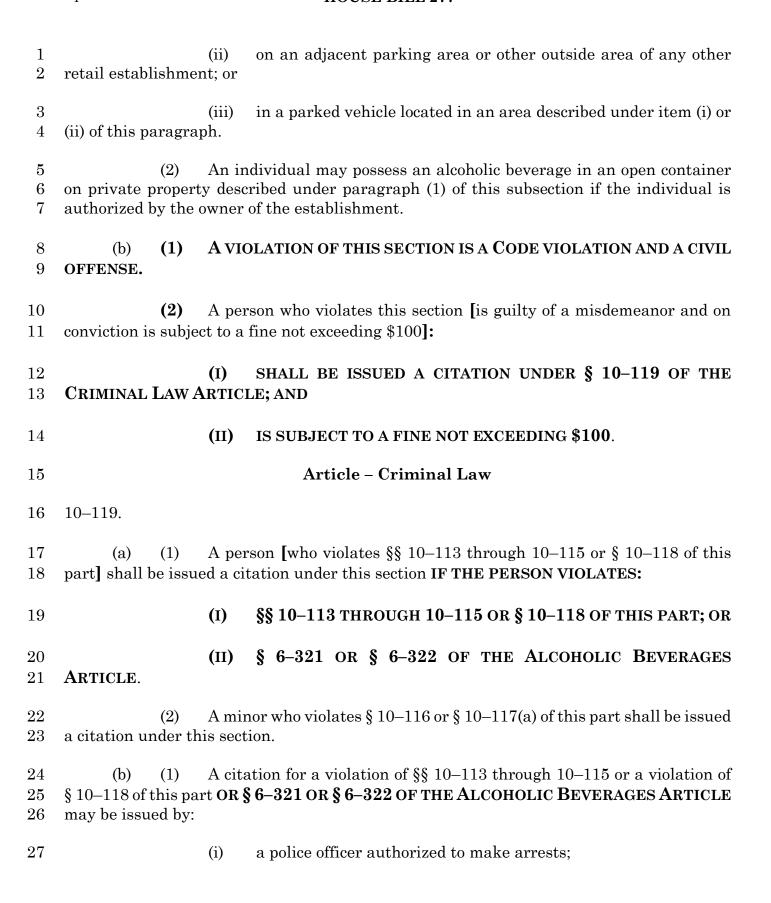
## Criminal Law – Alcohol Offenses and Gaming – Civil Offenses (Decriminalization of Petty Nonviolent Offenses Act)

FOR the purpose of making it a civil rather than a criminal offense to consume an alcoholic beverage in public under certain circumstances or to possess an alcoholic beverage in an open container under certain circumstances; requiring certain offenders to be issued a citation under certain circumstances; providing a certain maximum fine; altering the penalty for certain conduct relating to betting, wagering, or gambling; making certain conduct relating to betting, wagering, or gambling a civil offense; establishing that adjudication of a violation under a certain provision of this Act is not a criminal conviction for any purpose and does not impose any of the civil disabilities that may result from a criminal conviction; altering certain penalties; authorizing a certain police officer to issue a certain citation under certain circumstances; establishing certain requirements for a citation issued under this Act; requiring the form of a certain citation to be uniform throughout the State and to be prescribed by the District Court; requiring the Chief Judge of the District Court to establish a schedule for the prepayment of a certain fine; requiring a certain issuing jurisdiction to forward a copy of a certain citation and request for trial to a certain court; providing that a person may request a trial in a certain manner within a certain time period after the issuance of a citation; providing that the District Court may impose a certain fine and costs and find a person guilty of a certain violation under certain circumstances; providing that a certain defendant is liable for certain costs of a certain proceeding; specifying the costs of a certain proceeding; providing that the State has the burden to prove the guilt of a certain defendant by a certain standard; requiring a court to apply certain evidentiary standards; requiring a court to ensure that a certain defendant has received a copy of certain charges and that the defendant understands those charges; providing that a certain defendant is entitled to take certain actions under certain circumstances; providing that a certain defendant is entitled to be represented by a certain counsel at the expense of the defendant; authorizing a certain defendant to enter a certain plea; specifying a certain verdict; authorizing a certain State's Attorney to prosecute a certain Code



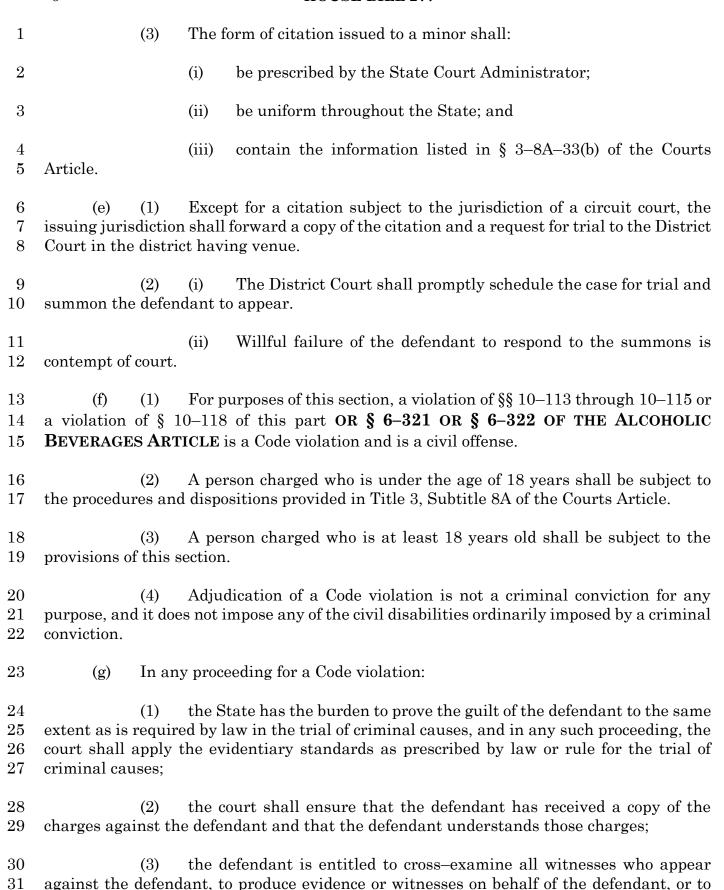
1 2 3 4	violation in a certain manner; providing that a certain person under a certain age who is issued a citation for a certain violation is subject to certain procedures and dispositions; making certain conforming changes; and generally relating to alcoholof fenses and gaming.									
5 6 7 8 9	BY repealing and reenacting, with amendments, Article – Alcoholic Beverages Section 6–321 and 6–322 Annotated Code of Maryland (2016 Volume and 2017 Supplement)									
10 11 12 13 14	BY repealing and reenacting, with amendments, Article – Criminal Law Section 10–119, 12–102, and 12–103 Annotated Code of Maryland (2012 Replacement Volume and 2017 Supplement)									
15 16	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:									
17				Article - Alcoholic Beverages						
18	6–321.									
19	(a)	In th	is secti	on, "public property" includes property that is:						
20		(1)	a strı	acture, road, parking area, or grounds; and						
21		(2)	locate	ed on land owned, leased, or operated by:						
22			(i)	the State;						
23			(ii)	a county;						
24			(iii)	a municipality;						
25			(iv)	the Washington Suburban Sanitary Commission;						
26			(v)	the Maryland–National Capital Park and Planning Commission;						
27			(vi)	the Montgomery County Revenue Authority; or						
28			(vii)	the Washington Metropolitan Area Transit Authority.						
29 30	(b) individual n	(1) nay no	_	ot as provided in paragraphs (2) and (3) of this subsection, an ame an alcoholic beverage:						



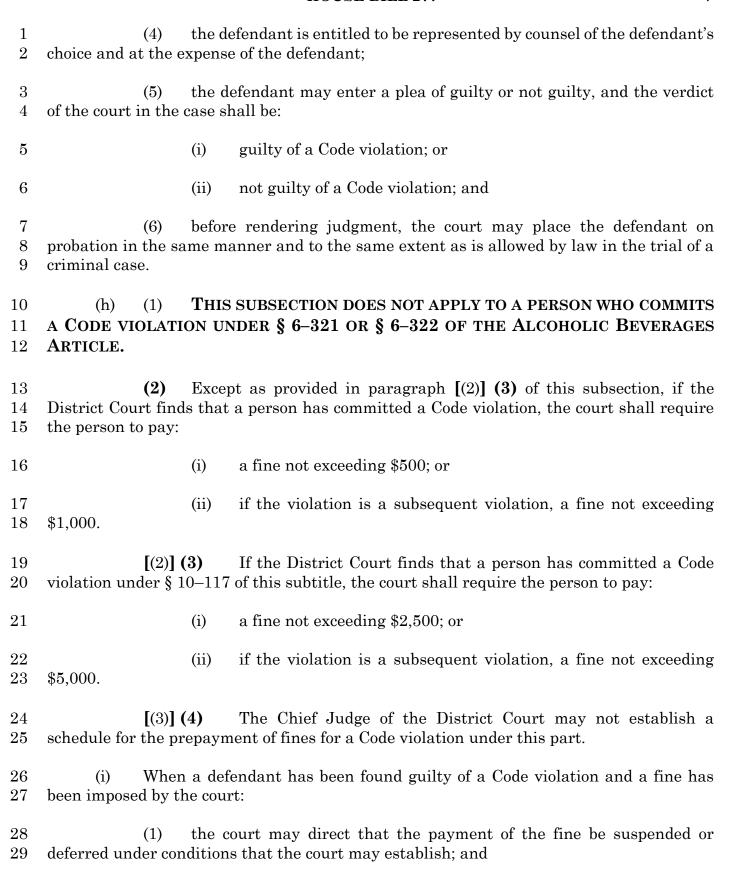


1 2 3	`	s, a	in State forestry reservations, State parks, historic monuments, forest or park warden under § 5–206(a) or (b) of the Natural				
4 5 6 7 8	(iii) subject to paragraphs (2) and (3) of this subsection, in Anne Arundel County, Frederick County, Harford County, Kent County, Montgomery County, Prince George's County, and Talbot County, and only in the inspector's jurisdiction, an alcoholic beverages inspector who investigates license violations under the Alcoholic Beverages Article.						
9 10 11 12 13	(2) In Anne Arundel County, Frederick County, Harford County, Kent County, Montgomery County, Prince George's County, and Talbot County, the inspector shall successfully complete an appropriate program of training in the proper use of arrest authority and pertinent police procedures as required by the board of license commissioners.						
14 15 16	(3) In Anne Arundel County, Harford County, Kent County, Montgomery County, Prince George's County, and Talbot County, the inspector may not carry a firearm in the performance of the inspector's duties.						
17 18 19	(c) A person authorized under this section to issue a citation shall issue it if the person has probable cause to believe that the person charged is committing or has committed a Code violation.						
20 21 22	` ' ' ' '	•	ct to paragraph (2) of this subsection, the form of citation issued rescribed by the District Court and shall be uniform throughout				
23	(2) T	Γhe ci	tation issued to an adult shall contain:				
24	(i	i)	the name and address of the person charged;				
25	(i	ii)	the statute allegedly violated;				
26	(i	iii)	the location, date, and time that the violation occurred;				
27	(i	iv)	the fine that may be imposed;				
28	(	v)	a notice stating that prepayment of the fine is not allowed;				
29 30	charged a summons	vi) to ap	a notice that the District Court shall promptly send the person pear for trial;				
31	(•	vii)	the signature of the person issuing the citation; and				
32	()	viii)	a space for the person charged to sign the citation.				

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testify on the defendant's own behalf, if the defendant chooses to do so;



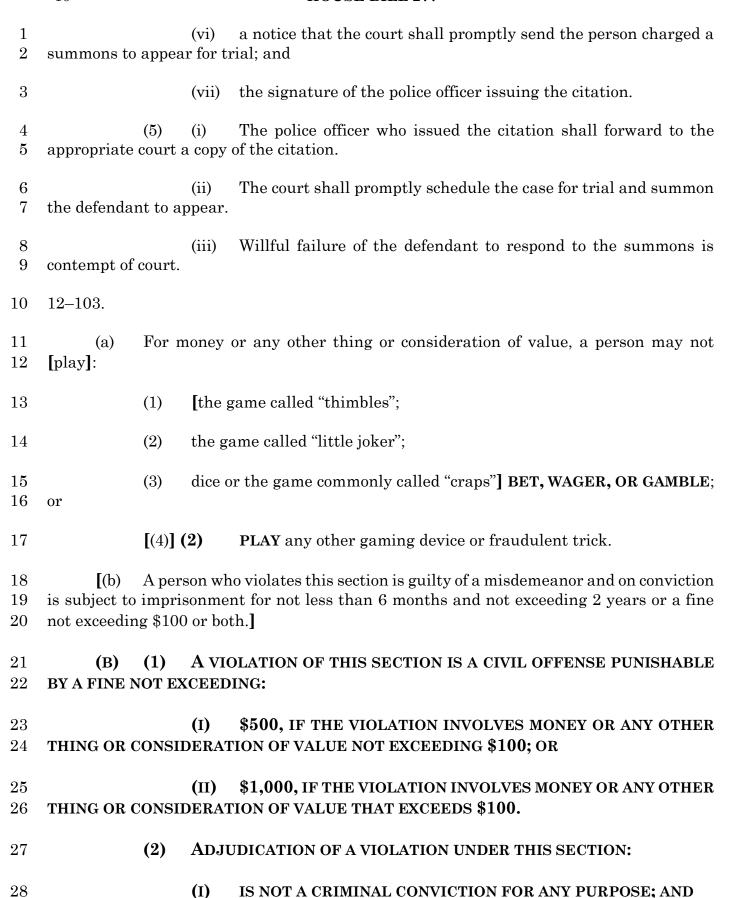
1 if the defendant willfully fails to pay the fine imposed by the court, that (2) 2 willful failure may be treated as a criminal contempt of court, for which the defendant may 3 be punished by the court as provided by law. 4 (i) The defendant is liable for the costs of the proceedings in the District 5 Court and for payment to the Criminal Injuries Compensation Fund. 6 (2)The court costs in a Code violation case in which costs are imposed are 7 \$5. In this subsection, "driver's license" means a license or permit to drive 8 (k) (1) 9 a motor vehicle that is issued under the laws of this State or any other jurisdiction. 10 (2) This subsection applies only to: 11 (i) a person who is at least 18 but under 21 years of age; or 12(ii) a minor if the minor is subject to the jurisdiction of the court. 13 (3)If a person is found guilty of a Code violation under § 10–113 of this 14 part that involved the use of a driver's license or a document purporting to be a driver's license, the court shall notify the Motor Vehicle Administration of the violation. 15 16 **(4)** The Chief Judge of the District Court, in conjunction with the Motor 17 Vehicle Administrator, shall establish uniform procedures for reporting Code violations described in this subsection. 18 19 (1)A defendant who has been found guilty of a Code violation has the right 20 to appeal or to file a motion for a new trial or a motion for a revision of a judgment provided 21by law in the trial of a criminal case. 22A motion shall be made in the same manner as provided in the trial of 23criminal cases, and the court, in ruling on the motion has the same authority provided in the trial of criminal cases. 2425(m) The State's Attorney for any county may prosecute a Code violation in 26the same manner as prosecution of a violation of the criminal laws of this State. 27 In a Code violation case the State's Attorney may: (2)28(i) enter a nolle prosequi in or place the case on the stet docket; and 29 (ii) exercise authority in the same manner as prescribed by law for

31 12–102.

violation of the criminal laws of this State.

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1	(a)	A per	son ma	y not:		
2		(1)	[bet, v	wager, or gamble;		
3 4	contingency	(2) <b>]</b>	make	or sell a book or pool on the result of a race, contest, or		
5 6 7			rented,	establish, keep, rent, use, or occupy, or knowingly allow to be used, or occupied, all or a part of a building, vessel, or place, on State, for the purpose of:		
8			(i)	betting, wagering, or gambling; or		
9 10	contest, or c	onting	(ii) ency; o	making, selling, or buying books or pools on the result of a race,		
11 12 13			preten	receive, become the depository of, record, register, or forward, or d to forward, money or any other thing or consideration of value, nbled on the result of a race, contest, or contingency.		
14 15 16 17	(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment [for not less than 6 months and] not exceeding [1 year or a fine of not less than \$200 and not exceeding \$1,000 or both] 6 MONTHS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.					
18	(c)	(1)	The p	rovisions of this subsection apply only in Baltimore City.		
19		(2)	A pers	son who violates this section may be charged by a citation.		
20 21 22	(3) A citation for a violation of this section may be issued to a person by a police officer authorized to make arrests in Baltimore City if there is probable cause to believe that the person is committing or has committed a violation of this section.					
23		(4)	A cita	tion issued under this subsection shall contain:		
24			(i)	the name and address of the person charged;		
25			(ii)	the statute allegedly violated;		
26			(iii)	the location, date, and time that the violation occurred;		
27			(iv)	the fine or term of imprisonment that may be imposed;		
28			(v)	a notice stating that prepayment of a fine is not allowed;		



- 1 (II) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES THAT 2 MAY RESULT FROM A CRIMINAL CONVICTION. 3 (C) **(1)** A CITATION FOR A VIOLATION OF THIS SECTION MAY BE ISSUED 4 TO A PERSON BY A POLICE OFFICER AUTHORIZED TO MAKE ARRESTS IF THERE IS 5 PROBABLE CAUSE TO BELIEVE THAT THE PERSON IS COMMITTING OR HAS COMMITTED A VIOLATION OF THIS SECTION. 6 7 **(2)** A CITATION ISSUED UNDER THIS SUBSECTION SHALL CONTAIN: 8 **(I)** THE NAME, ADDRESS, AND DATE OF BIRTH OF THE PERSON 9 CHARGED; 10 (II)THE STATUTE ALLEGEDLY VIOLATED; 11 (III) THE DATE AND TIME THAT THE VIOLATION OCCURRED; 12 (IV) THE LOCATION AT WHICH THE VIOLATION OCCURRED; 13 (V) THE FINE THAT MAY BE IMPOSED; 14 (VI) A NOTICE STATING THAT PREPAYMENT OF THE FINE IS ALLOWED; 15 16 (VII) A NOTICE IN BOLDFACE TYPE THAT STATES THAT THE 17 PERSON SHALL: 18 1. PAY THE FULL AMOUNT OF THE PRESET FINE; OR 19 2. REQUEST A TRIAL DATE AT THE DATE, TIME, AND PLACE ESTABLISHED BY THE DISTRICT COURT BY WRIT OR TRIAL NOTICE; AND 20 21(VIII) THE SIGNATURE OF THE POLICE OFFICER ISSUING THE 22 CITATION. 23 **(3)** THE FORM OF THE CITATION SHALL BE UNIFORM THROUGHOUT THE STATE AND SHALL BE PRESCRIBED BY THE DISTRICT COURT. 24
- 25 (4) (I) THE CHIEF JUDGE OF THE DISTRICT COURT SHALL
- 26 ESTABLISH A SCHEDULE FOR THE PREPAYMENT OF A FINE.
- 27 (II) PREPAYMENT OF A FINE SHALL BE CONSIDERED A PLEA OF 28 GUILTY TO A CIVIL CODE VIOLATION.

- 1 (5) THE ISSUING JURISDICTION SHALL FORWARD A COPY OF THE
- 2 CITATION AND A REQUEST FOR TRIAL TO THE DISTRICT COURT IN THE DISTRICT
- 3 HAVING VENUE.
- 4 (6) A PERSON MAY REQUEST A TRIAL BY SENDING A REQUEST FOR
- 5 TRIAL TO THE DISTRICT COURT IN THE JURISDICTION WHERE THE CITATION WAS
- 6 ISSUED WITHIN 30 DAYS AFTER THE ISSUANCE OF THE CITATION.
- 7 (7) IF A PERSON DOES NOT REQUEST A TRIAL OR PREPAY THE FINE
- 8 WITHIN 30 DAYS AFTER THE ISSUANCE OF THE CITATION, THE DISTRICT COURT MAY
- 9 IMPOSE THE MAXIMUM FINE AND COSTS AGAINST THE PERSON AND FIND THE
- 10 PERSON GUILTY OF A CODE VIOLATION FOR THE PURPOSES OF THIS SECTION.
- 11 (8) (I) THE DEFENDANT IS LIABLE FOR THE COSTS OF THE
- 12 PROCEEDINGS IN THE DISTRICT COURT.
- 13 (II) THE COURT COSTS IN A CODE VIOLATION CASE UNDER THIS
- 14 SECTION IN WHICH COSTS ARE IMPOSED ARE \$5.
- 15 (D) IN ANY PROCEEDING FOR A CODE VIOLATION UNDER THIS SECTION:
- 16 (1) THE STATE HAS THE BURDEN TO PROVE THE GUILT OF THE
- 17 DEFENDANT BY A PREPONDERANCE OF THE EVIDENCE;
- 18 (2) THE COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS
- 19 PRESCRIBED BY LAW OR RULE FOR THE TRIAL OF A CRIMINAL CASE;
- 20 (3) THE COURT SHALL ENSURE THAT THE DEFENDANT HAS RECEIVED
- 21 A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE DEFENDANT
- 22 UNDERSTANDS THOSE CHARGES;
- 23 (4) THE DEFENDANT IS ENTITLED TO CROSS-EXAMINE ALL
- 24 WITNESSES WHO APPEAR AGAINST THE DEFENDANT, TO PRODUCE EVIDENCE OR
- 25 WITNESSES ON BEHALF OF THE DEFENDANT, AND TO TESTIFY ON THE DEFENDANT'S
- 26 OWN BEHALF, IF THE DEFENDANT CHOOSES TO DO SO;
- 27 (5) THE DEFENDANT IS ENTITLED TO BE REPRESENTED BY COUNSEL
- 28 OF THE DEFENDANT'S CHOICE AND AT THE EXPENSE OF THE DEFENDANT; AND
- 29 (6) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY,
- 30 AND THE VERDICT OF THE COURT IN THE CASE SHALL BE:

1	(I) GUILTY OF A CODE VIOLATION;						
2	(II) NOT GUILTY OF A CODE VIOLATION; OR						
3	(III) PROBATION BEFORE JUDGMENT, IMPOSED BY THE COURT						
4	IN THE SAME MANNER AND TO THE SAME EXTENT AS IS ALLOWED BY LAW IN THE						
5	TRIAL OF A CRIMINAL CASE.						
6	(E) (1) THE STATE'S ATTORNEY FOR ANY COUNTY MAY PROSECUTE A						
7	CODE VIOLATION UNDER THIS SECTION IN THE SAME MANNER AS PROSECUTION OF						
8	A VIOLATION OF THE CRIMINAL LAWS OF THE STATE.						
9	(2) IN A CODE VIOLATION CASE UNDER THIS SECTION, THE STATE'S						
10	ATTORNEY MAY:						
11	(I) ENTER A NOLLE PROSEQUI OR MOVE TO PLACE THE CASE ON						
12	THE STET DOCKET; AND						
13	(II) EXERCISE AUTHORITY IN THE SAME MANNER AS						
14	PRESCRIBED BY LAW FOR VIOLATION OF THE CRIMINAL LAWS OF THE STATE.						
15	(F) A PERSON ISSUED A CITATION FOR A VIOLATION OF THIS SECTION WHO						
16	IS UNDER THE AGE OF 18 YEARS SHALL BE SUBJECT TO THE PROCEDURES AND						
17	DISPOSITIONS PROVIDED IN TITLE 3, SUBTITLE 8A OF THE COURTS ARTICLE.						
18	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect						
19	October 1, 2018.						