

HOUSE BILL 88

A1, E1

(9lr0418)

ENROLLED BILL

— Economic Matters/Judicial Proceedings —

Introduced by **Delegates Charkoudian, Acevero, Boyce, Bridges, Crutchfield, Dumais, Hettleman, Kelly, Kerr, Korman, R. Lewis, Lierman, Love, Moon, Mosby, Stewart, Washington, Wells, and Wilkins**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law — ~~Alcohol Offenses~~ and Civil Offenses**
3 **~~(Decriminalization of Petty Nonviolent Offenses Act)~~ — Classifications**

4 FOR the purpose of making it a civil rather than a criminal offense to consume an alcoholic
5 beverage in public under certain circumstances or to possess an alcoholic beverage
6 in an open container under certain circumstances; requiring certain offenders to be
7 issued a citation under certain circumstances; providing a certain maximum fine;
8 establishing the Task Force to Study Crime Classification and Penalties; providing
9 for the composition, chair, and staffing of the Task Force; prohibiting a member of the
10 Task Force from receiving certain compensation, but authorizing reimbursement of
11 certain expenses; requiring the Task Force to study certain issues related to the
12 classification of and penalties for criminal and civil violations in the State; requiring
13 the Task Force to report its findings to the Governor and the General Assembly on or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 before a certain date; making certain conforming changes; providing for the
2 termination of certain provisions of this Act; and generally relating to ~~alcohol~~
3 classification of offenses.

4 BY repealing and reenacting, with amendments,
5 Article – Alcoholic Beverages
6 Section 6–321 and 6–322
7 Annotated Code of Maryland
8 (2016 Volume and 2018 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article – Criminal Law
11 Section 10–119
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2018 Supplement)

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

16 **Article – Alcoholic Beverages**

17 6–321.

18 (a) In this section, “public property” includes property that is:

- 19 (1) a structure, road, parking area, or grounds; and
20 (2) located on land owned, leased, or operated by:
21 (i) the State;
22 (ii) a county;
23 (iii) a municipality;
24 (iv) the Washington Suburban Sanitary Commission;
25 (v) the Maryland–National Capital Park and Planning Commission;
26 (vi) the Montgomery County Revenue Authority; or
27 (vii) the Washington Metropolitan Area Transit Authority.

28 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection, an
29 individual may not consume an alcoholic beverage:

- 30 (i) on public property;

1 (ii) on the mall, adjacent parking area, or other outside area of a
2 shopping center;

3 (iii) on an adjacent parking area or other outside area of any other
4 retail establishment; and

5 (iv) in a parked vehicle located in an area described under item (i),
6 (ii), or (iii) of this paragraph.

7 (2) An individual may consume an alcoholic beverage on:

8 (i) public property if authorized by the governmental entity that has
9 authority over the property; or

10 (ii) private property described under paragraph (1)(ii) through (iv) of
11 this subsection if authorized by the owner of the property.

12 (3) If the owner or operator of a motor home or chartered bus has consented
13 to the consumption of the alcoholic beverages, paragraph (1) of this subsection does not
14 apply to passengers:

15 (i) in the living quarters of a motor home equipped with a toilet and
16 central heating; or

17 (ii) of a chartered bus in transit.

18 (c) **(1) A VIOLATION OF THIS SECTION IS A CODE VIOLATION AND A CIVIL**
19 **OFFENSE.**

20 **(2) A person who violates this section [is guilty of a misdemeanor and on**
21 **conviction is subject to a fine not exceeding \$100]:**

22 **(I) SHALL BE ISSUED A CITATION UNDER § 10-119 OF THE**
23 **CRIMINAL LAW ARTICLE; AND**

24 **(II) IS SUBJECT TO A FINE NOT EXCEEDING \$100.**

25 6-322.

26 (a) (1) Except as provided in paragraph (2) of this subsection, an individual
27 may not possess an alcoholic beverage in an open container while:

28 (i) on the mall, adjacent parking area, or other outside area of a
29 shopping center;

1 (ii) on an adjacent parking area or other outside area of any other
2 retail establishment; or

3 (iii) in a parked vehicle located in an area described under item (i) or
4 (ii) of this paragraph.

5 (2) An individual may possess an alcoholic beverage in an open container
6 on private property described under paragraph (1) of this subsection if the individual is
7 authorized by the owner of the establishment.

8 (b) **(1) A VIOLATION OF THIS SECTION IS A CODE VIOLATION AND A CIVIL**
9 **OFFENSE.**

10 **(2)** A person who violates this section [is guilty of a misdemeanor and on
11 conviction is subject to a fine not exceeding \$100]:

12 **(I) SHALL BE ISSUED A CITATION UNDER § 10–119 OF THE**
13 **CRIMINAL LAW ARTICLE; AND**

14 **(II) IS SUBJECT TO A FINE NOT EXCEEDING \$100.**

15 **Article – Criminal Law**

16 10–119.

17 (a) (1) A person [who violates §§ 10–113 through 10–115 or § 10–118 of this
18 part] shall be issued a citation under this section **IF THE PERSON VIOLATES:**

19 **(I) §§ 10–113 THROUGH 10–115 OR § 10–118 OF THIS PART; OR**

20 **(II) § 6–321 OR § 6–322 OF THE ALCOHOLIC BEVERAGES**
21 **ARTICLE.**

22 (2) A minor who violates § 10–116 or § 10–117(a) of this part shall be issued
23 a citation under this section.

24 (b) (1) A citation for a violation of §§ 10–113 through 10–115 or a violation of
25 § 10–118 of this part **OR § 6–321 OR § 6–322 OF THE ALCOHOLIC BEVERAGES ARTICLE**
26 may be issued by:

27 (i) a police officer authorized to make arrests;

28 (ii) in State forestry reservations, State parks, historic monuments,
29 and recreation areas, a forest or park warden under § 5–206(a) or (b) of the Natural
30 Resources Article; and

1 (iii) subject to paragraphs (2) and (3) of this subsection, in Anne
2 Arundel County, Frederick County, Harford County, Kent County, Montgomery County,
3 Prince George's County, and Talbot County, and only in the inspector's jurisdiction, an
4 alcoholic beverages inspector who investigates license violations under the Alcoholic
5 Beverages Article.

6 (2) In Anne Arundel County, Frederick County, Harford County, Kent
7 County, Montgomery County, Prince George's County, and Talbot County, the inspector
8 shall successfully complete an appropriate program of training in the proper use of arrest
9 authority and pertinent police procedures as required by the board of license
10 commissioners.

11 (3) In Anne Arundel County, Harford County, Kent County, Montgomery
12 County, Prince George's County, and Talbot County, the inspector may not carry a firearm
13 in the performance of the inspector's duties.

14 (c) A person authorized under this section to issue a citation shall issue it if the
15 person has probable cause to believe that the person charged is committing or has
16 committed a Code violation.

17 (d) (1) Subject to paragraph (2) of this subsection, the form of citation issued
18 to an adult shall be as prescribed by the District Court and shall be uniform throughout
19 the State.

20 (2) The citation issued to an adult shall contain:

21 (i) the name and address of the person charged;

22 (ii) the statute allegedly violated;

23 (iii) the location, date, and time that the violation occurred;

24 (iv) the fine that may be imposed;

25 (v) a notice stating that prepayment of the fine is not allowed;

26 (vi) a notice that the District Court shall promptly send the person
27 charged a summons to appear for trial;

28 (vii) the signature of the person issuing the citation; and

29 (viii) a space for the person charged to sign the citation.

30 (3) The form of citation issued to a minor shall:

31 (i) be prescribed by the State Court Administrator;

1 (ii) be uniform throughout the State; and

2 (iii) contain the information listed in § 3–8A–33(b) of the Courts
3 Article.

4 (e) (1) Except for a citation subject to the jurisdiction of a circuit court, the
5 issuing jurisdiction shall forward a copy of the citation and a request for trial to the District
6 Court in the district having venue.

7 (2) (i) The District Court shall promptly schedule the case for trial and
8 summon the defendant to appear.

9 (ii) Willful failure of the defendant to respond to the summons is
10 contempt of court.

11 (f) (1) For purposes of this section, a violation of §§ 10–113 through 10–115 or
12 a violation of § 10–118 of this part **OR § 6–321 OR § 6–322 OF THE ALCOHOLIC**
13 **BEVERAGES ARTICLE** is a Code violation and is a civil offense.

14 (2) A person charged who is under the age of 18 years shall be subject to
15 the procedures and dispositions provided in Title 3, Subtitle 8A of the Courts Article.

16 (3) A person charged who is at least 18 years old shall be subject to the
17 provisions of this section.

18 (4) Adjudication of a Code violation is not a criminal conviction for any
19 purpose, and it does not impose any of the civil disabilities ordinarily imposed by a criminal
20 conviction.

21 (g) In any proceeding for a Code violation:

22 (1) the State has the burden to prove the guilt of the defendant to the same
23 extent as is required by law in the trial of criminal causes, and in any such proceeding, the
24 court shall apply the evidentiary standards as prescribed by law or rule for the trial of
25 criminal causes;

26 (2) the court shall ensure that the defendant has received a copy of the
27 charges against the defendant and that the defendant understands those charges;

28 (3) the defendant is entitled to cross-examine all witnesses who appear
29 against the defendant, to produce evidence or witnesses on behalf of the defendant, or to
30 testify on the defendant's own behalf, if the defendant chooses to do so;

31 (4) the defendant is entitled to be represented by counsel of the defendant's
32 choice and at the expense of the defendant;

1 (5) the defendant may enter a plea of guilty or not guilty, and the verdict
2 of the court in the case shall be:

3 (i) guilty of a Code violation; or

4 (ii) not guilty of a Code violation; and

5 (6) before rendering judgment, the court may place the defendant on
6 probation in the same manner and to the same extent as is allowed by law in the trial of a
7 criminal case.

8 (h) (1) **THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO COMMITS**
9 **A CODE VIOLATION UNDER § 6-321 OR § 6-322 OF THE ALCOHOLIC BEVERAGES**
10 **ARTICLE.**

11 (2) Except as provided in paragraph [(2)] (3) of this subsection, if the
12 District Court finds that a person has committed a Code violation, the court shall require
13 the person to pay:

14 (i) a fine not exceeding \$500; or

15 (ii) if the violation is a subsequent violation, a fine not exceeding
16 \$1,000.

17 [(2)] (3) If the District Court finds that a person has committed a Code
18 violation under § 10-117 of this subtitle, the court shall require the person to pay:

19 (i) a fine not exceeding \$2,500; or

20 (ii) if the violation is a subsequent violation, a fine not exceeding
21 \$5,000.

22 [(3)] (4) The Chief Judge of the District Court may not establish a
23 schedule for the prepayment of fines for a Code violation under this part.

24 (i) When a defendant has been found guilty of a Code violation and a fine has
25 been imposed by the court:

26 (1) the court may direct that the payment of the fine be suspended or
27 deferred under conditions that the court may establish; and

28 (2) if the defendant willfully fails to pay the fine imposed by the court, that
29 willful failure may be treated as a criminal contempt of court, for which the defendant may
30 be punished by the court as provided by law.

1 (j) (1) The defendant is liable for the costs of the proceedings in the District
2 Court and for payment to the Criminal Injuries Compensation Fund.

3 (2) The court costs in a Code violation case in which costs are imposed are
4 \$5.

5 (k) (1) In this subsection, “driver’s license” means a license or permit to drive
6 a motor vehicle that is issued under the laws of this State or any other jurisdiction.

7 (2) This subsection applies only to:

8 (i) a person who is at least 18 but under 21 years of age; or

9 (ii) a minor if the minor is subject to the jurisdiction of the court.

10 (3) If a person is found guilty of a Code violation under § 10–113 of this
11 part that involved the use of a driver’s license or a document purporting to be a driver’s
12 license, the court shall notify the Motor Vehicle Administration of the violation.

13 (4) The Chief Judge of the District Court, in conjunction with the Motor
14 Vehicle Administrator, shall establish uniform procedures for reporting Code violations
15 described in this subsection.

16 (l) (1) A defendant who has been found guilty of a Code violation has the right
17 to appeal or to file a motion for a new trial or a motion for a revision of a judgment provided
18 by law in the trial of a criminal case.

19 (2) A motion shall be made in the same manner as provided in the trial of
20 criminal cases, and the court, in ruling on the motion has the same authority provided in
21 the trial of criminal cases.

22 (m) (1) The State’s Attorney for any county may prosecute a Code violation in
23 the same manner as prosecution of a violation of the criminal laws of this State.

24 (2) In a Code violation case the State’s Attorney may:

25 (i) enter a nolle prosequi in or place the case on the stet docket; and

26 (ii) exercise authority in the same manner as prescribed by law for
27 violation of the criminal laws of this State.

28 *SECTION 2. AND BE IT FURTHER ENACTED, That:*

29 (a) *There is a Task Force to Study Crime Classification and Penalties.*

30 (b) *The Task Force consists of the following members:*

1 (1) three members of the Senate of Maryland, appointed by the President of
2 the Senate;

3 (2) three members of the House of Delegates, appointed by the Speaker of the
4 House;

5 (3) the Attorney General, or the Attorney General's designee;

6 (4) the Executive Director of the Maryland Sentencing Commission, or the
7 Executive Director's designee;

8 (5) the Executive Director of the Governor's Office of Crime Control and
9 Prevention, or the Executive Director's designee;

10 (6) the president of the Maryland State's Attorneys' Association, or the
11 president's designee;

12 (7) an expert in the subject matter of criminal sentencing, appointed by the
13 president of the Maryland State's Attorneys' Association;

14 (8) the Public Defender, or the Public Defender's designee;

15 (9) an expert in the subject matter of criminal sentencing, appointed by the
16 Public Defender; and

17 (10) the chair of the Justice Reinvestment Oversight Board.

18 (c) The members of the Task Force shall designate the chair of the Task Force.

19 (d) The Department of Legislative Services shall provide staff for the Task Force.

20 (e) A member of the Task Force:

21 (1) may not receive compensation as a member of the Task Force; but

22 (2) is entitled to reimbursement for expenses under the Standard State
23 Travel Regulations, as provided in the State budget.

24 (f) The Task Force shall:

25 (1) review the penalties for all criminal and civil violations throughout the
26 Maryland Code;

27 (2) study the history and legislative intent of the classification of criminal
28 and civil violations throughout the Maryland Code, including the constitutional
29 implications and collateral consequences that arise as a result of classification;

1 (3) study criminal classifications and penalty schemes in other states and
2 how those classifications and schemes compare to those in the State; and

3 (4) make recommendations regarding the current statutory scheme for
4 criminal and civil violations throughout the Maryland Code, including:

5 (i) whether there are violations that should be reclassified as civil
6 offenses, misdemeanors, or felonies;

7 (ii) whether there are penalties that should be altered;

8 (iii) whether the State would benefit from:

9 1. the imposition of standardized crime classifications and
10 penalties;

11 2. the codification of a default mental state as an element of
12 criminal liability; and

13 3. the codification of affirmative defenses and their elements;

14 (iv) whether statutory changes are necessary for provisions of
15 criminal law that lack an explicit mens rea; and

16 (v) what limitations, if any, should be placed on the ability of
17 administrative boards, agencies, local governments, appointed commissioners, or of other
18 persons or entities to enact rules, regulations, ordinances, or laws providing for criminal
19 penalties.

20 (g) On or before December 31, 2020, the Task Force shall report its findings and
21 recommendations to the Governor and, in accordance with § 2-1246 of the State Government
22 Article, the General Assembly.

23 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take
24 effect October 1, 2019.

25 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That, except as provided in
26 Section 3 of this Act, this Act shall take effect ~~October~~ June 1, 2019. Section 2 of this Act
27 shall remain effective for a period of 2 years and 1 month and, at the end of June 30, 2021,
28 Section 2 of this Act, with no further action required by the General Assembly, shall be
29 abrogated and of no further force and effect.