

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL NO. 21

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Ruben” and substitute “, Ruben, Lawlah, Ferguson, Green, Hoffman, Hooper, Jacobs, Jimeno, Kelley, Roesser, and Teitelbaum”.

AMENDMENT NO. 2

On page 1, in line 2, strike “Vehicle Laws -”; in the same line, after “Open” insert “or Unsealed”; in line 11, after “circumstances;” insert “providing that certain violations are civil offenses; providing for the issuance of a certain citation; providing for certain procedures; providing for the jurisdiction of the District Court for certain violations under this Act;”; in the same line, strike “a certain penalty” and substitute “a certain civil penalty”; in the same line, strike “a violation” and substitute “certain violations”; in line 12, strike “is” and substitute “are”; and in the same line, strike “a moving violation” and substitute “moving violations”.

AMENDMENT NO. 3

On page 1, after line 17, insert:

“BY repealing and reenacting, with amendments,

Article - Courts and Judicial Proceedings

Section 4-401(10)(x) and (xi)

Annotated Code of Maryland

(1998 Replacement Volume and 2001 Supplement)

BY adding to

Article - Courts and Judicial Proceedings

Section 4-401(10)(xii)

Annotated Code of Maryland

(1998 Replacement Volume and 2001 Supplement)

(Over)

BY repealing and reenacting, with amendments,

Article - Criminal Law

Section 10-101(a) to be under the new part “Part I. General Provisions”

Annotated Code of Maryland

(As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of 2002)

BY adding to

Article - Criminal Law

Section 10-113 through 10-117 to be under the new part “Part II. Alcoholic Beverage Consumption or Possession of Open Container in Passenger Area of Motor Vehicle”

Annotated Code of Maryland

(As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of 2002)”.

AMENDMENT NO. 4

On page 1, after line 29, insert:

“Article - Courts and Judicial Proceedings

4-401.

Except as provided in § 4-402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(10) A proceeding for adjudication of:

(x) A civil infraction that is authorized by law to be prosecuted by a sanitary commission; [or]

(xi) A subdivision violation for which a civil penalty has been provided in accordance with Article 66B, § 14.07(f) of the Code; OR

(XII) A VIOLATION UNDER TITLE 10, PART II OF THE CRIMINAL LAW ARTICLE;

Article - Criminal Law

PART I. GENERAL PROVISIONS.

10-101.

(a) In this [subtitle] PART the following words have the meaning indicated.

PART II. ALCOHOLIC BEVERAGE CONSUMPTION OR POSSESSION OF OPEN
CONTAINER IN PASSENGER AREA OF MOTOR VEHICLE.

10-113.

(A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(B) “ALCOHOLIC BEVERAGE” HAS THE MEANING STATED IN § 21-903 OF
THE TRANSPORTATION ARTICLE.

(C) “BUS” HAS THE MEANING STATED IN § 11-105 OF THE TRANSPORTATION
ARTICLE.

(D) “HIGHWAY” HAS THE MEANING STATED IN § 11-127 OF THE
TRANSPORTATION ARTICLE.

(E) “LIMOUSINE” HAS THE MEANING STATED IN § 11-129.1 OF THE
TRANSPORTATION ARTICLE.

(F) “MOTOR HOME” HAS THE MEANING STATED IN § 11-134.3 OF THE
TRANSPORTATION ARTICLE.

(G) “MOTOR VEHICLE” HAS THE MEANING STATED IN § 11-135 OF THE
TRANSPORTATION ARTICLE.

(Over)

(H) "MOVING VIOLATION" HAS THE MEANING STATED IN § 11-136.1 OF THE TRANSPORTATION ARTICLE.

(I) "OPEN CONTAINER" MEANS A BOTTLE, CAN, OR OTHER RECEPTACLE:

(1) THAT IS OPEN;

(2) THAT HAS A BROKEN SEAL; OR

(3) FROM WHICH THE CONTENTS ARE PARTIALLY REMOVED.

(J) "PASSENGER AREA" HAS THE MEANING STATED IN § 21-903 OF THE TRANSPORTATION ARTICLE.

(K) "TAXICAB" HAS THE MEANING STATED IN § 11-165 OF THE TRANSPORTATION ARTICLE.

10-114.

(A) THIS PART APPLIES TO A MOTOR VEHICLE THAT IS DRIVEN, STOPPED, STANDING, OR OTHERWISE LOCATED ON A HIGHWAY.

(B) THIS PART DOES NOT AFFECT THE PROVISIONS OF § 21-903 OF THE TRANSPORTATION ARTICLE.

10-115.

(A) (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN OCCUPANT OF A MOTOR VEHICLE MAY NOT POSSESS AN OPEN CONTAINER THAT CONTAINS ANY AMOUNT OF AN ALCOHOLIC BEVERAGE IN A PASSENGER AREA OF A MOTOR VEHICLE ON A HIGHWAY.

(2) A DRIVER OF A MOTOR VEHICLE MAY NOT BE SUBJECT TO PROSECUTION FOR A VIOLATION OF THIS SUBSECTION BASED SOLELY ON POSSESSION OF AN OPEN CONTAINER THAT CONTAINS ANY AMOUNT OF AN

ALCOHOLIC BEVERAGE BY ANOTHER OCCUPANT OF THE MOTOR VEHICLE.

(B) (1) THIS SUBSECTION DOES NOT APPLY TO THE DRIVER OF A MOTOR VEHICLE.

(2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN OCCUPANT OF A MOTOR VEHICLE MAY NOT CONSUME AN ALCOHOLIC BEVERAGE IN A PASSENGER AREA OF A MOTOR VEHICLE ON A HIGHWAY.

(C) SUBSECTIONS (A)(1) AND (B)(2) OF THIS SECTION DO NOT APPLY TO AN OCCUPANT, WHO IS NOT THE DRIVER, IN:

(1) A MOTOR VEHICLE DESIGNED, MAINTAINED, AND USED PRIMARILY FOR THE TRANSPORTATION OF A PERSON FOR COMPENSATION, INCLUDING:

(I) A BUS;

(II) A TAXICAB; OR

(III) A LIMOUSINE; OR

(2) THE LIVING QUARTERS OF A MOTOR HOME, MOTOR COACH, OR RECREATIONAL VEHICLE.

(D) NOTWITHSTANDING ARTICLE 2B, TITLE 19 OF THE CODE OR ANY OTHER PROVISION OF LAW, THE PROHIBITIONS CONTAINED IN THIS SECTION APPLY THROUGHOUT THE STATE.

(E) A VIOLATION OF THIS SECTION IS NOT:

(1) A MOVING VIOLATION FOR THE PURPOSES OF § 16-402 OF THE

(Over)

TRANSPORTATION ARTICLE; OR

(2) A TRAFFIC VIOLATION FOR THE PURPOSES OF THE MARYLAND VEHICLE LAW.

10-116.

(A) A POLICE OFFICER MAY ISSUE A CITATION TO A PERSON WHO THE POLICE OFFICER HAS PROBABLE CAUSE TO BELIEVE HAS COMMITTED A VIOLATION UNDER THIS PART.

(B) (1) A VIOLATION UNDER THIS PART IS A CIVIL OFFENSE.

(2) ADJUDICATION OF A VIOLATION UNDER THIS PART:

(I) IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE; AND

(II) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES THAT MAY RESULT FROM A CRIMINAL CONVICTION.

(C) A CITATION ISSUED UNDER THIS PART SHALL BE SIGNED BY THE POLICE OFFICER WHO ISSUES THE CITATION AND SHALL CONTAIN:

(1) THE NAME AND ADDRESS OF THE PERSON CHARGED;

(2) THE STATUTE ALLEGEDLY VIOLATED;

(3) THE DATE, LOCATION, AND TIME THAT THE VIOLATION OCCURRED;

(4) THE FINE THAT MAY BE IMPOSED;

(5) A NOTICE STATING THAT PREPAYMENT OF THE FINE IS ALLOWED; AND

(6) A NOTICE THAT STATES THAT THE DISTRICT COURT SHALL PROMPTLY SEND THE PERSON A SUMMONS TO APPEAR FOR TRIAL.

(D) THE FORM OF THE CITATION SHALL BE UNIFORM THROUGHOUT THE STATE AND SHALL BE PRESCRIBED BY THE DISTRICT COURT.

(E) THE CHIEF JUDGE OF THE DISTRICT COURT SHALL ESTABLISH A SCHEDULE FOR THE PREPAYMENT OF A FINE.

(F) (1) THE LAW ENFORCEMENT AGENCY OF THE POLICE OFFICER WHO ISSUED THE CITATION SHALL FORWARD TO THE DISTRICT COURT HAVING VENUE A COPY OF THE CITATION AND A REQUEST FOR TRIAL.

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

(G) IF A PERSON IS FOUND TO HAVE COMMITTED A VIOLATION UNDER THIS PART, THE PERSON IS SUBJECT TO A FINE NOT EXCEEDING \$25.

(H) THE COURT COSTS FOR A VIOLATION UNDER THIS PART ARE \$5.

10-117.

(A) IN A PROCEEDING FOR A VIOLATION UNDER THIS PART:

(1) THE STATE HAS THE BURDEN TO PROVE THE GUILT OF THE DEFENDANT TO THE SAME EXTENT AS IS REQUIRED BY LAW IN THE TRIAL OF A CRIMINAL CASE;

(2) THE COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS PRESCRIBED BY LAW FOR THE TRIAL OF A CRIMINAL CASE;

(3) THE COURT SHALL ENSURE THAT THE DEFENDANT HAS

(Over)

RECEIVED A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE DEFENDANT UNDERSTANDS THOSE CHARGES;

(4) THE DEFENDANT IS ENTITLED TO:

(I) CROSS-EXAMINE EACH WITNESS WHO APPEARS AGAINST THE DEFENDANT;

(II) PRODUCE EVIDENCE AND WITNESSES ON THE DEFENDANT'S OWN BEHALF;

(III) TESTIFY ON THE DEFENDANT'S OWN BEHALF IF THE DEFENDANT CHOOSES TO DO SO; AND

(IV) BE REPRESENTED BY COUNSEL OF THE DEFENDANT'S OWN SELECTION AND EXPENSE;

(5) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY;

(6) THE VERDICT SHALL BE:

(I) GUILTY OF A CIVIL VIOLATION; OR

(II) NOT GUILTY OF A CIVIL VIOLATION; AND

(7) BEFORE ENTERING A JUDGMENT, A COURT MAY PLACE THE DEFENDANT ON PROBATION IN THE SAME MANNER AND TO THE SAME EXTENT AS IS PERMITTED BY LAW IN A CRIMINAL CASE.

(B) IF A DEFENDANT IS FOUND GUILTY OF A VIOLATION UNDER THIS PART AND A FINE IS IMPOSED, A COURT MAY DIRECT THAT THE PAYMENT OF THE FINE BE SUSPENDED OR DEFERRED UNDER CONDITIONS DETERMINED BY THE COURT.

(C) A DEFENDANT'S WILLFUL FAILURE TO PAY A FINE IMPOSED UNDER

THIS PART MAY BE TREATED AS A CRIMINAL CONTEMPT PUNISHABLE AS PROVIDED BY LAW.

(D) A DEFENDANT WHO IS FOUND GUILTY OF A VIOLATION UNDER THIS PART, AS PROVIDED BY LAW FOR A CRIMINAL CASE, MAY FILE:

- (1) AN APPEAL;
- (2) A MOTION FOR A NEW TRIAL; OR
- (3) A MOTION FOR A REVISION OF A JUDGMENT.

(E) THE STATE’S ATTORNEY FOR EACH COUNTY MAY:

(1) PROSECUTE A VIOLATION UNDER THIS PART IN THE SAME MANNER AS A PROSECUTION OF A CRIMINAL CASE, INCLUDING ENTERING A NOLLE PROSEQUI OR PLACING THE CASE ON VIOLATION ON A STET DOCKET; AND

(2) EXERCISE AUTHORITY IN THE SAME MANNER PRESCRIBED BY LAW FOR A VIOLATION OF THE CRIMINAL LAWS OF THE STATE.”.

AMENDMENT NO. 5

On page 2, strike in their entirety lines 10 through 13, inclusive; and in line 14, strike “(4)” and substitute “(3)”.

AMENDMENT NO. 6

On page 2, strike in their entirety lines 27 through 30, inclusive, and substitute:

“(C) A DRIVER OF A MOTOR VEHICLE MAY NOT CONSUME AN ALCOHOLIC BEVERAGE IN A PASSENGER AREA OF A MOTOR VEHICLE ON A HIGHWAY.”.

AMENDMENT NO. 7

On pages 2 and 3, strike in their entirety the lines beginning with line 31 on page 2 through

line 11 on page 3, inclusive, and substitute:

“(D) NOTWITHSTANDING ARTICLE 2B, TITLE 19 OF THE CODE OR ANY OTHER PROVISION OF LAW, THE PROHIBITION CONTAINED IN THIS SECTION APPLIES THROUGHOUT THE STATE.”.