

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 937 (Senator Smith)
Judicial Proceedings

Alcoholic Beverages - Civil Offenses - Public Consumption and Possession of
Open Container

This bill establishes that it is a code violation and a civil offense, rather than a criminal misdemeanor offense, to (1) consume an alcoholic beverage in public under § 6-321 of the Alcoholic Beverages Article or (2) possess an alcoholic beverage in an open container under § 6-322 of the Alcoholic Beverages Article. Violators are issued citations under Criminal Law Article § 10-119 and are subject to a fine of up to \$100, the same monetary penalties for these offenses under existing statute. The penalty provisions for a code violation under § 10-119(h) of the Criminal Law Article do not apply to a person who commits a code violation under §§ 6-321 or 6-322 of the Alcoholic Beverages Article.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: Potential minimal decrease in general fund expenditures for the District Court to adjudicate violations under the bill as code violations rather than misdemeanors. Since the bill retains the existing monetary penalties, revenues are not affected.

Local Effect: None. Any reduction in local law enforcement workloads as a result of the bill is likely redirected to other responsibilities.

Small Business Effect: None.

Analysis

Current Law: Section 6-321 of the Criminal Law Article defines “public property” to include property that is (1) a structure, road, parking area, or grounds and (2) located on land owned, leased, or operated by the State, a county, a municipality, or other specified governmental entities.

In general, an individual may not consume an alcoholic beverage (1) on public property; (2) on the mall, adjacent parking area, or other outside area of a shopping center; (3) on an adjacent parking area or other outside area of any other retail establishment; and (3) in a parked vehicle located in any of these areas. An individual may consume an alcoholic beverage on (1) public property if authorized by the governmental entity that has authority over the property or (2) private property of the aforementioned areas if authorized by the owner of the property.

If the owner or operator of a motor home or chartered bus has consented to the consumption of the alcoholic beverages, the prohibition does not apply to passengers in the living quarters of a motor home equipped with a toilet and central heating, or of a chartered bus in transit.

Violators are guilty of a misdemeanor, punishable by a fine of up to \$100.

An individual may not possess an alcoholic beverage in an open container while (1) on the mall, adjacent parking area, or other outside area of a shopping center; (2) on an adjacent parking area or other outside area of any other retail establishment; or (3) in a parked vehicle located in any of these areas. An individual may possess an alcoholic beverage in an open container on private property meeting this description if the individual is authorized by the owner of the establishment. Violators are guilty of a misdemeanor, punishable by a fine of up to \$100.

In general, in addition to any other law allowing a crime to be charged by citation, a police officer must charge by citation for specified offenses, including any misdemeanor or local ordinance violation that does not carry a penalty of imprisonment. A police officer may charge a defendant by citation only if (1) the officer is satisfied with the defendant’s evidence of identity; (2) the officer reasonably believes that the defendant will comply with the citation; (3) the officer reasonably believes that the failure to charge on a statement of charges does not pose a threat to public safety; (4) the defendant is not subject to arrest for another criminal charge arising out of the same incident; and (5) the defendant complies with all lawful orders by the officer.

Background: Chapter 41 of 2016, which took effect July 1, 2016, created the Alcoholic Beverages Article, and violations under Alcoholic Beverages Article § 6-321 and § 6-322

went into effect at that time. According to the Judiciary, between July 1, 2016, and December 31, 2016, there were 429 violations of Alcoholic Beverages Article § 6-321(b) and 637 violations of Alcoholic Beverages Article § 6-322 in the District Court.

Local Fiscal Effect: Baltimore City; the City of Bowie; and Caroline, Montgomery, and Prince George's counties advise that the bill either has no fiscal or operational impact or no significant fiscal or operational impact on their jurisdictions.

Additional Information

Prior Introductions: None.

Cross File: HB 380 (Delegate Moon, *et al.*) - Economic Matters and Judiciary.

Information Source(s): Baltimore City; Caroline, Montgomery, and Prince George's counties; City of Bowie; 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; Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2017
md/kdm

Analysis by: Amy A. Devadas

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