

SENATE BILL 209

E1, E2

0lr1564
CF 0lr2557

By: **Senator West**

Introduced and read first time: January 16, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Unruly Social Gatherings – Civil Penalties**

3 FOR the purpose of prohibiting a person responsible for a premises from conducting,
4 causing, permitting, or aiding an unruly social gathering; authorizing certain law
5 enforcement officers to issue a citation for certain violations of this Act; specifying
6 who may be issued a citation for certain violations; requiring a citation to include
7 certain information; authorizing a person issued a citation to stand trial if certain
8 notice is filed with the District Court at a certain time; requiring a District Court to
9 schedule certain cases for trial and notify certain defendants; providing a certain
10 defense; providing an exception to a certain defense; requiring the District Court to
11 remit certain penalties collected for a violation of this Act to the county in which the
12 violation occurred; requiring citations to be sent to certain individuals; authorizing
13 a State’s Attorney for any county to prosecute a violation of this Act in a certain
14 manner; providing certain penalties for a violation of this Act; authorizing the
15 District Court to order a person to serve a certain number of hours of community
16 service; providing that this Act may not be construed to preempt or prevail over any
17 ordinance, resolution, law, or rule more stringent than this Act; defining certain
18 terms; and generally relating to unruly social gatherings.

19 BY adding to

20 Article – Criminal Law

21 Section 10–801 through 10–805 to be under the new subtitle “Subtitle 8. Unruly
22 Social Gatherings”

23 Annotated Code of Maryland

24 (2012 Replacement Volume and 2019 Supplement)

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

27 **Article – Criminal Law**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SUBTITLE 8. UNRULY SOCIAL GATHERINGS.

10-801.

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

(B) (1) "ALCOHOLIC BEVERAGE" HAS THE MEANING STATED IN § 1-101 OF THE ALCOHOLIC BEVERAGES ARTICLE.

(2) "ALCOHOLIC BEVERAGE" INCLUDES ANY MIXTURE OF AN ALCOHOLIC BEVERAGE WITH A NONALCOHOLIC BEVERAGE.

(C) (1) "CONTROLLED DRUG" MEANS A CONTROLLED DANGEROUS SUBSTANCE INCLUDED IN SCHEDULE I, SCHEDULE II, SCHEDULE III, SCHEDULE IV, OR SCHEDULE V UNDER TITLE 5, SUBTITLE 4 OF THIS ARTICLE.

(2) "CONTROLLED DRUG" DOES NOT INCLUDE A PRESCRIPTION DRUG FOR WHICH A PERSON HAS A VALID PRESCRIPTION FROM AN AUTHORIZED PROVIDER.

(D) "LAW ENFORCEMENT OFFICER" HAS THE MEANING STATED IN § 3-101 OF THE PUBLIC SAFETY ARTICLE.

(E) "OCCUPANT" MEANS ANY PERSON OCCUPYING A PREMISES, WHETHER OR NOT A PARTY TO A LEASE.

(F) "OPERATOR" MEANS ANY PERSON THAT HAS CHARGE, CARE, OR CONTROL OF ALL OR ANY PART OF A PREMISES, INCLUDING ANY PERSON ARRANGING OR CONDUCTING A GATHERING ON THE PREMISES.

(G) (1) "OWNER" MEANS:

(I) THE PERSON IN WHOSE NAME A PREMISES IS RECORDED IN THE LAND RECORDS OF THE RELEVANT COUNTY OR BALTIMORE CITY; OR

(II) ANY OTHER PERSON WITH A LEGAL OR EQUITABLE INTEREST IN A PREMISES, INCLUDING A TENANT.

(2) "OWNER" INCLUDES A PERSON THAT HAS AN INTEREST AS A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR REPRESENTATIVE OF ANY KIND.

(3) “OWNER” DOES NOT INCLUDE THE HOLDER OF A TAX SALE CERTIFICATE UNTIL A JUDGMENT FORECLOSING ALL RIGHTS OF REDEMPTION HAS BEEN ENTERED.

(H) “PARENT” MEANS ANY NATURAL PARENT, ADOPTIVE PARENT, STEPPARENT, OR FOSTER PARENT.

(I) “PERSON RESPONSIBLE” MEANS THE OWNER, OPERATOR, TENANT, OR OCCUPANT OF OR THE HOLDER OF ANY POSSESSORY INTEREST IN THOSE PREMISES, WHETHER ALONE OR JOINTLY WITH ANY OTHER PERSON.

(J) “PREMISES” MEANS ALL OR ANY PART OF ANY PRIVATELY OWNED RESIDENCE, BUILDING, OR OTHER STRUCTURE, INCLUDING THE CURTILAGE OF A PRIVATELY OWNED RESIDENCE THAT CONTAINS FEWER THAN SEVEN DWELLING UNITS.

(K) "TENANT" MEANS ANY TENANT OR LESSEE, WHETHER UNDER A WRITTEN OR ORAL LEASE.

(L) “UNDERAGE PERSON” MEANS ANY INDIVIDUAL WHO IS UNDER THE AGE OF 21 YEARS.

(M) (1) “UNRULY SOCIAL GATHERING” MEANS A PARTY OR GATHERING OF THREE OR MORE INDIVIDUALS ON OR IN ANY PREMISES AT WHICH:

(I) ALCOHOLIC BEVERAGES ARE CONSUMED BY, FURNISHED TO, OR POSSESSED BY ANY UNDERAGE PERSON IN VIOLATION OF § 10-114 OF THIS TITLE; OR

**(II) THE CONDUCT CREATES A DISTURBANCE OF THE PEACEFUL
ENJOYMENT BY OTHERS OF PRIVATE OR PUBLIC PROPERTY, INCLUDING:**

1. NOISE IN EXCESS OF ANY NOISE CONTROL ORDINANCE, RULE, OR REGULATION ADOPTED IN ACCORDANCE WITH § 3-105 OF THE ENVIRONMENT ARTICLE OR BY A POLITICAL SUBDIVISION HAVING AUTHORITY OVER THE PREMISES;

2. OBSTRUCTION OF PUBLIC RIGHTS-OF-WAY;

3. THE PRESENCE OF UNRULY CROWDS;

4. PUBLIC DRUNKENNESS:

1 5. ASSAULT, BATTERY, OR OTHER DISORDERLY
2 CONDUCT THAT DISTURBS THE PUBLIC PEACE;

3 6. VANDALISM OF PUBLIC OR PRIVATE PROPERTY;

4 7. LITTERING; OR

5 8. ANY OTHER CONDUCT THAT CONSTITUTES A THREAT
6 TO THE PUBLIC HEALTH, SAFETY, OR GENERAL WELFARE.

7 (2) “UNRULY SOCIAL GATHERING” DOES NOT INCLUDE A PARTY OR
8 GATHERING OF THREE OR MORE INDIVIDUALS ON OR IN ANY PREMISES AT WHICH
9 ALCOHOLIC BEVERAGES ARE CONSUMED BY, FURNISHED TO, OR POSSESSED BY ANY
10 UNDERAGE PERSON IF THE PERSON FURNISHING THE ALCOHOLIC BEVERAGE AND
11 THE INDIVIDUAL TO WHOM THE ALCOHOLIC BEVERAGE IS FURNISHED:

12 (I) ARE MEMBERS OF THE SAME IMMEDIATE FAMILY; OR

13 (II) ARE PARTICIPANTS IN A RELIGIOUS CEREMONY.

14 10–802.

15 NOTHING IN THIS SUBTITLE PROHIBITS A LAW ENFORCEMENT OFFICER FROM
16 ISSUING A CRIMINAL CITATION OR OTHER CIVIL CITATION UNDER STATE OR LOCAL
17 LAW FOR VIOLATIONS ARISING OUT OF THE SAME CIRCUMSTANCES AS A VIOLATION
18 OF THIS SUBTITLE.

19 10–803.

20 (A) A PERSON RESPONSIBLE FOR A PREMISES MAY NOT CONDUCT, CAUSE,
21 PERMIT, OR AID IN THE MAINTAINING OF ANY UNRULY SOCIAL GATHERING ON OR IN
22 THOSE PREMISES.

23 (B) EXCEPT AS PROVIDED IN § 10–804(B) OF THIS SUBTITLE, A PERSON
24 RESPONSIBLE FOR A PREMISES WHERE A VIOLATION OF THIS SUBTITLE OCCURRED
25 REMAINS LIABLE FOR A VIOLATION OF THIS SECTION EVEN IF THAT PERSON WAS
26 NOT PRESENT DURING THE NUISANCE ACTIVITY OR THE SOCIAL EVENT.

27 (C) AN OWNER OR OPERATOR OF THE PREMISES REMAINS LIABLE FOR A
28 VIOLATION OF THIS SUBTITLE REGARDLESS OF ANY CONTRACT OR AGREEMENT
29 WITH ANY THIRD PARTY REGARDING THE PREMISES.

(D) IF THE PERSON RESPONSIBLE FOR THE PREMISES ON OR IN WHICH AN UNRULY SOCIAL GATHERING OCCURS IS A MINOR, THE MINOR AND THE PARENTS OR LEGAL GUARDIANS OF THE MINOR ARE JOINTLY AND SEVERALLY LIABLE FOR THE PENALTIES IMPOSED BY THIS SUBTITLE.

10-804.

(A) A LAW ENFORCEMENT OFFICER MAY ISSUE A CITATION UNDER THIS SUBTITLE.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A CITATION MAY BE ISSUED TO EVERY PERSON WHO IS RESPONSIBLE FOR THE PREMISES, INCLUDING A LANDLORD AND TENANTS.

(2) AN OWNER WHO IS NOT THE OCCUPANT OF THE PREMISES MAY NOT BE ISSUED A CITATION FOR A FIRST VIOLATION AT THE PREMISES.

(C) A CITATION ISSUED UNDER THIS SECTION SHALL INCLUDE:

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

(2) THE NATURE OF THE VIOLATION;

(3) THE LOCATION AND TIME OF THE VIOLATION;

(4) THE AMOUNT OF THE CIVIL PENALTY;

(5) THE MANNER, LOCATION, AND TIME IN WHICH THE CIVIL PENALTY MAY BE PAID;

(6) A NOTICE STATING THE PERSON'S RIGHT TO ELECT TO STAND TRIAL FOR THE VIOLATION; AND

(7) A WARNING THAT FAILURE TO PAY THE CIVIL PENALTY OR TO CONTEST LIABILITY IN A TIMELY MANNER IN ACCORDANCE WITH THE CITATION:

(I) IS AN ADMISSION OF LIABILITY; AND

(II) MAY RESULT IN ENTRY OF A DEFAULT JUDGMENT THAT MAY INCLUDE THE CIVIL PENALTY, COURT COSTS, AND ADMINISTRATIVE EXPENSES.

(D) A PERSON ISSUED A CITATION UNDER THIS SECTION MAY REQUEST A TRIAL FOR THE VIOLATION BY FILING A NOTICE OF INTENTION TO STAND TRIAL

1 WITH THE DISTRICT COURT IN THE JURISDICTION WHERE THE CITATION WAS
2 ISSUED AT LEAST 5 DAYS BEFORE THE DATE SET IN THE CITATION FOR THE
3 PAYMENT OF THE CIVIL PENALTY.

4 (E) AFTER RECEIVING A CITATION AND NOTICE UNDER THIS SECTION, THE
5 DISTRICT COURT SHALL SCHEDULE THE CITATION FOR TRIAL AND NOTIFY THE
6 DEFENDANT OF THE TRIAL DATE.

7 (F) (1) IT IS A DEFENSE TO A CITATION UNDER THE SECTION THAT:

8 (I) THE DEFENDANT DID NOT AUTHORIZE, KNOW IN ADVANCE
9 OF, OR PARTICIPATE IN THE UNRULY SOCIAL GATHERING; AND

10 (II) THE DEFENDANT HAS REGAINED POSSESSION OF THE
11 PREMISES OR TAKEN ACTION TO REGAIN POSSESSION OF THE LEASED PREMISES.

12 (2) AFTER A FOURTH CITATION IS ISSUED TO A PERSON FOR A
13 VIOLATION OCCURRING AT THE SAME PREMISES WITHIN A 1-YEAR PERIOD UNDER
14 THIS SECTION, THE DEFENSE PROVIDED UNDER THIS SUBSECTION MAY NOT BE
15 USED AS A DEFENSE IN A PROCEEDING FOR A VIOLATION OF THIS SECTION.

16 (G) THE DISTRICT COURT SHALL REMIT ANY PENALTIES COLLECTED FOR A
17 VIOLATION OF THIS SUBTITLE TO THE COUNTY IN WHICH THE VIOLATION
18 OCCURRED.

19 (H) EACH CITATION ISSUED UNDER THIS SUBTITLE SHALL BE SENT TO THE
20 PERSON LISTED ON THE LAND RECORDS AS THE OWNER OF THE PREMISES.

21 (I) (1) THE STATE'S ATTORNEY FOR ANY COUNTY MAY PROSECUTE A
22 VIOLATION OF THIS SUBTITLE IN THE SAME MANNER AS A PROSECUTION OF A
23 VIOLATION OF THE CRIMINAL LAWS OF THE STATE.

24 (2) IN A CASE PROSECUTING A PERSON FOR A VIOLATION OF THIS
25 SUBTITLE, THE STATE'S ATTORNEY MAY:

26 (I) ENTER A NOLLE PROSEQUI OR PLACE THE CASE ON THE
27 STET DOCKET; AND

28 (II) EXERCISE AUTHORITY IN THE SAME MANNER AS
29 PRESCRIBED BY LAW FOR VIOLATION OF THE CRIMINAL LAWS OF THE STATE.

30 10-805.

1 **(A) (1) IF THE DISTRICT COURT FINDS THAT A PERSON HAS COMMITTED**
2 **A VIOLATION OF THIS SUBTITLE, THE COURT SHALL REQUIRE THE PERSON TO PAY:**

3 **(I) FOR A FIRST VIOLATION, A FINE NOT EXCEEDING \$500; OR**

4 **(II) FOR A SECOND OR SUBSEQUENT VIOLATION, A FINE NOT**
5 **EXCEEDING \$1,000.**

6 **(2) IF THE DISTRICT COURT FINDS THAT A PERSON HAS VIOLATED**
7 **THIS SUBTITLE, THE COURT MAY ORDER THE PERSON TO SERVE 20 HOURS OF**
8 **COMMUNITY SERVICE.**

9 **(B) THE CHIEF JUDGE OF THE DISTRICT COURT SHALL ESTABLISH A**
10 **SCHEDULE FOR THE PREPAYMENT OF FINES FOR A CODE VIOLATION UNDER THIS**
11 **SUBTITLE.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed
13 to preempt or prevail over any ordinance, resolution, law, or rule more stringent than this
14 Act.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2020.