

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2015, Legislative Day No. 21

Bill No. 90-15

Councilmembers Marks & Quirk

By the County Council, December 21, 2015

A BILL
ENTITLED

AN ACT concerning

Social Host – Unruly Social Gatherings – Pilot Program

FOR the purpose of creating a social host – unruly social gatherings law with implementation as a pilot program in ~~a certain area~~ certain areas of the county; defining certain terms; prohibiting unruly social gatherings at a residence or other private property; describing the nature of the violation as a civil offense and providing for certain exclusions; providing for the issuance of a civil citation for a violation and the manner of service; providing for certain penalties for a violation and subsequent violations; providing for enforcement by the Chief of Police; and generally relating to social host – unruly social gatherings.

~~BY~~ ~~repealing and re-enacting, with amendments~~
~~and Sections 13-7-111, 13-7-112, 13-7-113, 13-7-114, 13-7-115, 13-7-116, and 13-7-117~~
~~Article 13 – Public Health, Safety, and the Environment~~
~~Title 7 – Nuisances~~
~~Subtitle 1 – General Nuisances on Private Property and on Public Roads~~
~~Baltimore County Code, 2003~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.

~~Strike-out~~ indicates matter stricken from bill.

Underlining indicates amendments to bill.

BY adding
~~Section 13-7-113.1~~ Sections 13-7-131, 13-7-132, 13-7-133, 13-7-134, and 13-7-135
Article 13 - Public Health, Safety, and the Environment
Title 7 - Nuisances
Subtitle 1 - General Nuisances on Private Property and on Public Roads
Part IV. Unruly Social Gatherings Pilot Program
Baltimore County Code, 2003

WHEREAS, underage possession and consumption of alcohol is an ongoing problem in our society, and particularly in areas with colleges and universities that have a concentration of minor children and of-age young adults that consume excessive amounts of alcohol; and

WHEREAS, minors often obtain, possess, or consume alcoholic beverages at uncontrolled and unsupervised social gatherings held at residences, or rented residential or commercial premises of persons who know or should know of such underage or excessive behavior but fail to stop it; and

WHEREAS, underage consumption of alcoholic beverages poses a threat to the public health, safety, and welfare in that it increases alcohol abuse by minors, physical altercations, and potential criminal behavior including assaults and sexual offenses, and also results in accidental injury, neighborhood vandalism, and excessive noise disturbance, all of which may require intervention by public safety officials; and

WHEREAS, uncontrolled or unsupervised social gatherings with large numbers of underage drinkers and inadequate or no adult supervision are particularly high-risk settings for these adverse consequences; and

WHEREAS, landlords of private property who have been notified that their tenants and guests are hosting or otherwise permitting underage or uncontrolled social gatherings on their property where alcoholic beverages are served to and consumed by underage persons have a responsibility to ensure that such activities do not recur on their property, and the failure to take action after such notification causes serious disruption to the peaceful and quiet enjoyment of neighboring residents and communities; and

WHEREAS, persons who actively or passively aid, allow, or tolerate underage drinking and uncontrolled social gatherings should be held responsible for the nuisances created by persons attending such gatherings; and

WHEREAS, public safety responses to disturbances involving underage or excessive consumption of alcoholic beverages at uncontrolled social gatherings frequently require the use of extensive police, fire, and emergency medical resources, often on multiple occasions, which limits their ability to respond to other service calls in the community, thereby placing the community at further risk, with no legal responsibility on the part of the host and attendees of the gathering, or the landlord to control and deter such gatherings; and

WHEREAS, the County Council deems it appropriate to deter underage possession or consumption of alcohol or excessive drinking by of-age young adults at uncontrolled or unsupervised social gatherings by holding responsible those persons who attend and participate in the gatherings, and those who encourage, are aware or should be aware, or own the premises where the unruly social gathering takes place, yet fail to prevent it; now therefore,

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the Laws of Baltimore County read as follows:

ARTICLE 13. PUBLIC HEALTH, SAFETY AND THE ENVIRONMENT

TITLE 7. NUISANCES

SUBTITLE 1. GENERAL NUISANCES ON PRIVATE PROPERTY

AND ON PUBLIC ROADS

~~§ 13-7-111. Definitions.~~

~~(a) In general. In this Part II of this subtitle the following words have the meanings indicated.~~

PART IV. UNRULY SOCIAL GATHERINGS PILOT PROGRAM.

§ 13-7-131. DEFINITIONS.

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

(B) ADULT. “ADULT” IS ANY PERSON TWENTY-ONE (21) YEARS OF AGE OR OLDER.

(C) ALCOHOLIC BEVERAGE. “ALCOHOLIC BEVERAGE” HAS THE MEANING STATED IN ARTICLE 2B, § 1-102 OF THE ANNOTATED CODE OF MARYLAND.

(D) CONTROLLED SUBSTANCE. “CONTROLLED SUBSTANCE”

(1) IS MEANS A DRUG OR SUBSTANCE THE POSSESSION AND USE OF WHICH IS REGULATED UNDER THE STATE CONTROLLED DANGEROUS SUBSTANCES ACT. ~~THE TERM~~

(2) “CONTROLLED SUBSTANCE” DOES NOT INCLUDE ANY DRUG OR SUBSTANCE FOR WHICH A PERSON HAS A VALID PRESCRIPTION ISSUED BY A LICENSED MEDICAL PRACTITIONER AUTHORIZED TO ISSUE SUCH A PRESCRIPTION.

~~(E)[(b)] Department. “Department” means the department of the county government that initiates the charge of allowing or maintaining a nuisance.~~

~~(F)[(C)] Director. “Director” means the head of the department that initiates the charge of allowing or maintaining a nuisance.~~

~~(G)~~ (E) FAMILY GATHERING. “FAMILY GATHERING” ~~IS~~ MEANS A GATHERING IN A PRIVATE RESIDENCE OF AN ADULT OR WITHIN THE CURTILAGE OF A PRIVATE RESIDENCE WHERE EACH MINOR PRESENT IS DIRECTLY SUPERVISED BY AN ADULT MEMBER OF HIS OR HER IMMEDIATE FAMILY.

~~(H)~~ (F) LEGAL GUARDIAN. “LEGAL GUARDIAN” ~~IS~~ MEANS A PERSON WHO IS LAWFULLY VESTED WITH THE POWER AND CHARGED WITH THE DUTY OF PROVIDING CARE TO A MINOR.

~~(H)~~ (G) MINOR OR UNDERAGE PERSON. “MINOR” OR “UNDERAGE PERSON” ~~IS~~ MEANS ANY PERSON UNDER TWENTY-ONE (21) YEARS OF AGE.

~~(H)~~ (H) PARENT. “PARENT” IS A PERSON WHO IS A NATURAL PARENT, ADOPTIVE PARENT, FOSTER PARENT, OR STEP PARENT.

~~(K)~~ (I) PROPERTY OWNER.

(1) “PROPERTY OWNER” ~~IS~~ MEANS ANY PERSON WHO OWNS A PROPERTY OR HAS CHARGE, CARE OR CONTROL OF A PROPERTY AS A LEGAL OWNER, OR AS A PROPERTY MANAGER OR MANAGEMENT COMPANY, IF APPLICABLE. ~~THIS TERM~~

(2) “PROPERTY OWNER” INCLUDES A LANDLORD.

~~(H)~~ (J) RESIDENCE OR OTHER PRIVATE PROPERTY. (1) “RESIDENCE OR OTHER PRIVATE PROPERTY” MEANS A DWELLING WITH SIX OR LESS DWELLING UNITS AND INCLUDES A DETACHED, ATTACHED, OR SEMI-DETACHED SINGLE FAMILY DWELLING, A ROW HOME, TOWNHOME, APARTMENT, CONDOMINIUM, OR OTHER DWELLING UNIT, OR A YARD OR CURTILAGE OF A RESIDENCE. ~~THE TERM ALSO~~ (2) RESIDENCE OR OTHER PRIVATE PROPERTY INCLUDES A HALL, MEETING ROOM, HOTEL OR MOTEL ROOM, WHETHER OCCUPIED ON A TEMPORARY OR PERMANENT BASIS, WHETHER OCCUPIED AS A DWELLING, PARTY OR OTHER SOCIAL FUNCTION, AND WHETHER OWNED, LEASED, RENTED, OR USED WITH OR WITHOUT COMPENSATION, INCLUDING CONTIGUOUS PROPERTIES, AND ANY BUILDINGS, STRUCTURES OR OTHER IMPROVEMENTS

SITUATED THEREON OR AFFIXED THERETO.

~~(M)~~ (K) RESPONSIBLE PERSON.

(1) (I) “RESPONSIBLE PERSON” MEANS A PERSON OR PERSONS WITH A RIGHT OF POSSESSION IN THE RESIDENCE OR OTHER PRIVATE PROPERTY ON WHICH AN UNRULY SOCIAL GATHERING IS CONDUCTED. ~~THE TERM~~

(II) “RESPONSIBLE PERSON” INCLUDES:

~~(H)~~ 1. THE PERSON WHO ORGANIZES OR SUPERVISES OR CONDUCTS THE EVENT; OR

~~(H)~~ 2. ANY OTHER PERSON ACCEPTING RESPONSIBILITY FOR SUCH A GATHERING.

(2) A RESPONSIBLE PERSON FOR THE UNRULY SOCIAL GATHERING NEED NOT BE PHYSICALLY PRESENT AT SUCH GATHERING.

(3) IF THE RESPONSIBLE PERSON IS A JUVENILE, THEN THE JUVENILE AND THE PARENTS OR LEGAL GUARDIANS OF THE JUVENILE MAY BE JOINTLY AND SEVERALLY LIABLE FOR CIVIL PENALTIES OR OTHER COSTS.

~~(N)~~ (L) UNRULY SOCIAL GATHERING. “UNRULY SOCIAL GATHERING” MEANS A PARTY, EVENT, OR ASSEMBLAGE OF ~~TWO~~ FOUR OR MORE PERSONS AT A RESIDENCE OR OTHER PRIVATE PROPERTY WHERE:

(1) ALCOHOLIC BEVERAGES ARE BEING FURNISHED TO, CONSUMED BY, OR IN POSSESSION OF ANY UNDERAGE PERSON IN VIOLATION OF STATE LAW; OR

(2) BEHAVIOR OR CONDUCT IS OCCURRING THAT RESULTS IN A SUBSTANTIAL DISTURBANCE OF THE PEACE AND QUIET ENJOYMENT OF PRIVATE OR PUBLIC PROPERTY, WHICH MAY INCLUDE THE FOLLOWING:

(I) EXCESSIVE NOISE AS PROHIBITED IN SECTION 17-3-103 OF THE CODE;

(II) EXCESSIVE TRAFFIC THAT IS SIGNIFICANTLY ABOVE AND BEYOND THE NORMAL AMOUNT OF PEDESTRIAN OR VEHICLE TRAFFIC FOR THE DAY, DATE, AND TIME OF DAY FOR THE ZONING DISTRICT;

(III) USE OF A CONTROLLED SUBSTANCE BY ANY PERSON AT THE GATHERING;

(IV) OBSTRUCTION OF PUBLIC STREETS OR THE PRESENCE OF UNRULY CROWDS THAT HAVE SPILLED ONTO PUBLIC STREETS;

(V) PUBLIC DRUNKENNESS OR UNLAWFUL CONSUMPTION OF ALCOHOL OR ALCOHOLIC BEVERAGES;

(VI) ASSAULTS, BATTERIES, FIGHTS, ~~DOMESTIC VIOLENCE~~, OR OTHER DISTURBANCES OF THE PEACE;

(VII) VANDALISM OF PUBLIC OR PRIVATE PROPERTY;

(VIII) PUBLIC URINATION;

(IX) LITTERING; OR

(X) OTHER CONDUCT WHICH CONSTITUTES A THREAT TO THE PUBLIC SAFETY, QUIET ENJOYMENT OF RESIDENTIAL PROPERTY, OR THE GENERAL WELFARE.

~~§ 13-7-112. General Prohibition.~~

~~(A) An owner may not create or allow to exist on the owner's property a nuisance determined by the County Health Department or the Department of Environmental Protection and Sustainability to be detrimental to public health, safety, or welfare, or the environment.~~

§ 13-7-132. GENERAL PROHIBITION.

~~(B)~~ (A) A PROPERTY OWNER OR ANY RESPONSIBLE PERSON MAY NOT CONDUCT, CAUSE, AID, ALLOW, PERMIT, OR CONDONE AN UNRULY SOCIAL GATHERING AT A RESIDENCE OR OTHER PRIVATE PROPERTY LOCATED IN THE PILOT PROGRAM AREA IDENTIFIED IN SECTION ~~13-7-113.1(A)~~ § 13-7-133 OF THIS PART ~~II~~ (IV) OF THIS SUBTITLE. ~~A VIOLATION SHALL BE DEEMED A NUISANCE UNDER THIS TITLE.~~

~~(4)~~ (B) A VIOLATION OF THIS ~~SUBSECTION~~ SECTION IS A CIVIL OFFENSE AND IS A SEPARATE OFFENSE FROM ANY OTHER VIOLATIONS OR OFFENSES ~~APPLICABLE TO CONSUMPTION OF ALCOHOL BY A MINOR THAT OCCUR DURING AN UNRULY SOCIAL GATHERING.~~

(2) THIS SECTION DOES NOT APPLY TO FAMILY GATHERINGS OR LEGALLY PROTECTED RELIGIOUS ACTIVITIES.

(3) THIS SECTION DOES NOT APPLY TO GATHERINGS WHERE THE BEHAVIOR OR CONDUCT INVOLVED IN THE UNRULY SOCIAL GATHERING INVOLVES ALLEGATIONS OF DOMESTIC VIOLENCE OR SEXUAL ASSAULT.

~~§ 13-7-113. Issuance of Notice.~~

~~(a) — Authority. Except as provided in § 13-1-103 of this article, if the County Health Officer or the Director of Environmental Protection and Sustainability or either of their designated representatives has determined that an owner is violating § 13-7-112(A) of this Part II of this subtitle, the Director or the Director's official representative shall serve a written notice~~

on the owner.

~~(b) — Contents of the notice. — The notice served under this section shall:~~

~~(1) — Describe the nuisance in question; and~~

~~(2) — Require the owner to:~~

~~(i) — Begin abatement of the nuisance within 5 days after service of the notice; and~~

~~(ii) — Complete the abatement within a certain time frame.~~

~~(c) — Method of service.~~

~~(1) — Service of the written notice provided in this section may be by regular mail or by a designated representative of the Director or Department.~~

~~(2) — If the owner cannot be located, it shall be sufficient to post the notice on the lot or land.~~

~~(3) — Notice is presumed to have been given when placed in the United States mail, delivered to an owner by a designated representative of the Department of Health or the Department of Environmental Protection and Sustainability, or posted on the lot or land as provided in paragraph (2) of this subsection.~~

~~§ 13-7-113.1.~~ § 13-7-133. ISSUANCE OF CITATION FOR UNRULY SOCIAL GATHERING – PILOT PROGRAM.

(A) PILOT PROGRAM AREA. THE “PILOT PROGRAM AREA” FOR ~~THIS SECTION AND FOR SECTION 13-7-112(B) OF THIS PART H~~ IV OF THIS SUBTITLE ~~MEANS~~ MEANS:

(1) THE AREA OF EAST TOWSON CONSISTING OF THE AREA EAST OF YORK ROAD, NORTH AND WEST OF STEVENSON ROAD, AND SOUTH OF TOWSONTOWN BOULEVARD AND HILLEN ROAD.

(2) THE AREA OF ARBUTUS CONSISTING OF THE AREA NORTH OF SELFORD ROAD AND SOUTH ROLLING ROAD, EAST AND SOUTH OF WILKENS AVENUE, SOUTH OF MAIDEN CHOICE LANE, WEST OF LEEDS AVENUE, LINDEN AVENUE, AND EAST DRIVE, AND NORTH OF SULPHUR SPRING ROAD AT ITS INTERSECTION WITH SELFORD ROAD.

(B) IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL PENALTIES, IF A POLICE OFFICER WHO RESPONDS TO A RESIDENCE OR OTHER PRIVATE PROPERTY WITHIN THE PILOT PROGRAM AREA DETERMINES THAT AN UNRULY SOCIAL GATHERING EXISTS IN VIOLATION OF ~~SECTION 13-7-112(B) OF THIS TITLE~~ §13-7-132(A) OF THIS PART IV OF THIS SUBTITLE, THE POLICE OFFICER MAY ISSUE A CIVIL CITATION FOR THE VIOLATION TO ALL IDENTIFIED RESPONSIBLE PERSONS.

(C) IF A CITATION IS ISSUED ACCORDING TO SUBSECTION (B), THE POLICE OFFICER, WITHIN 30 DAYS OF THE ISSUANCE OF THE CITATION TO THE RESPONSIBLE PERSONS, ~~SHALL SERVE A WARNING OR CIVIL CITATION ON THE PROPERTY OWNER OF THE RESIDENCE OR OTHER PRIVATE PROPERTY IN ACCORDANCE WITH SECTION 13-7-116(B). SERVICE SHALL BE ACCORDING TO THE PROVISIONS OF SECTION 13-7-113(C) OF THIS TITLE.~~ SHALL:

(1) FOR THE FIRST VIOLATION OF § 13-7-132(A) OF THIS PART IV OF THIS SUBTITLE, SERVE A WARNING ON THE PROPERTY OWNER IN ACCORDANCE WITH SECTION 13-7-113(C) OF THIS PART II OF THIS SUBTITLE; AND

(2) FOR THE SECOND AND SUBSEQUENT VIOLATIONS OF § 13-7-132(A) OF THIS PART IV OF THIS SUBTITLE, SERVE A CIVIL CITATION ON THE PROPERTY OWNER.

~~§ 13-7-114. HEARING.~~

~~(a) *Authority to request.* Within 5 days after receiving a notice under this Part II of this subtitle FOR A VIOLATION OF SECTION 13-7-112(A), an owner served with notice may request a hearing before the Director.~~

~~(b) *Contents of the request.* A request for a hearing shall be made in writing to the Director and shall state with particularity an explanation for the nuisance or defenses the owner intends to raise.~~

~~§ 13-7-115. COUNTY MAY ABATE.~~

~~(a) *Authority.* If the owner fails to abate a nuisance UNDER SECTION 13-7-112(A) OF THIS TITLE within the time frame required in the notice to abate, the county may remove the nuisance or the cause of the nuisance at the expense of the owner.~~

~~(b) *Cost added to tax bill.* If the county removes the nuisance or the cause of the nuisance as provided in subsection (a) of this section, the county shall add the cost of removal to the current taxes due on the land or lot or on an improvement to the lot.~~

~~§ 13-7-116. CIVIL PENALTY.~~

~~(A) In addition to the costs of removal, after reasonable notice, an owner who fails to abate a nuisance UNDER SECTION 13-7-112(A) OF THIS TITLE is liable for a civil penalty not exceeding \$1,000.~~

~~(B) (1) §13-7-134. CIVIL PENALTY. IN ADDITION TO ANY OTHER APPLICABLE CIVIL OR CRIMINAL PENALTIES, A PERSON WHO VIOLATES SECTION 13-7-112(B) OF THIS TITLE §13-7-132(A) OF THIS PART IV OF THIS SUBTITLE IS SUBJECT TO THE FOLLOWING CIVIL PENALTIES FOR VIOLATIONS THAT OCCUR WITHIN A PERIOD OF 24 MONTHS FROM THE DATE OF THE FIRST VIOLATION:~~

~~(H)~~ (1) FOR THE FIRST VIOLATION:

~~A. (I)~~ A CIVIL PENALTY OF \$500 AND 20 HOURS OF COMMUNITY SERVICE FOR THE RESPONSIBLE PERSONS; AND

~~B. (II)~~ A WARNING NOTICE TO THE PROPERTY OWNER OF THE RESIDENCE OR OTHER PRIVATE PROPERTY.

~~(HH)~~ (2) FOR THE SECOND VIOLATION:

~~A. (I)~~ A CIVIL PENALTY OF \$1,000 AND 32 HOURS OF COMMUNITY SERVICE FOR THE RESPONSIBLE PERSONS; AND

~~B. (II)~~ A CIVIL PENALTY OF \$500 FOR THE PROPERTY OWNER OF THE RESIDENCE OR OTHER PRIVATE PROPERTY.

~~(HHH)~~ (3) FOR THE THIRD AND SUBSEQUENT VIOLATIONS:

~~A. (I)~~ A CIVIL PENALTY OF \$1,000 AND 48 HOURS OF COMMUNITY SERVICE FOR THE RESPONSIBLE PERSONS; AND

~~B. (II)~~ A CIVIL PENALTY OF \$1,000 AND POTENTIAL SUSPENSION OR REVOCATION OF THE RENTAL LICENSE FOR THE PROPERTY OWNER OF THE RESIDENCE OR OTHER PRIVATE PROPERTY.

~~(2) IF THE PROPERTY OWNER FAILS TO PAY THE CIVIL PENALTIES IMPOSED ACCORDING TO THIS SUBSECTION, THE AMOUNTS DUE SHALL BE ADDED TO THE CURRENT TAXES DUE ON THE PROPERTY AND CONSTITUTE A LIEN ON THE PROPERTY.~~

~~§ 13-7-117. ENFORCEMENT.~~

~~(A) The Director of Environmental Protection and Sustainability may enforce the provisions of SECTION 13-7-112(A) OF this Part II of this subtitle in accordance with Article 3, Title 6 of the Code.~~

~~(B)~~ §13-7-135. ENFORCEMENT.

(A) THE CHIEF OF POLICE MAY ENFORCE THE PROVISIONS OF SECTION 13-7-112(B) OF THIS PART H (IV) OF THIS SUBTITLE IN ACCORDANCE WITH ARTICLE 3, TITLE 2, SUBTITLE 13 OF THE CODE.

(B) IN AN ENFORCEMENT PROCEEDING FOR A CITATION ISSUED UNDER THIS PART IV OF THIS SUBTITLE, IT IS A DEFENSE TO ANY PENALTY IMPOSED ON THE PROPERTY OWNER THAT:

(1) THE PROPERTY OWNER NEITHER AUTHORIZED, KNEW IN ADVANCE OF, NOR PARTICIPATED IN THE UNRULY SOCIAL GATHERING; AND

(2) THE PROPERTY OWNER PROVIDES EVIDENCE AT A HEARING THAT IT HAS REGAINED POSSESSION OR TAKEN ACTION TO REGAIN POSSESSION OF THE LEASED PREMISES AS PROVIDED UNDER MARYLAND LAW.

SECTION 2. AND BE IT FURTHER ENACTED, that this Act ~~shall take effect~~ forty five (45) days after its enactment, having been passed by the affirmative vote of five members of the County Council, shall take effect on February 1, 2016, and shall expire two (2) years after the date of its enactment, without the necessity of further action by the County Council.