
CITY OF BALTIMORE

BRANDON M. SCOTT,
Mayor



DEPARTMENT OF LAW
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February 23, 2023

The Honorable President and Members
of the Baltimore City Council
Attn: Natawna Austin, Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 23-0329 – Minor Curfew – Conduct of Establishments - Penalty

Dear President and City Council Members:

The Law Department reviewed City Council Bill 23-0329 for form and legal sufficiency. The bill increases the fine on the operator of an establishment for knowingly permitting any minor to remain on the premises during certain curfews for minors. The bill is effective 30 days after the date it is enacted. The bill amends City Code Article 1, § 41-14(2) and Article 19, § 34-9(b). The amendment of Article 1, § 41-14 raises the prepayable civil fine for violation of Article 19, § 34-6 from \$500 to \$1,000. Article 19, § 34-6 provides:

No operator of an establishment or his agents or employees may knowingly permit any minor to remain on the premises of that establishment if that minor’s presence would violate § 34-3 {“Prohibited conduct of minors – Nighttime curfew”} or § 34-4 {“Prohibited conduct of minors – Daytime curfew”} of this subtitle.

The penalty for violation of § 34-6 is contained in § 34-9(b), which is also amended by this bill. Currently, § 34-9(b) provides that an operator of an establishment, or his agent or employee, who violates a provision of § 34-6 is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500 for each violation. The amendment proposed by this bill modifies the language of this section to read that an operator found guilty of violating § 34-6 “shall be fined no less than \$1,000 for each violation.”

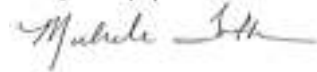
Baltimore City Charter Article II, § 48 permits the City to establish civil and criminal fines for the violation of “any ordinance, rule or regulations established by the City...provided that no fine or penalty shall exceed \$1000.00 and no imprisonment shall be for a longer period than 12 months.” The fine cannot exceed \$1,000.00 per occurrence, but a violator can incur a fine for each successive day the violation continues. See Article 1, § 41-13(c) (If a provision of law provides that the continuation or recurrence of a violation constitutes a separate offense, a separate civil citation may be issued for each separate offense). Section 34-9(c) specifically states that each violation of a provision of Subtitle 34 constitutes a separate offense.

The imposition of a fine in excess of \$1,000.00 per occurrence exceeds the express powers of the City enumerated in Article II of the Charter. The Law Department recommends that either one of two amendments be made to the bill. First, if it is desired that the fine be \$1,000.00 per occurrence, line 8, page 2 of CB 23-0329 should be amended to remove the words “no less than”. In the alternative, if it is desired that the amount of the fine will be discretionary, the words “no less than” on line 8, page 2 could be amended to read “no more than”.

The version of CB 23-0329 filed on Legistar contains highlighted portions. A clean version should be filed if this was unintentional.

If the bill is amended as recommended, the Law Department approves this bill for form and legal sufficiency.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Michele Toth".

Michele Toth
Special Solicitor

cc: Ebony Thompson
Nina Themelis
Nikki Thompson
Elena DiPietro
Hilary Ruley
Ashlea Brown
Jeff Hochstetler
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