

TERRENCE B. SHERIDAN

Chief of Police



Integrity . . . Fairness . . . Service

Baltimore County Police
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March 28, 1997

Mr. Dennis Burke
Senior Domestic Policy Advisor
The White House
1600 Pennsylvania Ave., Room 213
Washington, DC 20502

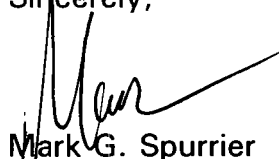
Dear Dennis:

In accordance with our most recent telephone conversation, please find enclosed information concerning the Maryland Gun Violence Act of 1996. New provisions within this statutory framework require background checks for secondary sales of regulated weapons.

I have also included a number of position papers for your perusal. I'm still attempting to locate my testimony, which I will forward under separate cover.

Once you have had an opportunity to review the documents, if you have any questions, please do not hesitate to contact me.

Sincerely,



Mark G. Spurrier
Director
Legal Division

MGS:je

Enclosures





MARYLAND GUN VIOLENCE ACT OF 1996

BRIEFING STATEMENT BY

**BONNIE A. KIRKLAND
CHIEF LEGISLATIVE OFFICER
GOVERNOR'S LEGISLATIVE OFFICE**

AND

**COLONEL DAVID B. MITCHELL
SUPERINTENDENT
DEPARTMENT OF STATE POLICE**

BEFORE

**THE SENATE JUDICIAL PROCEEDING COMMITTEE
(SENATE BILL 215)**

AND

**THE HOUSE JUDICIARY COMMITTEE
(HOUSE BILL 297)**

Introduction

The Maryland Gun Violence Act of 1996 is an integral initiative in the Glendening Administration's unrelenting fight against crime. The Act is a comprehensive proposal aimed at reducing the epidemic of gun violence that is plaguing our great State.

This epidemic knows no jurisdictional bounds; violence from guns threatens all of Maryland's citizens, from Allegany County to Worcester, Cecil County to St. Mary's. No one needs to be reminded of the headlines from the top ten news stories of the year, all reporting senseless acts of violence occurring with the use of a firearm. In 1994 alone, 719 Marylanders were killed by guns. Almost 17,000 other Marylanders were victimized by gun related crime. Additionally, 87 children were admitted to Maryland hospitals for treatment of unintentional gun injuries. We must end this epidemic and get guns out of the hands of children and criminals. The safety and prosperity of Maryland depends on it.

The Administration understands that no one bill or single initiative will completely eliminate the problem of gun violence; however, the Administration believes we must do all we can to stop the senseless injuries and deaths. To help accomplish this goal, the Maryland Gun Violence Act focuses on reducing the availability of handguns and assault weapons, which are defined in the bill as regulated firearms, to prohibited persons by diminishing the proliferation of illegal sales and transfers of firearms. Among other things, the Act proposes to limit the purchase of regulated firearms to one in a thirty-day period; treat secondary sales of firearms like sales by dealers; prohibit straw purchases; and require a license to purchase a regulated firearm.

Background

As a result of the ready availability of firearms, the State of Maryland is experiencing a serious epidemic due to gun violence. In 1994, 719 people in Maryland lost their lives due to gun violence. This epidemic killed more Marylanders than the number of people who were killed by gun violence in the entire countries of Australia (13), Great Britain (33), and in Canada (128) in 1992. During a five-year period from 1989-1993, Maryland experienced a 56.8% increase in firearm-related crimes. Juvenile arrests for murder during the same time period increased 163%.

The ramifications of gun violence are tragic. From 1993 through 1994, 87 children were admitted to Maryland hospitals for treatment of unintentional gun

injuries. Nationally, Maryland has the third highest homicide rate for males under age 19. Firearm violence is the leading cause of death among Marylanders under the age of 25. Research shows that young persons are increasingly likely to use firearms to settle disputes and to commit crimes. Firearms are used in more than 80% of the homicides in which teens are victims.

In Maryland, more than \$40 million is spent every year for direct medical costs for victims of gun violence, and taxpayers pay 80% of these costs. This figure excludes indirect costs such as property damage, loss of earnings and productivity, or public programs. Taxpayers pay over \$32 million of these medical costs, because most of these gunshot victims are uninsured or publicly insured. For hospital in-patient costs resulting from gun-related health problems from October 1993 to September 1994, \$7,415,455 was paid from public funds.

A majority of criminals obtain regulated firearms through the secondary sales market and "straw purchases," when an individual purchases regulated firearms for a minor or other prohibited person. Currently in Maryland, the secondary sales market is thriving due to the fact that there are minimal laws regulating these types of sales. The secondary sales market has been studied by the Bureau of Alcohol, Tobacco, and Firearms (BATF) during the past several years to determine the scope of the problem in Maryland. Project Lead, a study conducted by BATF, successfully traced 2,465 firearms used in crimes in Maryland from 1993 through 1995. Only 60 of these were found in the possession of the original purchaser.

Another study was launched in November 1995, when the Maryland State Police Criminal Intelligence Division began tracing all firearms confiscated by the Maryland State Police during the investigation of a crime. As of January 1996, twenty firearms have been successfully traced. Two were in the possession of the original purchaser; two were in the possession of a person with the same last name as the original purchaser; and sixteen were in possession of a person who was not the owner of record. These two studies clearly indicate a serious problem with secondary sales and straw purchases.

To reduce this problem, the Administration proposes limiting an individual to the purchase of one regulated firearm in a 30-day period. This will reduce "straw purchases" of handguns for prohibited persons by friends or relatives with no criminal history. According to the recent report of the Virginia State Crime Commission, this law has been successful in eliminating the State of Virginia as a primary source state for gun trafficking. The intent of Virginia's law (enacted in July of 1993) was to reduce the number of firearms used in crimes, recovered, and ultimately traced back to

purchases in Virginia. Since the passage of Virginia's one gun in 30 days law, the odds of tracing a firearm used by New York criminals back to purchase in Virginia was reduced 71%. The number of Virginia guns used in violent crimes in D.C., Pennsylvania, Delaware and New York has dropped 65 %. The BATF has dropped Virginia from first to eighth on its list of East Coast source states for guns used in criminal activity. Evidence suggests that the enactment of a one gun in 30 days law in Maryland will be even more effective than Virginia, because multiple handgun purchases are 21 percent of total sales in Maryland, while in Virginia multiple purchases consisted of only 6 percent of total sales.

The result of Virginia's one gun a month law has had a serious affect on Maryland gun sales. Maryland has replaced Virginia in being a primary source state for gun traffickers. The Bureau of Alcohol, Tobacco and Firearms has recently identified Maryland as a leading supplier of handguns used in crimes in states located in the Northeastern corridor. There was a 15.6% increase in applications to purchase a regulated firearm from 1993 (35,951) to 1994 (41,549). Limiting the sales of firearms to one gun per 30 days will help curb gun trafficking.

Measures must be taken to ensure that firearm purchasers are licensed and properly trained. This will reduce the tragic deaths resulting from gun accidents. Under this legislation, a person will be required to take a certified gun safety training class and get a fingerprint-based criminal background check in order to obtain a license. That requirement is more than reasonable and is already required in many areas of our life. Barbers and beauticians must be licensed and trained. A license must be purchased to hunt, go fishing, drive a car, but not to own a gun. Some states require everybody who applies for a driver's license to be fingerprinted. Requiring a license to own a firearm is reasonable and necessary to prevent needless injuries and deaths from firearm accidents.

Preventative steps are also needed to reduce the number of deaths due to domestic violence. In 1994, there were 55 family related deaths in Maryland. A domestic violence crisis is a volatile situation for all family members and the law enforcement officer who responds to the complaint. The presence of a firearm increases the potential for death or serious injury. Due to the volatile nature of domestic confrontations, it makes sense to remove firearms from the premises. Additionally, if a judge issues a protective order against someone involved in a domestic dispute, the judge should have the authority to order the respondent to surrender their firearm to law enforcement authorities for the duration of the protective order.

Key features of Senate Bill 215 and House Bill 297

- I. Limits, with exceptions, the purchase of regulated firearms, defined as handguns and specified assault weapons, to one in a thirty-day period. (Article 27, Sec.442B). This has been successful in South Carolina and Virginia, which have both ceased to be primary source states since passage of similar laws.
- II. Requires sales between individuals to go through the same scrutiny as initial purchases from a gun dealer: a background check and a seven-day waiting period. (Article 27, Sec.442E). The required application/registration of secondary sales coupled with the prohibition of multiple purchase transactions will disrupt established gun trafficking patterns by reducing the supply of regulated firearms to the illegal market.
- III. Prohibits any person from knowingly or willfully participating in a "straw purchase." (Article 27, Sec.442C). Buying a handgun for someone else is the predominate method used by prohibited persons (criminals and minors) in illegally obtaining regulated firearms.
- IV. Requires an individual to obtain a license to buy a handgun or assault weapon. (Article 27, Sec.442A). A license will be issued upon certification of completion of a firearms safety course and fingerprint-based criminal background check. This will assist the Secretary in positively identifying applicants for purchase of a regulated firearm and reduce the possibility of accidental deaths by requiring minimal standards for education in the use and storage of regulated firearms.
- V. Denies handguns to persons against whom the court has issued a non-ex parte civil protective order for the duration of the protective order. (Family Law Article, Sec.4-506). The Act also authorizes a police officer to temporarily remove a firearm when responding to a domestic violence scene if the officer determines there is probable cause that an act of domestic violence has occurred and observes a firearm at the scene. (Family Law Article, Sec.4-511).
- VI. Establishes a separate crime for any person who removes, or attempts to remove, a law enforcement officer's firearm with the intent to threaten or use the firearm against the officer or another person. (Article 27, Sec.36A-1). From 1985 through 1994, 651 law enforcement officers were killed in the line of duty with firearms, with 13.7% of them killed with their own firearm.

- VII. Allows firearm dealers to utilize a facsimile machine to fax applications to purchase regulated firearms to the State Police, and sets up the procedure for doing so. (Article 27, Sec.442F). This will speed up the application process by eliminating 2-4 days mailing time.
- VIII. Supports the prosecution of gun offenses by allowing a criminal who uses an inoperable handgun in the commission of a felony or crime of violence to be prosecuted as if the handgun was operable. (Article 27, Sec.36B(d)). This removes the current burden of proof on the State prosecutors to demonstrate that the gun was capable of being fired in order to obtain a conviction.
- IX. Prohibits possession of a firearm under sufficient circumstances to constitute a nexus to a drug-trafficking crime. (Article 27, Sec.281A). Currently, State's Attorneys throughout the State are experiencing problems in the prosecution of persons when there is ample evidence to show that a firearm is possessed in connection with drug trafficking crimes.
- X. Prohibits a dealer or person from selling, renting, transferring, possessing, receiving, or purchasing any firearm or high capacity magazine in violation of federal, State, or local laws. (Article 27, Sec.442). This authorizes law enforcement officers of Maryland to arrest for violations of federal laws.

Conclusion

Maryland residents throughout the state favor stricter handgun regulation. These citizens, and those testifying in support of this Legislation, represent a broad array of people throughout the State. Supporters include members of the medical, business and religious community. Supporters also include the increasing number of victims whose lives have been shattered by gun violence, as well as their family and friends. Even many of those traditionally thought to be opposed to any gun control measures, such as gun owners and enthusiasts, support this legislation. They understand that this Act imposes no restrictions on the use of firearms for lawful purposes such as hunting and sport shooting, and imposes reasonable regulations aimed at reducing the gun violence epidemic by reducing the availability of guns to minors and criminals.

Today the Administration asks you to join our fight against gun violence. On behalf of the safety of Maryland's citizens, the Administration urges a favorable vote on the Maryland Gun Violence Act of 1996.

MARYLAND LICENSED FIREARMS DEALERS **ASSOCIATION, INC.**

P.O. BOX 2555, SILVER SPRING, MD 20915-2555

(301)942-3329 FAX: (301)942-7946

The Maryland Licensed Firearms Dealers Association, Inc. (MLFDA) and the over 360 licensed firearms dealers in the State of Maryland strongly **OPPOSE** the passage of: **House Bill # 297, "Maryland Gun Violence Act of 1996"** for the following reasons:

This bill will only impact the firearms dealers and the law-abiding citizens who buy their firearms from our members. A first time handgun buyer, in order to comply with this bill will spend over \$ 500.00 and 3-4 months in taking firearms safety classes, obtaining a state police license, waiting an additional period for another background check and then be able to purchase a handgun. The permits, estimated to cost between \$ 105 and \$ 150 for three years, is merely a tax against the law-abiding gun owner. Criminals will not be required to obtain such permits, as they would be incriminating themselves. Add to the licensing costs the costs of classes, (\$50 to \$125) and the average current retail price of a new handgun on our members shelves is \$ 350.00 and the first time handgun buyer will have to come up with \$625.00, on average, in order to protect his or her family from the criminal element.

This bill allows the state police to place applicants "on hold" if there is an open disposition in their records. The applicant has no appeal rights, no hearing and no one at state police will tell them what the problem, so that they might help in straightening out the situation. This "on hold" system currently being used by MSP and is illegal as it does not appear in any law or Comar. By statute, the Maryland State Police have only 7 days in which to disapprove an applicant who wishes to purchase a handgun. This "on hold" system illegally extends that 7 days to two to three months or more, and under this bill, the extension in time could be "forever", without recourse to the applicant.

This bill triples the cost of a firearms dealers license. There is no justification for such an enormous increase in license fees, except to discourage anyone for entering into or continuing in the firearms trade. This increase is unjustified by any financial requirement.

This bill disallows the rental of firearms at indoor commercial gun ranges under strict safety procedures. Some people like to testfire handguns prior to purchase, the same as test driving an automobile. This bill prohibits that practice without a seven day waiting period. Would you like to wait a week to test drive a Chevrolet? I doubt it.

Written notification from your doctor would be enough under this bill to prohibit your obtaining a firearm. Suppose you had an argument about your doctors bill and to spite you he wrote a letter to the MSP and that letter made you a prohibited person under Maryland law.

There is so much wrong with this bill that it would take me several reams of paper to go through it line by line and refute it. It is a punishment for the honest Maryland gun owner.

The legislature should concentrate on the illegal possession and use of any firearm by violent criminals. Maryland's Three Strikes and You're Out law has been used only once since its passage many years ago. That is an insult to the law-abiding citizens, since the criminals are being repeatedly released from prison to commit more and more crimes.

Our association urges this committee to vote this bill down and concentrate on punishing the violent offenders, not the law-abiding citizens who would be the only persons affected by this bill. Punish the criminals, not the law-abiding.

MARYLAND LICENSED FIREARMS DEALERS
ASSOCIATION, INC.

P.O. BOX 2555, SILVER SPRING, MD 20915-2555
(301)942-3329 FAX: (301)942-7946

The Maryland Licensed Firearms Dealers Association, Inc. (MLFDA) and the over 360 licensed firearms dealers in the State of Maryland strongly **SUPPORTS** the passage of: **HOUSE BILL # 778, "PISTOLS & REVOLVERS-STRAW TRANSACTIONS-PROHIBITION"**, for the following reasons:

Under Federal law one person may not purchase a firearm for anyone who is ineligible to purchase it on his/her own. Maryland does not have such a restriction and needs to have its laws dovetail with Federal ones.

BATF agents are usually not disposed to prosecuting individual straw man sales. The State of Maryland should have the right to arrest, try and convict such persons. It is one method in which the criminal obtains a firearms, using a person with a clean record to buy a gun for them.

Our association would only hope that the state would vigorously enforce this bill should it become law. Our member dealers constantly report suspected straw man sale to the BATF, only to have them do little about it.

Therefore, the MLFDA, Inc. would like to ask the committee to vote this bill out of committee and require its strict enforcement.



POSITION STATEMENT GUN CONTROL LEGISLATION

The Maryland Retailers Association has long been interested with gun control legislation beginning with its support in 1987 for the so-called "Saturday Night Specials" legislation and the subsequent referendum.

Our interest since then has only deepened as the violence from guns continues to increase. Not only are shopkeepers lives threatened -- and sometimes taken -- in hold-ups involving guns, but the fear of gun related violence has spread to customers who can no longer feel safe shopping in some areas of our state. ***Our priority is to deter the use of guns in committing crimes against our members and other retailers.*** We support gun control efforts that can effectively reduce crime and violence and limiting availability by those deemed unsafe by prior behavior.

MRA supports the intent and goal of House Bill 297/Senate Bill 215 introduced by Governor Glendening. Of particular interest to MRA are:

- * Altering the definition of a hand gun used in the commission of a crime to include whether the gun is operable or inoperable;
- * limit the purchase of firearms to one per 30 day period;
- * prohibiting straw purchases;
- * maintaining state preemption in the regulation of firearms;
- * regulating secondary sales or transfers the same as though a licensed dealer, and
- * clarifying that federal provisions for denying purchase to any individual apply in state law.

One area of concern to MRA is new Subsections 442A (B) and (C) would limit sales to only Maryland residents.

MRA opposes local regulation of the sale of firearms as embodied in House Bill 606. Opposition to local regulation of commerce and retail sales is a general position of MRA, and MRA has opposed such previous efforts regarding tobacco products, pesticides and other lawful products.

MRA supports House Bill 858 making mandatory the sentence for the use of a hand gun in the commission of a felony or a crime of violence. MRA also supports House Bill 778 prohibiting straw purchases.

MRA opposes House Bill 884 as being counterproductive to reducing gun violence and improving the environment for retailers. Although the bill adds some additional requirements,

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removing the requirement of a “good and substantial reason” to wear or carry a hand gun increases the opportunities for gun violence.

MRA has some concerns regarding House Bill 318. Although well intentioned to provide child resistance standards, HB 318 puts all the onus on the seller. It does not prohibit the manufacture or use of pistols without the child resistant features. Maryland is not an economic island. Buyers could purchase the pistols outside Maryland, use them in Maryland and thus preclude the child protections sought by HB 318.



FRATERNAL ORDER OF POLICE

MARYLAND STATE LODGE, INCORPORATED

OFFICE OF THE PRESIDENT

47 State Circle, Suite 102

Annapolis, Maryland 21401

Bus. Phone (410) 626-4086 • Fax: (301) 261-1784



DARRYL A. JONES, SR.
STATE PRESIDENT

March 12, 1996

REVISED

Honorable Walter Baker
Chairman, Senate Judicial Proceedings Committee
300 James Senate Office Building
Annapolis, Maryland 21401

Re: Senate Bill 215

Dear Senator Baker:

For several months the Maryland Fraternal Order of Police has engaged in conversation, debate, and negotiations with the Governor's Office over SB215, a bill entitled the Maryland Gun Violence Act of 1996. As the state's largest law enforcement organization, we welcomed the opportunity to provide our input and offer suggestions. While we can support the vast majority of the bill that deals with crime control, there may be certain aspects that run counter to a resolution passed during our state convention nearly two years ago.

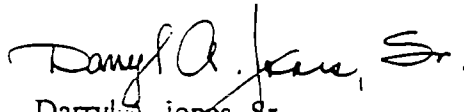
In 1994, our state convention passed a resolution calling upon our Legislative Committee to, "oppose any legislation which infringes upon the rights of law-abiding citizens to own a firearm." Although there is disagreement within our organization as to whether this legislation infringes upon such rights, there appears to be a consensus that some provisions of the bill may do so and, if so, the FOP is bound to oppose those particular provisions. Nonetheless, the Maryland State Fraternal Order of Police strongly supports all areas of the bill that enhance our ability for effective law enforcement.

This afternoon, three members of the Maryland FOP legislative committee spoke in opposition to SB215. One spoke on behalf of Baltimore City's FOP Lodge #3, one on behalf of Baltimore County Lodge #4, and one on behalf of the Maryland State Lodge. Having been out of town since Friday, I learned of this testimony upon my landing at BWI at 3:00 p.m. After several phone calls, I was advised by local lodge presidents that the speakers had no authority or permission to speak on behalf of their local lodges regarding this bill. The individual claiming to speak for our state organization also spoke without authority or permission. No elected leader of our organization spoke in opposition to this bill, and our complete support is restricted by a resolution that many of our members consider outdated.

Page Two
March 12, 1996

Thank you for the opportunity to submit these remarks. I am sorry if the events of this afternoon or the intent of the 1994 resolution have led to some confusion. The resolution, aside from being poorly written, is completely subjective. Our by-laws require a resolutions existence until our next state conference. Hopefully this inane and idiosyncratic language will not prevent the passage of the worthwhile law enforcement legislation.

Sincerely,


Darryl A. Jones, Sr.

cc: Members, Senate Judicial Proceedings Committee



MARYLAND CHIEFS OF POLICE ASSOCIATION

4310 Gallatin Street
Hyattsville, Maryland 20781

President
JOHN COLLINS
Chief of Police
University of Maryland
Baltimore

March 13, 1996

Vice President
WILLIAM HARRISON
Chief of Police
Capitol Heights

To: The Honorable Joseph F. Vallario, Jr.
Chairman
Judiciary Committee

From: Chief William Harrison
Vice President

Secretary-Treasurer
ROBERT T. PERRY
Chief of Police
City of Hyattsville

Subject: HB 297

Sergeant-at-Arms
STEPHEN CRUMRINE
Chief, Technical
Services Bureau
Baltimore City Police

The Maryland Chiefs of Police Association **supports the passage of HB 297**, which amends Article 27 - Crimes and Punishments, Sections 36B(d), 120, 281A, 442, 443, 443A, 445, and 446, by prohibiting the purchase of more than a certain number of regulated firearms during a certain period and generally relating to gun violence.

Violence in our streets, across this State, is systemic and poses the most serious problem impacting the safety of our respective communities. The majority of the violence involves handguns.

The Maryland Chiefs of Police Association earnestly believes that this comprehensive package, proposed by the Governor, will provide police officers the additional enforcement tools that are critically needed to counteract gun violence. We are convinced that this legislation is reasonable and does not infringe upon the rights inherent in the Second Amendment of the U.S. Constitution.

This legislation enables police officers to enforce current restrictions against convicted felons, people with mental disorders, minors, and people who are involved in child abuse and domestic violence.

Enactment of this legislation will greatly enhance the safety of our citizens, reduce their fear level, and improve their quality of life.

Therefore, the Maryland Chiefs of Police Association strongly **SUPPORTS HOUSE BILL 297**, the **Maryland Gun Violence Act of 1996**, and urges a favorable report.

Counsel
MARK G. SPURRIER, ESQ.



**Prince George's County Public Schools
Upper Marlboro, Maryland 20772**

To: Members, House Judiciary Committee

From: Mark D. Woodard, Legislative Officer

Re: **HB 297: Maryland Gun Violence
Act of 1996**

Date: March 13, 1996

Position: **SUPPORT**

This Administration gun control bill is being introduced to promote public safety. It is a comprehensive approach to reducing gun related violence in the state. In particular, the bill will:

- Limit the purchases of regulated firearms to one per month per individual.
- Upgrade the requirements of secondary sales of regulated firearms to the same level as sales by licensed dealers. These requirements include submitting an application with the State Police and waiting seven (7) days during which a criminal background check is performed.
- Prohibit "straw" purchases at the state level. This initiative would have affected an estimated 2,781 people who bought 21,793 guns from 1990 to 1994.
- Require a license to purchase a regulated firearm. A license to buy a firearm in Maryland will mean completing a safety training course and consenting to a fingerprint background check.

This school system supports all reasonable efforts to promote public safety particularly as it relates to public schools. This Administration bill may reduce the number of guns and thereby also reduce the number of injuries and deaths resulting from gun violence. The bill's licensing

**For further information, please contact
Mark D. Woodard on 952-6776 or 261-1735**



Prince George's County Public Schools
Upper Marlboro, Maryland 20772

HB 297

Page 2

requirements will insure that one buying a gun will have taken a safety course and will make gun purchasers go through a background check prior to receiving their gun purchase. Therefore the Board urges this committee to give HB 297 a **FAVORABLE** report.

**For further information, please contact
Mark D. Woodard on 952-6776 or 261-1735**

MARYLAND JEWISH ALLIANCE

5 State Circle
Annapolis, MD 21401
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TESTIMONY OF THE MARYLAND JEWISH ALLIANCE IN SUPPORT OF GUN CONTROL LEGISLATION

March 12, 1996

The Maryland Jewish Alliance is a legislative coalition of the Baltimore Jewish Council, THE ASSOCIATED: Jewish Community Federation of Baltimore, the UJA/Federation of Greater Washington, and the Jewish Community Council of Greater Washington. As the Jewish community's representative in Annapolis, the Alliance advocates on a variety of social, economic, and cultural concerns.

The Alliance supports attempts to regulate gun ownership, sales and use. As a community long concerned about the safety and well-being of the citizens of Maryland, we cannot be silent when we see the destruction that guns have caused in our society-- we cannot turn the other way to the deaths of our young people, the fear of walking after dark, the pervasiveness of violence in our society. We believe the Governor's handgun legislation will take broad steps at stemming the tide of devastation and hopelessness that has been brought about by irresponsible gun ownership and use.

Those in opposition should consider the following statistics from a recent Sun paper article (2/25/96):

- Maryland has the third highest homicide rate in the nation for males under the age of 19;
- In 1994, gunshot wounds killed 44 of our children under age 18, nearly four children each month. During the same period, 216 children were hospitalized with firearm wounds;
- Firearms are used in more than 80% of the homicides in which teens are victims;
- From October 1993 through September 1994, 87 Maryland children were admitted to Maryland hospitals for treatment of unintentional firearm-related injuries.
- A gun in the home is 43 times more likely to kill a family member or friend than it is to be used in self-defense.
- Approximately 18% of murders in Maryland take place during arguments and in 1994, close to 36% of murder victims were killed by someone they knew.

If the statistics alone are not sufficiently compelling, consider the dollars and cents of gun violence. In Maryland, direct medical costs for emergency services and claims processing for victims of gun violence exceeds \$40 million annually. In-patient costs from firearm related injuries totaled close to \$7.5 million from October 1993 through September 1994. Maryland literally can not afford to continue to stand idly by while our young people are dying on the streets, in schools, and at home.

A legislative coalition of:

THE ASSOCIATED: JEWISH COMMUNITY FEDERATION OF BALTIMORE
Baltimore Jewish Council

After April 15, 1996:

Baltimore Jewish Council
5750 Park Heights Avenue
Baltimore, MD 21215

MARYLAND JEWISH ALLIANCE

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The Governor's legislation would limit individuals to one handgun purchase per month. Even the most avid gun enthusiast would still be permitted to purchase *12 guns each* year. The legislation would also impose a seven-day waiting period and background check on the private sale of handguns as well as prohibiting *straw purchases* by duplicating federal laws, thus allowing for state prosecution. Given that *currently*, first time purchasers of firearms must undergo a waiting period, it only makes sense to impose the same requirement for a private re-sale. The proposed legislation would also require purchasers of handguns or assault weapons to first obtain a license and undergo firearm safety training, along with fingerprinting.

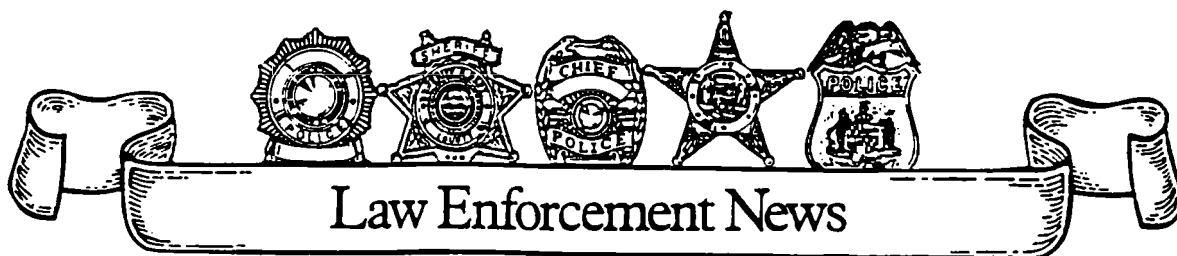
Not one of these proposals should be at all problematic for individuals who intend to use guns responsibly and safely. Indeed, the legislation is not aimed at hunting enthusiasts, collectors or even those individuals who purchase a gun for protection. Rather, the provisions in the Governor's proposal target illegal gun sales, straw purchases and irresponsible gun ownership. The legislation would be a critical step forward in preventing the deaths of so many innocent Marylanders.

We urge you to take the courageous and reasoned approach to gun violence by voting in favor of the gun control measures being considered here today.

A legislative coalition of:

THE ASSOCIATED JEWISH COMMUNITY FEDERATION OF BALTIMORE
Baltimore Jewish Council

After April 15, 1996:
Baltimore Jewish Council
5750 Park Heights Avenue



A Statement from Maryland Law Enforcement Officers, on Gun Laws.

In Maryland, since 1966, under the Waiting Period Law, Violent Crime rose over 200%.
In Maryland, since 1988, under the Sat. Night Special Ban, Violent Crime rose over 30%.
In Maryland, 95% of violent crime is committed by drug pushers or users.
In Maryland, 90% of violent crime is committed by Juveniles, who cannot own a gun.
In Maryland, 80% of violent crime is Plea Bargained Down, In Felony Cases, Why ?
In Maryland, 70% of violent crime goes unsolved.
In Maryland, 60% of violent criminals will be put on the streets, instead of prisons this year, the excuse, lack of space, and NO FUNDING BY OUR GOVERNOR.
In Maryland, 50% of all violent crimes are committed by repeat offenders.
In Maryland, 45% of violent crime is committed by an offender who is on parole, probation, or pretrial release:
In Maryland, they choose to prosecute the gun (car) instead of the criminal (driver).

In Maryland, Deaths by type,

Motor vehicle,	49.5 %
Falls,	17.2 %
Other,	11.3 %
Fire,	5.8 %
Suffocation,	4.7 %
Medical,	4.6 %
Poison,	2.5 %
Firearms,	.02 %

Washington, D.C., where it is illegal to possess a handgun, has the highest murder rate in the world.

Mexico, and South Africa, have strict gun control, but their murder rates are double ours. Switzerland, New Zealand, and Israel have liberal gun ownership laws, but their violent crime rate is as low as Great Britain, which has gun control.

In the several years since Florida liberalized laws to allow private citizens to carry a handgun, the homicide rate has dropped, while the national rate rose.

WE DONT HAVE A GUN CONTROL PROBLEM,

WE HAVE A CRIME CONTROL PROBLEM.

WILL INFRINGEMENT ON CONSTITUTIONAL RIGHTS HELP ? OBVIOUSLY NOT! BUT WE KNOW WHAT CAUSES CRIME, LET'S STOP POLITICKING AND CONTROL IT, PEOPLE HAVE TO BE ACCOUNTABLE FOR THEIR ACTIONS! THE PROPOSED GUN LAWS WILL NOT MAKE THE STREETS OF MARYLAND SAFER!

**MARYLAND STATE LODGE
FRATERNAL ORDER OF POLICE**

WHEREAS: The Fraternal Order Of Police has long supported reasonable legislation to restrict the availability of firearms to those with criminal intent, and

WHEREAS: The State of Maryland has a mandatory waiting period and background check designed to identify unqualified firearm purchasers before they take possession of a handgun, and

WHEREAS: The Maryland General Assembly has passed legislation to ban the future sale of semi-automatic firearms labeled as "Assault Weapons", and

WHEREAS: There is legislation planned that would further infringe on the lawful sale, transfer and possession of firearms and ammunition by law biding citizens that would include mandatory registration of firearms and firearm owners, and

WHEREAS: The National Lodge of the Fraternal Order of Police has directed the National Legislative Committee to oppose any further legislation that would require licensing and/or registration of handguns.

NOW, THEREFORE BE IT RESOLVED THAT: The Maryland State Lodge of the Fraternal Order of Police assembled in Deep Creek, Maryland for it's 1994 State Convention direct the Legislative Committee to oppose legislation that would further infringe on the ownership of firearms by the law biding citizenry of this State, and to focus on meaningful legislation that protects the lives of Police Officers in Maryland.

Submitted by Ken Ziegler
Fraternal Order of Police Lodge #4
Member-State Legislative Committee

Approved

26, Feb. 1996, F.O.P. Lodge #3, Vote to **OPPOSE** Governor Glendenings
MARYLAND GUN VIOLENCE ACT of 1996, S.B.215, H.B.297.

PRESIDENT - Gary McLhinney



DOWN RANGE



FEBRUARY 1996

*The Maryland State Rifle & Pistol Association
Maryland's State NRA Association*

STATE
ASSOCIATION

Kurt Schmoke endorses radical campaign to:

DISARM POLICE

Hunters, collectors also targets of "Domestic Disarmament"
by Roger Johnson

When the cameras are rolling, gun-control advocates soothingly state that they only want to enact "reasonable" measures to curb violence committed with guns. But recently released documents conclusively demonstrate that they have far more radical plans in mind, including curbs on hunting, the total prohibition of the private ownership of guns, and even the complete disarmament of police forces throughout the nation.

A group calling itself the Communitarian Network recently issued a position paper entitled *The Case for Domestic Disarmament*. In it, the authors state "There is little sense in gun registration. What we need to significantly enhance public safety is *domestic disarmament* of the kind that exists in practically all democracies. *We join with those who read the Second Amendment the way it was written, as a communitarian clause, calling for community militias, not individual gun slingers.*"

The Network's prohibitionist schemes were endorsed by none other than Baltimore Mayor Kurt L. Schmoke who has enthusiastically endorsed the recommendations of Governor Glendening's Commission on Gun Violence. Among other things, the governor has embraced Commission proposals that would:

- ☒ require handgun owners to be licensed
- ☒ restrict private firearm transfers
- ☒ prohibit more firearms
- ☒ limit handgun purchases to one a month

We now see that the Commission's recommendations are yet another "good first step" towards enactment of the Communitarian Network's extremist agenda which does not even spare the police: "Domestic disarmament entails the removal of arms from private hands and, ultimately, from much of the police force.

Once guns are hard to obtain and the very possession and sale of them are offenses, the level of violent crime will fall significantly."

The Network sent its recommendations — including a pointed and direct attack on gun collectors and hunters — to selected law enforcement officials stating "... gun collectors may be accommodated by provisions allowing them to keep their gun collections, but rendering them inoperative (cement in the barrel is my favorite technique). Hunters might be allowed (if one feels this 'sport' must be tolerated) to use long guns that cannot be concealed, without sights or powerful bullets, making the event much more 'sporting.' Finally, super-patriots, who still believe they need their right to bear arms to protect us from the Commies, might be deputized and invited to participate in the National Guard, as long as the weapons with which they are trained are kept in state-controlled armories. All this is acceptable, as long as all other guns and bullets are removed from private hands."

It is clear that our opponents intend to enforce such measures with heavy fines, house-to-house searches, confiscation, and long terms of imprisonment for violators. That means you!

The MSRPA intends to oppose all such radical proposals in this year's General Assembly session. You can help by:

- ▶ registering to vote.
- ▶ attending the February 19 Rally in Annapolis.
- ▶ writing your legislators.
- ▶ maintaining your MSRPA and NRA memberships

Regardless of what they say in front of the cameras, our opponents don't intend to stop until they have taken all your guns, including hunting guns and police firearms. Won't you please help us thwart this radical threat to your freedom?

THIS IS SELF EXPLANATORY!

Preferential treatment in the issuance of Handgun Carry Permits by the Maryland State Police

For details on how a certain county executive received a "PRE-APPROVED" Permit To Carry A Handgun from the Maryland State Police, read the following deposition given by Colonel Elmer H. Tippet on January 17, 1992.

Prepared by the Office of the Legislative Counsel, MARYLAND STATE RIFLE & PISTOL ASSOCIATION, INC. for the 1992 Legislative Session of the Maryland General Assembly.

Property Of

Del. Joseph F. Vallario, Jr.

INTRODUCTION

Following this introduction is a copy of the verbatim transcript of a deposition given by Colonel Elmer H. Tippet, Superintendent of the Maryland State Police on Friday, January 17, 1992. Colonel Tippet and the State of Maryland are defendants in a suit brought pursuant to the Maryland Public Information Act, SG 10-611 et. seq., Anno. Code of Maryland. This lawsuit seeks to compel the Superintendent of State Police to release various documents pertaining to the issuance of a Permit To Carry A Handgun to Sidney Kramer, the former Montgomery County Executive.

Getting a permit to carry a handgun in the State of Maryland is no mean feat. At least for ordinary people. It usually takes at least 90 days to process an application for a Permit To Carry A Handgun. The Maryland State Police routinely advise permit holders to submit their applications for renewal at least 90 days before their permits are due to expire. (See Instructions accompanying Deposition Exhibit No. 7)

In December of 1988, Montgomery County Executive Sidney Kramer wanted a Permit To Carry A Handgun.

An employee of the Maryland State Police initialed the approval notice pertaining to Mr. Kramer's Permit To Carry A Handgun on December 12, 1988. (See Deposition Exhibit No. 2 at p. 4; See also deposition testimony at pp. 22-23)

Mr. Kramer signed his application for a carry permit the following day, December 13, 1988. (See Deposition Exhibit No. 2 at p. 2; See also deposition testimony at pp. 22-23) Presumably, an application must be signed prior to its submission. See COMAR 12.07.02B (Deposition Exhibit No. 3)

Colonel Tippet, upon the advice of the Office Of The Attorney General, has declined to explain how Mr. Kramer's approval notice was initialed before Mr. Kramer even signed his application. (Deposition pp. 24-25) The Assistant Attorney General's reasons for instructing the Colonel not to answer this and other questions concerning the circumstances surrounding the issuance of Mr. Kramer's carry permit are set forth at pp. 7 - 11 of the deposition (along with the Plaintiff's proffer as to relevance).

Colonel Tippet, upon the advice of the Office Of The Attorney General, also refused to state whether, to the best of his knowledge, information and belief it is standard operating procedure for the Maryland State Police to issue approval notices the day prior to the date that an applicant signs his application for a Permit To Carry A Handgun. (Deposition, p.23)

Similarly, the Colonel refused to state whether, to the best of his knowledge, information and belief, such a practice would violate the Licensing Division's own written S.O.P., and the pertinent sections of COMAR. (Deposition pp. 23-24)

Maryland law requires that an application be investigated to make sure that an applicant has a "good and substantial reason", which must include a finding that "such a permit is necessary as a reasonable precaution against apprehended danger." See Art. 27, Sec. 36E(a)(6); See COMAR 12.07.03 and 12.07.06

As permitted by law, the State Police delegated the task of investigating Mr. Kramer's application to --- the Montgomery County Police. It never occurred to the Superintendent that it could be a conflict of interest to have a Montgomery County Police officer investigate an application submitted by the chief executive of the same county government that the officer, himself, worked for.

At page 3 of Colonel Tippet's Answers To Interrogatories (Deposition Exhibit No. 2) he states that the (undated) investigative report prepared by Officer D.A. Hutchinson of the Montgomery County Police makes reference to and was accompanied by a M.C.P.D. investigative report dated December 3, 1988 regarding damage to property allegedly caused by Glenn Ivan Rosenberg.

An independent review of court records reveals that on December 30, 1988 the State's Attorney for Montgomery County filed a seven count criminal information against Mr. Rosenberg in the Circuit Court for Montgomery County (Criminal No. 53825). Interestingly enough, neither the initial Statement Of Charges dated 12/03/88 (Tracking No. 039825D2) nor the accompanying four page Statement Of Probable Cause (which was reviewed by the Grand Jury and the State's Attorney) makes any reference whatsoever to criminal acts directed against Sidney Kramer. Mr. Kramer's daughter and her boyfriend were referenced as victims of property damage, but not Mr. Kramer. He is also not mentioned as a victim in any of the criminal counts filed by the State's Attorney against Mr. Rosenberg. (Mr. Rosenberg was subsequently acquitted of all but one of the counts.)

Colonel Tippet, upon the advice of the Office Of The Attorney General, declined to state whether, as of December 12, 1988, any determination had been made that issuance of a permit to Mr. Kramer was a reasonable precaution against an apprehended danger. (Deposition pp. 25-26)

The Colonel has similarly refused to answer questions as to when he first became aware that Mr. Kramer wanted a Permit To Carry A Handgun (Deposition p. 31); whether he ever spoke personally to Mr. Kramer concerning his desire to obtain

such a permit (Deposition p. 32); and whether he had any communications with any persons in the Licensing Division concerning Mr. Kramer's original application. (Deposition pp. 32-33).

After Sidney Kramer failed to win re-election in November, 1990, he applied for a renewal of his carry permit on March 29, 1991. (Deposition p. 31)

It was disapproved on July 2, 1991. (Deposition p. 31)

During this legislative session you will be asked to consider various bills aimed at further restricting the rights of ordinary, law-abiding citizens to purchase, possess, or carry firearms. As usual, high-ranking officers from the Maryland State Police will show up to testify in favor of such restrictions.

Only last April, in the case of Love v. Tippet (#CAL 90 - 28730) Judge McCullough of the Circuit Court for Prince George's County characterized the State Police's practice of denying handgun purchase applications on the basis of prior out-of-state arrests (without making any determination as to disposition) as being "ARBITRARY AND CAPRICIOUS".

Sidney Kramer's "pre-approved" carry permit is just one more example of how the Maryland State Police ignore Maryland Law when they feel like it.

Think about these abuses of Maryland law when the State Police ask you to make it harder for ordinary people to buy a firearm, or carry one for their own self-defense.

Think about these abuses whenever the State Police ask you to expand their powers concerning the purchase or carrying of firearms.

THE MORAL IS: If you give the Maryland State Police ANY discretion in the administration of firearms laws, it is only a matter of time until they will abuse it.

Respectfully submitted,

Howard J. Fezell
Legislative Counsel
Maryland State Rifle & Pistol Assoc., Inc.

LEAGUE OF WOMEN VOTERS OF MARYLAND, INC.
200 Duke of Gloucester St., Annapolis, MD 21401
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TESTIMONY PRESENTED TO THE HOUSE JUDICIARY COMMITTEE
RE: HB 297 MARYLAND GUN VIOLENCE ACT OF 1996
PRESENTED BY JOAN PAIK, PRESIDENT, MARCH 13, 1996
POSITION: SUPPORT

Good afternoon. I am Joan Paik, president of the League of Women Voters of Maryland, here representing nearly 2000 members of our 15 local Leagues across the state. The League has fully studied the firearms issue and reached a strong position of support for legislation that would limit the accessibility and regulate the ownership of handguns and semi-automatic weapons. We have come here several years now to support legislation to strengthen gun control laws, and we are here again to plead with you to help ensure the safety of all Maryland citizens by giving HB 297 a favorable report from this committee. The MARYLAND GUN VIOLENCE ACT OF 1996 WILL MAKE A DIFFERENCE!

Some opponents argue that legislation like this takes away their rights, rights they think are guaranteed by the U.S. Constitution. Well, I dispute that interpretation, and so does the U.S. Supreme Court. To those people I say: Sometimes you need to give up some individual rights for the well-being of the community. This is certainly one of those times. Citizens have the right to feel relatively safe in their community and in their homes. Parents have the right to feel that their children are safe in schools and friends' homes or while playing outside in their neighborhood. We must care not only about the safety of our own kids, but also about the safety of everybody else's kids.

Youth violence is on the rise in this country and what we have not come to grips with is the core of kids who are becoming more violent, more "armed" and unaffected by the norms of society. "We have gone from fistfights to gunfights" says Ronald Stephens, executive director of the National School Safety Center in California, and it has changed the landscape of American schools.

Statistics show that one in every four homes has a gun in it. In nearly half of those homes, guns are not safely locked up, and children are five times as likely to be killed there than in homes where there are no guns. A recent survey found that one in eight youths - almost two in five in high-crime neighborhoods - reported having carried a weapon.

* Limiting purchases of regulated firearms to one per month per individual makes good sense, and we should do it. We have only to look as close as Virginia where it has been so successful.

* It is only reasonable to require that firearms purchasers be subject to a waiting period,

be licensed and properly trained and go through a criminal fingerprint background check. That is more than reasonable.

- * Requiring safety training courses will go a long way toward eliminating accidental shootings and keeping kids from accessing guns in their own homes.

- * Denying handguns to persons under civil protection orders for child abuse or domestic violence would help ensure the safety of the abused.

- * Private sales of guns should be subject to the same restrictions as sales through dealers. We are pleased to see them covered in the MARYLAND GUN VIOLENCE ACT OF 1996.

Governor Glendening has said that 1996 is the year to move forward to significantly reduce gun violence in Maryland. The League of Women Voters agrees. Maryland must take this step to reduce the epidemic of gun violence plaguing our communities by strengthening our gun laws. Help our children grow up in safer communities. We must address guns in the streets, in the schools and in the hands of criminals. THE MARYLAND GUN VIOLENCE ACT OF 1996 does that, and the League urges its passage. We trust you will agree. The League will applaud your leadership in passing this legislation to deal with the increasing availability of guns and the escalating threat to our health and safety. Thank you.



UNIVERSITY OF MARYLAND
AT BALTIMORE

March 4, 1996

The Honorable Joseph F. Vallario
Room 121
The Lowe House Building
Annapolis, MD 21401

Dear Delegate Vallario,

At its last meeting, the University of Maryland School of Social Work Alumni Board unanimously endorsed Governor Parris Glendening's Maryland Gun Violence Act of 1996 (HB 297/SB 215). We strongly believe that this measure is necessary to reduce the carnage gun violence is causing in our state.

The board urges you to support all the elements of the Gun Violence Act. In particular, we urge you to support: limiting the number of handguns a person can buy to one per month, regulating the private sales of handguns, and licensing handgun purchasers. We believe that all three of these measures are necessary to reduce the flow of handguns to criminals.

We know that the vast majority of Marylanders join us in supporting the Governor's proposal. According to a Mason-Dixon poll released last week, 57% of Maryland voters support one-gun-per-month, 61% support limiting secondary sales, and 70% support licensing.

We will stand behind you as you work to enact the most important anti-gun violence measures ever passed in Maryland.

Sincerely,

A handwritten signature in cursive script that reads "Saundra K. Krieger".

Saundra K. Krieger
President, UMSSW Alumni Board

THE SUN

EDITORIALS

Time to limit handgun sales

■ **Public support:** *Maryland eclipses Virginia as gun-running capital of D.C. region.*

YOU KNOW IT'S TIME to tighten Maryland's handgun laws when new federal statistics show this state is now the gun-running capital of the Washington region. Criminals can buy all the guns they need in Maryland — legally.

It used to be that Virginia was the place to go if you wanted to buy dozens of handguns at a time. But in 1993, Virginia curbed "straw purchases" of guns by individuals with clean criminal records who were fronting for drug gangs and others. There is now a one-gun-a-month purchase limit in Virginia.

This approach has worked. The number of Virginia guns used in violent crimes in D.C., Pennsylvania, Delaware and New York has dropped 65 percent. For the first time, Maryland — not Virginia — is the largest supplier of handguns used in crimes in the District of Columbia. Clearly, the place to go if you want to equip a small army with weapons is Maryland.

That has to change. Gov. Parris N. Glenden-

ing wants Maryland to join Virginia and South Carolina in limiting handgun purchases to one a month. That should satisfy everyone's self-defense and sport-shooting needs, but effectively close the door on straw purchases.

The move has strong public support. Two recent polls showed the one-a-month plan was heavily favored. Even more encouraging was 70-24 percent support in one poll for a provision requiring individuals to get licenses and training before buying a gun.

Unfortunately, there is still doubt that the Senate Judicial Proceedings Committee understands the public's concern. For instance, Sen. Walter M. Baker, who chairs the panel, doesn't approve of the licensing proposal. Yet what is wrong with forcing someone to apply for a license, undergo a background check and get some training before owning a highly dangerous weapon? It is plain common sense.

When the vote is taken, members of the Senate committee should recognize the practical benefits of the governor's package. Yes, we must stop the gun-running, but we must also be sure that those who buy guns know how to use them and don't have dangerous pasts.

GOVERNOR GLENDENING'S GUN VIOLENCE INITIATIVES - 1996 SESSION

Legislative

Treat secondary sales like sales through a licensed gun dealer: background check and 7-day waiting period.

Limit the purchase of handguns to no more than one per month

Require an individual to obtain a license to purchase handguns based on criminal background check and firearms safety course.

Prohibit straw purchases under Maryland law.

Require all persons who purchase handguns to receive firearms safety training through programs approved by the Maryland State Police before they can purchase a handgun, unless they provide certification of previous training approved by the State Police.

Reclassify the illegal sale, purchase, transport, transfer or receipt of a regulated firearm to a felony.

Deny handguns to persons under a civil protection order for child abuse or domestic violence. Authorize temporary removal of a firearm by police who respond to a domestic violence call if the firearm is in plain view of the officer or is discovered pursuant to a consensual search.

Incorporate federal law "reasons to deny a handgun" into State law; while applications currently may be denied for these reasons, Maryland law is not explicit.

Make disarming a police officer a separate offense.

Support prosecution of gun offenses by (1) altering the definition of a handgun used in commission of a crime so that it is not necessary to demonstrate that the gun is operable and (2) amending Art. 27, Sec. 281A "Use of Weapon as a Separate Crime" to include "possession of a firearm under sufficient circumstances to constitute a nexus to the drug trafficking" in order to cover circumstances where firearm is found on premises where drugs are recovered during execution of a search/seizure warrant.

Increase the penalty for discharge of a firearm from a motor vehicle.

Ban the sale of assault rifles and high capacity gun magazines (more than 10 rounds) whose manufacture is barred by federal laws.

Authorize dealers to fax applications to purchase handguns to the State Police.



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March 8, 1996

Honorable Joseph F. Vallario, Jr.
Chair
Judiciary Committee
Maryland House of Delegates
Room 161, House Office Building
Annapolis, MD 21401

Dear Mr. Chair:

We understand that the Judiciary Committee will soon be considering H.B.297, the Maryland Gun Violence Act of 1996. I am writing on behalf of the American Bar Association to express our strong support for this legislation and to urge its adoption.

The ABA represents approximately 370,000 lawyers nationwide. Our members include judges, prosecutors, attorneys for juveniles and adult defendants, and attorneys representing victims, who daily deal with the aftereffects of gun violence. Since 1965, the ABA has supported measures to regulate the sale, possession and transfer of firearms more carefully. On nine occasions since 1965, the ABA has approved policies urging specific legislative reforms in regulation of firearms. More specifically, in 1994 the ABA House of Delegates overwhelmingly approved a comprehensive policy that is the basis of our support for H.B.297.

It is clear that handguns play a disproportionate role in the criminal use of firearms. Maryland has averaged over 400 deaths over the last four years due to handgun violence, a rate that is higher than in the rest of the English-speaking world combined outside the United States. While violent crime rates have gone down somewhat in recent years, the number of homicides with handguns has continued to rise and the rate among young persons has risen dramatically - more than doubling in the last decade. It is clear that gun violence is at epidemic proportions nationwide and in Maryland.

The ABA strongly supports key elements in H.B.297 as essential steps to take to reduce gun violence:
requiring licensing before the purchase of handguns;
requiring safety training as a prerequisite to licensure;

subjecting private sales between individuals to the same restrictions and regulations placed on retail transactions; and prohibiting persons under a protective order for domestic or child abuse from purchasing or possessing firearms.

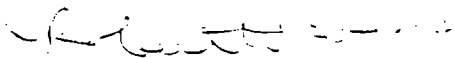
The ABA believes that licenses should be required of handgun owners, with prerequisite background checks and safety training. Our society uses licensing in hundreds of everyday settings to assure that minimal public safety measures are taken in the operation of machinery, dangerous ordnance and other matters where there is known risk of potential harm to others. With handgun deaths now more frequent than deaths due to automobile accidents in Maryland, there is a compelling case for now taking this rational, straightforward step to protect the public. It will introduce a much needed element of personal responsibility for safekeeping of handguns, help to reduce accidental shootings, and aid in law enforcement efforts when handguns are used in crime.

The ABA also strongly supports the requirement in H.B.297 that private sales meet the same requirements as retail sales. The role of handguns and "regulated firearms" in violent crime alone justifies this provision. If Maryland is committed to keeping firearms out of the hands of felons and juveniles, then this "loophole which destroys the rule" must be closed.

Last, we want to express our strong support for the provision in the Gun Violence Act to deny handguns to persons under a non ex parte civil protection order from child abuse or domestic violence, and to authorize temporary removal of a firearm by police who respond to a domestic violence call. A number of recent statistical studies have documented that the chance of being a victim of gun violence in the home is greatly increased when such risk factors as drug or alcohol abuse, domestic violence, or child abuse are present. When crimes such as domestic violence or child abuse may have been committed, and a non ex parte civil protection order has been issued, it is a wholly consistent policy to deny the availability of a handgun to someone who has currently demonstrated propensity to violence.

In closing, we commend the Governor and leaders in the Maryland House of Delegates for bringing forward this important public safety measure. We believe it will reduce violence and save lives in Maryland and we urge you to support it.

Sincerely,



Robert D. Evans

cc: Members of the Committee

**MARYLANDERS
AGAINST
HANDGUN ABUSE**

Neil A. Meyerhoff
President

Richard M. Willis
Executive Director

**Testimony of
Neil A. Meyerhoff, President
Marylanders Against Handgun Abuse
on HB 297
March 13, 1996**

The citizens of Maryland, whether on the Eastern Shore, in the suburban counties around our nation's capital, or in the Baltimore area, face a growing epidemic of gun violence and the pain and anguish that such frightening actions inflict on thousands of Marylanders each year. In 1994, 721 people were killed by firearms in Maryland, including 44 children. In the eight weeks following Governor Glendening's unveiling of his gun violence proposal, another 49 people were killed by firearms in Maryland, including 5 children.

We, as Marylanders, have a moral obligation to do all we can to make it difficult for criminals, minors, and persons with addiction problems, to obtain handguns which are used to brutally murder our friends, co-workers, and loved ones. This proposed legislation is not a panacea which will solve overnight the murderous toll of gun violence, nor will it remove from the hands of criminals the guns they already have. But they are an important first, long overdue step to go after the people who immorally purchase handguns knowing they will end up in the wrong hands.

HB 297 has several provisions that I would like to discuss.

ONE GUN A MONTH: Section 442B. (A) (1), (page 18, lines 18-19) will prohibit the purchase of more than one handgun in a 30 day period. A story published in *The Baltimore Sun* this year detailed how a young man in Severna Park bought over 100 guns that he could not, several months later, account for. Only because Maryland allows an unlimited number of handguns to be purchased was this young man allowed to put over 100 handguns into criminal hands, were they will be used to threaten, wound, and kill people in our communities. There are no legitimate reasons for a person, other than a collector, to need more than one handgun a month!

By allowing unlimited purchases we are actually encouraging some people to become merchants of death in Maryland. While it may be legal to buy many guns per month in some states, do we want to be known as the state

that exports these deadly handguns to other states to kill people there. What does this say to businesses looking to bring jobs to Maryland? That we don't care about this moral issue; the fact of increasing gun violence that is tearing apart the fabric of our society in late twentieth century America?

To those who want to buy a series of guns, or a matched pair, I would say, "You are, by definition, a collector: someone that makes a collection--an assembly of objects for the purpose of education, research or interest." As such you can buy more than one handgun a month under section 442B. (B) (1) (page 19, lines 19-21) by filing an application with the State Police like any other application to purchase a handgun, except stating why you are purchasing more than one handgun a month. That is not a burdensome procedure that should subject the rest of the citizens of the state to the dangers presented by illegal gun trafficking.

To those who say that want to buy more than one gun per year and get a discount for multiple purchases, I would think any gun shop owner that knew there was a high probability of multiple sale would be happy to agree to a discount on a second, third, fourth, etc. gun sale to the same customer on a regular basis.

SECONDARY SALES: The second major provision of the bill, (Section 442 as amended), is the requirement that all sales of handguns in Maryland after October 1, 1996 be subject to the same provisions pertaining to new gun sales from licensed gun dealers. If the General Assembly of Maryland and the Congress of the United States have both determined that it is important for the health and safety of all the citizens to require that all guns sales from licensed dealers be subject to a background check and a seven day waiting period, then it is only common sense that such protection for the citizenry be extended to all gun sales.

Every gun used in a crime was originally purchased legally, but somewhere, somehow, entered into the illegal gun trade. No one should be allowed, or encouraged, to sell a handgun to a criminal. If we are to stop the use of guns by criminals, we need to stop the sale of guns to criminals by unwitting citizens or citizens motivated by greed. Only by requiring every gun buyer to be subject to a background check can we begin to stop the flow of guns into the possession of criminals. Few people will be willing to risk committing a felony simply for selling a gun to someone who cannot pass a background check.

Yes, we can't stop criminals from stealing guns, or expect criminals to hand in the guns they now own, but we must take reasonable, sensible steps to reduce the number of guns reaching criminals. To say that too many guns are already in the hands of criminals, and that this bill won't change anything, is to deny the moral suasion of all our laws and would be encouraging people to

decide which laws are worth obeying.

LICENSING: The word "license" really means pre-approval by the State Police before purchasing a handgun. Putting a mark on one's driver's license is a short-hand way for a gun dealer or private seller to know in advance that the person buying the gun at some time, in the past few years, passed a background check. A license does not, on its own, create any more requirements prior to the purchase of a handgun.

Section 442A (D) (4) (page 17, lines 1-2) and Section 442 (I) (1) (page 13, lines 9-10) would require prospective purchasers of a handgun to be give their fingerprints, Social Security number, and MVA issued i.d. card (Soundex) number, in addition to the information already required, to the State Police before purchasing a handgun.

As we know from recent stories about the high quality counterfeit \$100 bills originating in the Middle East, today's copier and computer technology is such that almost undetectable fraudulent identification can be presented to the State Police that could allow criminals to pass a name-only based background check. As citizens we must demand that the protections built into current law be strengthened in the face of these technological advances. We know that current background checks do prevent thousands of unauthorized persons from buying handguns all across the United States, and we cannot allow this kind of anti-crime law from being breached by criminals with sophisticated equipment.

Years ago, being fingerprinted was seen as something that happened only to those arrested for committing crimes. In today's world, many people are fingerprinted as a routine employment criterion; such as school teachers, child care workers, stock brokers, and others. Courts have routinely upheld the right to require the giving of fingerprints as a reasonable condition for employment. Owning a handgun is a privilege, not a right; as such we should require the most positive form of identification, one's fingerprints, as protection for law abiding citizens against those who would evade the law to purchase handguns for criminal purposes.

I hope the NRA and other gun groups would join us in urging the adoption of the fingerprint requirement, as in the next few years the use of digital fingerprint machines may well get us very close to the "instant check" the NRA has urged as a federal anti-crime measure.

FIREARM SAFETY TRAINING: Section 442A (C) (3) (page 16, lines 19-20) requires that each person wishing to purchase a handgun must complete a firearms safety training course, which will teach the prospective owner how to properly fire a gun, how to clean and store a gun, tell of the dangers of a gun in the home, and educate owners about the laws concerning gun ownership in

Maryland. This is common sense. The state requires drivers education courses (costing over \$100) before getting a license to drive a car which can kill people. We should require no less for someone who wishes to buy a handgun which can kill people as well.

The NRA and local gun clubs should see this provision as a wonderful way to reach new handgun owners whom they would not otherwise come into contact with, as well as a revenue producing measure for their organizations.

In conclusion, I would urge this committee, and the House committee as well, to give a favorable recommendation to the Governor's Gun Violence Act of 1996. It is a reasonable, balanced approach to begin keeping guns out of the hands of criminals and others who should not own guns, and to start lowering the unprecedented levels of gun violence in our society that brings so much anguish and grief to thousands of Marylanders each year.

M I L C

**Maryland Interfaith
Legislative Committee**

114 W. Montgomery Avenue
Rockville, Maryland 20850
301-762-8682 x111
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March 13, 1996

MILC Testimony for HB 297

Archdiocese of Washington

Associated Catholic Charities

Baltimore Baptist Association

Baltimore Jewish Council

*Central Maryland
Ecumenical Council*

*Christian Council of Delaware
& Maryland's Eastern Shore*

*Community Ministry of
Montgomery County*

*Community Ministries of
Rockville*

*Community Ministry of
Prince George's County*

*Episcopal Social Ministries of the
Diocese of Maryland, Inc.*

*The Episcopal Diocese of
Maryland*

*Interfaith Conference of
Metropolitan Washington*

*Interfaith Consortium of Greater
Cumberland*

*Jewish Community Council of
Greater Washington*

*Lutheran Office on
Public Policy*

Maryland Catholic Conference

National Capital Presbytery

Presbytery of Baltimore

*United Methodist Church
(Baltimore-Washington
Conference)*

The Maryland Interfaith Legislative Committee (MILC) representing the organizations listed on the letterhead urges passage of HB 297, the governor's gun violence initiative legislation.

MILC, and the organizations it represents, are concerned with the high degree of violence in the state of Maryland. We believe that one of the prerequisites to reducing the violence is to control, in so far as possible, the use and distribution of guns of all types in the state.

- We believe that provisions in this legislation which will require background checks and 7-day waiting period for secondary sales and prohibit "straw" purchases will be effective in controlling new sales and transfers.
- Requiring handgun purchasers to show proof of having received firearms safety training is most reasonable, our police and armed services require as much of those to whom they issue firearms.
- Tightening the rules which define illegal firearm use and increasing the penalties should help prevent some violence.

We do not believe that gun control alone is a panacea for the problem of violence. But we do believe that it is a necessary component to reducing the incidence of violence in Maryland.

We urge approval of this legislation.

NRA

Issue: "Secondary Sales"

- A prohibition on secondary sales of firearms is difficult to enforce, due to the fact that such firearms being sold, by definition, are in private hands. There is no point-of-sale, so to speak, that the government can monitor or control.
- Private transfers of firearms between friends and family members has been a common practice throughout America's history. To make such transfers felony offenses portends to subject otherwise law-abiding citizens to severe punishment for activities that previously were legal. While the NRA supports strong prosecution and punishment for criminals who furnish firearms to other criminals through "straw purchases," we oppose prohibiting previously lawful activity and making such activity a felony offense.
- Secondary sale of a firearm (or ammunition) to a felon or other prohibited person is already prohibited under federal and Maryland law (as noted). Sales of stolen firearms are prohibited. Criminals who violate these laws would not obey a secondary sales law. Secondary sale of a firearm that has been stolen is prohibited under federal law.
- California has prohibited secondary sales of handguns for decades, and the state's homicide rate is 38% higher than the rate for the rest of the country.
- According to a study for the Department of Justice, theft is a major source of firearms for criminals: (James D. Wright and Peter H. Rossi, Armed and Considered Dangerous: A Survey of Felons and Their Firearms, Aldine de Gruyter, 1986) — 47% of criminals have stolen guns at some point in their careers, 70% of those who stole guns did so to sell or trade, 30% to keep for themselves, 20% of guns used in crimes are stolen, 32% of criminals for whom use in crime is a very important reason in acquiring a gun obtain their guns on the black market.
- According to the Bureau of Alcohol, Tobacco and Firearms ("Protecting America: The Effectiveness of The Federal Armed Career Criminal Statute," March 1992), only 8% of armed career criminals get guns from relatives or friends — typical sources of secondary sales — 34% of armed career criminals acquired guns through "criminal acts," typically from burglaries or purchasers from drug users, 37% acquired guns "off the streets," typically black market purchases using cash or drugs.
- Washington, D.C., prohibits secondary sales of firearms and permits no handguns sales. The city's violent crime trend has soared. When California required owners of assault weapons to register those firearms in order to continue to lawfully possess them (as part of the assault weapons ban of 1989), approximately 90% of owners disobeyed the law. After a year-long amnesty, owners were given additional time to comply, and only a few additional individuals came forward. A similar result occurred with New Jersey's 1990 assault weapon law. Tennessee subjected secondary handgun sales to a waiting period and background check, but law enforcement generally reports virtually no secondary sales processed by them.
- A law almost universally disobeyed would lead to the prosecution of otherwise law-abiding citizens. With existing prohibitions against firearm transfers between criminals insufficiently prosecuted, and punishment for those crimes insufficient stern, law-abiding citizens will suspect the government's goal in imposing paperwork, fees and government approval in private transfers.

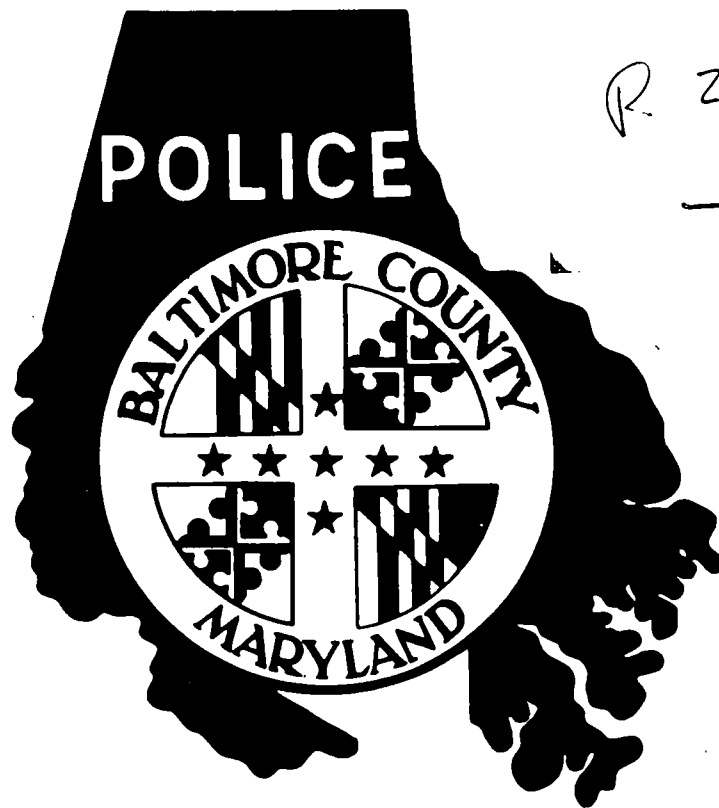
Firearm Traces

A "firearm trace" is a procedure the Bureau of Alcohol, Tobacco and Firearms (BATF) conducts to identify the ownership history of a specific firearm, using the firearm's serial number to trace it from its manufacturer, through the commercial chain, to the last wholesale or first retail purchaser. **Traces do not, as some claim, "trace guns to crime."** Most traces are conducted at the request of local law enforcement agencies, on firearms those agencies have taken into custody for various reasons, some related to violent crime, many not.

According to the Congressional Research Service, which conducted a comprehensive study of the BATF tracing system (*CRS Report for Congress, 92-434 GOV*):

- "The [B]ATF tracing system is an operational system designed to help law enforcement agencies identify the ownership path of individual firearms. It was not designed to collect statistics."
- "The absence of a screening policy to ensure that trace requests are related to crimes, the omission of any reference to crimes on some requests, the omission or inclusion of certain firearms from the system, and — most significantly — [B]ATF's recent statement that it does not 'always know' if a traced firearm has been used in a crime, provide foundation for questions as to whether the data from the tracing system provide representative information on firearms used in crimes."
- "[B]ATF does not always know if a firearm being traced has been used in a crime. For instance, sometimes a firearm is traced simply to determine the rightful owner after it is found by a law enforcement agency."
- "Firearms selected for tracing do not constitute a random sample and cannot be considered representative of the larger universe of all firearms used by criminals, or of any subset of that universe. As a result, data from the tracing system may not be appropriate for drawing inferences such as which makes or models of firearms are used for illicit purposes."
- "A law enforcement officer may initiate a trace request for any reason. No crime need be involved. No screening policy ensures or requires that only guns known or suspected to have been used in crimes are traced."
- "Trace requests are not accurate indicators of specified crimes."
- "Traces may be requested for a variety of reasons not necessarily related to criminal incidents."

BALTIMORE COUNTY POLICE DEPARTMENT



Integrity . . . Fairness . . . Service

1996 LEGISLATIVE UPDATE

PREPARED BY: LEGAL DIVISION

INTRODUCTION

The "1996 Legislative Update" has been prepared by the LEGAL DIVISION to alert members of the Baltimore County Police Department to newly-enacted legislation from this year's session of the Maryland General Assembly.

The new "Legislative Update" contains many changes to state law that should be of interest to our law enforcement officers.

One of the most notable additions to the Maryland statutes is the revision of the Assault Laws. The *Committee to Revise Article 27* recommended replacing the old common law crimes relating to "Assault" and "Battery" with a complete statutory revision. The new laws include a *First and Second Degree Assault* as well as changes to the *Reckless Endangerment, Attempted Murder, Attempted Rape or Sexual Offense, and Attempted Robbery* statutes.

The Maryland Gun Violence Act of 1996 includes numerous changes and additions to the laws relating to general gun ownership and the new felony of "*Disarming a Law Enforcement Officer*."

Also of note, are changes to the Maryland statutes regarding *Code Grabbing Devices, Nitrous Oxide Inhalants, and Child Pornography Using Computers*.

The LEGAL DIVISION is available to answer any questions, and provide information, regarding the material contained in the "Legislative Update."

* NOTE: *Unless otherwise noted, all newly enacted Maryland statutes are effective on October 1, 1996.*

** EDITOR'S NOTE: Due to limited space restrictions, the *Legislative Update* contains only those additions effecting existing law and does include not the entire Code. Changes or additions to new law will be in CAPITAL LETTERS.

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BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE

Security Systems Technicians - Licensure

BY repealing

Section 3 of Chapter 362 of the Acts of the General Assembly of 1994, as amended by Chapter 105 of the Acts of the General Assembly of 1995

BY repealing and reenacting, with amendments,

Article - Business Occupations and Professions

Section 18-203, 18-204, 18-303(a), 18-307(c), 18-308(a), and 18-401

Annotated Code of Maryland

(1995 Replacement Volume and 1995 Supplement)

BY adding to

Article - Business Occupations and Professions

Section 18-402; and 18-701 to be under the new subtitle "Subtitle 7. Termination of

Title"

Annotated Code of Maryland

(1995 Replacement Volume and 1995 Supplement)

18-203.

The Secretary and all members of the Department of State Police:

(1) shall treat as confidential any information obtained through an investigation of an applicant for a license under this title; and

(2) unless required by a court order, may not divulge to a person who is not a LAW ENFORCEMENT OFFICER any information obtained through an investigation of an applicant for a license under this title.

18-204.

EXCEPT FOR THE COST OF THE MARYLAND AND NATIONAL CRIMINAL RECORD CHECKS, THE Secretary shall pay all money collected under this title into the General Fund of the State.

18-303.

(a) An applicant for a license shall:

(1) submit to the Secretary an application on the form that the Secretary

provides;

(2) submit the documents required by this section; and

(3) pay to the Secretary an application fee of \$150 WHICH SHALL INCLUDE THE COST OF THE MARYLAND AND NATIONAL CRIMINAL RECORD CHECK.

18-307.

(c) Before the license expires, the licensee periodically may renew it for an additional 2-year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Secretary a renewal fee of \$100 WHICH SHALL INCLUDE THE COST OF THE MARYLAND AND NATIONAL CRIMINAL RECORD CHECK or the fee provided in subsection (e) of this section, if applicable; and

(3) submits to the Secretary:

(i) a renewal application on the form that the Secretary provides;

(II) A SET OF LEGIBLE FINGERPRINTS OF THE LICENSEE ON FORMS APPROVED BY THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION; AND

(III) satisfactory evidence of compliance with any other requirements set under this section for license renewal.

18-308.

(a) Each licensee shall CARRY AND display the license ON DEMAND OF ANY CUSTOMER OR LAW ENFORCEMENT OFFICER.

18-401.

(a) (1) An employer shall execute a blanket bond covering all employees who are licensed as security systems technicians or applicants for a license and any electrician with whom the employer contracts to provide security systems services.

(2) The bond shall be used for the benefit of any person injured by any wrongful act of a security systems technician that is willful or malicious.

(3) The applicant for a license shall submit a copy of the bond to the Secretary

with the license application.

(b) (1) The amount of the bond required under subsection (a) of this section shall be at least \$5,000 FOR THE EMPLOYER.

(2) The total liability of the surety to all insured persons under the bond may not exceed the sum of the bond.

(c) (1) If an employer's bond is cancelled, forfeited, or terminated by the surety, the surety shall immediately notify the Secretary.

(2) If a surety fails to notify the Secretary as required by this subsection, the bond shall continue in effect until the notice is given to the Secretary.

(d) In addition to § 18-504 of this title, a court of competent jurisdiction may enjoin the operation of any employer who violates the requirements of this section.

18-402.

(A) (1) AN EMPLOYER SHALL EXECUTE A FIDELITY BOND COVERING ALL EMPLOYEES WHO ARE LICENSED AS SECURITY SYSTEMS TECHNICIANS OR APPLICANTS FOR A LICENSE AND ANY ELECTRICIAN WITH WHOM THE EMPLOYER CONTRACTS TO PROVIDE SECURITY SYSTEMS SERVICES.

(2) THE BOND SHALL BE USED FOR THE BENEFIT OF ANY PERSON INJURED BY ANY WRONGFUL ACT OF A SECURITY SYSTEMS TECHNICIAN THAT IS WILLFUL OR MALICIOUS.

(3) THE APPLICANT FOR A LICENSE SHALL SUBMIT A COPY OF THE BOND TO THE SECRETARY WITH THE LICENSE APPLICATION.

(B) (1) THE AMOUNT OF THE BOND REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE AT LEAST \$50,000.

(2) THE TOTAL LIABILITY OF THE SURETY TO ALL INSURED PERSONS UNDER THE BOND MAY NOT EXCEED THE SUM OF THE BOND.

(C) (1) IF AN EMPLOYER'S BOND IS CANCELLED, FORFEITED, OR TERMINATED BY THE SURETY, THE SURETY SHALL IMMEDIATELY NOTIFY THE SECRETARY.

(2) IF A SURETY FAILS TO NOTIFY THE SECRETARY AS REQUIRED BY THIS SUBSECTION, THE BOND SHALL CONTINUE IN EFFECT UNTIL THE NOTICE IS GIVEN TO THE SECRETARY.

(D) IN ADDITION TO § 18-504 OF THIS TITLE, A COURT OF COMPETENT JURISDICTION MAY ENJOIN THE OPERATION OF ANY EMPLOYER WHO VIOLATES

THE REQUIREMENTS OF THIS SECTION.

SUBTITLE 7. TERMINATION OF TITLE.

18-701.

SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE MARYLAND PROGRAM EVALUATION ACT, THIS TITLE AND ALL REGULATIONS ADOPTED UNDER THIS TITLE SHALL TERMINATE AND BE OF NO FURTHER FORCE AND EFFECT AFTER SEPTEMBER 31, 2001.

BUSINESS REGULATION ARTICLE

Secondhand Precious Metal Object Dealers

BY adding to

**Article - Business Regulation
Section 12-207(f) and 12-402
Annotated Code of Maryland
(1992 Volume and 1995 Supplement)**

BY repealing and reenacting, with amendments,

**Article - Business Regulation
Section 12-212 and 12-401
Annotated Code of Maryland
(1992 Volume and 1995 Supplement)**

12-207.

(F) (1) A LICENSEE MAY CHANGE THE PLACE OF BUSINESS FOR WHICH A LICENSE IS ISSUED ONLY IF THE LICENSEE:

(I) SUBMITS TO THE SECRETARY AN APPLICATION TO TRANSFER THE LICENSE TO A NEW BUSINESS LOCATION ON A FORM THAT THE SECRETARY PROVIDES; AND

(II) RECEIVES THE WRITTEN APPROVAL OF THE SECRETARY.

(2) WITHIN 45 DAYS AFTER THE WRITTEN NOTICE IS FILED WITH THE SECRETARY, THE SECRETARY SHALL APPROVE OR DISAPPROVE THE APPLICATION AND NOTIFY THE LICENSEE OF THE APPROVAL OR DISAPPROVAL, IN WRITING.

(3) IF THE SECRETARY APPROVES A PROPOSED CHANGE OF PLACE OF BUSINESS, THE LICENSEE SHALL:

(I) SUBMIT TO THE SECRETARY A CURRENT LIST OF NAMES OF EACH EMPLOYEE TO BE EMPLOYED AT THE NEW LOCATION; AND

(II) ATTACH THE WRITTEN APPROVAL OF THE SECRETARY TO THE LICENSE UNTIL AN AMENDED LICENSE IS RECEIVED BY THE LICENSEE.

12-212.

The Secretary shall inform each primary law enforcement unit of each license that is issued, renewed, CHANGED TO A NEW BUSINESS LOCATION, denied, suspended, or revoked.

12-401.

(a) This section applies to all dealers and all pawnbrokers wherever located in the State.

(b) A dealer or pawnbroker shall release to the primary law enforcement unit an item of personal property, other than a security or printed evidence of indebtedness, located at the place of business of the dealer or pawnbroker if:

(1) the item is established to have been stolen;

(2) the owner of the item or victim of the theft has positively identified the item;

(3) THE OWNER OF THE ITEM OR THE AGENT OR DESIGNEE OF THE OWNER HAS PROVIDED AN AFFIDAVIT OF OWNERSHIP;

(4) the stolen property report describes the item by:

(i) a date;

(ii) initials;

(iii) an insurance record;

(iv) a photograph;

- (v) a sales receipt;
- (vi) a serial number;
- (vii) specific damage;
- (viii) a statement of the facts that show that the item is ONE of a kind; or
- (ix) a unique engraving; AND

(5) THE PRIMARY LAW ENFORCEMENT UNIT PROVIDES TO THE DEALER OR PAWNBROKER A RECEIPT THAT DESCRIBES THE ITEM AND THAT NOTIFIES THE DEALER OR PAWNBROKER OF THE DEALER'S OR PAWNBROKER'S RIGHT TO FILE AN APPLICATION FOR A STATEMENT OF CHARGES AGAINST THE INDIVIDUAL WHO SOLD THE ITEM TO THE DEALER OR PAWNBROKER, OR OTHER ALLEGED THIEF FOR THEFT UNDER ARTICLE 27, § 342 OF THE CODE.

(c) A dealer shall retain in the dealer's place of business, for an additional period of 12 days, any item of personal property or other valuable thing, other than securities or printed evidence of indebtedness, if:

- (1) the primary law enforcement unit requests that the dealer retain the item;
- (2) the primary law enforcement unit has reasonable cause to believe the item has been stolen; and
- (3) the item has not been identified under subsection (b)(2) of this section.

(d) When a primary law enforcement unit no longer needs an item for evidence, the primary law enforcement unit shall give the item to its owner.

(e) A dealer or pawnbroker who is required to release an item under this section is not entitled to reimbursement for any pledge or purchase price paid for the item from:

- (1) the primary law enforcement unit to which the dealer released the item;
- (2) the owner of the item; or
- (3) the victim of the theft.

(F) IF THE OWNER OF THE ITEM OR THE VICTIM OF THE THEFT CHOOSES TO PARTICIPATE IN THE PROSECUTION OF THE ALLEGED IDENTIFIED THIEF, THEN THE CHARGES OF THEFT FROM THE OWNER OR THE VICTIM OF THE THEFT AND THE CHARGES OF THEFT FROM THE DEALER OR PAWNBROKER MAY BE HEARD IN A JOINT TRIAL.

12-402.

A PERSON THAT SELLS AN ITEM TO A DEALER SHALL SIGN A STATEMENT, UNDER THE PENALTIES OF PERJURY, THAT THE PERSON IS THE OWNER OF THE ITEM.

COURTS AND JUDICIAL PROCEEDINGS ARTICLE

False Age Identification Cards - Possession - Prohibited

**BY repealing and reenacting, with amendments,
Article - Courts and Judicial Proceedings
Section 3-801(u) and 3-835(a)
Annotated Code of Maryland
(1995 Replacement Volume and 1995 Supplement)**

3-801.

(u) "Violation" means a violation of § 400, § 400A, § 400B, § 401, or § 405A of Article 27 of the Code and § 26-103 of the Education Article for which a citation is issued.

3-835.

(a) A law enforcement officer authorized to make arrests shall issue a citation to a child if the officer has probable cause to believe that the child is violating:

- (1) Article 27, § 400, § 400A, § 400B, § 401, or § 405A of the Code; or**
- (2) § 26-103 of the Education Article.**

Crimes - Assault Laws - Revision

**BY repealing and reenacting, with amendments,
Article - Courts and Judicial Proceedings
Section 3-804(e)(4), 9-103.1(b)(1), 9-106, and 10-916
Annotated Code of Maryland**

(1995 Replacement Volume and 1995 Supplement)

3-804.

(e) The court does not have jurisdiction over:

(1) A child at least 14 years old-alleged to have done an act which, if committed by an adult, would be a crime punishable by death or life imprisonment, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under Article 27, § 594A of the Code;

(4) A child at least 16 years old alleged to have committed any of the following crimes, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under Article 27, § 594A of the Code:

(i) Abduction;

(ii) Kidnapping;

(iii) Second degree murder;

(iv) Manslaughter, except involuntary manslaughter;

(V) Second degree rape;

(VI) Robbery with a dangerous or deadly weapon;

**(VII) Second degree sexual offense in violation of Article 27, § 464A(a)(1)
of the Code;**

**(VIII) Third degree sexual offense in violation of Article 27, § 464B(a)(1)
of the Code;**

**(IX) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, § 446,
§ 481C, or § 481E of the Code;**

**(X) Using, wearing, carrying, or transporting of firearm during and in
relation to a drug trafficking crime in violation of Article 27, § 281A of the Code;**

(XI) Use of a firearm in violation of Article 27, § 291A of the Code;

**(XII) Carjacking or armed carjacking in violation of Article 27, § 348A
of the Code;**

**(XIII) ASSAULT IN THE FIRST DEGREE IN VIOLATION OF
ARTICLE 27, § 12A-3 OF THE CODE;**

(XIV) ATTEMPTED MURDER IN THE SECOND DEGREE IN VIOLATION OF ARTICLE 27, § 411A OF THE CODE;

(XV) ATTEMPTED RAPE OR ATTEMPTED SEXUAL OFFENSE IN THE SECOND DEGREE UNDER ARTICLE 27, § 464F OF THE CODE; OR

(XVI) ATTEMPTED ROBBERY WITH A DANGEROUS OR DEADLY WEAPON UNDER ARTICLE 27, § 488 OF THE CODE.

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The revision of the assault laws repealed the crimes of mayhem and maiming. Assault in the first degree is currently the most serious assault offense. Also, the assault revision repealed the Article 27, § 12 crimes of assault with intent to murder, rape, rob, or commit sexual offense, and codified the offenses of attempted murder, rape, robbery, and sexual offense.

9-103.1.

(b) (1) Subject to the provisions of paragraphs (2) and (3) of this subsection, if a court finds that the requirements of subsection (c) of this section are satisfied, a court may admit into evidence in a juvenile court proceeding or in a criminal proceeding an out of court statement, to prove the truth of the matter asserted in the statement, made by a child victim under the age of 12 years, who is the alleged victim or the child alleged to need assistance in the case before the court, concerning an alleged offense against the child of:

(i) Child abuse, as defined under Article 27, § 35A of the Code;

(ii) Rape or sexual offense, as defined in Article 27, §§ 462 through 464B of the Code, inclusive;

(iii) ATTEMPTED rape or ATTEMPTED sexual offense IN THE FIRST OR SECOND DEGREE, as defined in Article 27, § 464F of the Code; or

(iv) In a juvenile court proceeding, abuse or neglect as defined in § 5-701 of the Family Law Article.

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The revision of the assault laws repeals the statutory crimes of assault with intent to rape and assault with intent to commit sexual offense. Attempted rape and attempted sexual offense are made felonies under Article 27, § 464F of the Code by the revision.

9-106.

The spouse of a person on trial for a crime may not be compelled to testify as an adverse witness unless the charge involves:

(1) The abuse of a child under 18; or

(2) Assault IN ANY DEGREE in which the spouse is a victim if:

(i) the person on trial was previously charged with ASSAULT IN ANY DEGREE OR assault and battery of the spouse;

(ii) The spouse was sworn to testify at the previous trial; and

(iii) The spouse refused to testify at the previous trial on the basis of the provisions of this section.

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The revision of the assault laws replaces the common law crime of assault and battery with the statutory crimes of assault in the first or second degree. The Committee to revise Article 27 recommends that any degree of assault occurring within a year of any other assault will result in a spouse being compelled to testify. The reference to "assault and battery" is left in paragraph (2)(i) to cover cases arising before the enactment of this revision.

10-916.

(a) (1) In this section the following words have the meanings indicated.

(2) "Battered Spouse Syndrome" means the psychological condition of a victim of repeated physical and psychological abuse by a spouse, former spouse, cohabitant, or former cohabitant which is also recognized in the medical and scientific community as the "Battered Woman's Syndrome".

(3) "Defendant" means an individual charged with:

(i) First degree murder, second degree murder, manslaughter, or attempt to commit any of these crimes; or

(ii) Assault IN THE FIRST DEGREE.

(b) Notwithstanding evidence that the defendant was the first aggressor, used excessive force, or failed to retreat at the time of the alleged offense, when the defendant raises the issue that the defendant was, at the time of the alleged offense, suffering from the Battered Spouse Syndrome as a result of the past course of conduct of the individual who is the victim of the crime for which the defendant has been charged, the court may admit for the purpose of explaining the defendant's motive or state of mind, or both, at the time of the commission of the alleged offense:

(1) Evidence of repeated physical and psychological abuse of the defendant perpetrated by an individual who is the victim of a crime for which the defendant has been

charged; and

(2) Expert testimony on the Battered Spouse Syndrome.

Maryland Gun Violence Act of 1996

BY adding to

Article - Courts and Judicial Proceeding

Section 5-106(s)

Annotated Code of Maryland

(1995 Replacement Volume and 1995 Supplement)

5-106.

(S) A PROSECUTION FOR AN OFFENSE UNDER § 449 (D) OR (E) OF THIS SUBTITLE, RELATING TO STRAW SALES OF REGULATED FIREARMS TO PROHIBIT PERSONS OR MINORS AND TO ILLEGAL SALES, RENTALS, TRANSFERS, POSSESSION, OR RECEIPT OF REGULATED FIREARMS, SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE OFFENSE WAS COMMITTED.

CRIMES AND PUNISHMENTS - ARTICLE - 27

Emergency Services Personnel - Interference or Obstruction

BY repealing and reenacting with amendments,

Article 27 - Crimes and Punishments

Section 11 D

Annotated Code of Maryland

(1992 Replacement Volume and 1995 Supplement)

11D.

(a) It is unlawful for any person willfully to interfere with or obstruct the State Fire Marshal, a Deputy State Fire Marshal, Special Assistant State Fire Marshal, Special Deputy State Fire Marshal, fire fighter, rescue squad member, or emergency services personnel, while

the State Fire Marshal, Deputy State Fire Marshal, Special Assistant State Fire Marshal, Special Deputy State Fire Marshal, fire fighter, rescue squad member, or the emergency services personnel is fighting a fire, performing emergency service, proceeding to a fire or other emergency, OR WHILE DISPATCHED ON A CALL FOR EMERGENCY SERVICE.

(b) It is unlawful for any person willfully to interfere with or obstruct the State Fire Marshal, a Deputy State Fire Marshal, Special Assistant State Fire Marshal, or Special Deputy State Fire Marshal in the course of conducting an inspection or investigating a fire or explosion.

(c) It is unlawful for any person to:

(1) Falsely represent himself as being a State Fire Marshal or a sworn employee of the Office of the State Fire Marshal, or a member of any paid or volunteer fire department, rescue squad, or emergency service unit of the State, Baltimore City, or any county or municipal corporation of the State, with fraudulent design on a person or property; or

(2) Have, use, wear, or display without proper authority, for the purpose of deception, any uniform, shield, button, ornament, identification, or shoulder patch, or any simulation or imitation of these articles, adopted by the Office of the State Fire Marshal, or by any paid or volunteer fire department, rescue squad, or emergency service unit.

(d) Violation of this section is a misdemeanor punishable by imprisonment for not more than three (3) years.

Crimes - Assault Laws - Revision

BY repealing

Article 27 - Crimes and Punishments

Section 12 and the subheading "Assault with Intent to Murder, Ravish or Rob"; 12A and the subheading "Assault - Third Person Aiding One Being Assaulted"; 120; 384 through 386 and the subheading "Maiming"; and the subheading designation "Assault by Inmates"

Annotated Code of Maryland

(1992 Replacement Volume and 1995 Supplement)

BY adding to

Article 27 - Crimes and Punishments

Section 12 through 12A-7 to be under the new subheading "Assault"; 411A and 464F

Annotated Code of Maryland

(1992 Replacement Volume and 1995 Supplement)

BY repealing and reenacting, with amendments,

Article 27 - Crimes and Punishments

Section 11E, 372, 441(e), 461B, 486, 487, 488, 594B(f)(1), 616 1/2(c), 643B(a), and 692A(a)

**Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)**

[Assault with Intent to Murder, Ravish or Rob]

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): For current provisions dealing with this offense, see the Assault subheading in this article. See also, Article 27, § 411A (attempted murder), § 464F (attempted rape or sexual offense), and §§486 and 488 (attempted robbery and attempted robbery with a dangerous or deadly weapon).

[Assault - Third Person Aiding One Being Assaulted]

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): For the current provision dealing with defenses in assault cases, see Article 27, § 12A-3.

12. DEFINITIONS.

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

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBHEADING, "ASSAULT" MEANS THE OFFENSES OF ASSAULT, BATTERY, AND ASSAULT AND BATTERY, WHICH TERMS RETAIN THEIR JUDICIALLY DETERMINED MEANINGS.

(C) "SERIOUS PHYSICAL INJURY" MEANS PHYSICAL INJURY WHICH:

- (1) CREATES A SUBSTANTIAL RISK OF DEATH;**
- (2) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED DISFIGUREMENT;**
- (3) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED LOSS OF THE FUNCTION OF ANY BODILY MEMBER OR ORGAN; OR**
- (4) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED IMPAIRMENT OF THE FUNCTION OF ANY BODILY MEMBER OR ORGAN.**

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): Similar to the revision of the burglary laws, the Committee has chosen to retain the judicially determined meanings of the terms "assault", "battery", and "assault and battery". The meaning of these terms has been extensively developed at common law and case law. See e.g., *Lamb v. State*, 93 Md. App. 422 (1992). Also, as with the burglary revision, the Committee does not intend to "freeze" the meanings of these terms, but expects that they will continue to be clarified when appropriate in future case law.

The definition of "serious physical injury" is based on the definition proposed by the

Model Penal Code and adopted by New York. The Committee modified the definition to add the word "protracted" in reference to disfigurement in subsection (f)(2). A disfigurement that can be remedied through medical treatment may be considered protracted. Also, in subsection (f)(3) and (4), the word "permanent" was added to clarify that the loss or impairment could be permanent as well as protracted.

12A. SECOND DEGREE ASSAULT.

(A) A PERSON MAY NOT COMMIT AN ASSAULT.

(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE MISDEMEANOR OF ASSAULT IN THE SECOND DEGREE AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$2,500 OR IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR BOTH.

12A-1. FIRST DEGREE ASSAULT.

(A) (1) A PERSON MAY NOT INTENTIONALLY CAUSE OR ATTEMPT TO CAUSE SERIOUS PHYSICAL INJURY TO ANOTHER.

(2) A PERSON MAY NOT COMMIT AN ASSAULT WITH A FIREARM, INCLUDING:

(I) A HANDGUN, ANTIQUE FIREARM, RIFLE, SHOTGUN, SHORT-BARRELED SHOTGUN, OR SHORT-BARRELED RIFLE, AS THOSE TERMS ARE DEFINED IN § 36F OF THIS ARTICLE;

(II) AN ASSAULT PISTOL, AS DEFINED IN § 36H-1 OF THIS ARTICLE;

(III) A PISTOL, REVOLVER, OR ANTIQUE PISTOL OR REVOLVER, AS THOSE TERMS ARE DEFINED IN § 441 OF THIS ARTICLE;

(IV) AN ASSAULT WEAPON, AS DEFINED IN § 481E OF THIS ARTICLE; AND

(V) A MACHINE GUN, AS DEFINED IN § 372 OF THIS ARTICLE.

(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE FELONY OF ASSAULT IN THE FIRST DEGREE AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT MORE THAN 25 YEARS.

12A-2. RECKLESS ENDANGERMENT.

(A) ANY PERSON WHO RECKLESSLY ENGAGES IN CONDUCT THAT CREATES

A SUBSTANTIAL RISK OF DEATH OR SERIOUS PHYSICAL INJURY TO ANOTHER PERSON IS GUILTY OF THE MISDEMEANOR OF RECKLESS ENDANGERMENT AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$5,000 OR IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR BOTH.

(B) THIS SECTION DOES NOT APPLY TO ANY CONDUCT INVOLVING:

(1) THE USE OF A MOTOR VEHICLE AS DEFINED IN § 11-135 OF THE TRANSPORTATION ARTICLE; OR

(2) THE MANUFACTURE, PRODUCTION, OR SALE OF ANY PRODUCT OR COMMODITY.

(C) IF MORE THAN ONE PERSON IS ENDANGERED BY THE CONDUCT OF THE DEFENDANT, A SEPARATE CHARGE MAY BE BROUGHT FOR EACH PERSON ENDANGERED.

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): This is the current reckless endangerment statute with mainly stylistic changes. It does not distinguish between whether any injury actually occurs and the instrumentality used, if any, in creating the risk of death or serious physical injury.

Subsection (c) is new language. This change is intended to clarify that the appropriate unit of prosecution may be based on the number of individuals in danger. For example, a single act endangering 20 individuals could result in 20 convictions. Alternatively, the State may choose to charge only one count for an occurrence, even though many persons were endangered. It is up to the State to decide how to charge and for the court to decide the appropriate punishment if a large number of individuals are endangered by the same act. See also § 12A-4(d) concerning charging documents for reckless endangerment.

12A-3. DEFENSES.

A PERSON CHARGED WITH AN OFFENSE UNDER THIS SUBHEADING IS ENTITLED TO ASSERT ANY JUDICIALLY RECOGNIZED DEFENSE.

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): This revision repeals the former Article 27, § 12A which provided immunity for going to the defense of others. The case of *Alexander v. State*, 52 Md. App. 171, 447 A.2d 880 (1982), however, extended this immunity to circumstances where a person reasonably believes that another is being assaulted. Additionally, there are other defenses available in assault and battery cases, including self-defense and imperfect self-defense, that were not specified in this statute.

In the arson and burglary revisions, there is no section dealing with available defenses. It was implicit in the Committee's draft of the arson and burglary subheadings that no change was intended to any defenses currently available to a defendant.

The Committee felt that the repeal of former Article 27, § 12A, without any mention of available defenses, could be interpreted as intending the repeal of those defenses provided by this section and the Alexander case. The Committee intends under this revision of the assault laws that the defenses provided by the previous Article 27, § 12A and the Alexander case remain available to a defendant. In addition, the Committee intends that all other defenses will also remain unchanged under this revision.

12A-4. CHARGING DOCUMENTS.

(A) IN ANY INDICTMENT, INFORMATION, WARRANT, OR OTHER CHARGING DOCUMENT FOR ASSAULT OR ANY OTHER OFFENSE UNDER THIS SUBHEADING, IT IS SUFFICIENT TO USE A FORMULA SUBSTANTIALLY TO THE FOLLOWING EFFECT: "THAT A-B ON THE ...DAY OF....., ...IN THE COUNTY (CITY) AFORESAID, DID UNLAWFULLY ASSAULT C-D IN THE DEGREE OR DID (DESCRIBE OTHER VIOLATION OF THIS SUBHEADING) IN VIOLATION OF ARTICLE 27, SECTION (HERE STATE SECTION VIOLATED) OF THE ANNOTATED CODE OF MARYLAND; CONTRARY TO THE FORM OF THE ACT OF THE ASSEMBLY IN SUCH CASE MADE AND PROVIDED AND AGAINST THE PEACE, GOVERNMENT, AND DIGNITY OF THE STATE."

(B) IN ANY CASE IN THE CIRCUIT COURT IN WHICH THIS GENERAL FORM OF INDICTMENT OR INFORMATION IS USED TO CHARGE AN OFFENSE UNDER THIS SUBHEADING, THE DEFENDANT ON TIMELY DEMAND IS ENTITLED TO A BILL OF PARTICULARS.

(C) A CHARGE OF ASSAULT IN THE FIRST DEGREE ALSO CHARGES A DEFENDANT WITH ASSAULT IN THE SECOND DEGREE.

(D) IN ORDER TO BE FOUND GUILTY OF RECKLESS ENDANGERMENT UNDER § 12A-2 OF THIS SUBHEADING, A DEFENDANT MUST BE SPECIFICALLY CHARGED WITH RECKLESS ENDANGERMENT.

(E) A CHARGING DOCUMENT CONTAINING A CHARGE OF RECKLESS ENDANGERMENT UNDER § 12A-2 OF THIS SUBHEADING MAY:

(1) INCLUDE A COUNT FOR EACH PERSON ENDANGERED BY THE DEFENDANT'S CONDUCT; OR

(2) CONTAIN A SINGLE COUNT BASED ON THE DEFENDANT'S CONDUCT, REGARDLESS OF THE NUMBER OF PERSONS ENDANGERED BY THE DEFENDANT'S CONDUCT.

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): Subsection (e) is intended to be read in conjunction with § 12A-2(c) to clarify the unit of prosecution issue. The State has the option to charge either based on the number of persons endangered or on the occurrence. If only one charge is brought for an occurrence, a defendant may only be convicted on one count, regardless of the number of persons that were endangered.

12A-5. COMPROMISING ASSAULT CASES.

(A) ON A PRETRIAL MOTION OF THE STATE'S ATTORNEY, A COURT MAY DISMISS A CHARGE OF ASSAULT IF:

(1) THE VICTIM AND THE ACCUSED AGREE TO THE DISMISSAL; AND

(2) THE COURT CONSIDERS THE DISMISSAL PROPER.

(B) THE ACCUSED SHALL PAY THE SAME COSTS AS WOULD HAVE BEEN INCURRED IF THE ACCUSED HAD BEEN FOUND GUILTY.

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): This section is based on the former Article 10, § 37. The Committee intends that both first and second degree assaults be covered by this section. It was felt that the requirement that all parties must consent to any compromise adequately protects both the victim and the accused. In addition, the Committee has introduced legislation that would provide for a District Court assault provision, which also would be subject to the provisions of this section. In light of this, the Committee recommended that this section refer simply to "assault", and not to the specific degrees provided by this subheading.

12A-6.

(a) Every inmate convicted of assault IN ANY DEGREE on another inmate or on an employee of the Division of Correction, the Patuxent Institution, the Baltimore City Detention Center, or any county jail or detention center, regardless of employment capacity, shall be sentenced under this section.

(b) A sentence imposed under this section shall run consecutively to any sentence that was being served at the time of the assault, or that had been imposed but was not yet being served at the time of sentencing.

(c) A sentence imposed under this section may not be suspended.

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): This section was formally Article 27, § 11E. The only changes are in style.

12A-7. MISCELLANEOUS.

(A) UNLESS A SPECIFIC DEGREE OR DEGREES OF ASSAULT ARE SPECIFIED, THE TERM "ASSAULT" WHEN USED ELSEWHERE IN THE CODE SHALL MEAN ASSAULT IN ANY DEGREE.

(B) EXPERT TESTIMONY IS ADMISSIBLE TO PROVE, BUT IS NOT REQUIRED TO PROVE, SERIOUS PHYSICAL INJURY.

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): There are a variety of provisions in the Code that use the word "assault", sometimes in the non technical sense of meaning offensive physical contact (see e.g., Article 33, § 24-18 and § 2-104 of the Agriculture Article) and others where it is clear that the common law meanings were intended. Several provisions using this term were amended by the Committee. In order to avoid any confusion, however, to sections that the Committee did not amend, it was felt that the generic term "assault" should include all degrees of assault.

372.

"Machine gun" as used in this subtitle, means a weapon, of any description, by whatever name known, loaded or unloaded, from which more than one shot or bullet may be automatically discharged from a magazine, by a single function of the firing device.

"Crime of violence" applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder of any degree, manslaughter, kidnapping, rape in any degree, ASSAULT IN THE FIRST DEGREE, robbery, burglary in any degree, and theft.

"Person" applies to and includes firm, partnership, association, or corporation.

411A. ATTEMPTED MURDER.

(A) A PERSON WHO ATTEMPTS TO COMMIT MURDER IN THE SECOND DEGREE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT MORE THAN 30 YEARS.

(B) A PERSON WHO ATTEMPTS TO COMMIT MURDER IN THE FIRST DEGREE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT MORE LIFE.

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The Committee to Revise Article 27 of the Annotated Code recommends that attempted murder be made a felony in order to indicate the seriousness of this crime and to provide that there be no statute of limitations for this offense.

In subsection (b), the penalty for attempted first degree murder includes the possibility of life without parole. Under current law in Article 27, § 644A the sentence for an attempted crime may not exceed the maximum sentence for the completed crime. This provision will clarify that a sentence of life without parole is possible for attempted first degree murder.

441.

(e) The term "crime of violence" means abduction; arson in the first degree; ASSAULT IN THE FIRST OR SECOND DEGREE; burglary in the first, second, or third degree; escape; kidnapping; manslaughter, excepting involuntary manslaughter; mayhem AS PREVIOUSLY

PROSCRIBED UNDER FORMER § 384 OF THIS ARTICLE; murder; rape; robbery; robbery with a deadly weapon; carjacking or armed carjacking; sexual offense in the first degree; and sodomy; or an attempt to commit any of the aforesaid offenses; or assault with intent to commit any other offense punishable by imprisonment for more than one year.

461B.

In any criminal prosecution for rape, attempted rape, ATTEMPTED SEXUAL OFFENSE, or any other sexual offense, the jury may not be instructed:

(1) To examine with caution the testimony of the prosecuting witness, solely because of the nature of the charge;

(2) That the charge is easily made or difficult to disprove, solely because of the nature of the charge; or

(3) As to any other similar instruction, solely because of the nature of the charge.

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The revision of the assault laws repeals the statutory crimes of assault with intent to rape and assault with intent to commit sexual offense. Attempted rape and attempted sexual offense are made felonies under § 464F of this subheading by the revision.

464F. ATTEMPTED RAPE OR SEXUAL OFFENSE.

(A) A PERSON WHO ATTEMPTS TO COMMIT RAPE IN THE SECOND DEGREE OR SEXUAL OFFENSE IN THE SECOND DEGREE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT MORE THAN 20 YEARS.

(B) A PERSON WHO ATTEMPTS TO COMMIT RAPE IN THE FIRST DEGREE OR SEXUAL OFFENSE IN THE FIRST DEGREE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT MORE THAN LIFE.

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The Committee to Revise Article 27 of the Annotated Code recommends that attempted rape and attempted sexual offense in the first and second degrees be made felonies in order to indicate the seriousness of these crimes and to provide that there be no statute of limitations for these offenses. No other changes are intended.

486.

Every person convicted of the crime of robbery OR ATTEMPT TO ROB, or as accessory thereto before the fact, IS GUILTY OF A FELONY, shall restore the thing robbed or taken to the owner, or shall pay to him the full value thereof, and be sentenced to

IMPRISONMENT FOR NOT more than 15 years.

COMMITTEE NOTE (COMMITTEE TO REVISE 'ARTICLE 27): The Committee recommends that attempted robbery and attempted robbery with a dangerous or deadly weapon be made felonies in order to indicate the seriousness of these crimes and to provide that there be no statute of limitations for these offenses. The reference to "the penitentiary" is stricken as obsolete since sentencing currently is to the local jail or to the Division of Correction, depending on the length of the sentence, under the provisions of Article 27, § 690.

Although the current law appears to provide for a mandatory minimum penalty of 3 years, under the provisions of Article 27, § 643, a judge is given discretion not to impose the minimum penalty. In addition, there is no mandatory minimum penalty for armed robbery under § 488, which provides for a penalty of not more than 20 years imprisonment. In light of this, the Committee recommends that the language ostensibly providing for a mandatory minimum of 3 years be stricken.

In addition, the Committee recommends that the maximum penalty for robbery be increased from 10 to 15 years in order to make the penalty for this offense the same as the current penalty for theft over \$300.

487.

In any indictment or warrant for robbery, it shall be sufficient to use a formula substantially to the following effect: "That A-B on the day of....., 19..., in the County (City) aforesaid feloniously did rob C-D (OR DID ATTEMPT TO ROB C-D, AS THE CASE MAY BE) and violently did steal (OR ATTEMPT TO STEAL, AS THE CASE MAY BE) from him dollars (here list the property stolen); contrary to the form of the Act of Assembly in such cases made and provided and against the peace, government and dignity of the State."

488.

Every person convicted of the crime of robbery or attempt to rob with a dangerous or deadly weapon or accessory thereto **IS GUILTY OF A FELONY**, shall restore to the owner thereof the thing robbed or taken, or shall pay him the full value thereof, and be sentenced to imprisonment for not more than 20 years.

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): See Committee Note to Article 27, § 486. The phrase "in the Maryland Penitentiary" is stricken as obsolete since sentencing currently is to the local jail or to the Division of Correction, depending on the length of the sentence, under the provisions of Article 27, § 690.

594B.

(f) The offenses referred to in subsection (e) of this section are:

(1) Those offenses specified in the following sections of Article 27, as they may be amended from time to time:

- (i) Section 8(a) (relating to malicious burning);**
- (ii) Section 36 (relating to carrying or wearing weapon);**
- (iii) Section 111 (relating to destroying, injuring, etc., property of another);**
- (iv) Section 156 (relating to giving a false alarm of a fire);**
- (v) Section 287 (relating to possession of hypodermic syringes, etc., restricted);**
- (vi) Sections 342 through 344 (theft) where the value of the property stolen was less than \$300;**
- (VII) Sections 276 through 302 (relating to drugs and other dangerous substances) as they shall be amended from time to time;**
- (VIII) Section 36B (relating to handguns);**
- (IX) Section 388 (relating to manslaughter by automobile, motorboat, etc.); and**
- (X) Section 335A (relating to indecent exposure).**

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The Committee recommends that a law enforcement officer be able to make a warrantless arrest for assault in the second degree. The provision concerning common law assault when committed with intent to do great bodily harm is repealed.

In addition, the provision relating to Article 27, § 33A is repealed as being obsolete under the revision of the Burglary laws (Ch. 712 of 1994). Under the new law, this offense would either be first or second degree Burglary. These offenses are both felonies, and the warrantless arrest provisions of Article 27, § 594B(c) already allow warrantless arrests for felonies.

616 1/2.

(c) Any person charged with an offense hereinafter enumerated committed during the time that person had been released on bail or his own recognizance for committing an offense hereinafter enumerated, is ineligible to give bail or be released on recognizance on the subsequent charge, until all prior charges hereunder have finally been determined by the courts. But a person charged with a subsequent crime hereinafter set forth, may rebut his ineligibility

for release on bail before determination of the prior charge. If, after consideration of the matters presented in rebuttal, the court hearing the application for bail is persuaded that the applicant would not pose a danger to any other person or to the community, and would appear at the time set for trial, the court may allow release pending trial on suitable bail and on such other conditions as will reasonably assure that the person charged will not flee. For the purposes of this subsection, court does not mean District Court commissioners and the offenses are those specified in the following sections of Article 27 of the Annotated Code of Maryland (1967 Repl. Vol.) as they may be amended from time to time:

(1) Section 6 (relating to arson in the first degree) and attempting, aiding, counseling, or procuring arson in the first degree;

(2) Section 7 (relating to arson in the second degree) and attempting, aiding, counseling, or procuring arson in the second degree;

(3) Section 12A-1 (relating to assault IN THE FIRST DEGREE);

(4) Section 29 (relating to burglary in the first degree);

(5) Section 30 (relating to burglary in the second degree);

(6) Section 31 (relating to burglary in the third degree);

(7) Section 35A (causing abuse to child under 18);

(8) Section 286 (relating to the manufacture, distribution, etc., or to the counterfeiting, etc., of a controlled dangerous substance or of certain equipment relating thereto and relating to the keeping of a common nuisance as related to drug abuse);

(9) Section 337 (relating to kidnapping generally);

(10) Section 338 (relating to kidnapping children under sixteen);

(11) Section 388 (relating to manslaughter by automobile, motorboat, etc.);

(12) Section 407 (relating to first degree murder);

(13) Section 408 (relating to murder committed in perpetration of arson);

(14) Section 409 (relating to murder committed in burning barns, etc.);

(15) Section 410 (relating to murder committed in perpetration of rape in any degree, sexual offense in the first or second degree, sodomy, etc.);

(16) Section 411 (relating to second degree murder);

(17) SECTION 411A (RELATING TO ATTEMPTED MURDER IN THE FIRST OR SECOND DEGREE);

(18) Sections 462 and 463 (relating to rape in the first and second degree);

(19) SECTION 464F (RELATING TO ATTEMPTED RAPE OR SEXUAL OFFENSE IN THE FIRST OR SECOND DEGREE);

(20) Section 486 (relating to robbery generally); and

(21) Section 488 (relating to robbery with a deadly weapon).

643B.

(a) As used in this section, the term "crime of violence" means abduction; arson in the first degree; kidnapping; manslaughter, except involuntary manslaughter; mayhem and maiming, AS PREVIOUSLY PROSCRIBED under §§ 384, 385, and 386 of this article; murder; rape; robbery; robbery with a deadly weapon; carjacking or armed carjacking; sexual offense in the first degree; sexual offense in the second degree; use of a handgun in the commission of a felony or other crime of violence; an attempt to commit any of the aforesaid offenses; ASSAULT IN THE FIRST DEGREE; AND assault with intent to; murder, assault with intent to rape, assault with intent to rob, assault with intent to commit a sexual offense in the first degree, and assault with intent to commit a sexual offense in the second degree, AS THESE CRIMES WERE PREVIOUSLY PROSCRIBED UNDER FORMER § 12 OF THIS ARTICLE.

The term "correctional institution" includes Patuxent Institution and a local or regional jail or detention center.

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The mayhem and maiming crimes under Article 27, §§ 384, 385, and 386 and the felony assault crimes under Article 27, § 12 are being repealed by this revision of the assault laws. The reference to these repealed sections, however, must be retained under this section of law to ensure that they may be used as predicate offenses for the subsequent offender provisions of this statute.

692A.

(a) Any inmate of any penal or treatment institution administered by the Division of Correction who is convicted of a sexual offense under § 464, § 464A, § 464B, or § 464C of this article, or who is convicted of an attempt to commit a sexual offense under those sections OR § 464F OF THIS ARTICLE either as a principal or aider or abettor shall be sentenced to a sentence to run consecutive to the sentence under which the inmate is serving at the time of the commission of the offense.

Crimes - Wearing of Bulletproof Body Armor in the Commission of a Crime of Violence

BY adding to

Article 27 - Crimes and Punishments
Section 27A to be under the new subheading "Bulletproof Body Armor"
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)

BULLETPROOF BODY ARMOR

27A.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "AMMUNITION" MEANS ANY CARTRIDGE, SHELL, OR OTHER DEVICE CONTAINING EXPLOSIVE OR INCENDIARY MATERIAL DESIGNED AND INTENDED FOR USE IN A FIREARM.

(3) "BULLETPROOF BODY ARMOR" MEANS ANY MATERIAL OR OBJECT THAT IS DESIGNED TO COVER OR BE WORN ON ANY PART OF THE BODY TO PREVENT, DEFLECT, OR SLOW DOWN THE PENETRATION OF AMMUNITION.

(4) "CRIME OF VIOLENCE" HAS THE MEANING STATED IN § 643B(A) OF THIS ARTICLE.

(5) "FIREARM" INCLUDES:

(I) A HANDGUN, ANTIQUE FIREARM, RIFLE, SHOTGUN, SHORT-BARRELED SHOTGUN, OR SHORT-BARRELED RIFLE, AS DEFINED IN § 36F OF THIS ARTICLE;

(II) A MACHINE GUN, AS DEFINED IN § 372 OF THIS ARTICLE;

(III) A PISTOL, REVOLVER, OR ANTIQUE PISTOL OR REVOLVER, AS DEFINED IN § 441 OF THIS ARTICLE;

(IV) AN ASSAULT PISTOL, AS DEFINED IN § 36H-1 OF THIS ARTICLE; AND

(V) AN ASSAULT WEAPON, AS DEFINED IN § 481E OF THIS ARTICLE.

(B) ANY PERSON WHO WEARS BULLETPROOF BODY ARMOR IN THE COMMISSION OF A CRIME OF VIOLENCE IS GUILTY OF A SEPARATE MISDEMEANOR AND ON CONVICTION, IN ADDITION TO ANY OTHER SENTENCE

IMPOSED BY VIRTUE OF COMMISSION OF THE CRIME OF VIOLENCE, IS SUBJECT TO A FINE OF NOT MORE THAN \$5,000 OR IMPRISONMENT FOR NOT MORE 5 YEARS OR BOTH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed only prospectively and may not be applied or interpreted to have any effect on or application to any offense committed before the effective date of this Act.

Maryland Gun Violence Act Of 1996

BY repealing

**Article 27 - Crimes and Punishments
Section 406, 441, 448, and 481E
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)**

BY adding to

**Article 27 - Crimes and Punishments
Section 36A-1 to be under the new subheading "Disarming a Law Enforcement Officer";
and 441, 441A, 442A, 445A, 445B, 448, and 449 to be under the amended subheading
"Regulated Firearms"
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)**

BY repealing and reenacting, with amendments,

**Article 27 - Crimes and Punishments
Section 36A, 36B(d), 120, 281A, 442, 443, 443A, 445, and 446
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)**

BY repealing and reenacting, with amendments,

**Article 27 - Crimes and Punishments
Section 12A-2
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)
(As enacted by Chapter 632 (S.B. 618/H.B. 749) of the Acts of the General Assembly
of 1996)**

**SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That
Section(s) 481E of Article 27 - Crimes and Punishments of the Annotated Code of Maryland be
repealed.**

36A

(a) No person, unless otherwise excepted in this section, shall carry or possess any rifle, gun, knife, or deadly weapon of any kind on any public school property in this State.

(b) Nothing in this section shall be construed to apply to:

(1) LAW enforcement officers in the regular course of their duty;

(2) PERSONS hired by the boards of education in the counties and Baltimore City specifically for the purpose of guarding public school property;

(3) PERSONS engaged in organized shooting activity for educational purposes;

OR

(4) PERSONS WHO, WITH A WRITTEN INVITATION FROM THE SCHOOL PRINCIPAL, DISPLAY OR ENGAGE IN HISTORICAL DEMONSTRATIONS USING WEAPONS OR REPLICAS OF WEAPONS FOR EDUCATIONAL PURPOSES.

(c) Any person who violates this section shall, upon conviction, be guilty of a misdemeanor and shall be sentenced to pay a fine of no more than \$1,000 or shall be sentenced to the Maryland Department of Correction for a period of not more than 3 years. Any such person who shall be found to carry a handgun in violation of this section, shall be sentenced as provided in § 36B of this article.

DISARMING A LAW ENFORCEMENT OFFICER

36A-1.

(A) A PERSON MAY NOT KNOWINGLY REMOVE OR ATTEMPT TO REMOVE A FIREARM FROM THE POSSESSION OF ANOTHER PERSON IF:

(1) THE PERSON IS LAWFULLY ACTING WITHIN THE COURSE AND SCOPE OF EMPLOYMENT; AND

(2) THE PERSON HAS KNOWLEDGE OR REASON TO KNOW THAT THE OTHER PERSON IS EMPLOYED AS:

(I) A LAW ENFORCEMENT OFFICER WHO, IN AN OFFICIAL CAPACITY, IS AUTHORIZED BY LAW TO MAKE ARRESTS;

(II) A SHERIFF, DEPUTY SHERIFF, OR ASSISTANT SHERIFF; OR

(III) AN EMPLOYEE OF THE DIVISION OF CORRECTION, THE PATUXENT INSTITUTION, THE DIVISION OF PRETRIAL DETENTION AND SERVICES, THE DIVISION OF PAROLE AND PROBATION, ANY COUNTY JAIL OR DETENTION

CENTER, OR ANY FACILITY.

(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$10,000 OR IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR BOTH.

(C) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE IMPOSED SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY OFFENSE BASED ON THE ACT OR ACTS ESTABLISHING THE OFFENSE UNDER THIS SECTION.

36B.

(d) Any person who shall use a handgun or an antique firearm capable of being concealed on the person in the commission of any felony or any crime of violence as defined in § 441 of this article, WHETHER OPERABLE OR INOPERABLE AT THE TIME OF THE OFFENSE, shall be guilty of a separate misdemeanor and on conviction thereof shall, in addition to any other sentence imposed by virtue of commission of said felony or misdemeanor:

(1) For a first offense, be sentenced to the Maryland Division of Correction for a term of not less than 5 nor more than 20 years, and:

(i) It is mandatory upon the court to impose no less than the minimum sentence of 5 years; and

(ii) Except as otherwise provided in Article 31B, § 11 of the Code, the person is not eligible for parole in less than 5 years; and

(2) For a second or subsequent offense, be sentenced to the Maryland Division of Correction for a term of not less than 5 nor more than 20 years, and it is mandatory upon the court to impose no less than a minimum consecutive sentence of 5 years which shall be served consecutively and not concurrently to any other sentence imposed by virtue of the commission of said felony or misdemeanor.

120

(a) (1) Any person who recklessly engages in conduct that creates a substantial risk of death or serious physical injury to another person is guilty of the misdemeanor of reckless endangerment and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 5 years or both.

(2) SUBJECT TO THE PROVISIONS OF SUBSECTION (B)(2) OF THIS SECTION, ANY PERSON WHO RECKLESSLY DISCHARGES A FIREARM FROM A MOTOR VEHICLE IN SUCH A MANNER THAT CREATES A SUBSTANTIAL RISK OF DEATH OR SERIOUS PHYSICAL INJURY TO ANOTHER PERSON IS GUILTY OF THE MISDEMEANOR OF RECKLESS ENDANGERMENT AND ON CONVICTION IS SUBJECT

TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.

(b) (1) EXCEPT AS PROVIDED IN SUBSECTION (A)(2) OF THIS SECTION, THIS section does not apply to any conduct involving the use of a motor vehicle as defined in § 11-135 of the Transportation Article.

(2) THE PROVISIONS OF SUBSECTION (A)(2) OF THIS SECTION DO NOT APPLY TO THE DISCHARGE OF A FIREARM FROM A MOTOR VEHICLE BY:

(I) A LAW ENFORCEMENT OFFICER OR SECURITY GUARD IN THE PERFORMANCE OF THE OFFICER'S OR SECURITY GUARD'S OFFICIAL DUTIES; OR

(II) AN INDIVIDUAL ACTING IN DEFENSE OF A CRIME OF VIOLENCE.

(c) This section does not apply to any conduct involving the manufacture, production, or sale of any product or commodity.

281A.

(a) (1) In this section the following terms have the meanings indicated.

(2) "Drug trafficking crime" means:

(i) Any felony involving the possession, distribution, manufacture, or importation of a controlled dangerous substance under §§ 286 and 286A of this article; or

(ii) Conspiracy to commit any felony involving possession, distribution, manufacture, or importation of a controlled dangerous substance under § 286 or § 286A of this article.

(3) "Firearm silencer or muffler" means any device that is designed for silencing, muffling, or diminishing the report of a firearm including any combination of parts designed, redesigned, or intended for use in assembling or fabricating a firearm silencer or muffler.

(b) During and in relation to any drug trafficking crime, a person WHO POSSESSES A FIREARM UNDER SUFFICIENT CIRCUMSTANCES TO CONSTITUTE A NEXUS TO THE DRUG TRAFFICKING CRIME OR who uses, wears, carries, or transports a firearm is guilty of a separate felony and on conviction shall, in addition to the sentence provided for the drug trafficking crime, be sentenced as follows:

(1) (i) For a first offense, for a term of not less than 5 nor more than 20 years.

(ii) It is mandatory upon the court to impose no less than the minimum

sentence of 5 years, no part of which may be suspended and the person may not be eligible for parole except in accordance with the provisions of Article 31B, § 11 of the Code; and

(2) (i) For a second or subsequent offense, for a term of not less than 10 nor more than 20 years.

(ii) It is mandatory upon the court to impose no less than a minimum consecutive sentence of 10 years, no part of which may be suspended and the person may not be eligible for parole except in accordance with the provisions of Article 31B, § 11 of the Code.

(iii) The sentence shall be served consecutively and not concurrently to any other sentence imposed by virtue of the commission of the drug trafficking crime.

(c) The minimum mandatory sentence provided in subsection (b)(1) and (2) of this section shall be doubled if the firearm is:

(1) Any firearm listed in § 36-H or § 441 of this article;

(2) A machine gun; or

(3) Equipped with a firearm silencer or muffler.

(d) (1) Any firearm or ammunition seized under this section is contraband and shall be summarily forfeited.

(2) If the owner or possessor of property seized under this section is acquitted or the charges against the person are dismissed, the seized property shall be returned to the owner or possessor within 90 days if not otherwise prohibited by law unless forfeiture proceedings have commenced.

(3) If the State enters a nolle prosequi against the owner or possessor of property seized under this section and does not charge the person within 90 days after the nolle prosequi is entered, the seized property shall be promptly returned to the owner or possessor if not otherwise prohibited by law.

REGULATED FIREARMS

441.

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

(B) "ALCOHOL OFFENSE" MEANS AN OFFENSE UNDER § 21-902(A), (B), OR (C) OF THE TRANSPORTATION ARTICLE.

(C) "ANTIQUE FIREARM" MEANS:

(1) ANY FIREARM (INCLUDING ANY FIREARM WITH A MATCHLOCK, FLINTLOCK, PERCUSSION CAP, OR SIMILAR TYPE OF IGNITION SYSTEM) MANUFACTURED PRIOR TO 1899; OR

(2) ANY REPLICA OF ANY FIREARM DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IF THE REPLICA:

(I) IS NOT DESIGNED OR REDESIGNED FOR USING RIMFIRE OR CONVENTIONAL CENTERFIRE FIXED AMMUNITION; OR

(II) USES RIMFIRE OR CONVENTIONAL CENTERFIRE FIXED AMMUNITION WHICH IS NO LONGER MANUFACTURED IN THE UNITED STATES AND WHICH IS NOT READILY AVAILABLE IN THE ORDINARY CHANNELS OF COMMERCIAL TRADE.

(D) "ASSAULT WEAPON" MEANS ANY OF THE FOLLOWING SPECIFIC FIREARMS OR THEIR COPIES REGARDLESS OF WHICH COMPANY PRODUCED AND MANUFACTURED THAT FIREARM:

(1) AMERICAN ARMS SPECTRE DA SEMIAUTOMATIC CARBINE;

(2) AK-47 IN ALL FORMS;

(3) ALGIMEC AGM-1 TYPE SEMI-AUTO;

(4) AR 100 TYPE SEMI-AUTO;

(5) AR 180 TYPE SEMI-AUTO;

(6) ARGENTINE L.S.R. SEMI-AUTO;

(7) AUSTRALIAN AUTOMATIC ARMS SAR TYPE SEMI-AUTO;

(8) AUTO-ORDNANCE THOMPSON M1 AND 1927 SEMI-AUTOMATICS;

(9) BARRETT LIGHT .50 CAL. SEMI-AUTO;

(10) BERETTA AR70 TYPE SEMI-AUTO;

(11) BUSHMASTER SEMI-AUTO RIFLE;

(12) CALICO MODELS M-100 AND M-900;

(13) CIS SR 99 TYPE SEMI-AUTO;

(14) CLARIDGE HI TEC C-9 CARBINES;

(15) COLT AR-15, CAR-15. AND ALL IMITATIONS EXCEPT COLT AR-15 SPORTER H-BAR RIFLE;

(16) DAEWOO MAX 1 AND MAX 2, AKA AR 100, 110C, K-1, AND K-2;

(17) DRAGUNOV CHINESE MADE SEMI-AUTO;

(18) FAMAS SEMI-AUTO (.223 CALIBER);

(19) FEATHER AT-9 SEMI-AUTO;

(20) FN LAR AND FN FAL ASSAULT RIFLE;

(21) FNC SEMI-AUTO TYPE CARBINE;

(22) F.I.E./FRANCHI LAW 12 AND SPAS 12 ASSAULT SHOTGUN;

(23) STEYR-AUG-SA SEMI-AUTO;

(24) GALIL MODELS AR AND ARM SEMI-AUTO;

(25) HECKLER AND KOCH HK-91 A3, HK-93 A2, HK-94 A2 AND A3;

(26) HOLMES MODEL 88 SHOTGUN;

**(27) AVTOMAT KALASHNIKOV SEMIAUTOMATIC RIFLE IN ANY
FORMAT;**

(28) MANCHESTER ARMS "COMMANDO" MK-45, MK-9;

(29) MANDELL TAC-1 SEMI-AUTO CARBINE;

(30) MOSSBERG MODEL 500 BULLPUP ASSAULT SHOTGUN;

(31) STERLING MARK 6;

(32) P.A.W.S. CARBINE;

(33) RUGER MINI-14 FOLDING STOCK MODEL (.223 CALIBER);

(34) SIG 550/551 ASSAULT RIFLE (.223 CALIBER);

(35) SKS WITH DETACHABLE MAGAZINE;

(36) AP-74 COMMANDO TYPE SEMI-AUTO;

(37) SPRINGFIELD ARMORY BM-59, SAR-48, G3, SAR-3, M-21 SNIPER RIFLE, M1A, EXCLUDING THE MI GRAND;

- (38) STREET SWEEPER ASSAULT TYPE SHOTGUN;**
- (39) STRIKER 12 ASSAULT SHOTGUN IN ALL FORMATS;**
- (40) UNIQUE F11 SEMI-AUTO TYPE;**
- (41) DAEWOO USAS 12 SEMI-AUTO SHOTGUN;**
- (42) UZI 9MM CARBINE OR RIFLE;**
- (43) VALMET M-76 AND M-78 SEMI-AUTO;**
- (44) WEAVER ARMS "NIGHTHAWK" SEMI-AUTO CARBINE; OR**
- (45) WILKINSON ARMS 9MM SEMI-AUTO "TERRY".**

(E) "CRIME OF VIOLENCE" MEANS:

- (1) ABDUCTION;**
- (2) ARSON IN THE FIRST DEGREE;**
- (3) BURGLARY IN THE FIRST, SECOND, OR THIRD DEGREE;**
- (4) CARJACKING AND ARMED CARJACKING;**
- (5) ESCAPE;**
- (6) KIDNAPPING;**
- (7) VOLUNTARY MANSLAUGHTER;**
- (8) MAIMING;**
- (9) MAYHEM;**
- (10) MURDER IN THE FIRST OR SECOND DEGREE;**
- (11) RAPE IN THE FIRST OR SECOND DEGREE;**
- (12) ROBBERY;**
- (13) ROBBERY WITH A DANGEROUS OR DEADLY WEAPON;**
- (14) SEXUAL OFFENSE IN THE FIRST, SECOND, OR THIRD DEGREE;**
- (15) AN ATTEMPT TO COMMIT ANY OF THE AFORESAID OFFENSES;**

OR

(16) ASSAULT WITH INTENT TO COMMIT ANY OF THE AFORESAID OFFENSES OR ANY OFFENSE PUNISHABLE BY IMPRISONMENT FOR MORE THAN 1 YEAR.

(F) "DEALER" MEANS ANY PERSON WHO IS ENGAGED IN THE BUSINESS OF:

(1) SELLING, RENTING, OR TRANSFERRING FIREARMS AT WHOLESALE OR RETAIL; OR

(2) REPAIRING FIREARMS.

(G) "DESIGNATED LAW ENFORCEMENT AGENCY" MEANS ANY LAW ENFORCEMENT AGENCY APPROVED AND DESIGNATED BY THE SECRETARY TO PROCESS APPLICATIONS TO PURCHASE REGULATED FIREARMS FOR SECONDARY SALES.

(H) "ENGAGED IN THE BUSINESS" MEANS ANY PERSON WHO:

(1) IS LICENSED AS A MARYLAND REGULATED FIREARMS DEALER;

(2) IS LICENSED AS A FEDERAL FIREARMS DEALER;

(3) DEVOTES TIME, ATTENTION, AND LABOR TO DEALING IN FIREARMS AS A REGULAR COURSE OR TRADE OR BUSINESS WITH THE PRINCIPAL OBJECTIVE OF EARNING A PROFIT THROUGH THE REPEATED PURCHASE AND RESALE OF FIREARMS; OR

(4) REPAIRS FIREARMS AS A REGULAR COURSE OF TRADE OR BUSINESS.

(I) "FIREARM" MEANS:

(1) ANY WEAPON (INCLUDING A STARTER GUN) WHICH WILL OR IS DESIGNED TO OR MAY READILY BE CONVERTED TO EXPEL A PROJECTILE BY THE ACTION OF AN EXPLOSIVE; OR

(2) THE FRAME OR RECEIVER OF ANY SUCH WEAPON.

(J) "FUGITIVE FROM JUSTICE" MEANS ANY PERSON WHO HAS FLED FROM A SHERIFF OR OTHER PEACE OFFICER WITHIN THIS STATE, OR WHO HAS FLED FROM ANY STATE, THE DISTRICT OF COLUMBIA, OR TERRITORY OR POSSESSION OF THE UNITED STATES, TO AVOID PROSECUTION FOR A CRIME OR TO AVOID GIVING TESTIMONY IN ANY CRIMINAL PROCEEDING.

(K) "GUN SHOW" MEANS ANY ORGANIZED GATHERING OPEN TO THE PUBLIC AT WHICH ANY FIREARM IS DISPLAYED.

(L) "HABITUAL DRUNKARD" MEANS ANY PERSON WHO HAS BEEN FOUND

GUILTY OF ANY THREE ALCOHOL OFFENSES, ONE OF WHICH OCCURRED WITHIN THE PAST YEAR.

(M) "HABITUAL USER OF CONTROLLED DANGEROUS SUBSTANCES" MEANS ANY PERSON WHO HAS BEEN FOUND GUILTY OF TWO CONTROLLED DANGEROUS SUBSTANCE OFFENSES, ONE OF WHICH OCCURRED WITHIN THE PAST 5 YEARS.

(N) "HANDGUN" MEANS ANY FIREARM WITH A BARREL LESS THAN 16 INCHES IN LENGTH INCLUDING SIGNAL, STARTER, AND BLANK PISTOLS.

(O) "MINOR" MEANS ANY PERSON UNDER THE AGE OF 18 YEARS.

(P) "PEPPER MACE" MEANS AN AEROSOL PROPELLED COMBINATION OF HIGHLY DISABLING IRRITANT PEPPER BASED PRODUCTS AND IS ALSO KNOWN AS OLEO-RESIN CAPSICUM (O. C.) SPRAY.

(Q) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, ASSOCIATION, OR CORPORATION.

(R) "REGULATED FIREARM" MEANS:

(1) ANY HANDGUN AS DEFINED IN THIS SECTION; OR

(2) ANY ASSAULT WEAPON AS DEFINED IN THIS SECTION.

(S) "REGULATED FIREARMS DEALER" MEANS ANY PERSON WHO POSSESSES A VALID MARYLAND REGULATED FIREARMS DEALERS LICENSE ISSUED BY THE SECRETARY.

(T) "RENT" MEANS THE TEMPORARY TRANSFER OF A REGULATED FIREARM FOR CONSIDERATION WHERE THE FIREARM IS TAKEN FROM THE FIREARM OWNER'S PROPERTY.

(U) "SECONDARY SALE" MEANS ANY SALE OF A REGULATED FIREARM WHERE NEITHER PARTY TO THE TRANSACTION IS ENGAGED IN THE BUSINESS AS DEFINED IN THIS SUBSECTION.

(V) "SECRETARY" MEANS THE SECRETARY OF THE STATE POLICE OR THE SECRETARY'S DESIGNEE.

(W) "STRAW PURCHASE" MEANS ANY SALE OF A REGULATED FIREARM WHERE AN INDIVIDUAL USES ANOTHER PERSON (THE STRAW PURCHASER) TO COMPLETE THE APPLICATION TO PURCHASE A REGULATED FIREARM, TAKE INITIAL POSSESSION OF THAT FIREARM, AND SUBSEQUENTLY TRANSFER THAT FIREARM TO THE INDIVIDUAL.

441A.

THE PROHIBITIONS OF THIS SUBHEADING DO NOT APPLY TO:

(1) THE TRANSFER OR POSSESSION OF A REGULATED FIREARM OR DETACHABLE MAGAZINE BY A LICENSED MANUFACTURER, DEALER, OR IMPORTER FOR THE PURPOSES OF TESTING OR EXPERIMENTATION AUTHORIZED BY THE SECRETARY;

(2) THE TRANSFER OR POSSESSION OF AN ANTIQUE FIREARM;

(3) LAW ENFORCEMENT PERSONNEL OF THE UNITED STATES GOVERNMENT OR ANY AGENCY OR DEPARTMENT OF THE UNITED STATES, MEMBERS OF THE ARMED FORCES OF THE UNITED STATES OR OF THE NATIONAL GUARD, OR LAW ENFORCEMENT PERSONNEL OF THIS STATE OR ANY LOCAL AGENCY IN THIS STATE WHILE SUCH PERSONS ARE ACTING WITHIN THE SCOPE OF THEIR OFFICIAL DUTIES;

(4) ANY REGULATED FIREARM MODIFIED TO RENDER IT PERMANENTLY INOPERATIVE;

(5) PURCHASES, SALES, AND TRANSPORT TO OR BY A LICENSED GUN DEALER, MANUFACTURER OR IMPORTER;

(6) ORGANIZATIONS THAT ARE REQUIRED OR AUTHORIZED BY FEDERAL LAW OR REGULATIONS GOVERNING THEIR SPECIFIC BUSINESS OR ACTIVITY TO MAINTAIN FIREARMS; OR

(7) THE RECEIPT OF A REGULATED FIREARM BY INHERITANCE, PROVIDED THE HEIR COMPLETES AN APPLICATION FOR THE PURCHASE OR TRANSFER OF A REGULATED FIREARM AND FORWARDS IT TO THE SECRETARY.

442.

(a) All restrictions imposed by the laws, ordinances or regulations of all subordinated jurisdictions within the State of Maryland on sales of REGULATED FIREARMS are superseded by this section, and the State of Maryland hereby preempts the rights of such jurisdictions to regulate the sale of REGULATED FIREARMS.

(B) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A PERSON MAY NOT KNOWINGLY OR WILLFULLY PARTICIPATE IN A STRAW PURCHASE OF A REGULATED FIREARM.

(2) THE PROHIBITIONS OF THIS SUBSECTION DO NOT APPLY TO A PERSON PURCHASING A REGULATED FIREARM AS A GIFT PROVIDED:

(I) THE RECIPIENT OF THE GIFT IS A RESIDENT OF THIS

STATE; AND

(II) BOTH THE PURCHASER AND RECIPIENT OF THE GIFT COMPLY WITH THE REQUIREMENTS UNDER THIS SUBHEADING PERTAINING TO THE POSSESSION, SALE, RENTAL, RECEIPT, TRANSFER, OR PURCHASE OF A REGULATED FIREARM, UNLESS THE GIFT IS IN THE FORM OF A GIFT CERTIFICATE, IN WHICH CASE ONLY THE RECIPIENT SHALL COMPLY WITH THE REQUIREMENTS.

(3) IF THE REGULATED FIREARM IS A GIFT TO A SPOUSE, PARENT, GRANDPARENT, GRANDCHILD, BROTHER, SISTER, SON, OR DAUGHTER:

(I) AN APPLICATION TO PURCHASE OR TRANSFER A REGULATED FIREARM SHALL BE COMPLETED BY THE RECIPIENT AND FORWARDED TO THE SECRETARY WITHIN 5 DAYS OF RECEIPT OF THE REGULATED FIREARM; AND

(II) THE \$10 APPLICATION FEE, AS PROVIDED BY SUBSECTION (G) OF THIS SECTION, SHALL BE WAIVED BY THE SECRETARY.

(C) No REGULATED FIREARMS dealer shall sell, RENT, or transfer any REGULATED FIREARM until after seven days shall have elapsed from the time an application to purchase or transfer shall have been executed by the prospective purchaser or transferee, in triplicate, and THE ORIGINAL COPY IS forwarded by the prospective seller or transferor to the Secretary.

(D) (1) A PERSON WHO IS NOT A REGULATED FIREARMS DEALER MAY NOT SELL, RENT, TRANSFER, OR PURCHASE ANY REGULATED FIREARM UNTIL AFTER 7 DAYS SHALL HAVE ELAPSED FROM THE TIME AN APPLICATION TO PURCHASE OR TRANSFER SHALL HAVE BEEN EXECUTED BY THE PROSPECTIVE PURCHASER OR TRANSFEE, IN TRIPPLICATE, AND THE ORIGINAL COPY IS FORWARDED BY A REGULATED FIREARMS DEALER TO THE SECRETARY.

(2) AS AN ALTERNATIVE TO COMPLETING A SECONDARY SALE OF A REGULATED FIREARM THROUGH A REGULATED FIREARMS DEALER, THE PROSPECTIVE SELLER OR TRANSFEROR AND THE PROSPECTIVE PURCHASER OR TRANSFEE MAY COMPLETE THE TRANSACTION THROUGH A DESIGNATED LAW ENFORCEMENT AGENCY.

(3) A PERSON WHO MAKES AN APPLICATION TO PURCHASE, RENT, OR TRANSFER A REGULATED FIREARM BY SECONDARY SALE SHALL PAY A PROCESSING FEE NOT TO EXCEED \$20 TO THE REGULATED FIREARMS DEALER.

(E) The REGULATED FIREARMS dealer OR DESIGNATED LAW ENFORCEMENT AGENCY shall promptly after receiving an application to purchase, RENT, or transfer, completed in accordance with subsection (H) below, forward one copy of the same, by certified mail OR BY FACSIMILE MACHINE, to the Secretary. The copy forwarded to the Secretary shall contain the name, address, and signature of the prospective seller, LESSOR, or transferor.

The prospective seller LESSOR, or transferor shall retain one copy of the application for a period of not less than three years. The prospective purchaser, LESSEE, or transferee shall be entitled to the remaining copy of the application.

(F) (1) A person who makes an application to purchase, RENT, or transfer a REGULATED FIREARM shall pay to the REGULATED FIREARMS dealer OR DESIGNATED LAW ENFORCEMENT AGENCY a \$10 application fee with the application to purchase, RENT, or transfer.

(2) The REGULATED FIREARMS dealer OR DESIGNATED LAW ENFORCEMENT AGENCY shall forward the \$10 application fee along with the application to the Secretary.

(3) IF THE REGULATED FIREARMS DEALER OR DESIGNATED LAW ENFORCEMENT AGENCY UTILIZES A FACSIMILE MACHINE TO FORWARD THE APPLICATION TO THE SECRETARY, THE DEALER OR DESIGNATED LAW ENFORCEMENT AGENCY SHALL:

(I) BE BILLED \$10 FOR EACH APPLICATION FORWARDED TO THE SECRETARY DURING THE MONTH; AND

(II) PAY THE TOTAL APPLICATION FEE BY THE 15TH DAY OF THE NEXT MONTH.

(G) The application to purchase, RENT, or transfer shall bear the following legend: "Any false information supplied or statement made in this application is a crime which may be punished by imprisonment for a period of not more than three years, or a fine of not more than \$5,000, or both."

(H) The application to purchase, RENT, or transfer shall contain the following information:

(1) Applicant's name, address, DRIVER'S OR PHOTOGRAPHIC IDENTIFICATION SOUNDEX NUMBER, SOCIAL SECURITY NUMBER, occupation, place and date of birth, height, weight, race, eye and hair color and signature AND REGULATED FIREARM INFORMATION FOR EACH FIREARM TO BE PURCHASED, RENTED, OR TRANSFERRED. In the event the applicant is a corporation, the application shall be completed and executed by a corporate officer who is a resident of THIS STATE.

(2) A statement by the applicant UNDER THE PENALTY OF PERJURY that he or she:

(i) Has never been convicted of:

1 A CRIME OF VIOLENCE;
2. ANY VIOLATION CLASSIFIED AS A FELONY IN THIS STATE;

3. ANY VIOLATION CLASSIFIED AS A MISDEMEANOR IN THIS STATE THAT CARRIES A STATUTORY PENALTY OF MORE THAN 2 YEARS; OR

4. ANY VIOLATION CLASSIFIED AS A COMMON LAW OFFENSE WHERE THE PERSON RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 2 YEARS.

(ii) Is not a fugitive from justice.

(iii) Is not a habitual drunkard.

(iv) Is not an addict or habitual user of ANY CONTROLLED DANGEROUS SUBSTANCES.

(v) Has never spent more than thirty consecutive days in any medical institution for treatment of a mental disorder or disorders, unless there is attached to the application a physician's certificate, issued within thirty days prior to the date of application, certifying that the applicant is capable of possessing a REGULATED FIREARM without undue danger to himself or herself, or to others.

(vi) Is at least 21 years of age.

(vii) IS NOT A RESPONDENT AGAINST WHOM A CURRENT NON EX PARTE CIVIL PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 4-506 OF THE FAMILY LAW ARTICLE.

(3) The date and hour the application was delivered in completed form to the prospective seller or transferor by the prospective purchaser, LESSEE, or transferee.

(I) The Secretary may request the assistance of the police commissioner of Baltimore City, the chief of police in any county maintaining a police force, or the sheriff in a county not maintaining a police force and shall promptly upon receipt of an application to purchase, RENT, or transfer conduct an investigation in order to determine the truth or falsity of the information supplied and statements made in THE application. If it be thereupon determined that any false information or statement has been supplied or made by the applicant, that the application has not been properly completed, OR THAT WRITTEN NOTIFICATION FROM THE APPLICANT'S LICENSED ATTENDING PHYSICIAN HAS BEEN RECEIVED STATING THAT THE APPLICANT IS SUFFERING FROM A MENTAL DISORDER OR DISORDERS AND IS A DANGER TO HIMSELF OR HERSELF OR TO OTHERS, the Secretary shall notify the prospective seller, LESSOR, or transferor, in writing within seven days from the date the executed application to purchase or transfer was forwarded by certified mail OR FACSIMILE MACHINE, of his disapproval of THE application. Written notification of such disapproval shall be thereafter forwarded by the Secretary to the prospective purchaser, LESSEE, or transferee. The date upon which the executed application to purchase, RENT, or transfer was forwarded by certified mail OR BY FACSIMILE MACHINE TO THE SECRETARY by the prospective seller, LESSOR, or transferor shall be considered as the first day of the seven-day period allowed for notice of disapproval to the seller, LESSOR, or transferor. If the seventh day of the seven-day period allowed for the notice of disapproval shall

fall on a Sunday or legal holiday, the computation period shall be extended to the first day next following, which is neither a Sunday nor a legal holiday.

(J) (1) No REGULATED FIREARMS dealer OR PERSON shall sell, RENT, or transfer a REGULATED FIREARM to an applicant whose application has been PLACED ON HOLD BECAUSE OF AN OPEN DISPOSITION OF CRIMINAL PROCEEDINGS AGAINST THE APPLICANT OR disapproved, unless such disapproval has been subsequently withdrawn by the Secretary or overruled by the action of the courts pursuant to subsection (K) of this section.

(2) AN APPROVED APPLICATION IS VALID ONLY FOR THE PURCHASE, RENTAL, OR TRANSFER OF THE REGULATED FIREARM LISTED IN THE APPLICATION.

(K) (1) Any prospective purchaser, LESSEE, or transferee aggrieved by the action of the State Police may request a hearing within 30 days from the date when written notice was forwarded to the aggrieved person by writing to the Secretary, who shall grant the hearing within fifteen days of the request.

(2) The hearing and subsequent proceedings of judicial review, if any, thereupon following shall be conducted in accordance with the provisions of the Administrative Procedure Act.

(3) The hearing shall be held in the county of the legal residence of the aggrieved person.

(L) Any REGULATED FIREARMS dealer OR PERSON who sells, RENTS, or transfers a REGULATED FIREARM in compliance with this subtitle shall forward a copy of the written notification of such completed transaction, within seven days from the date of delivery of the REGULATED FIREARM, to the Secretary, whose duty it shall be to maintain a permanent record of all such completed sales, RENTALS, and transfers of REGULATED FIREARMS in the State. The notification shall contain an identifying description of the REGULATED FIREARM sold, RENTED, or transferred including its caliber, make, model, manufacturer's serial number, if any, and any other special or peculiar characteristics or marking by which the REGULATED FIREARM may be identified.

(M) (1) A REGULATED FIREARMS DEALER OR PERSON SHALL COMPLETE THE SALE, RENTAL, OR TRANSFER OF A REGULATED FIREARM WITHIN 90 DAYS OF THE DATE THE APPLICATION OF THE PROSPECTIVE PURCHASER, LESSEE, OR TRANSFEREE WAS STAMPED BY THE SECRETARY AS NOT BEING DISAPPROVED.

(2) A REGULATED FIREARMS DEALER OR PERSON SHALL WITHIN 7 DAYS, RETURN TO THE SECRETARY ANY APPLICATION FOR WHICH THE SALE, RENTAL, OR TRANSFER OF A REGULATED FIREARM WAS NOT COMPLETED WITHIN 90 DAYS OF THE DATE THE APPLICATION WAS STAMPED BY THE SECRETARY AS NOT BEING DISAPPROVED. ALL SUCH APPLICATIONS RETURNED TO THE SECRETARY SHALL, BE VOIDED AS AN INCOMPLETE SALE, RENTAL, OR TRANSFER.

(N) Nothing in this section shall be construed to affect sales and/or transfers for bona fide resale in the ordinary course of business of a person duly licensed under § 443 of this subtitle, or sales, RENTALS, TRANSFERS, and/or the use of REGULATED FIREARMS by any person authorized or required to sell, RENT, transfer, and/or use REGULATED FIREARMS as part of his or her duties as a member of any official police force or other law enforcement agency, the armed forces of the United States, including all official reserve organizations, or the Maryland National Guard.

442A.

(A) (1) EXCEPT AS PROVIDED IN THIS SUBSECTION, A PERSON MAY NOT PURCHASE MORE THAN ONE REGULATED FIREARM IN A 30-DAY PERIOD.

(2) THE PROVISIONS OF THIS SUBSECTION DO NOT APPLY TO:

(I) A LAW ENFORCEMENT AGENCY;

(II) AN AGENCY DULY AUTHORIZED TO PERFORM LAW ENFORCEMENT DUTIES;

(III) STATE OR LOCAL CORRECTIONAL FACILITIES;

(IV) A PRIVATE SECURITY COMPANY LICENSED TO DO BUSINESS WITHIN THE STATE;

(V) THE PURCHASE OF ANTIQUE FIREARMS AS DEFINED IN § 441 OF THIS ARTICLE;

(VI) PURCHASES BY A LICENSED FIREARMS DEALER;

(VII) THE EXCHANGE OR REPLACEMENT OF A REGULATED FIREARM BY A SELLER FOR A REGULATED FIREARM PURCHASED FROM THE SELLER BY THE SAME PERSON SEEKING THE EXCHANGE OR REPLACEMENT WITHIN THE 30-DAY PERIOD IMMEDIATELY PRECEDING THE DATE OF EXCHANGE OR REPLACEMENT; OR

(VIII) A PERSON WHOSE REGULATED FIREARM IS STOLEN OR IRRETRIEVABLY LOST AND WHO CONSIDERS IT ESSENTIAL THAT THE REGULATED FIREARM BE REPLACED IMMEDIATELY, IF:

1. THE PERSON PROVIDES THE LICENSED REGULATED FIREARMS DEALER WITH A COPY OF THE OFFICIAL POLICE REPORT OR AN OFFICIAL SUMMARY OF THE REPORT A COPY OF WHICH SHALL BE ATTACHED TO THE APPLICATION TO PURCHASE OR TRANSFER A REGULATED FIREARM;

2. THE OFFICIAL POLICE REPORT OR OFFICIAL SUMMARY OF THE REPORT CONTAINS THE NAME AND ADDRESS OF THE

REGULATED FIREARM OWNER, A DESCRIPTION OF THE REGULATED FIREARM, THE LOCATION OF THE LOSS OR THEFT, THE DATE OF THE LOSS OR THEFT, AND THE DATE WHICH THE LOSS OR THEFT WAS REPORTED TO THE LAW ENFORCEMENT AGENCY; AND

3. THE DATE OF THE LOSS OR THEFT AS REFLECTED ON THE OFFICIAL POLICE REPORT OR OFFICIAL SUMMARY OF THE REPORT OCCURRED WITHIN 30 DAYS OF THE PERSON'S ATTEMPT TO REPLACE THE REGULATED FIREARM.

(B) (1) UPON APPLICATION FOR A MULTIPLE PURCHASE TO AND APPROVAL BY THE SECRETARY, PURCHASES IN EXCESS OF ONE REGULATED FIREARM IN A 30-DAY PERIOD MAY BE MADE UNDER THE FOLLOWING CIRCUMSTANCES:

(I) THE PURCHASE OF THE REGULATED FIREARMS IS FOR A PRIVATE COLLECTION OR IS A COLLECTOR SERIES;

(II) THE PURCHASE OF THE REGULATED FIREARMS IS A BULK PURCHASE FROM AN ESTATE SALE;

(III) THE PURCHASE OF NOT MORE THAN TWO REGULATED FIREARMS IS A MULTIPLE PURCHASE FOR THE PURPOSE OF TAKING ADVANTAGE OF A REGULATED FIREARMS DEALER'S DISCOUNTED PRICE AVAILABLE ONLY FOR A MULTIPLE PURCHASE, PROVIDED THAT THE PURCHASER IS PROHIBITED FROM PURCHASING A REGULATED FIREARM THE FOLLOWING 30-DAY PERIOD UNLESS APPROVED FOR A MULTIPLE PURCHASE UNDER ITEM (I) OR (II) OF THIS PARAGRAPH; OR

(IV) OTHER SIMILAR PURPOSES.

(2) THE APPLICATION SHALL:

(I) CONTAIN A LIST OF THE REGULATED FIREARMS TO BE PURCHASED OR TRANSFERRED;

(II) STATE THE PURPOSE OF THE PURCHASE IN EXCESS OF ONE REGULATED FIREARM IN A 30-DAY PERIOD;

(III) BE WITNESSED BY A REGULATED FIREARMS DEALER OR DESIGNATED LAW ENFORCEMENT AGENCY; AND

(IV) BE SIGNED UNDER THE PENALTY OF PERJURY BY THE APPLICANT.

(C) THE APPLICATION FOR A MULTIPLE PURCHASE OF REGULATED FIREARMS SHALL BE ATTACHED TO A COMPLETED APPLICATION TO PURCHASE A REGULATED FIREARM AND FORWARDED TO THE SECRETARY BY A LICENSED

REGULATED FIREARMS DEALER OR DESIGNATED LAW ENFORCEMENT AGENCY.

(D) UPON RECEIPT OF THE APPLICATION TO PURCHASE A REGULATED FIREARM AND THE APPLICATION FOR A MULTIPLE PURCHASE, THE SECRETARY SHALL COMPLETE A BACKGROUND INVESTIGATION AS DEFINED IN § 442 OF THIS SUBTITLE.

(E) A DEALER OR PERSON MAY NOT SELL, RENT, OR TRANSFER ANY REGULATED FIREARMS TO A PERSON WHOSE APPLICATION HAS BEEN PLACED ON HOLD BECAUSE OF AN OPEN DISPOSITION OF CRIMINAL PROCEEDINGS AGAINST THE APPLICANT OR DISAPPROVED, UNLESS THE HOLD OR DISAPPROVAL HAS BEEN SUBSEQUENTLY WITHDRAWN BY THE SECRETARY OR OVERRULED BY ACTIONS OF THE COURTS.

443.

(a) No person shall engage in the business of selling, RENTING, OR TRANSFERRING REGULATED FIREARMS unless he lawfully possesses and conspicuously displays at his place of business, in addition to any other license required by law, a REGULATED FIREARMS dealer's license issued by the Secretary. Such license shall identify the licensee and the location of the licensee's place of business. One such license shall be required for each place of business where REGULATED FIREARMS are sold.

(b) (1) The license required by subsection (a) above shall expire on the 30th day of June of each year.

(2) The initial fee for the license shall be \$50, and the annual renewal shall be \$25, payable to the Comptroller of the State of Maryland.

(3) The license shall not be transferable nor shall any refund or proration of the annual fee therefor be allowed. Provided, however, that before any licensee changes his or her place of business, the licensee shall so inform the Secretary and surrender his or her license, whereupon the Secretary shall, if no cause exists for the revocation of the license, issue a new license, without fee, covering the new place of business for the duration of the unexpired term of the surrendered license.

(4) As part of the application for a license, the applicant shall submit to the Department of State Police:

(i) A complete set of the applicant's legible fingerprints taken on standard fingerprint cards; and

(ii) Payment for the cost of the fingerprint card record checks.

(c) Every annual application for a REGULATED FIREARMS dealer's license shall bear the following legend: "Any false information supplied or statement made in this application is a crime which may be punished by imprisonment for a period of not more than 3 years, or a fine

of not more than \$5,000 or both."

(d) The application for a **REGULATED FIREARMS** dealer's license shall contain the following information:

(1) Applicant's name, address, **SOCIAL SECURITY NUMBER**, place and date of birth, height, weight, race, eye and hair color and signature. In the event the applicant is a corporation, the application shall be completed and executed by a corporate officer who is a resident of **THIS STATE**.

(2) A clear and recognizable photograph of the applicant, except where such photograph has been submitted with a prior year's application.

(3) A set of the applicant's fingerprints, except where such fingerprints have been submitted with a prior year's application.

(4) A statement by the applicant that he or she:

(i) Is a citizen of the United States.

(ii) Is at least 21 years of age.

(iii) Has never been convicted of:

1. A **CRIME OF VIOLENCE**;

2. ANY VIOLATION CLASSIFIED AS A **FELONY** IN THIS STATE;

3. ANY VIOLATION CLASSIFIED AS A **MISDEMEANOR** IN THIS STATE THAT CARRIES A STATUTORY PENALTY OF MORE THAN 2 YEARS; OR

4. ANY VIOLATION CLASSIFIED AS A **COMMON LAW** OFFENSE WHERE THE PERSON RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 2 YEARS.

(iv) Is not a fugitive from justice.

(v) Is not a habitual drunkard.

(vi) Is not an addict or a habitual user of ANY CONTROLLED DANGEROUS SUBSTANCES.

(vii) Has never spent more than thirty consecutive days in any medical institution for treatment of a mental disorder or disorders, unless there is attached to the application a physician's certificate, issued within thirty days prior to the date of application, certifying that the applicant is capable of possessing a pistol or revolver without undue danger to himself or herself, or to others.

(e) The Secretary shall conduct an investigation in order to determine the truth or falsity of the information supplied and statements made in an application for a **REGULATED FIREARMS** dealer's license. If it be thereupon determined that any false information or statement has been supplied or made by the applicant, **A WRITTEN NOTIFICATION IS RECEIVED FROM THE APPLICANT'S LICENSED ATTENDING PHYSICIAN THAT THE APPLICANT IS SUFFERING FROM A MENTAL DISORDER OR DISORDERS AND IS A DANGER TO HIMSELF OR HERSELF OR TO OTHERS**, or that the application has not been properly completed, the Secretary shall forward written notification to the prospective licensee of **THE SECRETARY'S** disapproval of said application.

(f) No person shall engage in the business of selling **REGULATED FIREARMS** whose application for a **REGULATED FIREARMS** dealer's license has been disapproved, unless such disapproval has been subsequently withdrawn by the Secretary or overruled by the action of the courts pursuant to subsection (g) below.

(g) Any person aggrieved by the action of the Secretary may appeal the disapproval of his or her application for a **REGULATED FIREARMS** dealer's license to the circuit court of the county where the applicant's intended place of business is to be conducted. Such appeal must be filed not later than thirty days from the date written notification of disapproval to the prospective licensee was mailed by the Secretary. The court wherein an appeal is properly and timely filed shall affirm or reverse the determination of disapproval rendered by the Secretary, depending upon whether it finds that any false information or statement was supplied or made by the applicant, or that the application was not properly completed. A further appeal to the Court of Special Appeals may be prosecuted by either the Secretary or the applicant from the decision reached by the circuit court in accordance with this subsection.

(H) **THE SECRETARY SHALL SUSPEND AN ISSUED REGULATED FIREARMS DEALER'S LICENSE BY WRITTEN NOTIFICATION FORWARDED TO THE LICENSEE UNDER ANY OF THE FOLLOWING CIRCUMSTANCES IF THE LICENSEE:**

(1) **IS UNDER INDICTMENT FOR A CRIME OF VIOLENCE; OR**

(2) **IS ARRESTED FOR ANY VIOLATION OF THIS SUBHEADING THAT WOULD PROHIBIT THE PURCHASE OR POSSESSION OF A REGULATED FIREARM.**

(I) The Secretary shall revoke an issued **REGULATED FIREARM** dealer's license, by written notification forwarded to the licensee, under any of the following circumstances:

(1) When it is discovered false information or statements have been supplied or made in an application required by this section; OR

(2) **IF THE LICENSEE:**

(I) **IS CONVICTED OF A CRIME OF VIOLENCE;**

(II) **IS CONVICTED OF ANY VIOLATION CLASSIFIED AS A FELONY IN THIS STATE;**

(III) IS CONVICTED OF ANY VIOLATION CLASSIFIED AS A MISDEMEANOR IN THIS STATE THAT CARRIES A STATUTORY PENALTY OF MORE THAN 2 YEARS;

(IV) IS CONVICTED OF ANY VIOLATION CLASSIFIED AS A COMMON LAW OFFENSE WHERE THE LICENSEE RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 2 YEARS;

(V) IS A FUGITIVE FROM JUSTICE;

(VI) IS A HABITUAL DRUNKARD;

(VII) IS ADDICTED TO OR A HABITUAL USER OF ANY CONTROLLED DANGEROUS SUBSTANCE;

(VIII) HAS SPENT MORE THAN 30 CONSECUTIVE DAYS IN ANY MEDICAL INSTITUTION FOR TREATMENT OF A MENTAL DISORDER OR DISORDERS, UNLESS THE LICENSEE PRODUCES A PHYSICIAN'S CERTIFICATE, ISSUED SUBSEQUENT TO THE LAST PERIOD OF INSTITUTIONALIZATION, CERTIFYING THAT THE LICENSEE IS CAPABLE OF POSSESSING A REGULATED FIREARM WITHOUT UNDUE DANGER TO HIMSELF OR HERSELF, OR OTHERS;

(IX) HAS KNOWINGLY OR WILLFULLY MANUFACTURED, OFFERED TO SELL, OR SOLD A HANDGUN NOT ON THE HANDGUN ROSTER IN VIOLATION OF § 36-1 OF THIS ARTICLE; OR

(X) HAS KNOWINGLY OR WILLFULLY PARTICIPATED IN A STRAW PURCHASE OF A REGULATED FIREARM.

(J) No person shall engage in the business of selling REGULATED FIREARMS whose REGULATED FIREARMS dealer's license has been SUSPENDED OR revoked, unless such SUSPENSION OR revocation has been subsequently withdrawn by the Secretary or overruled by the action of the courts pursuant to subsection (K) below.

(K) Any prospective dealer aggrieved by the action of the SECRETARY may request a hearing within 30 days from the date when written notice was forwarded to such aggrieved person by writing to the Secretary, who shall grant the hearing within 15 days of said request. Said hearing and subsequent proceedings of judicial review, if any, thereupon following shall be conducted in accordance with the provisions of the Administrative Procedure ACT. A revocation shall not take effect while an appeal is pending.

443A.

(A) (1) (i) A person who displays a regulated firearm for sale or transfer from a table or fixed display at a gun show shall first obtain a temporary transfer permit from the Secretary.

(ii) The cost of an initial temporary transfer permit each calendar year is \$10.

(iii) An additional temporary transfer permit during the same calendar year shall be issued without charge.

(iv) A person may not receive more than five temporary transfer permits during a single calendar year.

(v) A temporary transfer permit shall be clearly labeled "temporary" and shall include the statement: "This is not a license to engage in the business of selling firearms."

(vi) The application for a temporary transfer permit shall contain any information that is necessary for the Secretary to conduct a computer background investigation.

(vii) Every application for a temporary transfer permit shall bear the following statement: "Any false information supplied or statement made in this application is a crime which may be punished by imprisonment for a period of not more than 3 years or a fine of not more than \$5,000 or both."

(2) (i) The Secretary shall conduct an investigation to determine the truth or falsity of the information supplied, and the statements made in the application for a temporary transfer permit.

(ii) If There is no reason to disapprove the application for a temporary transfer permit, the Secretary shall issue the permit within 7 days of the date of application.

(3) The Secretary shall forward written notification of the disapproval to the applicant, if it is determined that:

(i) The application is improperly completed;

(ii) Any false information has been supplied; or

(iii) A false statement has been made.

(4) The temporary transfer permit shall be placed in public view as part of any display.

(5) Any person who holds a valid REGULATED FIREARMS dealer's license issued under § 443 of this article is exempt from the requirements of this subsection.

(B) Any sale or transfer of a regulated firearm from a table or a fixed display at a gun show shall be governed by the provisions of §§ 442, AND 442A of this article.

(C) Any person who, in any calendar year, displays a regulated firearm for sale, trade, or transfer more than five gun shows shall comply with § 443 of this article.

445.

(a) All restrictions imposed by the laws, ordinances or regulations of all subordinate jurisdictions within the State of Maryland on possession or transfers by private parties of **REGULATED FIREARMS** are superseded by this section and the State of Maryland hereby preempts the right of such jurisdictions to regulate the possession and transfer of **REGULATED FIREARMS**.

(b) A dealer or person may not sell, **RENT**, or transfer a **REGULATED FIREARM** to **ANY** person whom he knows or has reasonable cause to believe:

(1) **HAS BEEN CONVICTED OF:**

(I) **A CRIME OF VIOLENCE;**

(II) **ANY VIOLATION CLASSIFIED AS A FELONY IN THIS STATE OR ANY CONSPIRACY TO COMMIT ANY CRIMES ESTABLISHED BY THOSE SECTIONS;**

(III) **ANY VIOLATION CLASSIFIED AS A MISDEMEANOR IN THIS STATE THAT CARRIES A STATUTORY PENALTY OF MORE THAN 2 YEARS; OR**

(IV) **ANY VIOLATION CLASSIFIED AS A COMMON LAW OFFENSE WHERE THE PERSON RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 2 YEARS.**

(2) **IS:**

(I) **A FUGITIVE FROM JUSTICE;**

(II) **A HABITUAL DRUNKARD;**

(III) **ADDICTED TO OR A HABITUAL USER OF ANY CONTROLLED DANGEROUS SUBSTANCE OR SUBSTANCES;**

(IV) **SUFFERING FROM A MENTAL DISORDER AS DEFINED IN § 10-101(H)(2) OF THE HEALTH - GENERAL ARTICLE AND HAS A HISTORY OF VIOLENT BEHAVIOR AGAINST ANOTHER PERSON OR SELF, OR HAS BEEN CONFINED FOR MORE THAN 30 CONSECUTIVE DAYS TO A FACILITY AS DEFINED IN § 10-101 OF THE HEALTH - GENERAL ARTICLE, UNLESS THE PERSON POSSESSÈS A PHYSICIAN'S CERTIFICATION THAT THE PERSON IS CAPABLE OF POSSESSING A REGULATED FIREARM WITHOUT UNDUE DANGER TO THE PERSON OR TO OTHERS;**

(V) **VISIBLY UNDER THE INFLUENCE OF ALCOHOL OR DRUGS;**

(VI) **UNDER 21 YEARS OF AGE;**

(VII) **A PARTICIPANT IN A "STRAW PURCHASE" AS DEFINED IN §**

441 OF THIS ARTICLE; OR

(VIII) A RESPONDENT AGAINST WHOM A CURRENT NON EX PARTE CIVIL PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 4-506 OF THE FAMILY LAW ARTICLE.

(C) A PERSON MAY NOT SELL, RENT, OR TRANSFER:

(1) AMMUNITION SOLELY DESIGNED FOR A REGULATED FIREARM TO A PERSON WHO IS UNDER 21 YEARS OF AGE; OR

(2) A FIREARM, OTHER THAN A REGULATED FIREARM, AMMUNITION FOR A FIREARM, PEPPER MACE, OR OTHER DEADLY WEAPON TO A MINOR.

(D) A person may not possess a REGULATED FIREARM if the person:

(1) Has been convicted of:

(i) A crime of violence;

(ii) ANY VIOLATION CLASSIFIED AS A FELONY IN THIS STATE;

(III) ANY VIOLATION CLASSIFIED AS A MISDEMEANOR IN THIS STATE THAT CARRIES A STATUTORY PENALTY OF MORE THAN 2 YEARS; OR

(IV) ANY VIOLATION CLASSIFIED AS A COMMON LAW OFFENSE WHERE THE PERSON RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 2 YEARS.

(2) Is:

(i) A fugitive from justice;

(ii) A habitual drunkard;

(iii) ADDICTED TO OR A habitual USER OF ANY CONTROLLED DANGEROUS SUBSTANCES;

(iv) Suffering from a mental disorder as defined in § 10-101 (h) (2) of the Health - General Article and has a history of violent behavior against another person or self, or has been confined for more than 30 consecutive days to a facility as defined in § 10-101 of the Health - General Article, unless the person possesses a physician's certification that the person is capable of possessing a REGULATED FIREARM without undue danger to the person or to others; OR

(V) A RESPONDENT AGAINST WHOM A CURRENT NON EX PARTE CIVIL PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 4-506 OF THE FAMILY LAW ARTICLE.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON WHO IS UNDER 21 YEARS OF AGE MAY NOT POSSESS A REGULATED FIREARM OR AMMUNITION SOLELY DESIGNED FOR A REGULATED FIREARM.

(2) UNLESS A PERSON IS OTHERWISE PROHIBITED FROM POSSESSING A REGULATED FIREARM, THIS SUBSECTION DOES NOT APPLY TO:

(I) THE TEMPORARY TRANSFER OR POSSESSION OF A REGULATED FIREARM OR REGULATED FIREARM AMMUNITION IF THE PERSON IS UNDER 21 YEARS OF AGE AND IS:

1. UNDER THE SUPERVISION OF A PERSON AT LEAST 21 YEARS OF AGE WHO IS NOT PROHIBITED BY STATE OR FEDERAL LAW FROM POSSESSING FIREARMS; AND

2. ACTING WITH THE PERMISSION OF THE PARENT OR LEGAL GUARDIAN OF THE TRANSFEREE OR PERSON IN POSSESSION;

(II) THE TRANSFER BY INHERITANCE OF TITLE, AND NOT OF POSSESSION, OF A REGULATED FIREARM;

(III) A PERSON WHO IS A MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR OF THE NATIONAL GUARD WHILE PERFORMING OFFICIAL DUTIES;

(IV) THE TEMPORARY TRANSFER OR POSSESSION OF A REGULATED FIREARM OR REGULATED FIREARM AMMUNITION IF THE PERSON IS UNDER 21 YEARS OF AGE AND IS:

1. PARTICIPATING IN MARKSMANSHIP TRAINING OF A RECOGNIZED ORGANIZATION; AND

2. UNDER THE SUPERVISION OF A QUALIFIED INSTRUCTOR;

(V) A PERSON WHO IS REQUIRED TO POSSESS A REGULATED FIREARM FOR EMPLOYMENT PURPOSES AND HAS BEEN ISSUED A PERMIT UNDER § 36E OF THIS ARTICLE; OR

(VI) THE POSSESSION OF A FIREARM OR AMMUNITION FOR THE PURPOSE OF SELF-DEFENSE OR THE DEFENSE OF OTHERS AGAINST A TRESPASSER INTO THE RESIDENCE OF THE PERSON IN POSSESSION OR INTO A RESIDENCE IN WHICH THE PERSON IN POSSESSION IS AN INVITED GUEST.

445A.

(A) ANY PERSON WHO PURCHASES A REGULATED FIREARM FROM AN OUT-OF-STATE LICENSED IMPORTER, LICENSED MANUFACTURER, OR LICENSED

DEALER WHERE THE REGULATED FIREARM WILL BE OWNED BY THAT PERSON SHALL:

(1) HAVE THE LICENSED IMPORTER, LICENSED MANUFACTURER, OR LICENSED DEALER SHIP THE REGULATED FIREARM TO A REGULATED FIREARMS DEALER IN THIS STATE FOR PROCESSING; AND

(2) COMPLY WITH §§ 442 AND 442A OF THIS SUBHEADING.

(B) THE SECRETARY MAY WAIVE THE 7-DAY WAITING PERIOD FOR LAW ENFORCEMENT PERSONNEL OF THE UNITED STATES GOVERNMENT OR ANY AGENCY OR DEPARTMENT OF THE UNITED STATES, MEMBERS OF THE ARMED FORCES OF THE UNITED STATES OR OF THE NATIONAL GUARD, OR LAW ENFORCEMENT PERSONNEL OF THIS STATE OR ANY LOCAL AGENCY IN THIS STATE WHEN THE PERSON IS PURCHASING THE REGULATED FIREARM FOR USE WITHIN THE SCOPE OF HIS OR HER OFFICIAL DUTIES.

445B.

ANY REGULATED FIREARM SOLD, RENTED, TRANSFERRED, POSSESSED, RECEIVED, OR PURCHASED IN VIOLATION OF THIS SUBHEADING MAY BE SEIZED BY A LAW ENFORCEMENT AGENCY AS CONTRABAND AND, AFTER A FINDING OF GUILT, DISPOSED OF ACCORDING TO THE REGULATIONS OF THE SEIZING LAW ENFORCEMENT AGENCY.

446.

It shall be unlawful for any person to possess, sell, transfer or otherwise dispose of any stolen REGULATED FIREARM, knowing or having reasonable cause to believe same to have been stolen.

448.

THE SECRETARY SHALL PROMULGATE REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBHEADING.

449.

(A) ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF § 445(C) OF THIS SUBHEADING IS GUILTY OF A MISDEMEANOR AND UPON CONVICTION SHALL BE FINED NOT MORE THAN \$1,000 OR IMPRISONED FOR NOT MORE THAN 1 YEAR OR BOTH.

(B) ANY PERSON WHO KNOWINGLY GIVES ANY FALSE INFORMATION OR

MAKES ANY MATERIAL MISSTATEMENT IN AN APPLICATION TO PURCHASE A REGULATED FIREARM OR AN APPLICATION FOR A REGULATED FIREARMS DEALERS LICENSE SHALL BE GUILTY OF A MISDEMEANOR AND UPON CONVICTION BE FINED NOT MORE THAN \$5,000 OR IMPRISONED FOR NOT MORE THAN 3 YEARS, OR BOTH.

(C) ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF § 442A OF THIS SUBHEADING IS GUILTY OF A MISDEMEANOR AND SHALL UPON CONVICTION BE FINED NOT MORE THAN \$5,000 OR IMPRISONED FOR NOT MORE THAN 3 YEARS OR BOTH.

(D) ANY PERSON OR DEALER WHO IS A KNOWING PARTICIPANT IN A STRAW PURCHASE OF A REGULATED FIREARM TO A PROHIBITED PERSON OR TO A MINOR, OR TRANSPORTS REGULATED FIREARMS INTO THIS STATE FOR THE PURPOSE OF ILLEGAL SALE OR TRAFFICKING OF A REGULATED FIREARM SHALL BE GUILTY OF A MISDEMEANOR AND UPON CONVICTION BE FINED NOT MORE THAN \$25,000 OR IMPRISONED FOR NOT MORE THAN 10 YEARS, OR BOTH. EACH VIOLATION SHALL BE CONSIDERED A SEPARATE OFFENSE.

(E) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ANY DEALER OR PERSON WHO KNOWINGLY PARTICIPATES IN THE ILLEGAL SALE, RENTAL, TRANSFER, PURCHASE, POSSESSION, OR RECEIPT OF A REGULATED FIREARM IN VIOLATION OF THIS SUBHEADING SHALL BE GUILTY OF A MISDEMEANOR AND UPON CONVICTION SHALL BE FINED NOT MORE THAN \$10,000 OR IMPRISONED FOR NOT MORE THAN 5 YEARS, OR BOTH. EACH VIOLATION SHALL BE CONSIDERED A SEPARATE OFFENSE.

Crimes and Punishments - Code Grabbing Devices - Prohibited

BY adding to

Article 27 - Crimes and Punishments

Section 40B to be under the new subheading "Code Grabbing"

Annotated Code of Maryland

(1992 Replacement Volume and 1995 Supplement)

CODE GRABBING

40B.

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

(1) "CODE GRABBING DEVICE" MEANS A DEVICE THAT IS CAPABLE

OF RECEIVING AND RECORDING THE CODED SIGNAL SENT BY THE TRANSMITTER OF AN ELECTRONIC SECURITY SYSTEM AND PLAYING BACK THE SIGNAL TO DISARM THE ELECTRONIC SECURITY SYSTEM.

(2) "ELECTRONIC SECURITY SYSTEM" INCLUDES:

- (I) AN ELECTRONIC HOME SECURITY SYSTEM;
- (II) A MOTOR VEHICLE SECURITY ALARM SYSTEM;
- (III) AN AUTOMATIC GARAGE DOOR OPENER; AND
- (IV) A HOME DETENTION MONITORING DEVICE.

(B) A PERSON MAY NOT MANUFACTURE, SELL, USE, OR POSSESS A CODE GRABBING DEVICE WITH THE INTENT FOR THE CODE GRABBING DEVICE TO BE USED IN THE COMMISSION OF A CRIME.

(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR A TERM OF IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

Trademark Counterfeiting

BY adding to

Article 27 - Crimes and Punishments

Section 48A

Annotated Code of Maryland

(1992 Replacement Volume and 1995 Supplement)

48A.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "COUNTERFEIT MARK" MEANS:

(I) AN UNAUTHORIZED REPRODUCTION OR COPY OF INTELLECTUAL PROPERTY; OR

(II) INTELLECTUAL PROPERTY AFFIXED TO ITEMS KNOWINGLY SOLD, OFFERED FOR SALE, MANUFACTURED, OR DISTRIBUTED, OR IDENTIFYING SERVICES OFFERED OR RENDERED, WITHOUT THE AUTHORITY OF THE OWNER OF THE INTELLECTUAL PROPERTY.

(3) "INTELLECTUAL PROPERTY" MEANS A TRADEMARK, SERVICE MARK, TRADE NAME, LABEL, TERM, DEVICE, DESIGN, OR WORD ADOPTED OR USED BY A PERSON TO IDENTIFY THE PERSON'S GOODS OR SERVICES.

(4) "RETAIL VALUE" MEANS:

(I) THE TRADEMARK COUNTERFEITER'S SELLING PRICE FOR THE ITEMS OR SERVICES BEARING OR IDENTIFIED BY THE COUNTERFEIT MARK; OR

(II) THE TRADEMARK COUNTERFEITER'S SELLING PRICE OF THE FINISHED PRODUCT, IF ITEMS BEARING A COUNTERFEIT MARK ARE COMPONENTS OF A FINISHED PRODUCT.

(B) A PERSON COMMITS THE OFFENSE OF TRADEMARK COUNTERFEITING WHEN THE PERSON WILLFULLY MANUFACTURES, PRODUCES, DISPLAYS, ADVERTISES, DISTRIBUTES, OFFERS FOR SALE, SELLS, OR POSSESSES WITH THE INTENT TO SELL OR DISTRIBUTE ITEMS OR SERVICES THAT THE PERSON KNOWS ARE BEARING OR IDENTIFIED BY A COUNTERFEIT MARK.

(C) A PERSON CONVICTED OF TRADEMARK COUNTERFEITING WHERE THE AGGREGATE RETAIL VALUE THE ITEMS OR SERVICES IS \$1,000 OR GREATER IS GUILTY OF A FELONY AND SHALL:

(1) TRANSFER ALL OF THE ITEMS TO THE OWNER OF THE INTELLECTUAL PROPERTY; AND

(2) BE FINED NOT MORE THAN \$10,000 OR IMPRISONED FOR NOT MORE THAN 15 YEARS OR BOTH.

(D) (1) A PERSON CONVICTED OF TRADEMARK COUNTERFEITING WHERE THE AGGREGATE RETAIL VALUE OF THE ITEMS OR SERVICES IS LESS THAN \$1,000 IS GUILTY OF A MISDEMEANOR AND SHALL:

(I) TRANSFER ALL OF THE ITEMS TO THE OWNER OF THE INTELLECTUAL PROPERTY; AND

(II) BE FINED NOT MORE THAN \$1,000 OR IMPRISONED FOR NOT MORE THAN 18 MONTHS OR BOTH.

(2) ALL ACTIONS OR PROSECUTIONS FOR TRADEMARK COUNTERFEITING WHERE THE AGGREGATE RETAIL VALUE OF THE ITEMS OR SERVICES IS LESS THAN \$1,000 SHALL BE COMMENCED WITHIN 2 YEARS AFTER THE COMMISSION OF THE OFFENSE.

(E) A PERSON CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF SUBSECTION (D) OF THIS SECTION IS SUBJECT TO A FINE OF NOT MORE THAN \$5,000.

(F) AN ITEM BEARING A COUNTERFEIT MARK IS SUBJECT TO SEIZURE BY A LAW ENFORCEMENT OFFICER FOR PRESERVATION OF THE ITEM FOR TRANSFER TO THE OWNER OF THE INTELLECTUAL PROPERTY UNDER AN AGREEMENT WITH THE PERSON ALLEGED TO HAVE COMMITTED THE OFFENSE OR AFTER CONVICTION UNDER THIS SECTION.

(G) STATE OR FEDERAL REGISTRATION OF INTELLECTUAL PROPERTY IS PRIMA FACIE EVIDENCE THAT THE INTELLECTUAL PROPERTY IS A TRADEMARK OR TRADE NAME.

Crimes - Inhalants - Nitrous Oxide

**BY repealing and reenacting, with amendments,
Article 27 - Crimes and Punishments
Section 301 and 301A
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)**

301.

(a) It is unlawful for any person to deliberately smell or inhale such excessive quantities of any drugs, or any other noxious substances or chemicals containing WHOLLY OR IN PART any ketones, aldehydes, butyl nitrite, NITROUS OXIDE, methyl benzene, organic acetates, ether, chlorinated hydrocarbons, fluorinated hydrocarbons, or any other substances containing solvents releasing toxic vapors, as cause conditions of intoxication, inebriation, excitement, stupefaction or dulling of the brain or nervous system. This section applies with particularity to fingernail polish, model airplane glue, or any other substance or chemical which has the aforementioned effect upon the brain or nervous system when smelled or inhaled; provided, that nothing in this section shall be interpreted as applying to the inhalation of any anaesthesia for medical or dental purposes, and further provided, that nothing in this section shall be interpreted as applying to the controlled dangerous substances as defined in this subheading.

(b) Any person violating any provision of this section is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$500, or imprisonment not exceeding six months, or both.

301A.

(a) No person may distribute, or possess with intent to distribute, to any OTHER PERSON any of the substances enumerated in § 301 of this article if such distribution is with the intent to induce unlawful inhaling of the substance or is with the knowledge that the OTHER PERSON will unlawfully inhale the substance.

(b) No person may instruct ANOTHER PERSON in the practice of unlawful inhaling as

defined in § 301 of this article.

(c) A person WHO VIOLATES any provision of this section is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$500, or imprisonment not exceeding 18 months, or both.

(d) A person found guilty of a second or subsequent violation of any provision of this section is subject to a fine not exceeding \$1,000, or imprisonment not exceeding 3 years, or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health and safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Crimes - Homicide or Life Threatening Injury - Motor Vehicle or Vessel

BY renumbering

Article 27 - Crimes and Punishments
Section 388B
to be Section 388C
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)

BY repealing and reenacting, with amendments,

Article 27 - Crimes and Punishments
Section 388A
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)

BY adding to

Article 27 - Crimes and Punishments
Section 388B
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 388B of Article 27 - Crimes and Punishments of the Annotated Code of Maryland be renumbered to be Section(s) 388C.

388A.

(a) (1) In this section the following words have the meanings indicated.

(2) "Intoxicated per se" means an alcohol concentration at the time of testing of 0.10 or more as measured by grams of alcohol per 100 milliliters of blood or grams of alcohol

per 210 liters of breath.

(3) "Under the influence of alcohol" has the meaning indicated in and is subject to the same presumptions and evidentiary rules of § 10-307 of the Courts Article regarding driving while under the influence of alcohol under § 21-902(b) of the Transportation Article.

(4) "UNDER THE INFLUENCE OF DRUGS" MEANS SO FAR UNDER THE INFLUENCE OF A DRUG, A COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL THAT A PERSON CANNOT DRIVE, OPERATE, OR CONTROL A MOTOR VEHICLE OR VESSEL SAFELY.

(5) "UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE" MEANS UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE, AS THAT TERM IS DEFINED IN § 279 OF THIS ARTICLE, IF THE PERSON IS NOT ENTITLED TO USE THE CONTROLLED, DANGEROUS SUBSTANCE UNDER THE LAWS OF THIS STATE.

(b) Any person causing the death of another as the result of the person's negligent driving, operation, or control of a motor vehicle or vessel while intoxicated or intoxicated per se is guilty of a misdemeanor to be known as "homicide by motor vehicle or vessel while intoxicated", and the person so convicted shall be punished by imprisonment for not more than 5 years, or by fine of not more than \$5,000 or both fine and imprisonment.

(c) A person who causes the death of another as the result of the person's negligent driving, operation, or control of a motor vehicle or vessel while under the influence of alcohol is guilty of a misdemeanor to be known as "homicide by motor vehicle or vessel while under the influence", and on conviction shall be punished by imprisonment for not more than 3 YEARS or a fine of not more than \$5,000 or both.

(D) (1) A PERSON WHO CAUSES THE DEATH OF ANOTHER AS THE RESULT OF THE PERSON'S NEGLIGENT DRIVING, OPERATION, OR CONTROL OF A MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF DRUGS IS GUILTY OF A MISDEMEANOR TO BE KNOWN AS "HOMICIDE BY MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF DRUGS", AND ON CONVICTION SHALL BE PUNISHED BY IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR A FINE OF NOT MORE THAN \$5,000 OR BOTH.

(2) IT IS NOT A DEFENSE TO ANY CHARGE OF VIOLATING THIS SUBSECTION THAT THE PERSON CHARGED IS OR WAS ENTITLED UNDER THE LAWS OF THIS STATE TO USE THE DRUG, COMBINATION OF DRUGS, OR COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, UNLESS THE PERSON WAS UNAWARE THAT THE DRUG OR COMBINATION WOULD MAKE THE PERSON INCAPABLE OF SAFELY DRIVING, OPERATING, OR CONTROLLING A MOTOR VEHICLE OR VESSEL.

(E) A PERSON WHO CAUSES THE DEATH OF ANOTHER AS THE RESULT OF THE PERSON'S NEGLIGENT DRIVING, OPERATION, OR CONTROL OF A MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF A CONTROLLED

DANGEROUS SUBSTANCE IS GUILTY OF A MISDEMEANOR TO BE KNOWN AS "HOMICIDE BY MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE", AND ON CONVICTION SHALL BE PUNISHED BY IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR A FINE OF NOT MORE THAN \$5,000 OR BOTH.

(F) (1) In any indictment, information, or other charging document under this section, it is not necessary to set forth the manner and means of death.

(2) It shall be sufficient to use a formula substantially to the following effect:

(i) "That A-B on the day of....., nineteen hundred and at the County (City) aforesaid, unlawfully, while intoxicated did kill C-D, against the peace, government, and dignity of the State.";

(ii) "That A-B on the.....day of....., nineteen hundred and at the County (City) aforesaid, unlawfully, while under the influence of alcohol, did kill C-D, against the peace, government, and dignity of the State.";

(III) "THAT A-B ON THE DAY OF....., NINETEEN HUNDRED AND AT THE COUNTY (CITY) AFORESAID, UNLAWFULLY, WHILE UNDER THE INFLUENCE OF DRUGS, DID KILL C-D, AGAINST THE PEACE, GOVERNMENT AND DIGNITY OF THE STATE."; OR

(IV) "THAT A-B ON THE DAY OF....., NINETEEN HUNDRED AND AT THE COUNTY (CITY) AFORESAID, UNLAWFULLY, WHILE UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE, DID KILL C-D, AGAINST THE PEACE, GOVERNMENT, AND DIGNITY OF THE STATE.".

388B.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "INTOXICATED PER SE" MEANS AN ALCOHOL CONCENTRATION AT THE TIME OF TESTING OF 0.10 OR MORE AS MEASURED BY GRAMS OF ALCOHOL PER 100 MILLILITERS OF BLOOD OR GRAMS OF ALCOHOL PER 210 LITERS OF BREATH.

(3) "UNDER THE INFLUENCE OF ALCOHOL" HAS THE MEANING INDICATED IN AND IS SUBJECT TO THE SAME PRESUMPTIONS AND EVIDENTIARY RULES OF § 10-307 OF THE COURTS ARTICLE REGARDING DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL UNDER § 21-902(B) OF THE TRANSPORTATION ARTICLE.

(4) "UNDER THE INFLUENCE OF DRUGS" MEANS SO FAR UNDER THE INFLUENCE OF A DRUG, A COMBINATION OF DRUGS, OR A COMBINATION OF ONE

OR MORE DRUGS AND ALCOHOL THAT A PERSON CANNOT DRIVE, OPERATE, OR CONTROL A MOTOR VEHICLE OR VESSEL SAFELY.

(5) "UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE" MEANS UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE, AS THAT TERM IS DEFINED IN § 279 OF THIS ARTICLE, IF THE PERSON IS NOT ENTITLED TO USE THE CONTROLLED DANGEROUS SUBSTANCE UNDER THE LAWS OF THIS STATE.

(B) A PERSON WHO CAUSES A LIFE THREATENING INJURY TO ANOTHER AS A RESULT OF THE PERSON'S NEGLIGENT DRIVING, OPERATION, OR CONTROL OF A MOTOR VEHICLE OR VESSEL WHILE INTOXICATED OR INTOXICATED PER SE IS GUILTY OF A MISDEMEANOR TO BE KNOWN AS "LIFE THREATENING INJURY BY MOTOR VEHICLE OR VESSEL WHILE INTOXICATED OR INTOXICATED PER SE", AND ON CONVICTION THE PERSON SHALL BE PUNISHED BY IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR A FINE OF NOT MORE THAN \$5,000 OR BOTH.

(C) A PERSON WHO CAUSES A LIFE THREATENING INJURY TO ANOTHER AS A RESULT OF THE PERSON'S NEGLIGENT DRIVING, OPERATION, OR CONTROL OF A MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF ALCOHOL IS GUILTY OF A MISDEMEANOR TO BE KNOWN AS "LIFE THREATENING INJURY BY MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF ALCOHOL", AND ON CONVICTION THE PERSON SHALL BE PUNISHED BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$3,000 OR BOTH.

(D) A PERSON WHO CAUSES A LIFE THREATENING INJURY TO ANOTHER AS A RESULT OF THE PERSON'S NEGLIGENT DRIVING, OPERATION, OR CONTROL OF A MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF DRUGS IS GUILTY OF A MISDEMEANOR TO BE KNOWN AS "LIFE THREATENING INJURY BY MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF DRUGS", AND ON CONVICTION THE PERSON SHALL BE PUNISHED BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$3,000 OR BOTH.

(E) A PERSON WHO CAUSES A LIFE THREATENING INJURY TO ANOTHER AS A RESULT OF THE PERSON'S NEGLIGENT DRIVING, OPERATION, OR CONTROL OF A MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE IS GUILTY OF A MISDEMEANOR TO BE KNOWN AS "LIFE THREATENING INJURY BY MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE", AND ON CONVICTION THE PERSON SHALL BE PUNISHED BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$3,000 OR BOTH.

(F) (1) IN ANY INDICTMENT, INFORMATION, OR OTHER CHARGING DOCUMENT UNDER THIS SECTION, IT IS NOT NECESSARY TO SET FORTH THE MANNER AND MEANS OF THE LIFE THREATENING INJURY.

(2) IT SHALL BE SUFFICIENT TO USE A FORMULA SUBSTANTIALLY TO THE FOLLOWING EFFECT:

(I) "THAT A-B ON THE DAY OF.....,NINETEEN HUNDRED AND.....AT THE COUNTY (CITY) AFORESAID, UNLAWFULLY WHILE INTOXICATED, DID CAUSE A LIFE THREATENING INJURY TO C-D, AGAINST THE PEACE, GOVERNMENT, AND DIGNITY OF THE STATE.";

(II) "THAT A-B ON THE DAY OF....., NINETEEN HUNDRED AND AT THE COUNTY (CITY) AFORESAID, UNLAWFULLY, WHILE UNDER THE INFLUENCE OF ALCOHOL, DID CAUSE A LIFE THREATENING INJURY TO C-D, AGAINST THE PEACE, GOVERNMENT, AND DIGNITY OF THE STATE.";

(III) "THAT A-B ON THE DAY OF....., NINETEEN HUNDRED AND.....AT THE COUNTY (CITY) AFORESAID, UNLAWFULLY, WHILE UNDER THE INFLUENCE OF DRUGS, DID CAUSE A LIFE THREATENING INJURY TO C-D, AGAINST THE PEACE, GOVERNMENT, AND DIGNITY OF THE STATE."; OR

(IV) "THAT A-B ON THE DAY OF....., NINETEEN HUNDRED AND..... AT THE COUNTY (CITY) AFORESAID, UNLAWFULLY, WHILE UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE, DID CAUSE A LIFE THREATENING INJURY TO C-D, AGAINST THE PEACE, GOVERNMENT, AND DIGNITY OF THE STATE.".

False Age Identification Cards - Possession - Prohibited

BY adding to

Article 27 - Crimes and Punishments

Section 400B to be under the amended subheading "Alcoholic Beverages Offenses and Misrepresentation of Age"

Annotated Code of Maryland

(1992 Replacement Volume and 1995 Supplement)

Alcoholic Beverages Offenses AND MISREPRESENTATION OF AGED

400B.

AN INDIVIDUAL UNDER THE AGE OF 21 YEARS MAY NOT POSSESS A CARD OR DOCUMENT THAT FALSELY IDENTIFIES THE AGE OF THE INDIVIDUAL UNDER CIRCUMSTANCES THAT REASONABLY INDICATE AN INTENTION TO VIOLATE THE PROVISIONS OF THIS SUBHEADING.

Alcoholic Beverages - Possession or Consumption Adult Responsibility

**BY repealing and reenacting, with amendments,
Article 27 - Crimes and Punishments
Section 401A
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)**

401A.

(a) Except as provided in subsection (C) of this section, a person may not furnish any alcoholic beverage to another person if:

(1) The person furnishing the beverage knows that the person is under 21 years of age; and

(2) The alcoholic beverage is furnished for the purpose of consumption by the person under 21 years of age.

(b) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN ADULT MAY NOT KNOWINGLY AND WILLFULLY ALLOW AN INDIVIDUAL UNDER 21 YEARS OF AGE TO ACTUALLY POSSESS OR CONSUME AN ALCOHOLIC BEVERAGE AT THE RESIDENCE, OR WITHIN THE CURTILAGE OF THE RESIDENCE, THAT:

(1) THE ADULT OWNS AND IN WHICH THE ADULT RESIDES; OR

(2) THE ADULT LEASES AS A TENANT AND IN WHICH THE ADULT RESIDES.

(C) (1) THE PROHIBITION SET FORTH IN SUBSECTION (A) OF THIS SECTION DOES NOT APPLY IF THE PERSON FURNISHING THE ALCOHOLIC BEVERAGE AND THE PERSON TO WHOM THE ALCOHOLIC BEVERAGE IS SERVED:

(I) Are members of the same immediate family, and the beverage is furnished and consumed in a private residence OR WITHIN THE CURTILAGE OF THE RESIDENCE; or

(II) Are participants in a religious ceremony.

(2) THE PROHIBITION SET FORTH IN SUBSECTION (B) OF THIS SECTION DOES NOT APPLY IF THE ADULT ALLOWING THE POSSESSION OR CONSUMPTION OF THE ALCOHOLIC BEVERAGE AND THE INDIVIDUAL UNDER THE AGE OF 21 YEARS WHO POSSESSES OR CONSUMES THE ALCOHOLIC BEVERAGE:

(I) ARE MEMBERS OF THE SAME IMMEDIATE FAMILY, AND THE BEVERAGE IS POSSESSED AND CONSUMED IN A PRIVATE RESIDENCE, OR WITHIN THE CURTILAGE OF THE RESIDENCE, OF THE ADULT; OR

(II) ARE PARTICIPANTS IN A RELIGIOUS CEREMONY.

Homicide - Prosecution - "Year and a Day" Rule Abolished

By Repealing

Article 27 - Crimes and Punishments
The subheading designation "Musical Instruments"
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)

By adding to

Article 27 - Crimes and Punishments
Section 415 to be under the new subheading "Homicide - Prosecution"
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)

HOMICIDE - PROSECUTION

415.

A PROSECUTION FOR MURDER OR MANSLAUGHTER, WHETHER AT COMMON LAW OR UNDER ARTICLE 27, §§ 407 THROUGH 411, § 387, § 388, OR § 388A, MAY BE INSTITUTED REGARDLESS OF THE TIME ELAPSED BETWEEN THE ACT OR OMISSION CAUSING THE DEATH OF THE VICTIM AND THE DEATH OF THE VICTIM.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed only prospectively and may not be applied or interpreted to have any effect on or application to any offenses that were committed before the effective date of this Act.

Child Pornography - Computers

BY repealing and reenacting, with amendments,

Article 27 - Crimes and Punishments
Section 419A
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)

419A.

(a) In this section "minor" means an individual under 18 years of age.

(b) Every person who solicits, causes, induces, or knowingly permits a minor to engage as a subject in the production of any obscene matter or any visual representation or performance that depicts a minor engaged as a subject in sexual conduct OR SADOMASOCHISTIC ABUSE as defined in § 416A of this article is subject to the penalty provided in subsection (F) of this section.

(c) Every person who photographs, films, OR BY MEANS OF COMPUTER DEPICTS OR DESCRIBES a minor engaging in an obscene act or engaging in sexual conduct OR SADOMASOCHISTIC ABUSE as defined in § 416A of this article is subject to the penalty provided in subsection (F) of this section.

(d) Every person who knowingly promotes, distributes, or possesses with intent to distribute any matter or other visual representation or performance that depicts a minor engaged as a subject in sexual conduct OR SADOMASOCHISTIC ABUSE, as defined in § 416A of this article, is subject to the penalty provided in subsection (F) of this section.

(E) EVERY PERSON WHO, BY MEANS OF COMPUTER, KNOWINGLY COMPILES, ENTERS, TRANSMITS, MAKES, PRINTS, PUBLISHES, REPRODUCES, CAUSES, ALLOWS, BUYS, SELLS, RECEIVES, EXCHANGES, OR DISSEMINATES ANY NOTICE, STATEMENT, ADVERTISEMENT, OR MINOR'S NAME, TELEPHONE NUMBER, PLACE OF RESIDENCE, PHYSICAL CHARACTERISTICS, OR OTHER DESCRIPTIVE OR IDENTIFYING INFORMATION FOR THE PURPOSE OF ENGAGING, FACILITATING, ENCOURAGING, OFFERING, OR SOLICITING UNLAWFUL SEXUAL CONDUCT OR SADOMASOCHISTIC ABUSE AS DEFINED IN § 416A OF THIS ARTICLE OF OR WITH ANY MINOR IS SUBJECT TO THE PENALTY PROVIDED IN SUBSECTION (F) OF THIS SECTION.

(F) (1) Every person who violates the provisions of this section is guilty of a felony and upon conviction shall be fined not more than \$25,000 or imprisoned for 10 years, or both in the discretion of the court.

(2) A person who is convicted of a subsequent violation of this section is subject to a fine not exceeding \$50,000 or imprisonment not exceeding 20 years, or both in the discretion of the court.

(G) (1) In any action brought under this section, where the minor's identity is unknown or where the minor is outside the jurisdiction, the State's Attorney is not required to identify or produce testimony from the minor who is depicted in the obscene matter or in any visual representation or performance that depicts the minor engaged as a subject in sexual conduct OR SADOMASOCHISTIC ABUSE as defined in § 416A of this article.

(2) The court or jury may determine whether an individual who is depicted in any obscene matter, or any visual representation or performance as the subject in sexual conduct OR SADOMASOCHISTIC ABUSE as defined in § 416A of this article, was a minor by observation of the matter depicting the individual, oral testimony by a witness to the production of the matter, expert medical testimony, or any other method authorized by an applicable provision of law or rule of evidence.

Correctional Officers - County and Municipal Facilities - Power to Make Arrests

**BY repealing and reenacting, with amendments,
Article 27 - Crimes and Punishments
Section 594B
Annotated Code Of Maryland
(1992 Replacement Volume and 1995 Supplement)**

**BY adding to
Article 27- Crimes and Punishments
Section 684B
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)**

594B.

(Q) CORRECTIONAL OFFICERS DESIGNATED BY THE HEAD ADMINISTRATIVE OFFICER OF A COUNTY OR MUNICIPAL CORRECTIONAL FACILITY UNDER § 684B OF THIS ARTICLE HAVE THE SAME POWERS OF ARREST FOR INDIVIDUALS ON THE PROPERTY OF THE FACILITY AS ARE SET FORTH IN THIS SECTION FOR POLICE OFFICERS.

684B.

(A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AND SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE HEAD ADMINISTRATIVE OFFICER OF A COUNTY OR MUNICIPAL CORRECTIONAL FACILITY MAY DESIGNATE CORRECTIONAL OFFICERS EMPLOYED BY THE FACILITY TO HAVE THE POWER TO MAKE ARRESTS AS AUTHORIZED BY § 594B (Q) OF THIS ARTICLE.

(B) CORRECTIONAL OFFICERS EMPOWERED TO MAKE ARRESTS UNDER § 594B(Q) OF THIS ARTICLE SHALL MEET THE MINIMUM QUALIFICATIONS, AND SATISFACTORILY COMPLETE THE TRAINING, REQUIRED BY THE MARYLAND POLICE TRAINING COMMISSION.

(C) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO A SHERIFF WHO ACTS AS A HEAD ADMINISTRATIVE OFFICER OF A COUNTY CORRECTIONAL FACILITY.

Crimes - Wireless Telephone Cloning

**By adding to
Article 27 - Crimes and Punishments
Section 557D
Annotated Code of Maryland**

557D.

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

(1) "CLONE" MEANS TO CONVERT A WIRELESS TELEPHONE WITH THE ELECTRONIC SERIAL NUMBER AND THE WIRELESS TELEPHONE NUMBER WHICH HAVE BEEN OBTAINED FROM A REGISTERED WIRELESS TELEPHONE WITHOUT THE CONSENT OF THE TELECOMMUNICATION SERVICE PROVIDER.

(2) "READER" MEANS AN ELECTRONIC SERIAL NUMBER RECORDING DEVICE WHICH IS CAPABLE OF, OR HAS BEEN ALTERED, MODIFIED, PROGRAMMED, OR RE-PROGRAMMED SO AS TO BE CAPABLE OF ACQUIRING OR FACILITATING THE ACQUISITION OF A TELECOMMUNICATION SERVICE WITHOUT THE CONSENT OF THE TELECOMMUNICATION SERVICE PROVIDER.

(3) "MANUFACTURE" MEANS TO PRODUCE OR ASSEMBLE, MODIFY, ALTER, PROGRAM, OR RE-PROGRAM ANY WIRELESS TELEPHONE OR READER WITHOUT THE CONSENT OF THE TELECOMMUNICATION SERVICE PROVIDER.

(4) "REGISTERED WIRELESS TELEPHONE" MEANS A WIRELESS TELEPHONE REGISTERED WITH A TELECOMMUNICATION SERVICE PROVIDER FOR A FEE AS SET BY THE TELECOMMUNICATION SERVICE PROVIDER.

(5) "SELL" MEANS TO SELL, EXCHANGE, GIVE, OR DISPOSE OF, TO ANOTHER, OR TO OFFER OR AGREE TO DO THE SAME.

(6) "TELECOMMUNICATION SERVICE" INCLUDES ANY SERVICE PROVIDED FOR A CHARGE OR COMPENSATION TO FACILITATE THE ORIGINATION, TRANSMISSION, EMISSION, OR RECEPTION OF SIGNS, SIGNALS, WRITINGS, IMAGES AND SOUNDS OR INTELLIGENCE OF ANY NATURE BY TELEPHONE, INCLUDING WIRELESS TELEPHONES.

(7) "TELECOMMUNICATION SERVICE PROVIDER" MEANS A PERSON OR ENTITY PROVIDING TELECOMMUNICATIONS SERVICE INCLUDING, BUT NOT LIMITED TO, A WIRELESS TELEPHONE COMPANY WHICH, FOR A FEE, SUPPLIES THE FACILITY, CELL, SITE, WIRELESS TELEPHONE SWITCHING OFFICE, OR OTHER EQUIPMENT OR TELECOMMUNICATION SERVICE.

(8) "WIRELESS TELEPHONE" MEANS ANY EQUIPMENT OR INSTRUMENT THAT TRANSMITS:

(I) CELLULAR TELEPHONE SERVICE;

(II) PERSONAL COMMUNICATION SERVICE; OR

**(III) ANY OTHER COMMERCIAL MOBILE RADIO SERVICE AS
DEFINED BY THE FEDERAL COMMUNICATIONS COMMISSION.**

**(B) (1) A PERSON MAY NOT KNOWINGLY POSSESS OR USE A CLONED
WIRELESS TELEPHONE.**

(2) A PERSON MAY NOT KNOWINGLY POSSESS A READER.

**(3) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN
\$2,500 OR IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR BOTH.**

**(C) (1) A PERSON MAY NOT KNOWINGLY POSSESS WITH INTENT TO
DISTRIBUTE, MANUFACTURE, OR SELL A CLONED WIRELESS
TELEPHONE.**

**(2) A PERSON MAY NOT KNOWINGLY USE, POSSESS WITH INTENT TO
DISTRIBUTE, MANUFACTURE, OR SELL A READER.**

**(3) ANY PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
FELONY AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$10,000
OR IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR BOTH.**

Criminal Records - Expungement - Criminal and Traffic Offenses

**BY repealing and reenacting, with amendments,
Article 27 - Crimes and Punishments
Section 738
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)**

738.

**(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, FOR
purposes of this subtitle, two or more charges arising from the same incident, transaction, or set
of facts, shall be considered as a unit. If a person is not entitled to an expungement of any one
charge of a unit, he is not entitled to expungement of the other charges in the unit.**

**(B) IF A PERSON IS CHARGED WITH A VIOLATION OF ANY PROVISION OF
THE MARYLAND VEHICLE LAW OR ANY OTHER TRAFFIC LAW, ORDINANCE, OR
REGULATION:**

**(1) THE VIOLATION MAY NOT BE CONSIDERED AS PART OF A UNIT
UNDER SUBSECTION (A) OF THIS SECTION; AND**

(2) THE DISPOSITION ENTERED ON THE VIOLATION MAY NOT PRECLUDE EXPUNGEMENT OF ANY CRIMINAL CHARGE THAT ARISES FROM THE SAME INCIDENT, TRANSACTION, OR SET OF FACTS IF THE PERSON IS OTHERWISE ENTITLED TO AN EXPUNGEMENT OF THE CHARGE.

Court Costs - State Aid for Police Protection, Criminal Injuries Compensation, and Victim and Witness Protection and Relocation

BY adding to

Article 27 - Crime and Punishments

Section 770A

Annotated Code of Maryland

(1992 Replacement Volume and 1995 Supplement)

770A.

(A) (1) THERE IS A VICTIM AND WITNESS PROTECTION AND RELOCATION FUND.

(2) THE FUND IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(3) THE TREASURER SHALL SEPARATELY HOLD AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(4) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

(5) ANY INVESTMENT EARNINGS OR FEDERAL MATCHING FUNDS RECEIVED BY THE STATE FOR VICTIM AND WITNESS PROTECTION OR RELOCATION SHALL BE RETAINED TO THE CREDIT OF THE FUND.

(6) THE FUND SHALL BE SUBJECT TO AN AUDIT BY THE OFFICE OF LEGISLATIVE AUDITS AS PROVIDED UNDER § 2-1215 OF THE STATE GOVERNMENT ARTICLE.

(7) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE FUND FROM RECEIVING FUNDS FROM ANY OTHER SOURCE.

(B) THE FUND SHALL BE USED TO FUND THE VICTIM AND WITNESS PROTECTION AND RELOCATION PROGRAM UNDER § 770 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That, in Fiscal Year 1996, any unspent balance of an appropriation to the Victim and Witness Protection and Relocation Program shall revert to the Victim and Witness Protection and Relocation Fund.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1996.

Victims' Rights - Notification Procedures

**BY adding to
Article 27 - Crimes and Punishments
Section 773
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)**

773.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "VICTIM" MEANS AN INDIVIDUAL WHO SUFFERS DIRECT OR THREATENED PHYSICAL, EMOTIONAL, OR FINANCIAL HARM AS A DIRECT RESULT OF A CRIME OR DELINQUENT ACT, INCLUDING A FAMILY MEMBER OR GUARDIAN OF A MINOR, INCOMPETENT, OR HOMICIDE VICTIM.

(3) "CLERK" MEANS THE CLERK OF A CIRCUIT COURT OR THE CLERK OF A COURT SITTING AS THE JUVENILE COURT, AS THE CONTEXT REQUIRES.

(4) "STATE'S ATTORNEY" INCLUDES:

(I) THE STATE'S ATTORNEY'S DESIGNEE; AND

(II) AT THE TRIAL LEVEL, THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE.

(B) ON FIRST CONTACT WITH A VICTIM, A LAW ENFORCEMENT OFFICER, DISTRICT COURT COMMISSIONER, OR JUVENILE INTAKE OFFICER SHALL GIVE THE VICTIM A COPY OF THE PAMPHLET DESCRIBED IN § 9-1705(8)(I) OF THE STATE GOVERNMENT ARTICLE.

(C) (1) WITHIN 10 DAYS AFTER THE LATER OF THE FILING OR THE UNSEALING OF AN INDICTMENT OR INFORMATION IN CIRCUIT COURT, THE STATE'S ATTORNEY SHALL:

(I) MAIL OR OTHERWISE DELIVER TO THE VICTIM A COPY OF THE PAMPHLET DESCRIBED IN § 9-1705(8)(II) OF THE STATE GOVERNMENT ARTICLE;

(II) MAIL OR OTHERWISE DELIVER TO THE VICTIM A COPY OF THE NOTIFICATION REQUEST FORM DESCRIBED IN § 9-1705(9) OF THE STATE GOVERNMENT ARTICLE; AND

(III) CERTIFY TO THE CLERK THAT THE STATE'S ATTORNEY HAS COMPLIED WITH THE REQUIREMENTS IN ITEMS (I) AND (II) OF THIS PARAGRAPH OR IS UNABLE TO IDENTIFY THE VICTIM.

(2) ON THE FILING OF A PETITION ALLEGING DELINQUENCY IN A CASE IN WHICH THE CHILD IS ALLEGED TO HAVE COMMITTED AN ACT THAT COULD ONLY BE TRIED IN THE CIRCUIT COURT IF COMMITTED BY AN ADULT, THE STATE'S ATTORNEY SHALL:

(I) INFORM THE VICTIM OF THE RIGHT TO REQUEST RESTITUTION UNDER § 3-829 OF THE COURTS ARTICLE;

(II) MAIL OR OTHERWISE DELIVER TO THE VICTIM A COPY OF THE NOTIFICATION REQUEST FORM DESCRIBED IN § 9-1705(9) OF THE STATE GOVERNMENT ARTICLE; AND

(III) CERTIFY TO THE CLERK THAT THE STATE'S ATTORNEY HAS COMPLIED WITH THE REQUIREMENTS IN ITEMS (I) AND (II) OF THIS PARAGRAPH OR IS UNABLE TO IDENTIFY THE VICTIM.

(D) (1) ON COMPLETION OF A NOTIFICATION REQUEST FORM, THE VICTIM MAY FILE THE FORM WITH THE STATE'S ATTORNEY.

(2) ON RECEIPT OF A COMPLETED NOTIFICATION REQUEST FORM BY THE STATE'S ATTORNEY, THE STATE'S ATTORNEY SHALL SEND A COPY OF THE FORM TO THE CLERK.

(3) THE FILING OF A NOTIFICATION REQUEST FORM BY A VICTIM CONSTITUTES COMPLIANCE WITH ARTICLE 47 OF THE DECLARATION OF RIGHTS OR ANY OTHER PROVISION OF THE CODE THAT REQUIRES A VICTIM TO REQUEST NOTIFICATION.

(4) A VICTIM WHO FILES A NOTIFICATION REQUEST FORM AND DOES NOT WANT HIS OR HER ADDRESS TO BE MADE PUBLIC SHALL DESIGNATE IN A NOTIFICATION REQUEST FORM A PERSON OR ORGANIZATION WHO HAS CONSENTED TO RECEIVE NOTICE FOR THE VICTIM.

(E) (1) IF A VICTIM HAS FILED A NOTIFICATION REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION, THE STATE'S ATTORNEY SHALL SEND TO THE VICTIM PRIOR NOTICE, IF PRACTICABLE, OF ALL COURT PROCEEDINGS IN THE CASE.

(2) IF THE CASE IS IN A JURISDICTION IN WHICH THE OFFICE OF THE CLERK IS EQUIPPED WITH AN AUTOMATED FILING SYSTEM, NOTHING IN THIS

SUBSECTION PRECLUDES THE STATE'S ATTORNEY FROM REQUESTING THE CLERK TO SEND THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) AFTER A VICTIM HAS FILED A NOTIFICATION REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION AND IF PRIOR NOTICE TO THE VICTIM IS NOT PRACTICABLE, OR IF THE VICTIM IS NOT PRESENT AT THE PROCEEDING, THE STATE'S ATTORNEY SHALL, AS SOON AFTER THE PROCEEDING AS PRACTICABLE, ADVISE THE VICTIM OF ALL PROCEEDINGS THAT AFFECT THE VICTIM'S INTERESTS, INCLUDING A BAIL HEARING OR CHANGE IN THE DEFENDANT'S PRETRIAL RELEASE ORDER, DISMISSAL, NOLLE PROSEQUI OR SETTING OF CHARGES, TRIAL, DISPOSITION, OR POST-SENTENCING COURT PROCEEDING.

(4) WHETHER OR NOT THE VICTIM HAS FILED A NOTIFICATION REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION, IF THE VICTIM REQUESTS SUCH INFORMATION, NOTHING MAY PRECLUDE THE STATE'S ATTORNEY FROM GIVING THE VICTIM INFORMATION CONCERNING THE CURRENT STATUS OF THE CASE.

(F) IF A COMMITMENT ORDER IS ISSUED AFTER A VICTIM HAS FILED A NOTIFICATION REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION, THE CLERK SHALL INCLUDE A COPY OF THE NOTIFICATION REQUEST FORM WITH THE COMMITMENT ORDER.

(G) IF AN APPEAL IS FILED IN A CASE IN WHICH A VICTIM HAS FILED A NOTIFICATION REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION, THE CLERK SHALL SEND A COPY OF THE NOTIFICATION REQUEST FORM TO THE ATTORNEY GENERAL AND THE COURT TO WHICH THE CASE HAS BEEN APPEALED.

(H) AT ANY TIME AFTER FILING A NOTIFICATION REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION, A VICTIM MAY ELECT NOT TO RECEIVE ANY FURTHER NOTICES BY FILING A WRITTEN REQUEST WITH:

(1) IF THE CASE IS STILL IN THE CIRCUIT COURT OR THE JUVENILE COURT, THE STATE'S ATTORNEY; OR

(2) IF A COMMITMENT ORDER HAS BEEN ISSUED IN THE CASE, THE DEPARTMENT OR FACILITY SPECIFIED IN THE COMMITMENT ORDER TO WHICH THE DEFENDANT HAS BEEN COMMITTED.

(I) THIS SECTION DOES NOT PROHIBIT A VICTIM FROM FILING A NOTIFICATION REQUEST FORM WITH A DEPARTMENT OR FACILITY TO WHICH A DEFENDANT HAS BEEN COMMITTED.

FAMILY LAW

Crimes - Assault Laws - Revision

BY repealing and reenacting, with amendments,
Article - Family Law
Section 4-501(b)(1)
Annotated Code of Maryland
(1991 Replacement Volume and 1995 Supplement)

4-501.

(b) (1) "Abuse" means any of the following acts:

- (i) an act that causes serious bodily harm;
- (ii) an act that places a person eligible for relief in fear of imminent serious bodily harm;
- (iii) ASSAULT IN ANY DEGREE;
- (iv) rape or sexual offense as defined by Article 27, §§ 462 through 464C or attempted rape or sexual offense IN ANY DEGREE; or
- (v) false imprisonment.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall only apply to offenses committed on or after the effective date of this Act and may not be construed to apply in any way to offenses committed before the effective date of this Act.

Maryland Gun Violence Act of 1996

BY repealing and reenacting, with amendments,
Article - Family Law
Section 4-506
Annotated Code of Maryland
(1991 Replacement Volume and 1995 Supplement)

By adding to
Article - Family Law
Section 4-511
Annotated Code of Maryland

4-506.

(a) A Respondent under § 4-505 of this subtitle shall have an opportunity to be heard on the question of whether the court should issue a protective order.

(b) (1) The temporary ex parte order shall state the date and time of the protective order hearing.

(2) Unless continued for good cause, the protective order hearing shall be held no later than 7 days after the temporary ex parte order is served on the respondent

(c) (1) If the respondent appears for the protective order hearing has been served with the temporary ex parte order, or the court otherwise has personal jurisdiction over the respondent, the court:

(i) may proceed with the protective order hearing; and

(ii) if the court finds by clear and convincing evidence that the alleged abuse has occurred, or if the respondent consents to the entry of a protective order, the court may grant a protective order to protect any person eligible for relief from abuse.

(2) A protective order may be issued only to a person who has filed a petition under § 4-504 of this subtitle.

(3) (i) Subject to the provisions of subparagraph (ii) of this paragraph, in cases where both parties file a petition under § 4-504 of this subtitle, the court may issue mutual protective orders if the court finds by clear and convincing evidence that mutual abuse has occurred.

(ii) The court may issue mutual protective orders only if the court makes a detailed finding of fact that:

(1) both parties acted primarily as aggressors; and

(2) neither party acted primarily in self-defense.

(d) The protective order may include any or all of the following relief:

(1) order the respondent to refrain from abusing or threatening to abuse any person eligible for relief;

(2) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;

(3) order the respondent to refrain from entering the residence of any person

eligible for relief;

(4) where the person eligible for relief and the respondent are residing together at the time of the abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief or, in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the home or the person eligible for relief has shared the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;

(5) order the respondent to remain away from the place of employment, school or temporary residence of a person eligible for relief or home of other family members;

(6) award temporary custody of a minor child of the respondent and person eligible for relief;

(7) establish temporary visitation with a minor child of the respondent and a person eligible for relief on a basis which gives primary consideration to the welfare of the minor child and the safety of any other person eligible for relief. If the court finds that the safety of a person eligible for relief will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely as needed to guard the safety of any person eligible for relief;

(8) award emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support under this article, including an immediate and continuing withholding order on all earnings of the respondent in the amount of the ordered emergency family maintenance in accordance with the procedures specified in Title 10, Subtitle 1, Part III of this article;

(9) award temporary use and possession of a vehicle jointly owned by the respondent and a person eligible for relief to the person eligible for relief if necessary for the employment of the person eligible for relief or for the care of a minor child of the respondent or a person eligible for relief;

(10) direct the respondent or any or all of the persons eligible for relief to participate in professionally supervised counseling or a domestic violence program;

(11) ORDER THE RESPONDENT TO SURRENDER TO LAW ENFORCEMENT AUTHORITIES ANY FIREARM IN THE RESPONDENT'S POSSESSION FOR THE DURATION OF THE PROTECTIVE ORDER; OR

(12) order the respondent to pay filing fees and costs of a proceeding under this subtitle.

(e) In determining whether to order the respondent to vacate the home under § 4-

505(a)(iv) of this subtitle or subsection (d)(4) of this section, the court shall consider the following factors:

- (1) the housing needs of any minor child living in the home;**
- (2) the duration of the relationship between the respondent and any person eligible for relief;**
- (3) title to the home;**
- (4) pendency and type of criminal charges against the respondent;**
- (5) the history and severity of abuse in the relationship between the respondent and any person eligible for relief;**
- (6) the existence of alternative housing for the respondent and any person eligible for relief; and**
- (7) the financial resources of the respondent and the person eligible for relief.**

(f) (1) A copy of the protective order shall be served on the petitioner, any affected person eligible for relief, the appropriate law enforcement agency, and any other person the court determines is appropriate, in open court or by first class mail.

(2) (i) A copy of the protective order shall be served on the respondent in open court or by a law enforcement officer, constable, or sheriff.

(ii) A copy of the protective order shall also be sent to the last known address of the respondent by first class mail.

(3) If the respondent is served by a law enforcement officer, constable, or sheriff, a return of service shall be filed with the court.

(g) All relief granted in a protective order shall be effective for a period stated in the order, not to exceed 200 days.

4-511.

(A) WHEN RESPONDING TO THE SCENE OF AN ALLEGED ACT OF DOMESTIC VIOLENCE, AS DESCRIBED IN THIS SUBTITLE, A LAW ENFORCEMENT OFFICER MAY REMOVE A FIREARM FROM THE SCENE IF:

(1) THE LAW ENFORCEMENT OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT AN ACT OF DOMESTIC VIOLENCE HAS OCCURRED; AND

(2) THE LAW ENFORCEMENT OFFICER HAS OBSERVED THE FIREARM ON THE SCENE DURING THE RESPONSE.

(B) IF A FIREARM IS REMOVED FROM THE SCENE UNDER SUBSECTION (A) OF THIS SECTION, THE LAW ENFORCEMENT OFFICER SHALL:

(1) PROVIDE TO THE OWNER OF THE FIREARM INFORMATION ON THE PROCESS FOR RETAKING POSSESSION OF THE FIREARM; AND

(2) PROVIDE FOR THE SAFE STORAGE OF THE FIREARM DURING THE PENDENCY OF ANY PROCEEDING RELATED TO THE ALLEGED ACT OF DOMESTIC VIOLENCE.

(C) AT THE CONCLUSION OF A PROCEEDING ON THE ALLEGED ACT OF DOMESTIC VIOLENCE, THE OWNER OF THE FIREARM MAY RETAKE POSSESSION OF THE FIREARM UNLESS ORDERED TO SURRENDER THE FIREARM UNDER § 4-506 OF THIS SUBTITLE.

Domestic Violence - Enforcement of Out-of-State Protective Orders

BY adding to

Article - Family Law

Section 4-508.1

Annotated Code of Maryland

(1991 Replacement Volume and 1995 Supplement)

4-508.1.

(A) A PROTECTIVE ORDER ISSUED BY A COURT OF ANOTHER STATE OR AN INDIAN TRIBE SHALL BE ACCORDED FULL FAITH AND CREDIT BY A COURT OF THIS STATE AND SHALL BE ENFORCED ONLY TO THE EXTENT THAT THE ORDER AFFORDS RELIEF THAT IS PERMITTED UNDER § 4-506(D) OF THIS SUBTITLE.

(B) A LAW ENFORCEMENT OFFICER SHALL ARREST WITH OR WITHOUT A WARRANT AND TAKE INTO CUSTODY A PERSON WHOM THE OFFICER HAS PROBABLE CAUSE TO BELIEVE IS IN VIOLATION OF A PROTECTIVE ORDER THAT WAS ISSUED BY A COURT OF ANOTHER STATE OR AN INDIAN TRIBE AND IS IN EFFECT AT THE TIME OF THE VIOLATION IF THE PERSON SEEKING THE ASSISTANCE OF THE LAW ENFORCEMENT OFFICER:

(1) HAS FILED WITH THE DISTRICT COURT OR CIRCUIT COURT FOR THE JURISDICTION IN WHICH THE PERSON SEEKS ASSISTANCE A COPY OF THE ORDER THAT IS AUTHENTICATED IN ACCORDANCE WITH AN ACT OF CONGRESS OR STATUTE OF THE ISSUING STATE; OR

(2) DISPLAYS OR PRESENTS TO THE LAW ENFORCEMENT OFFICER A COPY OF THE ORDER THAT IS AUTHENTICATED IN ACCORDANCE WITH AN ACT

OF CONGRESS OR STATUTE OF THE ISSUING STATE.

Criminal History Records Checks - Child Care in Various Settings

**BY repealing and reenacting, with amendments,
Article - Family Law
Section 5-561 through 5-568
Annotated Code of Maryland
(1991 Replacement Volume and 1995 Supplement)**

5-561.

(a) Notwithstanding any provision of law to the contrary an employee and employer in a facility identified in subsection (b) of this section and persons identified in subsection (c) of this section shall apply for a NATIONAL and State criminal HISTORY RECORDS check at any designated law enforcement office in this State.

(b) The following facilities shall require employees and employers to obtain a criminal HISTORY RECORDS CHECK under this Part VI of this subtitle.

- (1) a child care center required to be licensed under Part VII of this subtitle;
- (2) a family day care home required to be registered under Part V of this subtitle;
- (3) a child care home required to be licensed under this subtitle or under Article 83C of the Code;
- (4) a child care institution required to be licensed under this subtitle or under Article 83C of the Code;
- (5) a juvenile detention, correction, or treatment facility provided for in Article 83C of the Code;
- (6) a public school as defined in Title 1 of the Education Article;
- (7) a private or nonpublic school required to report annually to the State Board of Education under Title 2 of the Education Article;
- (8) a foster care family home or group facility as defined under this subtitle;
- (9) a recreation center or recreation program operated by State or local government primarily serving minors; or

(10) a day or overnight camp, as defined in Title 10, Subtitle 16 of the Code of Maryland Regulations, primarily serving minors.

(c) The following individuals shall obtain a criminal HISTORY RECORDS CHECK under this Part VI of this subtitle:

(1) an individual who is seeking to adopt a child through a local department of social services or licensed child placement at agency;

(2) an adult relative with whom a child committed to a local department of social services, is placed by the local department of social services; and

(3) any adult known by a local department of social services to residing in a:

(i) family day care home required to be registered under Title 5 of this article;

(ii) home of all adult relative of a child with whom the child committed to a local department of social services, is placed by the local department of social services;

(iii) foster care home or child care home required to be approved under Title 5 of this article; or

(iv) home of an individual seeking to adopt a child through a local department of social services or a licensed child placement agency.

(d) An employer at a facility under subsection (b) of this section may require a volunteer at the facility to obtain a criminal HISTORY RECORDS CHECK under this Part VI of this subtitle.

(e) A local department of social services may require a volunteer of that department who works with children to obtain a criminal HISTORY RECORDS CHECK under this PART VI of this subtitle.

(f) An employer at a facility not identified in subsection (b) of this section who employs individuals to work with children may require employees, including volunteers, to obtain a criminal HISTORY RECORDS CHECK under this Part VI of this subtitle.

(g) A person who is required to have a criminal HISTORY RECORDS CHECK under this Part VI of this subtitle shall pay for:

(1) the mandatory processing fee required by the Federal Bureau of Investigation for A NATIONAL CRIMINAL HISTORY RECORDS CHECK;

(2) reasonable administrative costs to the Department, not to exceed 10% of the processing fee; and

(3) the fee authorized under Article 27, § 746(b)(8) of the Code for access to

Maryland criminal history records.

(h) (1) An employer or other party may pay for the costs borne by the employee or other individual under subsection (g) of this section.

(2) The local department of social services shall reimburse an adult residing in a foster care home for the costs borne by the individual under subsection (g) of this section.

5-562.

(a) (1) On or before the 1st day of actual employment, an employee shall apply to the Department for a printed statement.

(2) On or before the 1st day of actual operation of a facility identified in § 5-561 of this subtitle, an employer shall apply to the Department for a printed statement.

(3) Within 5 days after a child who is committed to a local department of social services is placed by the local department of social services, with an adult relative, an individual identified in § 5-561(c) OR (e) of this subtitle shall apply to the Department for a printed statement.

(b) As part of the application for a criminal HISTORY RECORDS CHECK, the employee, employer, and individual identified in § 5-561(c), (d) (e), or (f) of this subtitle shall submit:

(1) except as provided in subsection (c) of this section, a complete set of legible fingerprints taken on standard fingerprint cards at any designated State or local law enforcement office in the State or other location approved by the Department;

(2) the disclosure statement required under §5-563 of this subtitle; and

(3) payment for the costs of the criminal HISTORY RECORDS CHECK.

(c) The requirement that a complete set of legible fingerprints taken on standard fingerprint cards be submitted as part of the application for a criminal HISTORY RECORDS CHECK may be waived by the Department of Human Resources if:

(1) the application is submitted by a person who has attempted to have a complete set of fingerprints taken on at least 3 occasions;

(2) the taking of a complete set of legible fingerprints is not possible because of a physical or medical condition of the person's fingers or hands;

(3) the person submits documentation satisfactory to the Department of Human Resources of the requirements of this subsection; and

(4) the person submits the other information required for a criminal HISTORY

RECORDS CHECK.

5-563.

(a) As part of the application process for a criminal HISTORY RECORDS CHECK, the employee, employer, and individual identified in § 5-561(c), (d), (e), or (f) of this subtitle shall complete and sign a sworn statement or affirmation disclosing the existence of a criminal conviction, PROBATION BEFORE JUDGMENT DISPOSITION, NOT CRIMINALLY RESPONSIBLE disposition, or pending criminal charges without a final disposition.

(b) (1) The Department or its designee shall mail an acknowledged receipt of the application with a sworn statement or affirmation from an employee to the employer within 3 days of the Application.

(2) The Department or its designee shall mail an acknowledged receipt of the application with a sworn statement or affirmation from an EMPLOYER to the appropriate State or local licensing, registering, approving, or certifying agency, within 3 days of the application.

(3) The Department or its designee shall mail an acknowledged receipt of the application with a sworn statement or affirmation from an individual identified in § 5-561(c), (d), (e), or (f) of this subtitle to the appropriate local department of social services, registering agency, licensed child placement agency, OR FACILITY.

5-564.

(a) (1) (I) The Department shall conduct the criminal HISTORY RECORDS CHECK and issue the printed statement provided for under this Part VI of this subtitle.

(II) It shall update an initial CRIMINAL HISTORY RECORDS CHECK FOR AN EMPLOYEE, EMPLOYER, OR INDIVIDUAL IDENTIFIED IN § 5-561(C), (D), (E), OR (F) OF THIS SUBTITLE and issue a revised printed statement, listing any convictions, PROBATION BEFORE JUDGEMENT DISPOSITIONS, NOT CRIMINALLY RESPONSIBLE DISPOSITIONS, OR pending CRIMINAL charges occurring in the State after the date of the initial criminal HISTORY RECORDS CHECK.

(2) The Department shall adopt regulations requiring:

(I) employers to verify periodically the continuing employment of an employee AND THE CONTINUING ASSIGNMENT OF A VOLUNTEER;

(II) STATE OR LOCAL AGENCIES THAT LICENSE, REGISTER, APPROVE, OR CERTIFY ANY OF THE FACILITIES IDENTIFIED IN § 5-561(B) OF THIS SUBTITLE TO VERIFY PERIODICALLY THE CONTINUING LICENSURE, REGISTRATION, APPROVAL, OR CERTIFICATION OF A FACILITY OR THE CONTINUING ASSIGNMENT OF INDIVIDUALS IDENTIFIED IN § 5-561(E) OF THIS SUBTITLE; AND

(III) LOCAL DEPARTMENTS OF SOCIAL SERVICES AND LICENSED CHILD PLACEMENT AGENCIES THAT PLACE A CHILD AS DESCRIBED IN § 5-561(C) OF THIS SUBTITLE TO VERIFY PERIODICALLY THE CONTINUING PARTICIPATION OR PRESENCE OF INDIVIDUALS IDENTIFIED IN § 5-561(C) OF THIS SUBTITLE.

(3) The employee, EMPLOYER, VOLUNTEER, OR OTHER INDIVIDUAL IDENTIFIED IN § 5-561 OF THIS SUBTITLE is not responsible for payment of any fee to update criminal HISTORY RECORDS CHECKS.

(b) (1) The Department shall provide AN INITIAL AND A REVISED STATEMENT of the applicant's State criminal record to the recipients of the acknowledgments specified in § 5-563(b) of this subtitle.

(2) The Department shall:

(i) record on a printed statement the existence of a conviction, A PROBATION BEFORE JUDGEMENT DISPOSITION, A NOT CRIMINALLY RESPONSIBLE DISPOSITION, or pending charge reported in the criminal history record information received from the FBI Identification Division; and

(ii) distribute the printed statement in accordance with federal law and regulations on dissemination of FBI identification records.

(c) The recording of the existence of a conviction, A PROBATION BEFORE JUDGMENT DISPOSITION, NOT CRIMINALLY RESPONSIBLE DISPOSITION, or pending charge, contained in the criminal history record information received from the FBI Identification Division:

(1) may not identify or disclose to a private entity the specific crime or attempted crime in the employee's, employer's, or applicant's criminal history record; and

(2) shall disclose to a private entity the existence of a conviction, A PROBATION BEFORE JUDGEMENT DISPOSITION, A NOT CRIMINALLY RESPONSIBLE DISPOSITION, or pending charges for any of the crimes, attempted crimes, or a criminal offense that is equivalent to those enumerated in the regulations adopted by the Department.

(d) (1) Upon completion of the criminal HISTORY RECORDS CHECK of an employee, the Department shall submit the printed statement to:

(i) the employee's current or prospective employer at the facility or program; and

(ii) the employee.

(2) UPON RECEIVING A WRITTEN REQUEST FROM AN EMPLOYEE, THE DEPARTMENT SHALL SUBMIT THE PRINTED STATEMENT TO ADDITIONAL EMPLOYERS, IF THE CRIMINAL HISTORY RECORDS CHECK WAS COMPLETED

DURING THE PRIOR 180 DAYS.

(3) Upon completion of the criminal HISTORY RECORDS CHECK of an employer, the Department shall submit the printed statement to:

- (i) the appropriate State or local agency responsible for the licensure, registration, approval, or certification of the employer's facility; and**
- (ii) the employer.**

(4) Upon completion of the criminal HISTORY RECORDS CHECK of an individual identified in § 5-561(c), (d), (e), or (f) of this subtitle, the Department shall submit the printed statement to the appropriate local department of social services, registering agency, or licensed placement agency.

(e) Information obtained from the Department under this Part VI of this subtitle shall be confidential and may be disseminated only to the individual who is the subject of the criminal HISTORY RECORDS CHECK and to the participants in the hiring or approval process.

(f) Information obtained from the Department under this Part VI of this subtitle may not:

- (1) be used for any purpose other than that for which it was disseminated; or**
- (2) be redisseminated.**

(g) Information obtained from the Department under this Part VI of this subtitle shall be maintained in a manner to insure the security of the information.

5-565.

(a) In conformity with the following procedures, an individual may contest the finding of a criminal conviction, A PROBATION BEFORE JUDGMENT DISPOSITION, A NOT CRIMINALLY RESPONSIBLE DISPOSITION, or pending charge reported in a printed statement.

(b) In contesting the finding of a conviction, A PROBATION BEFORE JUDGMENT DISPOSITION, A NOT CRIMINALLY RESPONSIBLE DISPOSITION, or a pending charge, the individual shall contact the office of the Secretary, or a designee of the Secretary, and a hearing shall be convened within 20 workdays, unless subsequently waived by the individual. The Secretary, or a designee of the Secretary, shall render a decision regarding the appeal within 5 workdays of the hearing.

(c) For purposes of this Part VI of this subtitle, the record of a conviction, a PROBATION BEFORE JUDGEMENT DISPOSITION, OR A NOT CRIMINALLY RESPONSIBLE DISPOSITION for a crime or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction OR DISPOSITION occurred shall be

conclusive evidence of the conviction OR DISPOSITION. In a case where a pending charge is recorded, documentation provided by a court to the Secretary, or designee of the Secretary, that a pending, charge for a crime which has not been finally adjudicated shall be conclusive evidence of the pending charge.

(d) Failure of the individual to appeal at the scheduled hearing shall be considered grounds for dismissal of the appeal.

5-566.

(a) An individual who fails to disclose a conviction, A PROBATION BEFORE JUDGMENT DISPOSITION, A NOT CRIMINALLY RESPONSIBLE DISPOSITION, or the existence of pending charges for a criminal offense or attempted criminal offense as required under § 5-563 of this subtitle shall be guilty of perjury and upon conviction is subject to the penalty provided by law.

(b) Unless otherwise provided, a person who violates any provision of this Part VI of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

5-567.

The following persons or agencies shall have the immunity from civil or criminal liability described under § 5-361 of the Courts and Judicial Proceedings Article in connection with a criminal HISTORY RECORDS CHECK under this Part VI of this subtitle:

- (1) an employer;
- (2) a State or local agency; and
- (3) a local department of social services.

5-568.

On or before August 15, 1986, the Secretary shall:

(1) provide for the adoption of a specified form or forms to be used in applying for the criminal HISTORY RECORDS CHECK to be issued by the Department, including an appropriate disclosure statement;

(2) designate the appropriate State or local law enforcement offices in the State, or other approved locations, where fingerprints may be obtained and application for a criminal HISTORY RECORDS CHECK may be made; and

(3) adopt rules and regulations necessary and reasonable to administer this Part VI of this subtitle.

ARTICLE - HEALTH OCCUPATIONS

State Board of Chiropractic Examiners - Certification of Massage Therapists

BY adding to

Article - Health Occupations

Section 3-5A-01 through 3-5A-11, inclusive, to be under the new subtitle "Subtitle 5A. Certification of Massage Therapists"

Annotated Code of Maryland

(1994 Replacement Volume and 1995 Supplement)

SUBTITLE 5A. CERTIFICATION OF MASSAGE THERAPISTS.

3-5A-01.

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

(B) "BOARD" MEANS THE STATE BOARD OF CHIROPRACTIC EXAMINERS.

(C) "CERTIFICATE" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A CERTIFICATE ISSUED BY THE BOARD TO PRACTICE MASSAGE THERAPY.

(D) "CERTIFIED MASSAGE THERAPIST" MEANS AN INDIVIDUAL WHO IS CERTIFIED BY THE BOARD TO PRACTICE MASSAGE THERAPY.

(E) "MASSAGE THERAPY ADVISORY COMMITTEE" MEANS THE COMMITTEE ESTABLISHED UNDER § 3-5A-04 OF THIS SUBTITLE.

(F) (1) "MASSAGE THERAPY" MEANS THE USE OF MANUAL TECHNIQUES ON SOFT TISSUES OF THE HUMAN BODY INCLUDING EFFLEURAGE (STROKING), PETRISSAGE (KNEADING), TAPOTEMENT (TAPPING), STRETCHING, COMPRESSION, VIBRATION, AND FRICTION, WITH OR WITHOUT THE AID OF HEAT LIMITED TO HOT PACKS AND HEATING PADS, COLD WATER, OR NONLEGEND TOPICAL APPLICATIONS, FOR THE PURPOSE OF IMPROVING CIRCULATION, ENHANCING MUSCLE RELAXATION, RELIEVING MUSCULAR PAIN, REDUCING STRESS, OR PROMOTING HEALTH AND WELL-BEING.

(2) "MESSAGE THERAPY" DOES NOT INCLUDE:

(I) THE DIAGNOSIS OR TREATMENT OF ILLNESS DISEASE, OR INJURY;

(II) THE ADJUSTMENT, MANIPULATION, OR MOBILIZATION OF ANY OF THE ARTICULATIONS OF THE OSSEOUS STRUCTURES OF THE BODY OR SPINE.

(3) THE PROVISIONS OF PARAGRAPH (2) OF THIS SUBSECTION DO NOT PRECLUDE THE APPLICATION OF THE MODALITIES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION TO AN INDIVIDUAL WHO HAS AN INJURY.

(G) "PRACTICE MESSAGE THERAPY" MEANS TO ENGAGE PROFESSIONALLY AND FOR COMPENSATION IN MESSAGE THERAPY WHILE REPRESENTING ONESELF TO BE A CERTIFIED MESSAGE THERAPIST.

3-5A-02.

THE BOARD SHALL ADOPT REGULATIONS FOR THE CERTIFICATION AND PRACTICE OF MESSAGE THERAPISTS.

3-5A-03.

(A) (1) THE BOARD SHALL SET REASONABLE FEES FOR THE ISSUANCE AND RENEWAL OF CERTIFICATES AND THE OTHER SERVICES IT PROVIDES TO MESSAGE THERAPISTS.

(2) THE FEES CHARGED SHALL BE SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COST OF MAINTAINING THE CERTIFICATION PROGRAM, AND THE OTHER SERVICES PROVIDED TO MESSAGE THERAPISTS.

(B) (1) THE BOARD SHALL PAY ALL FEES COLLECTED UNDER THE PROVISIONS OF THIS SUBTITLE TO THE COMPTROLLER OF THE STATE.

(2) THE COMPTROLLER SHALL DISTRIBUTE ALL FEES TO THE STATE BOARD OF CHIROPRACTIC EXAMINERS FUND ESTABLISHED UNDER § 3-206 OF THIS TITLE.

(C) THE FEES SHALL BE USED EXCLUSIVELY TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE BOARD AS PROVIDED BY THE PROVISIONS OF THIS SUBTITLE.

3-5A-04.

(A) (1) THERE IS A MASSAGE THERAPY ADVISORY COMMITTEE WITHIN THE BOARD.

(2) THE COMMITTEE SHALL CONSIST OF SIX MEMBERS APPOINTED BY THE BOARD.

(3) OF THE SIX MEMBERS:

(I) TWO SHALL BE LICENSED CHIROPRACTORS; AND

(II) FOUR SHALL BE CERTIFIED MASSAGE THERAPISTS.

(B) IN ADDITION TO THE POWERS AND DUTIES SET FORTH ELSEWHERE IN THIS SUBTITLE, THE ADVISORY COMMITTEE SHALL:

(1) DEVELOP AND RECOMMEND TO THE BOARD REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE;

(2) DEVELOP AND RECOMMEND TO THE BOARD A CODE OF ETHICS FOR THE PRACTICE OF MASSAGE THERAPY FOR ADOPTION BY THE BOARD;

(3) DEVELOP AND RECOMMEND TO THE BOARD THE REQUIREMENTS FOR CERTIFICATION AS A MASSAGE THERAPIST;

(4) EVALUATE THE CREDENTIALS OF APPLICANTS AND RECOMMEND TO THE BOARD CERTIFICATION OF APPLICANTS WHO FULFILL THE REQUIREMENTS FOR A CERTIFICATE TO PRACTICE MASSAGE THERAPY;

(5) CONSIDER COMPLAINTS BROUGHT TO THE BOARD INVOLVING CERTIFIED MASSAGE THERAPISTS AND RECOMMEND TO THE BOARD THE APPROPRIATE DISCIPLINARY ACTION;

(6) EVALUATE EDUCATION PROGRAMS IN MASSAGE THERAPY FOR APPROVAL BY THE BOARD;

(7) KEEP A RECORD OF ITS PROCEEDINGS; AND

(8) SUBMIT AN ANNUAL REPORT TO THE BOARD.

3-5A-05.

(A) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN INDIVIDUAL SHALL BE CERTIFIED BY THE BOARD BEFORE THE INDIVIDUAL MAY PRACTICE MASSAGE THERAPY IN THIS STATE.

(2) THIS SECTION DOES NOT APPLY TO:

(I) A STUDENT ENROLLED IN AN APPROVED EDUCATION PROGRAM AS DETERMINED BY THE BOARD WHILE PRACTICING MASSAGE THERAPY IN THAT PROGRAM;

(II) AN INDIVIDUAL PERMITTED TO PRACTICE MASSAGE THERAPY UNDER REGULATIONS ADOPTED BY THE BOARD, IF THE INDIVIDUAL:

1. OTHERWISE HAS QUALIFIED TO PRACTICE MASSAGE THERAPY IN ANY OTHER STATE OR COUNTRY THAT HAS SUBSTANTIALLY SIMILAR REQUIREMENTS FOR AUTHORIZATION TO PRACTICE MASSAGE THERAPY AND THE INDIVIDUAL IS IN THIS STATE FOR NO MORE THAN 7 DAYS; OR

2. HAS AN APPLICATION FOR A CERTIFICATE PENDING BEFORE THE BOARD BUT HAS NOT TAKEN THE EXAMINATION REQUIRED UNDER THIS SECTION OR HAS TAKEN AN EXAMINATION UNDER THIS SECTION, BUT THE RESULTS OF THE EXAMINATION ARE NOT YET KNOWN;

(III) A FAMILY MEMBER PRACTICING MASSAGE THERAPY ON ANOTHER FAMILY MEMBER;

(IV) AN ATHLETIC TRAINER WHILE FUNCTIONING IN THE COURSE OF THE ATHLETIC TRAINER'S PROFESSIONAL CAPACITY;

(V) AN INDIVIDUAL EMPLOYED BY THE FEDERAL GOVERNMENT TO PRACTICE MASSAGE THERAPY WHILE PRACTICING WITHIN THE SCOPE OF THE INDIVIDUAL'S EMPLOYMENT;

(VI) AN INDIVIDUAL WHO IS WORKING IN A FACILITY THAT PROVIDES HEALTH CLUB SERVICES FOR WHICH THE SELLER OF THE SERVICES HAS REGISTERED WITH THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL AS REQUIRED UNDER § 14-12B-02 OF THE COMMERCIAL LAW ARTICLE; OR

(VII) AN INDIVIDUAL WORKING IN A BEAUTY SALON FOR WHICH THE PERSON WHO OPERATES THE BEAUTY SALON HAS OBTAINED A PERMIT FROM THE STATE BOARD OF COSMETOLOGY AS REQUIRED UNDER § 5-501 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

(B) TO QUALIFY FOR A CERTIFICATE, AN APPLICANT SHALL BE AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(C) THE APPLICANT MUST BE OF GOOD MORAL CHARACTER.

(D) THE APPLICANT MUST BE AT LEAST 18 YEARS OLD.

(E) AFTER JANUARY 1, 2002, THE APPLICANT SHALL HAVE SATISFACTORILY COMPLETED AT LEAST 60 CREDIT HOURS OF EDUCATION AT AN INSTITUTION OF HIGHER EDUCATION AS DEFINED IN § 10-101 OF THE EDUCATION ARTICLE AND AS

APPROVED BY THE BOARD AND THE MARYLAND HIGHER EDUCATION COMMISSION.

(F) THE APPLICANT SHALL:

(1) COMPLETE 500 HOURS OF EDUCATION IN A BOARD APPROVED PROGRAM FOR THE STUDY OF MASSAGE THERAPY THAT INCLUDES THE FOLLOWING AREAS OF CONTENT:

- (I) ANATOMY AND PHYSIOLOGY;**
- (II) MASSAGE THEORY, TECHNIQUES, AND PRACTICE;**
- (III) CONTRAINDICATIONS TO MASSAGE THERAPY; AND**
- (IV) PROFESSIONAL ETHICS; AND**

(2) PASS AN EXAMINATION APPROVED BY THE BOARD.

(G) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD MAY WAIVE ANY OF THE QUALIFICATIONS REQUIRED FOR A CERTIFICATE UNDER THIS SUBTITLE FOR AN APPLICANT WHO:

(I) PAYS THE APPLICATION FEE SET BY THE BOARD;

(II) PROVIDES EVIDENCE ACCEPTABLE TO THE BOARD THAT THE APPLICANT HAS PRACTICED MASSAGE THERAPY FOR AT LEAST A TOTAL OF 2 YEARS AFTER OCTOBER 1, 1994 AND BEFORE OCTOBER 1, 1999 AND HAS PERFORMED AT LEAST 300 PAID MASSAGE THERAPY SESSIONS; AND

(III) 1. COMPLETES A BOARD APPROVED PROGRAM IN THE STUDY OF MASSAGE THERAPY; OR

2. PASSES AN EXAMINATION APPROVED BY THE BOARD.

(2) THE AUTHORITY OF THE BOARD TO GRANT A WAIVER UNDER THIS SUBSECTION SHALL TERMINATE ON JANUARY 1, 2002.

(H) (1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE BOARD MAY WAIVE ANY REQUIREMENT OF THIS SUBTITLE FOR AN APPLICANT WHO IS REGISTERED, CERTIFIED, OR LICENSED TO PRACTICE MASSAGE THERAPY IN ANOTHER STATE.

(2) THE BOARD MAY GRANT A WAIVER UNDER THIS SUBSECTION ONLY IF THE APPLICANT:

- (I) PAYS THE APPLICATION FEE SET BY THE BOARD; AND**

(II) PROVIDES ADEQUATE EVIDENCE THAT THE APPLICANT:

1. HAS COMPLETED EDUCATIONAL REQUIREMENTS THAT THE BOARD DETERMINES TO BE EQUIVALENT TO THE BOARD APPROVED EDUCATIONAL REQUIREMENTS IN THIS STATE; AND

2. AT THE TIME THE APPLICANT BECAME CERTIFIED, REGISTERED, OR LICENSED IN THE OTHER STATE, PASSED IN THAT STATE OR ANY OTHER STATE AN EXAMINATION THAT THE BOARD DETERMINES TO BE EQUIVALENT TO THE EXAMINATION REQUIRED IN THIS STATE; AND

3. IS OF GOOD MORAL CHARACTER.

3-5A-06.

TO APPLY FOR A CERTIFICATE, AN APPLICANT SHALL:

(1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE BOARD REQUIRES;

(2) SUBMIT TO THE BOARD EVIDENCE OF COMPLIANCE WITH THE REQUIREMENTS OF § 3-5A-05 OF THIS SUBTITLE; AND

(3) PAY THE APPLICATION FEE SET BY THE BOARD.

3-5A-07.

(A) (1) A CERTIFICATE EXPIRES ON THE DATE SET BY THE BOARD, UNLESS THE CERTIFICATE IS RENEWED FOR A 1-YEAR TERM AS PROVIDED IN THIS SECTION.

(2) A CERTIFICATE MAY NOT RENEWED FOR A TERM OF LONGER THAN 2 YEARS.

(B) AT LEAST 1 MONTH BEFORE THE CERTIFICATE EXPIRES, THE BOARD SHALL SEND TO THE CERTIFICATE HOLDER, BY FIRST CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE CERTIFICATE HOLDER, A RENEWAL NOTICE THAT STATES:

(1) THE DATE ON WHICH THE CURRENT CERTIFICATE EXPIRES;

(2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE CERTIFICATE EXPIRES; AND

(3) THE AMOUNT OF THE RENEWAL FEE.

(C) BEFORE A CERTIFICATE EXPIRES, THE CERTIFICATE HOLDER PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL TERM, IF THE CERTIFICATE HOLDER:

(1) OTHERWISE IS ENTITLED TO BE CERTIFIED;

(2) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM THAT THE BOARD REQUIRES; AND

(3) PAYS TO THE BOARD A RENEWAL FEE SET BY THE BOARD.

(D) (1) EACH CERTIFICATE HOLDER SHALL NOTIFY THE BOARD IN WRITING OF ANY CHANGE IN THE NAME OR ADDRESS OF THE CERTIFICATE HOLDER WITHIN 60 DAYS AFTER THE CHANGE OCCURRED.

(2) IF A CERTIFICATE HOLDER FAILS TO NOTIFY THE BOARD WITHIN THE TIME REQUIRED UNDER THIS SUBSECTION, SUBJECT TO THE HEARING PROVISIONS OF § 3-315 OF THIS TITLE, THE BOARD MAY IMPOSE AN ADMINISTRATIVE PENALTY OF \$100.

(E) THE BOARD SHALL RENEW THE CERTIFICATE OF EACH CERTIFICATE HOLDER WHO MEETS THE REQUIREMENTS OF THIS SECTION.

3-5A-08.

(A) SUBJECT TO THE HEARING PROVISIONS OF § 3-315 OF THIS TITLE, THE BOARD MAY DENY A CERTIFICATE TO ANY APPLICANT, REPRIMAND ANY CERTIFICATE HOLDER, PLACE ANY CERTIFICATE HOLDER ON PROBATION, OR SUSPEND OR REVOKE THE CERTIFICATE OF A CERTIFICATE HOLDER IF THE APPLICANT OR CERTIFICATE HOLDER:

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A CERTIFICATE FOR THE APPLICANT OR FOR ANOTHER;

(2) FRAUDULENTLY OR DECEPTIVELY USES A CERTIFICATE;

(3) IS DISCIPLINED BY A LICENSING, CERTIFYING, OR DISCIPLINARY AUTHORITY OF ANY OTHER STATE OR COUNTRY OR CONVICTED OR DISCIPLINED BY A COURT OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS SECTION;

(4) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A FELONY OR TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE;

(5) WILLFULLY AND KNOWINGLY:

(I) FILES A FALSE REPORT OR RECORD OF AN INDIVIDUAL UNDER THE CARE OF THE CERTIFICATE HOLDER; OR

(II) GIVES ANY FALSE OR MISLEADING INFORMATION ABOUT A MATERIAL MATTER IN AN EMPLOYMENT APPLICATION;

(6) KNOWINGLY DOES ANY ACT THAT HAS BEEN DETERMINED BY THE BOARD, IN ITS REGULATIONS, TO EXCEED THE SCOPE OF PRACTICE AUTHORIZED TO THE INDIVIDUAL UNDER THIS SUBTITLE;

(7) PROVIDES PROFESSIONAL SERVICES WHILE:

(I) UNDER THE INFLUENCE OF ALCOHOL; OR

(II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN ARTICLE 27 OF THE CODE, OR OTHER DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;

(8) DOES AN ACT THAT IS INCONSISTENT WITH GENERALLY ACCEPTED PROFESSIONAL STANDARDS IN THE PRACTICE OF MASSAGE THERAPY;

(9) IS NEGLIGENT IN THE PRACTICE OF MASSAGE THERAPY;

(10) IS PROFESSIONALLY INCOMPETENT;

(11) HAS VIOLATED ANY PROVISION OF THIS SUBTITLE;

(12) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;

(13) IS PHYSICALLY OR MENTALLY INCOMPETENT;

(14) KNOWINGLY FAILS TO REPORT SUSPECTED CHILD ABUSE IN VIOLATION OF § 5-704 OF THE FAMILY LAW ARTICLE;

(15) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES FOR WHICH THE CERTIFICATE HOLDER IS QUALIFIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE;

(16) EXCEPT IN AN EMERGENCY LIFE-THREATENING SITUATION WHERE IT IS NOT FEASIBLE OR PRACTICABLE, FAILS TO COMPLY WITH THE CENTERS FOR DISEASE CONTROL'S GUIDELINES ON UNIVERSAL PRECAUTIONS;

(17) IS HABITUALLY INTOXICATED;

(18) IS ADDICTED TO, OR HABITUALLY ABUSES, ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN ARTICLE 27 OF THE CODE;

(19) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED BY THE BOARD;

(20) ENGAGES IN CONDUCT THAT VIOLATES THE PROFESSIONAL CODE OF ETHICS; OR

(21) KNOWINGLY DOES AN ACT THAT HAS BEEN DETERMINED BY THE BOARD TO BE A VIOLATION OF THE BOARD'S REGULATIONS.

(B) IF, AFTER A HEARING UNDER § 3-315 OF THIS TITLE, THE BOARD FINDS THAT THERE ARE GROUNDS UNDER SUBSECTION (A) OF THIS SECTION TO SUSPEND OR REVOKE A CERTIFICATE TO PRACTICE MASSAGE THERAPY, TO REPRIMAND A CERTIFICATE HOLDER, OR PLACE A CERTIFICATE HOLDER ON PROBATION, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 IN LIEU OF OR IN ADDITION TO SUSPENDING OR REVOKING THE CERTIFICATE, REPRIMANDING THE CERTIFICATE HOLDER, OR PLACING THE CERTIFICATE HOLDER ON PROBATION.

(C) (1) AN INDIVIDUAL WHOSE CERTIFICATE HAS BEEN SUSPENDED OR REVOKED BY THE BOARD SHALL RETURN THE CERTIFICATE TO THE BOARD.

(2) IF THE SUSPENDED OR REVOKED CERTIFICATE HAS BEEN LOST, THE INDIVIDUAL SHALL FILE WITH THE BOARD A VERIFIED STATEMENT TO THAT EFFECT.

(D) THE BOARD SHALL FILE A NOTICE FOR PUBLICATION IN THE EARLIEST PUBLICATION OF THE MARYLAND REGISTER OF EACH REVOCATION OR SUSPENSION OF A CERTIFICATE UNDER THIS SECTION WITHIN 24 HOURS OF THE REVOCATION OR SUSPENSION.

3-5A-09.

THIS SUBTITLE DOES NOT LIMIT THE RIGHT OF AN INDIVIDUAL TO PRACTICE OR ADVERTISE AN OCCUPATION THAT THE INDIVIDUAL IS OTHERWISE AUTHORIZED TO PRACTICE UNDER THE MARYLAND ANNOTATED CODE.

3-5A-10.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN INDIVIDUAL MAY NOT PRACTICE, ATTEMPT TO PRACTICE, OR OFFER TO PRACTICE MASSAGE THERAPY IN THIS STATE UNLESS CERTIFIED BY THE BOARD.

(B) AN INDIVIDUAL WHO IS NOT CERTIFIED AS A CERTIFIED MASSAGE THERAPIST UNDER THIS SUBTITLE MAY NOT ADVERTISE OR CLAIM BY TITLE, ABBREVIATION, SIGN, CARD, OR ANY OTHER REPRESENTATION THAT THE INDIVIDUAL PRACTICES MASSAGE, MASSAGE THERAPY, MYOTHERAPY, OR ANY

SYNONYM OR DERIVATION OF THESE TERMS.

(C) ANY INDIVIDUAL WHO VIOLATES A PROVISION OF THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION SHALL BE SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT FOR NOT MORE THAN 1 YEAR, OR BOTH.

3-5A-11.

NOTWITHSTANDING THE FACT THAT THESE SERVICES ARE PROVIDED WITHIN THE SCOPE OF THEIR CERTIFIED PRACTICE, NOTHING IN THIS SUBTITLE REQUIRES A NONPROFIT HEALTH SERVICE PLAN, INSURER, HEALTH MAINTENANCE ORGANIZATION, OR PERSON ACTING AS A THIRD PARTY ADMINISTRATOR TO REIMBURSE A CERTIFIED MASSAGE THERAPIST FOR ANY SERVICES RENDERED.

SECTION 2. AND BE IT FURTHER ENACTED, That the initial members of the Massage Therapy Advisory Committee appointed in accordance with § 3-5A-04 of this Act shall be eligible to be certified under the provisions of § 3-5A-05 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the changes to the Health Occupations Article made by §§ 3-5A-01 through 3-5A-04 shall take effect October 1, 1996, and the changes to the Health Occupations Article made by and §§ 3-5A-05 through 3-5A-11 shall take effect January 1, 1998.

ARTICLE - NATURAL RESOURCES

Operation of Boats - Noise Levels - All State Waters

**BY repealing and reenacting, with amendments,
Article - Natural Resources
Section 8-725.4
Annotated Code of Maryland
(1990 Replacement Volume and 1995 Supplement)**

8-725.4.

(a) The provisions of this section do not apply to persons who regularly catch or harvest seafood for sale while actually engaged in the catching or harvesting of the seafood.

(b) (1) Except as provided in subsection (d) of this section, a person may not operate a vessel on the waters of the State so as to exceed a noise level of 90dB(a).

(2) Noise level limits for waters OF THE STATE shall be measured using generally accepted testing procedures imposed by regulations adopted by the Department based on the Marine Environment Sound Level Measurement Procedure, SAE J 2005.

(3) An owner or lessee of a vessel may not allow the vessel to be operated on waters of the State in violation of PARAGRAPH (1) of this subsection.

(c) A person may not own or operate on any waters of the State any vessel manufactured after January 1, 1990 that is not equipped with a muffler or device or system which muffles or suppresses engine noise in accordance with regulations adopted by the Department.

(d) The Department may adopt regulations to permit exceptions to this section, including exceptions for:

(1) Economic hardship;

(2) Vessels participating or preparing to participate in a U.S. Coast Guard or Department approved race or event;

(3) The testing, repair, or development of vessel engines conducted by a bona fide engine or boat manufacturer or service person; and

(4) Vessels belonging to a volunteer fire department, ambulance company, rescue squad company, or advance life support company or a political subdivision.

(e) In addition to the provisions of subsection (b) of this section, the Department may adopt regulations to enforce this section, including regulations establishing noise limitations.

(f) (1) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding:

(i) For the first offense, \$500; and

(ii) For the second offense, \$1,000 or imprisonment of 30 days or both.

(2) Paragraph (1) of this subsection does not limit or supersede any other penalty that may be imposed under this subtitle for a violation of any other law or regulation adopted under this subtitle.

(g) All regulations adopted by the Department under this section shall be in accordance with the Administrative Procedure Act under Title 10 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 1996.

Prohibition Against Hunting, Importing, and Selling Game - Exception

BY repealing and reenacting, with amendments,
Article - Natural Resources
Section 10-404
Annotated Code of Maryland
(1990 Replacement Volume and 1995 Supplement)

10-404.

(A) IN THIS SECTION, "OFFICIALLY INSPECTED" MEANS VENISON INSPECTED AND PASSED IN ACCORDANCE WITH STANDARDS ESTABLISHED BY THE:

(1) U.S. DEPARTMENT OF AGRICULTURE (USDA); OR

(2) U.S. FOOD AND DRUG ADMINISTRATION (FDA).

(B) (1) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (C) THROUGH (E) OF THIS SECTION, A PERSON MAY IMPORT, SELL, OFFER FOR SALE, PURCHASE, OFFER TO PURCHASE, BARTER, OR EXCHANGE DOMESTICALLY RAISED, OFFICIALLY INSPECTED, AND PROCESSED VENISON THAT THE PERSON LAWFULLY OBTAINS, OTHER THAN WHITE-TAILED AND SIKA VENISON.

(2) A PERSON WHO IMPORTS, SELLS, OR OFFERS FOR SALE VENISON SHALL MAINTAIN RECORDS DOCUMENTING THE LAWFUL ORIGIN OF ANY VENISON IMPORTED OR SOLD, INCLUDING THE SPECIES OF DEER, COUNTRY OR STATE OF ORIGIN, THE PERSON FROM WHOM THE VENISON WAS OBTAINED, DATE OF DELIVERY, BY WHOM THE VENISON WAS OFFICIALLY INSPECTED, AND QUANTITY OF VENISON.

(3) THESE RECORDS SHALL BE KEPT BY THE IMPORTER OR SELLER AT THE IMPORTER'S OR SELLER'S PLACE OF BUSINESS FOR A PERIOD OF 1 YEAR FOLLOWING DELIVERY OF THE VENISON.

(4) THE IMPORTER OR SELLER SHALL ALLOW THE DEPARTMENT TO INSPECT THESE RECORDS AT THE IMPORTER'S OR SELLER'S PLACE OF BUSINESS AT ANY REASONABLE TIME.

(5) THIS SUBSECTION DOES NOT EXEMPT A PERSON WHO IMPORTS, SELLS, OR OFFERS FOR SALE VENISON FROM APPLICABLE PROVISIONS OF TITLE 21, SUBTITLES 2 AND 3 OF THE HEALTH - GENERAL ARTICLE.

(C) A person may not hunt or attempt to hunt any game bird or mammal except during open season, or possess any game bird or mammal during any closed season whether hunted in the State or in another state, territory, or country. However, a person may possess any dead game bird or dead game mammal for 5 days and dead deer for 30 days after the season closes

for use as food. Also, a licensed hunter may obtain a permit from the Department during open season or within 5 days after open season closes to possess any frozen game bird or mammal for a period not exceeding 180 days.

(D) A person may ship or bring into the State by express or as baggage any game bird or mammal the person legally killed in any other state, territory, or country, if the person accompanies the game bird or mammal and presents a hunter's license or permit of the other state, territory, or country where the game bird or mammal was killed if the document is required by the other state, territory, or country. However, game birds and mammals or any part of them brought into the State may not be sold or offered for sale.

(E) Except as provided in § 10-512(a)(2)(ii) of this title, a person may not sell, offer for sale, purchase, offer to purchase, barter, or exchange, at any time within the State any game bird or game mammal taken from the wild, except the meat, pelt or carcass of any coyote, muskrat, raccoon, mink, otter, nutria, opossum, beaver, fox, long-tail weasel, fisher, or skunk, whether caught in the State or in another state, territory, or country.

(F) NOTHING IN THIS SECTION MAY BE CONSTRUED AS ALLOWING DEER FARMING FOR THE PURPOSE OF SELLING DEER MEAT.

Natural Resources - Hunting - Wildlife

BY repealing and reenacting, with amendments,
Article - Natural Resources
Section 10-408
Annotated Code of Maryland
(1990 Replacement Volume and 1995 Supplement)

10-408.

The Department shall prescribe by regulation the means or weapons for hunting designated wildlife. The Department shall set forth any restrictions relating to weapons used to hunt designated wildlife, including the amount and size of ammunition for designated game birds or mammals. The Department shall make the regulations available for distribution with each hunting license purchased. This section does not authorize the Department to restrict the use of firearms except in the ACTIVITY OF HUNTING DESIGNATED WILDLIFE.

TRANSPORTATION ARTICLE

Vehicle Laws - Driving While Intoxicated Per Se - Clarifications and Cross-References

BY renumbering

Article - Transportation
Section 11-127.1 to be
Section 11-127.2
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)

BY adding to

Article - Transportation
Section 11-127.1
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)

BY repealing and reenacting, with amendments,

Article - Transportation
Section 16-205(a) and (c), 16-402(a)(30), 16-402.1(a), 21-902(a), and 27-101(k)
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That Section(s) 11-127.1 of Article - Transportation of the Annotated Code of Maryland be
renumbered to be Section(s) 11-127.2.

11-127.1.

**"INTOXICATED PER SE" MEANS HAVING AN ALCOHOL CONCENTRATION AT
THE TIME OF TESTING OF 0.10 OR MORE AS MEASURED BY GRAMS OF ALCOHOL
PER 100 MILLILITERS OF BLOOD OR GRAMS OF ALCOHOL PER 210 LITERS OF
BREATH.**

16-205.

(a) The Administration may revoke the license of any person who:

**(1) Is convicted under § 21-902(a) or (d) of this article of driving or attempting
to drive a motor vehicle while intoxicated, WHILE INTOXICATED PER SE, or while under the
influence of a controlled dangerous substance; or**

(2) Within a 3-year period, is convicted under § 21-902(b) or (c) of this article of

driving or attempting to drive a motor vehicle while under the influence of alcohol or while so far under the influence of any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a vehicle safely and who was previously convicted of any combination of two or more violations under:

(i) § 21-902(a) of this article of driving or attempting to drive a motor vehicle while intoxicated OR WHILE INTOXICATED PER SE;

(ii) § 21-902(b) of this article of driving or attempting to drive a motor vehicle while under the influence of alcohol;

(iii) § 21-902(c) of this article of driving or attempting to drive a motor vehicle while so far under the influence of any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a vehicle safely; or

(iv) § 21-902(d) of this article of driving or attempting to drive a motor vehicle while under the influence of a controlled dangerous substance.

(c) The Administration may suspend for not more than 120 days the license of any person who, within a 3-year period, is convicted under § 21-902(b) or (c) of this article of driving or attempting to drive a motor vehicle while under the influence of alcohol or while so far under the influence of any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a motor vehicle safely and who was previously convicted of a violation under:

(1) § 21-902(a) of this article of driving or attempting to drive a motor vehicle while intoxicated OR WHILE INTOXICATED PER SE;

(2) § 21-902(b) of this article of driving or attempting to drive a motor vehicle while under the influence of alcohol;

(3) § 21-902(c) of this article of driving or attempting to drive a motor vehicle while so far under the influence of any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a motor vehicle safely; or

(4) § 21-902(d) of this article of driving or attempting to drive a motor vehicle while under the influence of a controlled dangerous substance.

16-402.

(a) After the conviction of an individual for a violation of Article 27, § 388 or § 388A of the Code, or if the vehicle laws or regulations of this State or of any local authority, points shall be assessed against the individual as of the date of violation and as follows:

(30) Driving while intoxicated, WHILE INTOXICATED PER SE, or while under the influence of illegally used controlled dangerous substance.....12 points

16-402.1.

(a) When the Administration receives a notice of conviction from a party state to the Driver License Compact under Subtitle 7 of this title, the Administration may not assess points against an individual, except upon receipt of reports of the following convictions:

(1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, WHILE INTOXICATED PER SE, or WHILE under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle;

(3) Any felony in the commission of which a motor vehicle is used; or

(4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

21-902.

(a) (1) A person may not drive or attempt to drive any vehicle while intoxicated.

(2) A person may not drive or attempt to drive any vehicle while the person IS INTOXICATED PER SE.

27-101.

(k) (1) Except as provided in subsection (q) of this section, any person who is convicted of a violation of any of the provisions of § 21-902(a) of this article ("Driving while intoxicated OR INTOXICATED PER SE "):

(i) For a first offense, shall be subject to a fine of not more than \$1,000, or imprisonment for not more than 1 year, or both;

(ii) For a second offense, shall be subject to a fine of not more than \$2,000, or imprisonment for not more than 2 years, or both; and

(iii) For a third or subsequent offense, shall be subject to a fine of not more than \$3,000, or imprisonment for not more than 3 years, or both.

(2) For the purpose of second or subsequent offender penalties for violation of § 21-902(a) of this article provided under this subsection, a prior conviction of § 21-902(b), (c), or (d) of this article, within 5 years of the conviction for a violation of § 21-902(a) of this article, shall be considered a conviction of § 21-902(a) of this article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency

measure, is necessary for the immediate preservation of the public health and safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Vehicle Laws - Trailers - Titling and Taxing

**BY repealing and reenacting, with amendments,
Article - Transportation
Section 13-102 and 13-809(b) and (c)
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)**

**BY adding to
Article - Transportation
Section 13-109 (d)
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)**

13-102.

A certificate of title is not required for:

- State;**
- (1) A vehicle owned and used by the United States, unless it is registered in this**
 - State;**
 - (2) A new vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing or demonstration;**
 - (3) A vehicle used by a manufacturer only for testing;**
 - (4) A vehicle owned by a nonresident of this State and not required by law to be registered in this State;**
 - (5) A vehicle regularly engaged in the interstate transportation of people or property and for which a currently effective certificate of title has been issued in another state;**
 - (6) A vehicle moved only by human or animal power;**
 - (7) A bicycle;**
 - (8) A vehicle in which interest has passed to a secured party on default of the owner;**
 - (9) Farm equipment;**

(10) Special mobile equipment;

(11) A self-propelled invalid:

(i) Wheelchair; or

(ii) Tricycle; OR

(12) A TRAILER, OTHER THAN A CAMPING TRAILER, RATED BY THE MANUFACTURER AS HAVING A GROSS VEHICLE WEIGHT OF 2,500 POUNDS OR LESS.

13-109.

(D) THE ADMINISTRATION MAY REGISTER A TRAILER, OTHER THAN A CAMPING TRAILER, RATED BY THE MANUFACTURER AS HAVING A GROSS VEHICLE WEIGHT OF 2,500 POUNDS OR LESS WITHOUT REQUIRING A CERTIFICATE OF TITLE OR AN APPLICATION FOR A CERTIFICATE OF TITLE.

13-809.

(b) (1) Except as otherwise provided in this part, in addition to any other charge required by the Maryland Vehicle Law, an excise tax is imposed:

(i) For each original and each subsequent certificate of title issued in this State for a motor vehicle, trailer, or semitrailer; and

(ii) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, FOR each motor vehicle, trailer, or semitrailer that is in interstate operation and registered under § 13-109(c) OR (D) of this title without a certificate of title.

(2) AN EXCISE TAX OF \$50 IS IMPOSED FOR THE REGISTRATION OF A TRAILER EXEMPT FROM THE TITLING REQUIREMENT UNDER § 13-102(12) OF THIS TITLE.

(3) A political subdivision of the State may not impose a sales tax, a use tax, or excise tax on the issuance of motor vehicle certificate of title.

(c) (1) EXCEPT AS PROVIDED IN SUBSECTION (B)(2) OF THIS SECTION, THE tax imposed by this section is 5 percent of the fair market value of the vehicle.

(2) If the vehicle formerly was a vehicle exempt from the tax imposed by this section the tax shall be reduced by any amount previously paid by the present owner as a sales and use tax on the vehicle under Title 11 of the Tax - General Article.

(3) (i) If the vehicle was formerly titled and registered in another state and

the present owner has not been a Maryland resident for more than 30 days and has paid a sales or excise tax to that state at a rate less than that imposed by this State, then the tax imposed shall apply but at a rate measured by the difference only between the tax rate paid to the other state and the tax rate imposed by this section.

(ii) EXCEPT AS PROVIDED IN SUBSECTION (B)(2) OF THIS SECTION, THE minimum tax imposed under this section shall be \$100.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 1997.

Vehicle Laws - Tow Trucks - Size and Weight Restrictions

BY repealing and reenacting, with amendments,
Article - Transportation
Section 13-920
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)

13-920.

(a) (1) In this section "tow truck" means a vehicle that:

(i) Is a Class E (truck) vehicle that is designed to lift, pull, or carry a vehicle by a hoist or mechanical apparatus;

(ii) Has a manufacturer's gross vehicle weight rating of 10,000 pounds or more; and

(iii) Is equipped as a tow truck or designed as a rollback as defined in § 11-151.1 of this article.

(2) In this section "tow truck" does not include a truck tractor as defined in § 11-172 of this article.

(b) When registered with the Administration every tow truck as defined in this section is a Class T vehicle.

(c) A tow truck registered under this section may be used to tow vehicles for repair, storage, or removal from the highway.

(d) (1) Subject to the provisions of paragraph (2) of this subsection, for each vehicle registered under this section, the annual registration fee is based on the manufacturer's gross vehicle weight rating as follows:

Manufacturer's Gross Weight Rating (in Pounds)	Fee
10,000 (or less) to 26,000	\$100
More than 26,000	\$300

(2) (i) The annual registration fee for a vehicle registered under this section that is used for any purpose other than that described in subsection (c) of this section shall be determined under subparagraph (ii) of this paragraph if the maximum gross weight of the vehicle or combination of vehicles:

1. Exceeds 18,000 pounds and the vehicle has a manufacturer's gross weight rating of 26,000 pounds or less; or
2. Exceeds 35,000 pounds and the vehicle has a manufacturer's gross weight rating of more than 26,000 pounds.

(ii) The annual registration fee shall be the greater of:

1. The fees set forth in paragraph (1) of this subsection; or
2. The fees set forth in § 13-916(b) of this subtitle.

(e) Notwithstanding §§ 24-104.1, 24-108, and 24-109 of this article, a tow truck registered under this section, while engaged in A tow, may MOVE a vehicle or vehicle combination ON a highway for safety reasons if:

(1) The tow truck and the vehicle or vehicle combination being towed comply with all applicable statutory weight and size restrictions under Title 24 of this article when measured or weighed separately; and

(2) The vehicle or vehicle combination is being towed by the safest and shortest practical route possible to the VEHICLE'S destination.

(f) Notwithstanding any other provision of this section, while engaged in towing, a tow truck registered under this section is subject to:

(1) Weight restrictions imposed on restricted bridges; and

(2) All applicable statutory weight and size restrictions under Title 24 of this article while being operated within the limits of Baltimore City, unless the vehicle is being operated on an interstate highway.

(G) Except for tow trucks operated by dealers, automotive dismantlers and recyclers, and scrap processors displaying special registration plates issued under Title 13 of this article, the vehicle shall display a distinctive registration plate as authorized by the Administration.

(H) A person who registers a tow truck under this section or OPERATES a tow truck IN THIS STATE that is registered under the laws of another state shall:

(1) Obtain commercial liability insurance in the amount of at least \$100,000 per person, \$300,000 per occurrence bodily injury liability, and \$100,000 per occurrence property damage liability; and

(2) Provide a federal employer identification number and, if applicable to the tow truck under federal requirements:

(i) A U. S. Department of Transportation motor carrier number; or

(ii) An Interstate Commerce Commission motor carrier authority number.

(I) (1) Except as provided under paragraph (2) of this subsection, a person may not operate a rollback in combination with a vehicle being towed unless the rollback is registered as a TOW TRUCK.

(2) This subsection does not apply to a vehicle that is registered and operated in accordance with § 13-621 or § 13-622 of this article.

(J) (1) This subsection applies only to a vehicle required to be registered in the State.

(2) A person may not operate a tow truck for hire unless the tow truck is registered under this section.

(3) A person convicted of operating a tow truck in violation of this subsection shall be subject to a fine of up to \$3,000.

Transportation - Farm Area Motor Vehicles - Exemptions

BY repealing and reenacting, with amendments,

Article - Transportation

Section 13-935 and 22-404.3(e)

Annotated Code of Maryland

(1992 Replacement Volume and 1995 Supplement)

13-935.

(a) In this section, "farm area motor vehicle" means a motor vehicle owned by a farmer and operated only on a farm or on a highway WITHIN A 10-MILE RADIUS OF the farm.

(b) If registered with the Administration under this section, every farm area motor vehicle is a Class K (farm area) vehicle.

(c) For each Class K (farm area) vehicle, the annual registration fee is \$1.35.

Court Ordered Restriction - Penalties

**BY repealing and reenacting, with amendments,
Article - Transportation
Section 16-113 and 27-101(c)
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)**

16-113.

(h) An individual may not drive a vehicle in any manner that violates any restriction imposed BY THE ADMINISTRATION in a restricted license issued to the individual.

(i) An individual may not drive a vehicle in any manner that violates any restriction imposed in a provisional license issued to the individual.

(J) AN INDIVIDUAL MAY NOT DRIVE OR ATTEMPT TO DRIVE A MOTOR VEHICLE WITH ALCOHOL IN THE INDIVIDUAL'S BLOOD IN VIOLATION OF A RESTRICTION IMPOSED BY A COURT.

27-101 .

(c) Any person who is convicted of a violation of any of the provisions of the following sections of this article is subject to a fine of not more than \$500 or imprisonment for not more than 2 months or both:

(1) § 12-301(c), (d), (e), or (f) ("Special identification cards: Fraud and misrepresentation prohibited");

(2) § 14-102 ("Taking or driving vehicle without consent of owner");

(3) § 14-104 ("Damaging or tampering with vehicle");

(4) § 14-107 ("Removed, falsified, or unauthorized identification number or registration card or plate");

(5) § 14-110 ("Altered or forged documents and plates");

(6) § 15-312 ("Dealers: Prohibited acts - Vehicle sales transactions");

(7) § 15-313 ("Dealers: Prohibited acts - Advertising practices");

(8) § 15-314 ("Dealers: Prohibited acts - Violation of licensing laws");

(9) § 15-411 ("Vehicle salesmen: Prohibited acts");

(10) § 15-502(c) ("Storage of certain vehicles by unlicensed persons prohibited");

(11) § 16-113(J) ("VIOLATION OF ALCOHOL RESTRICTION ORDERED BY A COURT");

(12) § 16-301 ("Unlawful application for or use of license");

(13) § 16-303(h) ("Licenses suspended under certain provisions of Code");

(14) § 16--303(i) ("Licenses suspended under certain provisions of the traffic laws or regulations of another state");

(15) § 18-106 ("Unauthorized use Of rented motor vehicle");

(16) § 20-103 ("Driver to remain at scene - Accidents resulting only in damage to attended vehicle or property");

(17) § 20-104 ("Duty to give information and render aid");

(18) §20-105 ("Duty on striking unattended vehicle or other property");

(19) §20-108 ("False reports prohibited");

(20) § 21-206 ("Interference with traffic control devices or railroad signs and signals");

(21) As to a pedestrian in a marked crosswalk, § 21-502(a) ("Pedestrians' right-of-way in crosswalks: In general");

(22) As to another vehicle stopped at a marked crosswalk § 21-502(c) ("Passing of vehicle stopped for pedestrian prohibited");

(23) Except as provided in subsection (q) of this section, § 21-902(b) ("Driving while under the influence of alcohol");

(24) Except as provided in subsection (q) of this se§ 21-902(c) ("Driving while under the influence of drugs or drugs and alcohol");

(25) Except as provided in subsection (q) of this section § 21-902(d) ("Driving while under influence of controlled dangerous substance"); or

(26) §27-107(d), (e), (f), or (g) ("Prohibited acts - Ignition interlock systems").

Vehicle Laws - Drunk and Drugged Driving - Ignition Interlock System Program

BY repealing and reenacting, with amendments,

**Article - Transportation
Section 16-208(a)(1) and 16-404
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)**

BY adding to

**Article - Transportation
Section 16-404.1
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)**

16-208.

(a) (1) Except as provided in paragraph (2) of this subsection, § 16-206(b) OF THIS SUBTITLE, AND § 16-404(C)(2) AND (3) of this TITLE, the Administration may not suspend a license or privilege to drive for a period of more than 1 year.

16-402.

(a) After the conviction of an individual for a violation of Article 27, § 388 or § 388A of the Code, or of the vehicle laws or regulations of this State or of any local authority, points shall be assessed against the individual as of the date of violation and as follows:

(21) Driving while under the influence of alcohol or while under influence of a drug, combination of drugs, or combination of drugs and alcohol.....8 points

(30) Driving while intoxicated or while under the influence of illegally used controlled dangerous substance.....12 points

16-404.

(a) The Administration shall take the following actions for points accumulated within any 2-year period:

(1) Send a warning letter to each individual who accumulates 3 points;

(2) Call in for a conference each individual who accumulates 5 points, except that a Class A, B, or C licensee who submits evidence acceptable to the Administration that he is a professional driver may not be called in until he accumulates 8 points; and

(3) Except as provided in § 16-405 of this subtitle:

- (i) Suspend the license of each individual who accumulates 8 points; and
- (ii) Revoke the license of each individual who accumulates 12 points.

(b) (1) Except as provided in § 16-405 of this subtitle:

- (i) If an individual accumulates 8 points, the Administration shall issue a notice of suspension; and
- (ii) If an individual accumulates 12 points, the Administration shall issue a notice of revocation.

(2) Each notice shall:

- (i) Be personally served or sent by certified mail, return receipt requested, bearing a postmark from the United States Postal Service;
- (ii) State the duration of the suspension or revocation; and
- (iii) Advise the individual of his right, within 10 days after the notice is sent (Saturdays, Sundays, and legal holidays excepted), to file a written request for a hearing before the Administrator.

(3) Unless a hearing is requested, each notice of suspension or revocation is effective at the end of the 10-day period after the notice is sent.

(c) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION:

(I) An initial suspension may not be for less than 2 days nor more than 30 days; AND

(II) Any subsequent suspension may not be for less than 15 days nor more than 90 days.

(2) SUBJECT TO THE PROVISIONS OF PARAGRAPH (3) OF THIS SUBSECTION, THE FOLLOWING SUSPENSION PERIODS MAY APPLY TO A SUSPENSION FOR AN ACCUMULATION OF POINTS UNDER § 16-402(A)(21) OF THIS SUBTITLE FOR A VIOLATION OF § 21-902 (B) OR (C) OF THIS ARTICLE OR A SUSPENSION IMPOSED UNDER § 16-404.1(B)(4)(III) OF THIS SUBTITLE:

(I) FOR A FIRST CONVICTION, NOT MORE THAN 6 MONTHS;

(II) FOR A SECOND CONVICTION AT LEAST 5 YEARS AFTER THE DATE OF THE FIRST CONVICTION, NOT MORE THAN 9 MONTHS;

(III) FOR A SECOND CONVICTION LESS THAN 5 YEARS AFTER THE DATE OF THE FIRST CONVICTION OR FOR A THIRD CONVICTION, NOT MORE

THAN 12 MONTHS; AND

(IV) FOR A FOURTH OR SUBSEQUENT CONVICTION, NOT MORE THAN 24 MONTHS.

(3) AN INDIVIDUAL WHO PARTICIPATES IN THE ADMINISTRATION'S IGNITION INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1 OF THIS SUBTITLE MAY HAVE A SUSPENSION UNDER PARAGRAPH (2) OF THIS SUBSECTION REDUCED TO:

(I) FOR A FIRST CONVICTION, UP TO 15 DAYS, PROVIDED THE INDIVIDUAL MAINTAINS THE IGNITION INTERLOCK SYSTEM FOR NOT MORE THAN 5 MONTHS;

(II) FOR A SECOND CONVICTION AT LEAST 5 YEARS AFTER THE DATE OF THE FIRST CONVICTION, UP TO 30 DAYS, PROVIDED THE INDIVIDUAL MAINTAINS THE IGNITION INTERLOCK SYSTEM FOR NOT MORE THAN 9 MONTHS;

(III) FOR A SECOND CONVICTION LESS THAN 5 YEARS AFTER THE DATE OF THE FIRST CONVICTION OR FOR A THIRD CONVICTION, UP TO 45 DAYS, PROVIDED THE INDIVIDUAL MAINTAINS THE IGNITION INTERLOCK SYSTEM FOR NOT MORE THAN 12 MONTHS; AND

(IV) FOR A FOURTH OR SUBSEQUENT CONVICTION, 6 MONTHS, PROVIDED THE INDIVIDUAL MAINTAINS THE IGNITION INTERLOCK SYSTEM FOR NOT MORE THAN 24 MONTHS.

(4) THIS SUBSECTION DOES NOT LIMIT THE AUTHORITY OF THE ADMINISTRATION TO ISSUE A RESTRICTIVE LICENSE OR MODIFY A SUSPENSION IMPOSED UNDER THIS SUBSECTION.

16-404.1.

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

(1) "PARTICIPANT" MEANS A PARTICIPANT IN THE IGNITION INTERLOCK SYSTEM PROGRAM.

(2) "PROGRAM" MEANS THE IGNITION INTERLOCK SYSTEM PROGRAM.

(B) (1) THE ADMINISTRATION MAY ESTABLISH AN IGNITION INTERLOCK SYSTEM PROGRAM.

(2) THE ADMINISTRATION MAY ESTABLISH A PROTOCOL FOR THE PROGRAM BY REGULATIONS.

(3) AN INDIVIDUAL WHOSE LICENSE IS SUSPENDED OR REVOKED FOR A VIOLATION OF § 21-902(A), (B), OR (C) OF THIS ARTICLE OR AN ACCUMULATION OF POINTS UNDER § 16-402(A)(21) OR (30) OF THIS SUBTITLE MAY BE A PARTICIPANT.

(4) THE ADMINISTRATION MAY:

(I) REDUCE A PARTICIPANT'S DRIVER'S LICENSE SUSPENSION PERIOD AS PROVIDED UNDER § 16-404(C)(3) OF THIS SUBTITLE;

(II) REINSTATE THE DRIVER'S LICENSE OF A PARTICIPANT WHOSE LICENSE HAS BEEN REVOKED FOR A VIOLATION OF § 21-902(A), (B), OR (C) OF THIS ARTICLE OR REVOKED FOR AN ACCUMULATION OF POINTS UNDER § 16-402(A)(30) OF THIS SUBTITLE FOR A VIOLATION OF § 21-902(A) OF THIS ARTICLE; AND

(III) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IMPOSE ON A PARTICIPANT A PERIOD OF SUSPENSION IN ACCORDANCE WITH § 16-404(C)(2) AND (3) OF THIS SUBTITLE IN LIEU OF A LICENSE REVOCATION FOR:

1. A VIOLATION OF § 21-902(A), (B), OR (C) OF THIS ARTICLE; OR

2. AN ACCUMULATION OF POINTS UNDER § 16 402(A)(30) OF THIS SUBTITLE FOR A VIOLATION OF § 21-902(A) OF THIS ARTICLE.

(5) A NOTICE OF SUSPENSION OR REVOCATION SENT TO AN INDIVIDUAL UNDER THIS TITLE SHALL INCLUDE INFORMATION ABOUT THE PROGRAM AND HOW THE INDIVIDUAL CAN QUALIFY FOR ADMISSION TO THE PROGRAM.

(6) THE ADMINISTRATION MAY ESTABLISH A FEE FOR THE PROGRAM.

(C) FOR PURPOSES OF § 16-404(C)(3) OF THIS SUBTITLE AND SUBSECTION (D) OF THIS SECTION, A PARTICIPANT IS CONSIDERED TO BEGIN PARTICIPATION IN THE PROGRAM WHEN THE PARTICIPANT PROVIDES EVIDENCE OF THE INSTALLATION OF AN IGNITION INTERLOCK SYSTEM IN A MANNER REQUIRED BY THE ADMINISTRATION.

(D) AN INDIVIDUAL WHOSE LICENSE IS SUSPENDED UNDER § 16-404(C)(2)(IV) OR (3)(IV) OF THIS SUBTITLE IS A HABITUAL OFFENDER WHOSE LICENSE MAY NOT BE REINSTATED UNLESS THE INDIVIDUAL PARTICIPATES IN THE PROGRAM FOR AT LEAST 24 MONTHS.

(E) (1) FOR PURPOSES OF AN IGNITION INTERLOCK SYSTEM USED UNDER THIS SECTION OR UNDER A COURT ORDER UNDER § 27-107 OF THIS ARTICLE, THE ADMINISTRATION SHALL PERMIT ONLY THE USE OF AN IGNITION INTERLOCK SYSTEM THAT MEETS OR EXCEEDS THE TECHNICAL STANDARDS FOR BREATH

ALCOHOL IGNITION INTERLOCK DEVICES PUBLISHED IN THE FEDERAL REGISTER FROM TIME TO TIME.

(2) FOR PURPOSES OF AN IGNITION INTERLOCK SYSTEM USED UNDER THIS SECTION, THE ADMINISTRATION SHALL REQUIRE THE PROGRAM PROTOCOL ADOPTED BY THE ADMINISTRATION.

(F) (1) AN INDIVIDUAL REQUIRED TO USE AN IGNITION INTERLOCK SYSTEM UNDER A COURT ORDER:

(I) SHALL BE MONITORED BY THE ADMINISTRATION; AND

(II) SHALL PAY THE FEE REQUIRED BY THE ADMINISTRATION UNDER SUBSECTION (B)(6) OF THIS SECTION.

(2) A COURT ORDER THAT REQUIRES THE USE OF AN IGNITION INTERLOCK SYSTEM IS NOT AFFECTED BY § 16-404(C)(3) OF THIS SUBTITLE.

Vehicle Laws - Failure to Attend Point System Conference - Penalties

BY repealing and reenacting, with amendments,

Article - Transportation

Section 16-212 and 16-404(a)

Annotated Code of Maryland

(1992 Replacement Volume and 1995 Supplement)

16-212.

(a) The Administration may conduct:

(1) A driver improvement program;

(2) An alcohol education program; AND

(3) POINT SYSTEM CONFERENCES.

(b) (1) The purpose of the programs AND CONFERENCES authorized under this section is to provide driver rehabilitation.

(2) The Administration shall determine the content of the programs AND CONFERENCES.

(c) If an individual is convicted of 1 or more moving violations:

(1) After a conference or a hearing as provided in Title 12, Subtitle 2 of this article, as a condition of reinstatement of a driver's license, OR IF AN INDIVIDUAL FAILS TO ATTEND A CONFERENCE AS REQUIRED BY § 16-404(A)(2) OF THIS TITLE, the Administration may require an individual to attend a driver improvement program or alcohol education program; or

(2) A court may require an individual to attend a driver improvement program or alcohol education program.

(d) In carrying out an order of the court, a probation officer or health department officer may assign an individual to attend a driver improvement program or alcohol education program.

(e) (1) An individual who attends a program OR CONFERENCE under this section shall pay, in advance, a fee as provided in this subsection.

(2) The Administration shall set a reasonable fee based on the costs of operating the programs AND CONFERENCES authorized by this section.

(3) The funds collected by the Administration under this subsection may not be credited to the Gasoline and Motor Vehicle Revenue Account for distribution under § 8-403 or § 8-404 of this article.

(f) (1) The Administration may waive attendance at an alcohol education program conducted by the Administration if an individual attends a private alcohol education program or an alcohol education program provided by a political subdivision of the State that is approved by the Alcohol and Drug Abuse Administration and the Administration.

(2) The Administration may waive attendance at a driver improvement program conducted by the Administration if an individual attends a private driver improvement program or a driver improvement program provided by a political subdivision of the State that is approved by the Administration.

(3) THE ADMINISTRATION MAY WAIVE ATTENDANCE AT A POINT SYSTEM CONFERENCE CONDUCTED BY THE ADMINISTRATION IF AN INDIVIDUAL ATTENDS A POINT SYSTEM CONFERENCE CONDUCTED BY A PRIVATE PROVIDER THAT IS APPROVED BY THE ADMINISTRATION.

(4) The Administration shall establish criteria for approving private providers of POINT SYSTEM CONFERENCES AND alcohol education or driver improvement programs and alcohol education or driver improvement programs provided by a political subdivision of the State.

(5) UPON APPLICATION FOR APPROVAL TO PROVIDE THE PROGRAMS AND CONFERENCES ALLOWED UNDER THIS SECTION, A PRIVATE PROVIDER SHALL PAY AN ANNUAL FEE ESTABLISHED BY THE ADMINISTRATION.

16-404.

(a) The Administration shall take the following actions for points accumulated within any 2-year period:

(1) Send a warning letter to each individual who accumulates 3 points;

(2) REQUIRE ATTENDANCE AT a conference BY each individual who accumulates 5 points, except that a Class A, B, or C licensee who submits evidence acceptable to the Administration that he is a professional driver may not be called in until he accumulates 8 points; and

(3) Except as provided in § 16-405 of this subtitle:

(i) Suspend the license of each individual who accumulates 8 points; and

(ii) Revoke the license of each individual who accumulates 12 points.

Volunteer Fire Company Officers - Emergency Equipment on Private Vehicles

BY repealing and reenacting, with amendments,

Article - Transportation

Section 22-218(c)(2)(ii)

Annotated Code of Maryland

(1992 Replacement Volume and 1995 Supplement)

22-218.

(c) A person may not drive or move on any highway any vehicle or equipment that is equipped with or displays any light or signal device designed to emit an oscillating, rotating, blinking, or other type of emission of light, unless designated and authorized by the Administrator as indicated in paragraphs (1) through (9) of this subsection. The provisions of this section do not prohibit the display and use of any lighting device that may be permitted or required elsewhere in the Maryland Vehicle Law.

(2) (ii) IN each volunteer fire company, NO MORE THAN FIVE OF THE FOLLOWING OFFICERS may have their privately owned vehicles equipped with red lights or signal devices which may be displayed only while on route to or at the scene of an emergency:

1. THE FIRE CHIEF OR THE HIGHEST RANKING FIRELINE OFFICER;

2. ONE OR MORE OF THE ASSISTANT CHIEFS OR DEPUTY CHIEFS, WHICHEVER RANK IS SECOND IN COMMAND; AND

3. THE EMERGENCY MEDICAL SERVICES COMMANDER.

Vehicle Laws - Child Safety Seat and Seat Belt Use

**BY repealing and reenacting, with amendments,
Article - Transportation
Section 22-412.2 and 22-412.3(b)
Annotated Code of Maryland
(1992 Replacement Volume and 1995 supplement)**

22-412.2.

(a) (1) In this section THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "CHILD safely seat" means a device that is manufactured in accordance with the 1981 Federal Motor Vehicle Safety Standards and is used to restrain, seat, or position a child who is transported in a motor vehicle.

(ii) "Child safety seat" does not mean a seat belt or combination seat belt-shoulder harness.

(3) (I) "SEAT BELT" MEANS A RESTRAINING DEVICE DESCRIBED UNDER § 22-412 OF THIS SUBTITLE.

(II) "SEAT BELT" INCLUDES A COMBINATION SEAT BELT-SHOULDER HARNESS.

(b) A child safety seat meets the requirements of this section only if it is installed and used in accordance with the directions of the manufacturer.

(c) This section applies to the transportation of a child in a vehicle registered, or of a type capable of being registered in this State as a:

(1) Class A (passenger) vehicle;

(2) Class E (truck) with a manufacturer's rated capacity of 3/4 ton or less, the gross vehicle weight of which does not exceed 7,000 pounds; or

(3) Class M (multipurpose) vehicle.

(d) A PERSON TRANSPORTING A CHILD SHALL SECURE THE CHILD IN A CHILD SAFETY SEAT IN ACCORDANCE WITH THE CHILD SAFETY SEAT AND

VEHICLE MANUFACTURERS' INSTRUCTIONS IF THE CHILD:

(1) IS UNDER THE AGE OF 4 YEARS, REGARDLESS OF THE CHILD'S WEIGHT; OR

(2) WEIGHS 40 POUNDS OR LESS, REGARDLESS OF THE CHILD'S AGE.

(e) A PERSON MAY NOT TRANSPORT A CHILD UNDER THE AGE OF 16 YEARS UNLESS THE CHILD IS SECURED IN:

(1) A CHILD SAFETY SEAT IN ACCORDANCE WITH THE CHILD SAFETY SEAT AND VEHICLE MANUFACTURERS' INSTRUCTIONS; OR

(2) A SEAT BELT.

(f) if a physician, who is licensed to practice medicine in the state in which the vehicle transporting the child is registered, certifies in writing that use of a child safety seat by a particular child would be impractical due to the child's weight, physical unfitness, or other medical reason, there is not a violation of this section.

(g) A child safety seat OR seat belt may not be used to restrain, seat, or position more than 1 individual at a time.

(h) If the number of children subject to the provisions of this section exceeds the number of passenger securing locations available for use by children affected by this section, and all of those securing locations are in use by children, there is not a violation of this section.

(i) A violation of this section is not contributory negligence and may not be admitted as evidence in the trial of any civil action.

(j) A violation of this section is not considered a moving violation for purposes of § 16-402 of this article.

(k) The failure to provide a child safety seat OR seat belt for more than 1 child in the same vehicle at the same time, as required by this section, shall be treated as a single violation.

(l) (1) Any person convicted of a violation of this section is subject to a fine of \$25.

(2) A judge may waive the fine if the person charged with violation of this section:

(i) Did not possess a child safety seat at the time of the violation;

(ii) Acquires a child safety seat prior to the hearing date; and

(iii) Provides proof of acquisition to the court.

(m) The Department of Transportation and the Department of Health and Mental

Hygiene shall jointly implement the Child Safety Seat Program and foster compliance with this section through educational and promotional efforts.

22-412.3.

(a) (l) In this section, the following words have the meanings indicated.

(2) (i) "Motor vehicle" means a vehicle that is:

1. Registered or capable of being registered in this State as a Class A (passenger), Class E (truck), Class F (tractor), Class M (multipurpose), or Class P (passenger bus) vehicle; and

2 Required to be equipped with seat belts under the federal motor vehicle safety standards contained in the Code of Federal Regulations.

(ii) " Motor vehicle" does not include a Class L (historic) vehicle.

(3) "Outboard front seat" means a front seat position that is adjacent to a door of a motor vehicle.

(4) (i) "Seat Belt" means a restraining device described under § 22-412 of this article.

(ii) "Seat belt" includes a combination seat belt - shoulder harness.

(b) A person may not operate a motor vehicle unless the person and each occupant under 16 years old are restrained by a seat belt or a child safety seat as provided in § 22-412.2 of this article.

Vehicle Laws - Combination of a Power Unit and a Travel Trailer - Length Limitations

BY repealing and reenacting, with without amendments,
Article - Transportation
Section 11-170
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)

BY adding to
Article - Transportation
Section 24-104.1(m)
Annotated Code of Maryland
(1992 Replacement Volume and 1995 Supplement)

11-170.

(a) "Travel trailer" means a vehicle that:

- (1) Is mounted on wheels;**
- (2) Is of such a size and weight as not to require any special highway movement permit when towed by a motor vehicle;**
- (3) Is designed and constructed primarily to provide temporary living quarters for recreational, camping, or travel use; and**
- (4) Is no longer than 40 feet.**

(b) "Travel trailer" includes a fifth wheel travel trailer.

24-104.1.

(M) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A COMBINATION OF NONCOMMERCIAL VEHICLES CONSISTING OF A POWER UNIT AND A TRAVEL TRAILER MAY NOT EXCEED 60 FEET IN LENGTH.

(2) THE COMBINATION OF VEHICLES EXCEEDING 55 FEET BUT AUTHORIZED UNDER THIS SUBSECTION MAY ONLY BE OPERATED ON:

(I) ANY PART OF THE INTERSTATE SYSTEM OR OTHER STATE SYSTEM HIGHWAYS THAT ARE DESIGNATED BY THE SECRETARY IN CONJUNCTION WITH THE U.S. DEPARTMENT OF TRANSPORTATION; OR

(II) A HIGHWAY THAT IS THE SHORTEST PRACTICAL ROUTE BETWEEN A DESIGNATED HIGHWAY AND:

1. A POINT OF ORIGIN OR DESIGNATION ON A PARTICULAR DAY; OR

2. FOR A DISTANCE NOT TO EXCEED 1 MILE, FACILITIES FOR FOOD, FUEL, REPAIRS, OR REST.

Vehicle Laws - Local Regulation of Parking - Motorcycles

BY repealing and reenacting, with amendments,

Article - Transportation

Section 26-301

Annotated Code of Maryland

(1992 Replacement Volume and 1995 Supplement)

26-301.

(a) In this subtitle, "officer" means a police officer or a person other than a police officer who is authorized to issue a citation for a violation of an ordinance or regulation that is adopted under this section.

(b) SUBJECT TO SUBSECTION (C) OF THIS SECTION, ANY State agency authorized by law and any political subdivision of this State may adopt ordinances or regulations that:

(1) Regulate the parking of vehicles;

(2) Provide for the impounding of vehicles parked in violation of the ordinances or regulations;

(3) Regulate the towing of vehicles from publicly owned and privately owned parking lots; and

(4) Provide for the issuance of a citation by an officer for a violation of an ordinance or regulation that is adopted under this section.

(C) A POLITICAL SUBDIVISION MAY NOT ADOPT OR ENFORCE AN ORDINANCE OR REGULATION THAT PROHIBITS THE PARKING OF TWO MOTORCYCLES WITHIN A SPACE SERVED BY A SINGLE PARKING METER.

ARTICLE 41 - GOVERNOR - EXECUTIVE AND ADMINISTRATIVE DEPARTMENTS

Executive Department- Funeral Benefits

BY repealing and reenacting, with amendments,

Article 41 - Governor - Executive and Administrative Departments

Section 4-1002

Annotated Code of Maryland

(1993 Replacement Volume and 1995 Supplement)

4- 1002.

(a) (1) In this section the following words have the meanings indicated.

(2) "Law enforcement officer" means:

- (i) A law enforcement officer as defined in Article 27, § 727 of the Code;**
- (ii) An officer serving in a probationary status;**
- (iii) An officer who serves at the pleasure of the appointing authority of a county, incorporated municipality, or Baltimore City;**
- (iv) The security force of the Department of General Services; and**
- (v) The special police of the Department of Health and Mental Hygiene who are commissioned police officers.**

(3) "Children" means any natural, illegitimate, adopted, or posthumous children or stepchildren of the decedent who are:

- (i) Eighteen years of age or under; or**
- (ii) Over eighteen years of age and incapable of self-support because of physical or mental disability.**

(4) "Correctional officer" means a member of a correctional unit who is responsible for the investigation, care, custody, control, or supervision of persons confined to places of incarceration.

(5) "Correctional unit" means any State or county governmental organization which has by statute, ordinance, or court order the responsibility for the care, control, and supervision of inmates in correctional institutions for persons declared to be parolees or for persons placed on probation or suspension of sentence.

(6) "Stepchild" means a child of the surviving spouse who was living with or dependent for support on the decedent at the time of his death.

(7) "State fire marshal" means any sworn member of the Maryland State Fire Marshal's Office.

(b) (1) A death benefit shall be paid to the surviving spouse, children, or dependent parents of any law enforcement officer of the State or of any political subdivision of the State, any sheriff or deputy sheriff, any correctional officer, any volunteer or professional firefighter or rescue squad member or any State fire marshal, who is killed or dies in the performance of duties on or after July 1, 1989. The amount of the benefit shall be \$50,000.

(2) This DEATH BENEFIT shall be in addition to:

- (i) Any workers' compensation benefits;**
- (ii) The proceeds of any form of life insurance, regardless of who paid the**

premiums on the insurance; OR

(III) FUNERAL BENEFIT PROVIDED UNDER PARAGRAPH (3) OF THIS SUBSECTION.

(3) (I) REASONABLE FUNERAL EXPENSES, NOT TO EXCEED \$10,000, SHALL BE PAID TO THE SURVIVING SPOUSE, CHILDREN, OR DEPENDENT PARENTS OF A LAW ENFORCEMENT OFFICER, CORRECTIONAL OFFICER, VOLUNTEER OR PROFESSIONAL FIREFIGHTER OR RESCUE SQUAD MEMBER, OR STATE FIRE MARSHAL WHO IS KILLED OR DIES IN THE LINE OF DUTY.

(II) THE FUNERAL BENEFIT PROVIDED BY THIS PARAGRAPH SHALL BE REDUCED BY THE AMOUNT OF ANY RELATED WORKERS' COMPENSATION BENEFITS PAID UNDER THE PROVISIONS OF § 9-689 OF THE LABOR AND EMPLOYMENT ARTICLE.

(c) The payments for which this section provides shall be made out of funds which the Governor may appropriate for that purpose in the State budget.

(d) The Secretary of Public Safety and Correctional Services may award a death benefit under this section under any of the following circumstances provided the decision is made on a case-by-case basis:

(1) If the decedent's death was caused by the decedent's intentional misconduct;

(2) If the decedent intended to bring about the decedent's death; or

(3) If the decedent's voluntary intoxication was the proximate cause of the decedent's death.

(e) Upon a determination by the Secretary of the Department of Public Safety and Correctional Services that the BENEFITS provided for in this section ARE to be paid, payment shall be made as follows:

(1) To the surviving spouse;

(2) If there is no surviving spouse, to the surviving child or children of the decedent in equal shares; or

(3) If there is no surviving spouse, or children, to the surviving parent or parents, if the parent was a dependent as defined in § 152 of the Internal Revenue Code.

(f) (1) Any person aggrieved by a final decision of the Secretary under this section may apply for judicial review.

(2) The appeal shall be made as provided for review of final decisions in Title 10, Subtitle 2 of the State Government Article of the Code.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to funeral benefits for any law enforcement officer, correctional officer, volunteer or professional firefighter or rescue squad member, or State fire marshal who is killed or dies in the line of duty on or after the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health and safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

ARTICLE 88B - DEPARTMENT OF STATE POLICE

State Police - Computer Crimes - Jurisdiction of the Department

**BY repealing and reenacting, with amendments,
Article 88B - Department of State Police
Section 4
Annotated Code of Maryland
(1995 Replacement Volume)**

4.

(a) In this section, "emergency" means a sudden or unexpected happening or an unforeseen combination of circumstances that calls for immediate action to protect the health, safety, welfare, or property of an individual from actual or threatened harm or from an unlawful act.

(b) The Secretary, the deputy secretary, and employees designated by the Secretary as police employees shall have throughout the State the same powers, privileges, immunities, and defenses as sheriffs, constables, police officers, and other peace officers possessed at common law and may now or hereafter exercise within their respective jurisdictions. Any warrant of arrest may be executed by a police employee in any part of the State without further endorsement.

(c) Police employees shall not act within the limits of any incorporated municipality which maintains a police force except: (1) when in pursuit of an offender or suspected offender; (2) when in search of an offender or suspected offender wanted for a crime committed outside of the limits of the municipality, or when interviewing or seeking to interview a witness or supposed witness to such crime; (3) when a crime is committed in the presence of the police employee, the arrested party shall be immediately transferred to the custody of the local law enforcement agency; (4) when requested to act by the chief executive officer or the chief police officer of the municipality; (5) when ordered by the Governor to act within the municipality; (6)

except in Baltimore City, when enforcing the motor vehicle laws of this State; (7) in Baltimore City, only when enforcing Title 23 (Vehicle Laws - Inspection of Used Vehicles and Warnings for Defective Equipment) of the Transportation Article; (8) in any building or place when ordered by the President of the Senate and the Speaker of the House of Delegates, or either of them, to guard the safety of legislators or the integrity of the legislative process; (9) to protect the safety of an elected State official; (10) in the municipalities of Somerset County; (11) (i) 1. when participating in a joint investigation with officials from any other State, federal, or local law enforcement agency at least one of which shall have local jurisdiction; 2. when rendering assistance to a police officer; 3. when acting at the request of a local police officer; or 4. when an emergency exists; and (ii) when acting in accordance with regulations adopted by the Secretary to implement this paragraph; OR (12) WHEN CONDUCTING INVESTIGATIONS RELATING TO OR OTHERWISE ENFORCING THE PROVISIONS OF ARTICLE 27, § 146 OF THE CODE.

(d) No police employee shall be placed on detached service and act for any federal department, agency or committee outside of the State of Maryland without the written approval of the Governor or as otherwise provided by law.

(e) The term "incorporated municipality" as used in subsection (b) of this section shall mean the territory within the limits of an incorporated city or town within any county of this State or of Baltimore City. However, this term shall not be construed to include any other territory within the limits of any county.

Domestic Violence - Enforcement of Out-Of-State Protective Orders

BY repealing and reenacting, with amendments,
Article 88B - Department of State Police
Section 7A
Annotated Code of Maryland
(1995 Replacement Volume)

7A.

(a) (1) In this section the following words have the meanings indicated.

(2) "Civil child support warrant" means any of the following, when issued for the enforcement of a child support order:

(i) An arrest warrant;

(ii) A bench warrant;

(iii) A body attachment issued by a circuit court; or

(iv) A warrant for failure to appear.

(3) "Civil protective order" means:

(i) An ex parte order issued under § 4-505 of the Family Law Article;

(ii) A protective order issued under § 4-506 of the Family Law Article;

OR

(III) A PROTECTIVE ORDER ISSUED BY A COURT OF ANOTHER STATE OR AN INDIAN TRIBE THAT HAS BEEN FILED WITH THE DISTRICT COURT OR A CIRCUIT COURT UNDER § 4-508.1 OF THE FAMILY LAW ARTICLE.

(4) "System" means the Maryland Interagency Law Enforcement System.

(b) The Department shall:

(1) Cooperate with local child support enforcement offices and law enforcement agencies to receive, accept, and incorporate civil child support warrants in the System; and

(2) Cooperate with the Administrative Office of the Courts, the Chief Clerk of the District Court of Maryland, and the clerks of the circuit courts to receive, accept, and incorporate civil protective orders in the System.

(c) (1) Any judge or any law enforcement agency or officer may access the System to determine the status of any outstanding civil child support warrant issued by a court of the State.

(2) Any judge or any law enforcement agency or officer may access the System to determine the status of any outstanding civil protective order issued by a court of the State OR ISSUED BY A COURT OF ANOTHER STATE OR AN INDIAN TRIBE AND FILED WITH THE DISTRICT COURT OR A CIRCUIT COURT.

(d) (1) Local child support enforcement offices and appropriate local law enforcement agencies shall be responsible for entry, maintenance, and prompt validation of civil child support warrants in the System in accordance with procedures adopted by the Department.

(2) The clerks of the courts and appropriate local law enforcement agencies shall be responsible for entry, maintenance, and prompt validation of civil protective orders in the System in accordance with procedures adopted by the Department.