CHAPTER 562

(Senate Bill 519)

AN ACT concerning

~~Juveniles – School Attendance and Crimes Committed During School Hours –~~
~~Penalties and Issuance of a License to Drive~~
Truancy – Prohibition Against Issuance of Learner's Instructional Permit

FOR the purpose of requiring ~~the circuit court sitting as a juvenile court, when making a certain disposition, to consider whether a certain offense committed by a child was committed during certain hours; providing that a person who is under a certain age and is convicted as an adult of a certain crime is subject to a certain increase in the person's term of imprisonment or fine if the trier of fact finds beyond a reasonable doubt that the person committed the crime during certain hours; requiring the principal or head teacher of a school to report to the county superintendent, the supervisor of pupil personnel, or another designated official each time a certain child has accumulated a certain number of unexcused absences from a school in which the child is enrolled; requiring a certain representative of the school system, on receiving a certain report, to notify the Motor Vehicle Administration to suspend a certain child's license to drive and to notify the child that the child's license to drive will be suspended; requiring a local law enforcement agency to notify the Motor Vehicle Administration to suspend a certain child's license to drive and to notify the child that the child's license to drive will be suspended if the child receives a certain number of local truancy violation notices; prohibiting the Motor Vehicle Administration from issuing a learner's permit to an applicant under a certain age unless the applicant presents certain information regarding school attendance; requiring the Motor Vehicle Administration to suspend the license to drive of a child, subject to certain hearing requirements, for a certain period of time or to delay the issuance of a license to a child for a certain period of time after receiving a certain notice; requiring the Motor Vehicle Administration to impose a certain fine on a certain child; defining certain terms; and generally relating to offenses committed by juveniles and absences from school~~ certain applicants for a learner's instructional permit to present to the Motor Vehicle Administration the applicant's school attendance record; prohibiting the Administration from issuing a learner's instructional permit to certain applicants if the applicant's school attendance record indicates a certain number of unexcused absences; and generally relating to the issuance of learner's instructional permits and truancy.

BY adding to
~~Article – Courts and Judicial Proceedings~~
~~Section 3–8A–19(e–1)~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume)~~

BY adding to
~~Article – Criminal Law~~
~~Section 14–104~~
~~Annotated Code of Maryland~~
~~(2002 Volume and 2006 Supplement)~~

BY repealing and reenacting, without amendments,
Article – Education
Section 7–301(a)(1)
Annotated Code of Maryland
(2006 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~
~~Article – Education~~
~~Section 7–302~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume)~~

~~BY repealing and reenacting, without amendments,~~
~~Article – Transportation~~
~~Section 11–128 and 12–203~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2006 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Transportation
Section 16–105(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

~~BY adding to~~
~~Article – Transportation~~
~~Section 16–206.2~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2006 Supplement)~~

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

Article – Courts and Judicial Proceedings

3–8A–19.

(C–1) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) 1. "OFFENSE" MEANS AN ACT COMMITTED BY A CHILD IN THE STATE THAT IF COMMITTED BY AN ADULT WOULD BE A CRIME UNDER:

A. COMMON LAW; OR

B. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE ANNOTATED CODE OF MARYLAND.

2. "OFFENSE" DOES NOT INCLUDE A VIOLATION OF THE TRANSPORTATION ARTICLE THAT IS NOT PUNISHABLE BY A TERM OF IMPRISONMENT.

(III) "SCHOOL HOURS" MEANS THE HOURS FROM 8 A.M. TO 5 P.M. ON DAYS WHEN SCHOOLS ARE IN SESSION.

(2) IN MAKING A DISPOSITION ON A FINDING THAT A CHILD HAS COMMITTED AN OFFENSE, THE COURT SHALL TAKE INTO CONSIDERATION WHETHER THE OFFENSE WAS COMMITTED DURING SCHOOL HOURS.

Article – Criminal Law

14–104.

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

(2) (I) "CRIME" MEANS AN ACT COMMITTED BY A PERSON IN THE STATE THAT IS A CRIME UNDER:

1. COMMON LAW; OR

~~2.   EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE ANNOTATED CODE OF MARYLAND.~~

~~(II)   "CRIME" DOES NOT INCLUDE A VIOLATION OF THE TRANSPORTATION ARTICLE THAT IS NOT PUNISHABLE BY A TERM OF IMPRISONMENT.~~

~~(3)   "SCHOOL HOURS" MEANS THE HOURS FROM 8 A.M. TO 5 P.M. ON DAYS WHEN SCHOOLS ARE IN SESSION.~~

~~(B)   THIS SECTION APPLIES TO A PERSON WHO IS UNDER THE AGE OF 18 YEARS AND CONVICTED AS AN ADULT OF A CRIME.~~

~~(C)   (1)   IF THE TRIER OF FACT FINDS BEYOND A REASONABLE DOUBT THAT A PERSON COMMITTED A CRIME DURING SCHOOL HOURS, THE PERSON'S SENTENCE FOR THE CRIME IS SUBJECT TO AN INCREASE IN THE TERM OF IMPRISONMENT NOT EXCEEDING 1 YEAR AND AN INCREASE IN THE FINE NOT EXCEEDING $10,000.~~

~~(2)   THE INCREASED TERM OF IMPRISONMENT AND FINE SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION IS IN ADDITION TO ANY PENALTY IMPOSED FOR THE UNDERLYING CRIME.~~

Article – Education

7–301.

(a)   (1)   Except as otherwise provided in this section, each child who resides in this State and is 5 years old or older and under 16 shall attend a public school regularly during the entire school year unless the child is otherwise receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age.

~~(2)   In accordance with regulations of the State Board of Education, a child who resides in this State and is 5 years old may be exempted from mandatory school attendance for 1 year if the child's parent or guardian files a written request with the local school system asking that the child's attendance be delayed due to the child's level of maturity.~~

(3)   Except as provided in subsection (f) of this section or in regulations of the State Board of Education, each child who resides in this State shall attend a kindergarten program regularly during the school year prior to entering the first grade unless the child is otherwise receiving regular, thorough instruction in the skills and studies usually taught in a kindergarten program of a public school.

7-302.

(a)   The principal or head teacher of each public or private school in this State shall report immediately to the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent the name of each child enrolled in his school who has been absent or irregular in attendance, without lawful excuse, or who shows evidence of maladjustment, so that the causes may be studied and solutions worked out.

(b)   On receipt of a report from a principal or head teacher of a public school that a student has been habitually truant without lawful excuse, the appropriate representative of the school system:

(1)   Shall initiate an investigation into the cause of the child's truancy;

(2)   May provide counseling regarding the availability of social, health, and educational services; and

(3)   Following the investigation or intervention:

(i)   May notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse;

(ii)   Shall notify the appropriate local department that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-819(b-1) of the Courts Article; and

(iii)   Shall notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-8A-19(d)(5) of the Courts Article.

(c)   The county superintendent, the superintendent's designee, or the supervisor of pupil personnel shall provide to the local education agency for inclusion in the report of the local education agency under § 7-304(f)(1) of this subtitle information regarding the number of students identified as being habitually truant.

(D)   (1)   THIS SUBSECTION APPLIES TO:

(I)   A CHILD WHO IS AT LEAST 13 YEARS OF AGE AND REQUIRED UNDER § 7–301 OF THIS SUBTITLE TO ATTEND SCHOOL; AND

(II)   A CHILD 16 YEARS OLD OR OLDER AND UNDER 18 YEARS WHO IS ENROLLED IN A PUBLIC OR PRIVATE SCHOOL IN THE COUNTY.

(2)   (I)   EACH TIME A CHILD HAS ACCUMULATED 10 UNEXCUSED ABSENCES FROM A SCHOOL IN WHICH THE CHILD IS ENROLLED, THE PRINCIPAL OR HEAD TEACHER OF EACH PUBLIC OR PRIVATE SCHOOL IN THE COUNTY SHALL IMMEDIATELY REPORT THE NAME OF THE CHILD TO THE COUNTY SUPERINTENDENT, THE SUPERVISOR OF PUPIL PERSONNEL, OR ANY OTHER OFFICIAL DESIGNATED BY THE COUNTY SUPERINTENDENT.

(II)   ON RECEIPT OF A REPORT UNDER THIS PARAGRAPH FROM A PRINCIPAL OR HEAD TEACHER, THE APPROPRIATE REPRESENTATIVE OF THE SCHOOL SYSTEM SHALL:

1.   NOTIFY THE MOTOR VEHICLE ADMINISTRATION TO SUSPEND THE LICENSE TO DRIVE OF THE CHILD UNDER § 16–206.2 OF THE TRANSPORTATION ARTICLE; AND

2.   NOTIFY THE CHILD THAT THE CHILD'S LICENSE TO DRIVE WILL BE SUSPENDED.

(3)   EACH TIME A CHILD HAS RECEIVED TWO TRUANCY VIOLATION NOTICES FROM LOCAL LAW ENFORCEMENT OFFICERS, THE LOCAL LAW ENFORCEMENT AGENCY SHALL IMMEDIATELY:

(I)   NOTIFY THE MOTOR VEHICLE ADMINISTRATION TO SUSPEND THE LICENSE TO DRIVE OF THE CHILD UNDER § 16–206.2 OF THE TRANSPORTATION ARTICLE; AND

(II)   NOTIFY THE CHILD THAT THE CHILD'S LICENSE TO DRIVE WILL BE SUSPENDED.

Article – Transportation

11–128.

"License", as used in reference to the operation of a motor vehicle, means any:

(1)   Driver's license; and

(2)   Any other license or permit to drive a motor vehicle that is issued under or granted by the laws of this State, including:

(i)   Any temporary license;

(ii)   A learner's instructional permit;

(iii)   A provisional license;

(iv)   The privilege of any individual to drive a motor vehicle, whether or not that individual is formally licensed by this or any other jurisdiction;

(v)   Any nonresident's privilege to drive, as defined in this subtitle; and

(vi)   A commercial driver's license.

12–203.

(a)   If the Maryland Vehicle Law or a rule or regulation of the Administration provides that an applicant or licensee may request a hearing on refusal, suspension, or revocation of a license or privilege, the Administration shall give the applicant or licensee written notice under § 12–114 of this title of:

(1)   The refusal, suspension, or revocation; and

(2)   The right of the applicant or licensee to request a hearing.

(b)   (1)   Except as otherwise provided in the Maryland Vehicle Law, the applicant or licensee may request a hearing within 15 days from the date that the notice required by this section is mailed.

(2)   The hearing shall be held within 30 days of the date of the request.

(3)   The Administration shall render a decision within 30 days of a hearing conducted under Title 16, Subtitles 1 through 4 of this article.

16–105.

(a)   (1)   Any individual who desires to obtain an original driver's license under this subtitle or to be licensed in a class for which the individual is not already licensed under this subtitle shall apply to the Administration for the desired driver's license.

(2)   Except as provided in subsection (f) of this section, before issuing a driver's license, the Administration shall issue to each applicant a learner's instructional permit. The learner's instructional permit shall identify clearly the class of license for which the applicant has applied.

(3)   (I)   ~~THE ADMINISTRATION MAY NOT ISSUE A LEARNER'S INSTRUCTIONAL PERMIT TO AN APPLICANT UNDER THE AGE OF 18 YEARS UNLESS THE APPLICANT PRESENTS~~ EACH APPLICANT FOR A LEARNER'S INSTRUCTIONAL PERMIT WHO IS UNDER THE AGE OF 16 YEARS SHALL PRESENT TO THE ADMINISTRATION~~:~~

~~(I)   FOR AN APPLICANT WHO IS 15 YEARS OF AGE AND REQUIRED UNDER § 7–301 OF THE EDUCATION ARTICLE TO ATTEND SCHOOL, A CERTIFIED COPY OF THE APPLICANT'S SCHOOL ATTENDANCE RECORD; OR~~

~~(II)   FOR AN APPLICANT WHO IS 16 OR 17 YEARS OF AGE, EITHER:~~

~~1.   A CERTIFIED COPY OF THE APPLICANT'S SCHOOL ATTENDANCE RECORD; OR~~

~~2.   EVIDENCE SATISFACTORY TO THE ADMINISTRATION THAT THE APPLICANT IS NOT ENROLLED IN SCHOOL.~~

(II)   THE ADMINISTRATION MAY NOT ISSUE A LEARNER'S INSTRUCTIONAL PERMIT TO AN APPLICANT UNDER THE AGE OF 16 YEARS IF THE APPLICANT'S SCHOOL ATTENDANCE RECORD INDICATES MORE THAN ~~FIVE~~ 10 UNEXCUSED ABSENCES DURING THE PRIOR SCHOOL SEMESTER.

~~16–206.2.~~

~~(A)   SUBJECT TO THE PROVISIONS OF SUBSECTION (C) OF THIS SECTION, ON RECEIPT OF NOTICE DESCRIBED UNDER § 7–302(D) OF THE EDUCATION ARTICLE THAT A CHILD HAS BEEN UNLAWFULLY ABSENT FROM~~

~~SCHOOL OR HAS RECEIVED TRUANCY VIOLATION NOTICES, THE ADMINISTRATION SHALL:~~

~~(1)   FOR A FIRST REPORTING:~~

~~(I)   IF THE CHILD ALREADY HAS A LICENSE TO DRIVE, SUSPEND THE LICENSE OF THE CHILD FOR 6 MONTHS; OR~~

~~(II)   IF THE CHILD DOES NOT ALREADY HAVE A LICENSE TO DRIVE, DELAY THE ISSUANCE OF A LICENSE TO THE CHILD FOR 6 MONTHS FROM THE DATE THAT THE CHILD INITIALLY APPLIES TO RECEIVE A LICENSE; AND~~

~~(2)   FOR A SECOND OR SUBSEQUENT REPORTING:~~

~~(I)   IF THE CHILD ALREADY HAS A LICENSE TO DRIVE, SUSPEND THE LICENSE OF THE CHILD FOR 1 YEAR; OR~~

~~(II)   IF THE CHILD DOES NOT ALREADY HAVE A LICENSE TO DRIVE, DELAY THE ISSUANCE OF A LICENSE TO THE CHILD FOR 1 YEAR FROM THE DATE THAT THE CHILD INITIALLY APPLIES TO RECEIVE A LICENSE.~~

~~(B)   IN ADDITION TO THE DISPOSITIONS UNDER SUBSECTION (A) OF THIS SECTION, THE ADMINISTRATION SHALL IMPOSE A FINE OF:~~

~~(1)   FOR A FIRST REPORTING, $100; AND~~

~~(2)   FOR A SECOND OR SUBSEQUENT REPORTING, $250.~~

~~(C)   SUBJECT TO THE PROVISIONS OF TITLE 12, SUBTITLE 2 OF THIS ARTICLE, A LICENSEE MAY REQUEST A HEARING ON A SUSPENSION OR A DELAY UNDER THIS SECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.