

SENATE BILL 404

E1

5lr1295
CF HB 270

By: **Senator Cassilly**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Arson, Burning, Malicious Destruction, and Theft – Property of**
3 **Another – Definition**

4 FOR the purpose of defining the term “property of another” as used in certain provisions
5 prohibiting arson, burning, and the malicious destruction of property to conform with
6 the definition found in provisions relating to theft and related crimes; clarifying that
7 the “property of another” includes a tenant by the entirety; and generally relating to
8 arson, burning, the malicious destruction of property, and theft.

9 BY repealing and reenacting, without amendments,
10 Article – Criminal Law
11 Section 6–101(a) and 7–101(a)
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2014 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Criminal Law
16 Section 6–101(d) and (e), 6–301, and 7–101(j)
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2014 Supplement)

19 BY adding to
20 Article – Criminal Law
21 Section 6–101(d)
22 Annotated Code of Maryland
23 (2012 Replacement Volume and 2014 Supplement)

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

26 **Article – Criminal Law**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 6–101.

2 (a) In this subtitle the following words have the meanings indicated.

3 (D) “PROPERTY OF ANOTHER” HAS THE MEANING STATED IN § 7–101 OF
4 THIS ARTICLE.

5 [(d)] (E) (1) “Structure” means a building or other construction, a vehicle, or
6 watercraft.

7 (2) “Structure” includes a:

8 (i) barn, stable, pier, wharf, and any facility attached to a pier or
9 wharf;

10 (ii) tent, public building, or public bridge; and

11 (iii) railroad car.

12 [(e)] (F) “Willfully” means acting intentionally, knowingly, and purposely.

13 6–301.

14 (A) IN THIS SECTION, “PROPERTY OF ANOTHER” HAS THE MEANING STATED
15 IN § 7–101 OF THIS ARTICLE.

16 [(a)] (B) A person may not willfully and maliciously destroy, injure, or deface the
17 real or personal property of another.

18 [(b)] (C) A person who, in violation of this section, causes damage of at least
19 \$1,000 to the property is guilty of a misdemeanor and on conviction is subject to
20 imprisonment not exceeding 3 years or a fine not exceeding \$2,500 or both.

21 [(c)] (D) A person who, in violation of this section, causes damage of less than
22 \$1,000 to the property is guilty of a misdemeanor and on conviction is subject to
23 imprisonment not exceeding 60 days or a fine not exceeding \$500 or both.

24 [(d)] (E) (1) For purposes of this subsection, an act of “graffiti” means a
25 permanent drawing, permanent painting, or a permanent mark or inscription on the
26 property of another without the permission of the owner of the property.

27 (2) In addition to the penalties set forth in [subsections (b) and (c)]
28 SUBSECTIONS (C) AND (D) of this section, the court shall order a person convicted of
29 causing malicious destruction by an act of graffiti to pay restitution or perform community
30 service or both.

1 (3) Title 11, Subtitle 6 of the Criminal Procedure Article applies to an order
2 of restitution under this subsection.

3 ~~[(e)]~~ **(F)** (1) Except as provided in paragraph (2) of this subsection, to
4 determine a penalty, the court may consider as one crime the aggregate value of damage to
5 each property resulting from one scheme or continuing course of conduct.

6 (2) If separate acts resulting in damage to the properties of one or more
7 owners are set forth by separate counts in one or more charging documents, the separate
8 counts may not be merged for sentencing.

9 ~~[(f)]~~ **(G)** (1) The value of damage is not a substantive element of a crime
10 under this section and need not be stated in the charging document.

11 (2) The value of damage shall be based on the evidence and that value shall
12 be applied for the purpose of imposing the penalties established in this section.

13 (3) If it cannot be determined from the evidence whether the value of the
14 damage to the property is more or less than \$1,000, the value is deemed to be less than
15 \$1,000.

16 7–101.

17 (a) In this part the following words have the meanings indicated.

18 (j) “Property of another” means property in which a person other than the
19 offender has an interest that the offender does not have the authority to defeat or impair,
20 even though the offender also may have an interest in the property, **INCLUDING AN**
21 **INTEREST BY A TENANT BY THE ENTIRETY.**

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2015.