Article - Public Safety

§1–101.

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

(b) "County" means a county of the State or Baltimore City.

(c) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind, partnership, firm, association, corporation, or other entity.

(d) "State" means:

(1) a state, possession, territory, or commonwealth of the United States; or

(2) the District of Columbia.

§1–201.

(a) (1) The Governor may offer a reward in the name of the State for information that leads to the arrest and conviction of an individual who causes the death of any of the following individuals who is killed in the performance of duty:

(i) a law enforcement officer of the State or a political subdivision of the State;

(ii) a career or volunteer member of a fire department or ambulance or rescue squad; or

(iii) a sworn member of the office of State Fire Marshal.

(2) On request of the State's Attorney of the county in which the death occurred, the Governor may set a reward for the information in an amount not exceeding $25,000 in each case.

(3) The determination of the Governor of the individual to whom a reward is to be paid is conclusive.

(b) The Governor shall include in the State budget each year the amount of any reward made under this section.

§1–202.

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

(2) (i) "Child" means a natural or adopted, legitimate or illegitimate child or stepchild of the decedent.

(ii) "Child" includes a child or stepchild born posthumously.

(3) "Correctional officer" has the meaning stated in § 8–201(e)(1) of the Correctional Services Article.

(4) "Emergency medical services provider" has the meaning stated in § 13–516 of the Education Article.

(5) "Hazardous material" means any substance regulated as a hazardous material under Title 49 of the Code of Federal Regulations.

(6) "Hazardous material response team employee" means an employee of the Department of the Environment or a local government agency who is on call 24 hours a day to provide emergency response to a discharge of oil or a release of hazardous material or other emergency response activity.

(7) (i) "Law enforcement officer" has the meaning stated in § 3–101 of this article.

(ii) "Law enforcement officer" includes:

1. an officer who serves in a probationary status; and

2. an officer who serves at the pleasure of the appointing authority of a county or municipal corporation.

(8) "Performance of duties" includes, in the case of a volunteer or career firefighter, public safety aviation employee, rescue squad member, or hazardous material response team employee:

(i) actively participating in fighting a fire;

(ii) going to or from a fire;

(iii) performing other duties necessary to the operation or maintenance of the fire company;

(iv) actively participating in the ambulance, advanced life support, or rescue work of an advanced life support unit or a fire, ambulance, or rescue company, including going to or from an emergency or rescue;

(v) providing emergency or rescue assistance, whether acting alone or at the direction of or with a fire, ambulance, or rescue company or advanced life support unit;

(vi) actively participating in flight operations as a crew member in a rotary or fixed wing aircraft; and

(vii) providing emergency response to a discharge of oil or a release of

hazardous material or other emergency response activity.

(9) "Public safety aviation employee" includes a pilot and aviation maintenance technician employed by the State.

(10) "Stepchild" means a child of the surviving spouse who was living with or dependent for support on the decedent at the time of the decedent's death.

(a–1) For purposes of this section, an individual served in the Afghanistan or Iraq conflict if the individual was a member of the uniform services of the United States who served in:

(1) Afghanistan or contiguous air space, as defined in federal regulations, on or after October 24, 2001, and before a terminal date to be prescribed by the United States Secretary of Defense; or

(2) Iraq or contiguous waters or air space, as defined in federal regulations, on or after March 19, 2003, and before a terminal date to be prescribed by the United States Secretary of Defense.

(b) (1) Except as provided in subsection (j) of this section and subject to subsection (c) of this section and paragraphs (2) and (3) of this subsection, a death benefit of $125,000 shall be paid to the surviving spouse, child, dependent parent, or estate of each of the following individuals who is killed or dies in the performance of duties on or after January 1, 2006:

(i) a law enforcement officer;

(ii) a correctional officer;

(iii) a volunteer or career firefighter or rescue squad member;

(iv) a sworn member of the office of State Fire Marshal;

(v) a public safety aviation employee;

(vi) a Maryland resident who was a member of the uniform services of the United States serving in the Afghanistan or Iraq conflict; or

(vii) a hazardous material response team employee.

(2) For fiscal year 2009, and for each following fiscal year, the death benefit provided in the prior fiscal year shall be adjusted by any change in the calendar year preceding the fiscal year in the Consumer Price Index (All Urban Consumers – United States City Average – All Items), as published by the United States Bureau of Labor Statistics.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, an

application for a death benefit under this subsection shall be submitted within 3 years after the death of the decedent.

(ii) If the decedent died before June 1, 2010, an application for a death benefit under this subsection shall be submitted on or before May 31, 2013.

(4) A death benefit under this subsection is 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; and

(iii) the funeral benefit provided under subsection (d) of this section.

(5) On receiving notice of the death of an individual described in paragraph (1) of this subsection, the Department of Public Safety and Correctional Services shall take reasonable steps to notify potential recipients of the potential death benefits available under this subsection:

(i) when the Department receives notice of the death; and

(ii) again 1 year after the date of the death, if an application for a death benefit with respect to the death of the decedent has not been submitted.

(c) (1) Whenever an individual identified in subsection (b)(1)(i) through (v) and (vii) of this section dies as the direct and proximate result of a heart attack or stroke, the individual shall be presumed to have died as a direct and proximate result of a personal injury sustained in the performance of duties if:

(i) the individual, while on duty:

1. engaged in a situation that involved nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, response to a discharge of oil or a release of hazardous material, emergency medical services, prison security, disaster relief, flight operations as a crew member in a rotary or fixed wing aircraft, or other emergency response activity; or

2. participated in a training exercise that involved nonroutine stressful or strenuous physical activity;

(ii) the individual died as a result of a heart attack or stroke that the individual suffered:

1. while engaging or participating in an activity described in item (i)1 or 2 of this paragraph;

2. while still on duty after engaging or participating in an

activity described in item (i)1 or 2 of this paragraph; or

3. not later than 24 hours after engaging or participating in an activity described in item (i)1 or 2 of this paragraph; and

(iii) the presumption is not overcome by competent medical evidence to the contrary.

(2) For purposes of paragraph (1) of this subsection, nonroutine stressful or strenuous physical activity does not include actions of a clerical, administrative, or nonmanual nature.

(d) (1) Except as provided in subsection (j) of this section, reasonable funeral expenses, not exceeding $10,000, shall be paid to the surviving spouse, child, parent, or estate of each of the following individuals who is killed or dies in the performance of duties:

(i) a law enforcement officer;

(ii) a correctional officer;

(iii) a volunteer or career firefighter or rescue squad member;

(iv) a public safety aviation employee;

(v) a sworn member of the office of State Fire Marshal; or

(vi) a hazardous material response team employee.

(2) The funeral benefit under this subsection shall be reduced by the amount of any related workers' compensation benefits paid under § 9–689 of the Labor and Employment Article.

(e) (1) The Secretary of State shall issue a State flag to the family of a firefighter, policeman, member of the military, sworn member of the office of State Fire Marshal, or professional or volunteer emergency medical services provider who is killed in the performance of duty.

(2) (i) Except when the deceased is a member of the military, the flag shall be presented to the family of the deceased by the State Senator of the legislative district in which the deceased resided or served.

(ii) When the deceased is a member of the military, the flag shall be presented to the family of the deceased by the Department of Veterans Affairs.

(f) On a case–by–case basis, the Secretary of Public Safety and Correctional Services may award a death benefit under this section if:

(1) the decedent's death was caused by the decedent's intentional

misconduct;

(2) the decedent intended to bring about the decedent's death; or

(3) the decedent's voluntary intoxication was the proximate cause of the decedent's death.

(g) If the Secretary of Public Safety and Correctional Services determines that the benefits under this section are to be paid, the benefits shall be paid:

(1) to the decedent's surviving spouse;

(2) if no individual is eligible under item (1) of this subsection, to each surviving child of the decedent in equal shares;

(3) (i) for a death benefit under subsection (b) of this section, if no individual is eligible under item (1) or (2) of this subsection, to the decedent's surviving parent, if the parent was a dependent as defined in § 152 of the Internal Revenue Code; or

(ii) for any other benefit under this section, if no individual is eligible under item (1) or (2) of this subsection, to the decedent's surviving parent; or

(4) if no individual is eligible under item (1), (2), or (3) of this subsection, to the decedent's estate.

(h) Payments under this section shall be made out of money that the Governor includes for that purpose in the State budget.

(i) A person aggrieved by a final decision of the Secretary of Public Safety and Correctional Services under this section may seek judicial review as provided for review of final decisions in Title 10, Subtitle 2 of the State Government Article.

(j) (1) This subsection applies only to a death benefit under subsection (b) of this section or a funeral benefit under subsection (d) of this section payable on behalf of a hazardous material response team employee employed by a local government agency.

(2) (i) A death benefit or funeral benefit may only be paid if the local government agency that employs the hazardous material response team employee maintains in reserve the amount needed to pay for one death benefit and one funeral expense for a hazardous material response team employee.

(ii) If the Secretary of Public Safety and Correctional Services determines that a death benefit or funeral benefit is to be paid, the local government agency that employed the hazardous material response team employee shall pay to the Department of Public Safety and Correctional Services the funds required to pay the benefit.

(3) (i) A local government agency is not required to place funds in reserve under paragraph (2)(i) of this subsection.

(ii) If a local government agency does not place funds in reserve under paragraph (2)(i) of this subsection, a death benefit or funeral benefit as provided for under this subsection may not be paid.

§1–301.

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

(b) "Additional charge" means the charge imposed by a county in accordance with § 1–311 of this subtitle.

(c) "Board" means the Emergency Number Systems Board.

(d) "Commercial mobile radio service" or "CMRS" means mobile telecommunications service that is:

(1) provided for profit with the intent of receiving compensation or monetary gain;

(2) an interconnected, two–way voice service; and

(3) available to the public.

(e) "Commercial mobile radio service provider" or "CMRS provider" means a person authorized by the Federal Communications Commission to provide CMRS in the State.

(f) "County plan" means a plan for a 9–1–1 system or enhanced 9–1–1 system, or an amendment to the plan, developed by a county or several counties together under this subtitle.

(g) (1) "Customer" means:

(i) the person that contracts with a home service provider for CMRS; or

(ii) the end user of the CMRS if the end user of the CMRS is not the contracting party.

(2) "Customer" does not include:

(i) a reseller of CMRS; or

(ii) a serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.

(h) "Enhanced 9–1–1 system" means a 9–1–1 system that provides:

(1) automatic number identification;

(2) automatic location identification; and

(3) any other technological advancements that the Board requires.

(i) "FCC order" means an order issued by the Federal Communications Commission under proceedings regarding the compatibility of enhanced 9–1–1 systems and delivery of wireless enhanced 9–1–1 service.

(j) "Home service provider" means the facilities–based carrier or reseller that contracts with a customer to provide CMRS.

(k) "Next generation 9–1–1 services" means an Internet Protocol (IP)–based system, comprised of hardware, software, data, and operational policies and procedures, that:

(1) provides standardized interfaces from emergency call and message services to support emergency communications;

(2) processes all types of emergency calls, including voice, text, data, and multimedia information;

(3) acquires and integrates additional emergency call data useful to call routing and handling;

(4) delivers the emergency calls, messages, and data to the appropriate public safety answering point and other appropriate emergency entities;

(5) supports data or video communications needs for coordinated incident response and management; and

(6) provides broadband service to public safety answering points or other first responder entities.

(l) "9–1–1–accessible service" means telephone service or another communications service that connects an individual dialing the digits 9–1–1 to an established public safety answering point.

(m) "9–1–1 fee" means the fee imposed in accordance with § 1–310 of this subtitle.

(n) (1) "9–1–1 service carrier" means a provider of CMRS or other 9–1–1–accessible service.

(2) "9–1–1 service carrier" does not include a telephone company.

(o) (1) "9–1–1 system" means telephone service that:

(i) meets the planning guidelines established under this subtitle; and

(ii) automatically connects an individual dialing the digits 9–1–1 to an established public safety answering point.

(2) "9–1–1 system" includes:

(i) equipment for connecting and outswitching 9–1–1 calls within a telephone central office;

(ii) trunking facilities from a telephone central office to a public safety answering point; and

(iii) equipment to connect 9–1–1 calls to the appropriate public safety agency.

(p) "9–1–1 Trust Fund" means the fund established under § 1–308 of this subtitle.

(q) "Prepaid wireless E 9–1–1 fee" means the fee that is required to be collected by a seller from a consumer in the amount established under § 1–313 of this subtitle.

(r) "Prepaid wireless telecommunications service" means a commercial mobile radio service that:

(1) allows a consumer to dial 9–1–1 to access the 9–1–1 system;

(2) must be paid for in advance; and

(3) is sold in predetermined units that decline with use in a known amount.

(s) "Public safety agency" means:

(1) a functional division of a public agency that provides fire fighting, police, medical, or other emergency services; or

(2) a private entity that provides fire fighting, police, medical, or other emergency services on a voluntary basis.

(t) "Public safety answering point" means a communications facility that:

(1) is operated on a 24–hour basis;

(2) first receives 9–1–1 calls in a 9–1–1 service area; and

(3) as appropriate, dispatches public safety services directly, or transfers 9–1–1 calls to appropriate public safety agencies.

(u) "Secretary" means the Secretary of Public Safety and Correctional Services.

(v) "Seller" means a person that sells prepaid wireless telecommunications service to another person.

(w) "Wireless enhanced 9–1–1 service" means enhanced 9–1–1 service under an FCC order.

§1–302.

(a) The General Assembly:

(1) recognizes the paramount importance of the safety and well–being of the public;

(2) recognizes that timely and appropriate assistance must be provided when the lives or property of the public are in imminent danger;

(3) recognizes that emergency assistance usually is summoned by telephone, and that a multiplicity of emergency telephone numbers existed throughout the State and within each county;

(4) was concerned that avoidable delays in reaching appropriate emergency assistance were occurring to the jeopardy of life and property;

(5) acknowledges that the three digit number, 9–1–1, is a nationally recognized and applied telephone number that may be used to summon emergency assistance and to eliminate delays caused by lack of familiarity with emergency numbers and by confusion in circumstances of crisis; and

(6) recognizes that all end user customers of 9–1–1–accessible services, including consumers of prepaid wireless telecommunications service, should contribute in a fair and equitable manner to the 9–1–1 Trust Fund.

(b) The purposes of this subtitle are to:

(1) establish the three digit number, 9–1–1, as the primary emergency telephone number for the State; and

(2) provide for the orderly installation, maintenance, and operation of 9–1–1 systems in the State.

§1–303.

(a) (1) This subtitle does not require a public service company to provide any equipment or service other than in accordance with tariffs approved by the Public

Service Commission.

(2) The provision of services, the rates, and the extent of liability of a public service company are governed by the tariffs approved by the Public Service Commission.

(b) (1) This subtitle does not require a 9–1–1 service carrier to provide any equipment or service other than the equivalent of the equipment and service required of a telephone company under subsection (a) of this section.

(2) This subtitle does not extend any liability to a 9–1–1 service carrier or seller of prepaid wireless telecommunications service.

§1–304.

(a) Each county shall have in operation an enhanced 9-1-1 system.

(b) If implementation is preceded by cooperative planning, the enhanced 9-1-1 system required under subsection (a) of this section may operate as part of a multicounty system.

(c) (1) Services available through a 9-1-1 system shall include police, fire fighting, and emergency ambulance services.

(2) Other emergency and civil defense services may be incorporated into the 9-1-1 system at the discretion of the county or counties served by the 9-1-1 system.

(d) (1) The digits 9-1-1 are the primary emergency telephone number in the 9-1-1 system.

(2) A public safety agency whose services are available through the 9-1-1 system:

(i) may maintain a separate secondary backup telephone number for emergency calls; and

(ii) shall maintain a separate telephone number for nonemergency calls.

(e) Educational information that relates to emergency services made available by the State or a county:

(1) shall designate the number 9-1-1 as the primary emergency telephone number; and

(2) may include a separate secondary backup telephone number for emergency calls.

(f) (1) Each public safety answering point shall notify the public safety

agencies in a county 9-1-1 system of calls for assistance in the county.

(2) Written guidelines shall be developed to govern the referral of calls for assistance to the appropriate public safety agency.

(3) State, county, and local public safety agencies with concurrent jurisdiction shall have written agreements to ensure a clear understanding of which specific calls for assistance will be referred to which public safety agency.

(g) Counties, other units of local government, public safety agencies, and public safety answering points may enter into cooperative agreements for the allocation of maintenance, operational, and capital costs attributable to the 9-1-1 system.

§1–305.

(a) There is an Emergency Number Systems Board in the Department of Public Safety and Correctional Services.

(b) (1) The Board consists of 17 members.

(2) Of the 17 members:

(i) one member shall represent a telephone company operating in the State;

(ii) one member shall represent the wireless telephone industry in the State;

(iii) one member shall represent the Maryland Institute for Emergency Medical Services Systems;

(iv) one member shall represent the Department of State Police;

(v) one member shall represent the Public Service Commission;

(vi) one member shall represent the Association of Public–Safety Communications Officials International, Inc.;

(vii) two members shall represent county fire services in the State, with one member representing career fire services and one member representing volunteer fire services;

(viii) one member shall represent police services in the State;

(ix) two members shall represent emergency management services in the State;

(x) one member shall represent a county with a population of 200,000 or more;

(xi) one member shall represent a county with a population of less than 200,000;

(xii) one member shall represent the Maryland chapter of the National Emergency Numbers Association;

(xiii) one member shall represent the geographical information systems in the State; and

(xiv) two members shall represent the public.

(3) The Governor shall appoint the members with the advice and consent of the Senate.

(c) (1) The term of a member is 4 years and begins on July 1.

(2) The terms of the members are staggered as required by the terms provided for members of the Board on October 1, 2003.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) If a vacancy occurs after a term has begun, the Governor shall appoint a successor to represent the organization or group in which the vacancy occurs.

(5) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(d) The Governor shall appoint a chairperson from among the Board members.

(e) The Board shall meet as necessary, but at least once each quarter.

(f) A member of the Board:

(1) may not receive compensation as a member of the Board; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) The Secretary shall provide staff to the Board, including:

(1) a coordinator who is responsible for the daily operation of the office of the Board; and

(2) staff to handle the increased duties related to wireless enhanced 9–1–1 service.

§1–306.

(a) The Board shall coordinate the enhancement of county 9–1–1 systems.

(b) The Board's responsibilities include:

(1) establishing planning guidelines for enhanced 9–1–1 system plans and deployment of wireless enhanced 9–1–1 service in accordance with this subtitle;

(2) establishing procedures to review and approve or disapprove county plans and to evaluate requests for variations from the planning guidelines established by the Board;

(3) establishing procedures for the request for reimbursement of the costs of enhancing a 9–1–1 system by a county or counties in which a 9–1–1 system is in operation, and procedures to review and approve or disapprove the request;

(4) transmitting the planning guidelines and procedures established under this section, and any amendments to them, to the governing body of each county;

(5) submitting to the Secretary each year a schedule for implementing the enhancement of county or multicounty 9–1–1 systems, and an estimate of funding requirements based on the approved county plans;

(6) developing, with input from counties, and publishing on or before July 1, 2004, an implementation schedule for deployment of wireless enhanced 9–1–1 service;

(7) reviewing and approving or disapproving requests for reimbursement of the costs of enhancing 9–1–1 systems, and submitting to the Secretary each year a schedule for reimbursement and an estimate of funding requirements;

(8) reviewing the enhancement of 9–1–1 systems;

(9) providing for an audit of county expenditures for the operation and maintenance of 9–1–1 systems;

(10) ensuring inspections of public safety answering points;

(11) reviewing and approving or disapproving requests from counties with operational enhanced 9–1–1 systems to be exempted from the expenditure limitations under § 1–312 of this subtitle;

(12) authorizing expenditures from the 9–1–1 Trust Fund that:

(i) are for enhancements of 9–1–1 systems that:

1. are required by the Board;

2. will be provided to a county by a third party contractor; and

3. will incur costs that the Board has approved before the formation of a contract between the county and the contractor; and

(ii) are approved by the Board for payment:

1. from money collected under § 1–310 of this subtitle; and

2. directly to a third party contractor on behalf of a county; and

(13) establishing planning guidelines for next generation 9–1–1 services system plans and deployment of next generation 9–1–1 services in accordance with this subtitle.

(c) The guidelines established by the Board under subsection (b)(1) and (13) of this section:

(1) shall be based on available technology and equipment; and

(2) may be based on any other factor that the Board determines is appropriate, including population and area served by 9–1–1 systems.

§1–307.

(a) The Board shall submit an annual report to the Governor, the Secretary, and, subject to § 2-1246 of the State Government Article, the Legislative Policy Committee.

(b) The report shall provide the following information for each county:

(1) the type of 9-1-1 system currently operating in the county;

(2) the total 9-1-1 fee and additional charge charged;

(3) the funding formula in effect;

(4) any statutory or regulatory violation by the county and the response of the Board;

(5) any efforts to establish an enhanced 9-1-1 system in the county; and

(6) any suggested changes to this subtitle.

§1–308.

(a) There is a 9–1–1 Trust Fund.

(b) The purposes of the 9–1–1 Trust Fund are to:

(1) reimburse counties for the cost of enhancing a 9–1–1 system;

(2) pay contractors in accordance with § 1–306(b)(12) of this subtitle; and

(3) fund the coordinator position and staff to handle the increased duties related to wireless enhanced 9–1–1 service under § 1–305 of this subtitle, as an administrative cost.

(c) The 9–1–1 Trust Fund consists of:

(1) money from the 9–1–1 fee collected and remitted to the Comptroller under § 1–310 of this subtitle;

(2) money from the additional charge collected and remitted to the Comptroller under § 1–311 of this subtitle;

(3) money from the prepaid wireless E 9–1–1 fee collected and remitted to the Comptroller under § 1–313 of this subtitle; and

(4) investment earnings of the 9–1–1 Trust Fund.

(d) Money in the 9–1–1 Trust Fund shall be held in the State Treasury.

(e) The Secretary shall administer the 9–1–1 Trust Fund, subject to the guidelines for financial management and budgeting established by the Department of Budget and Management.

(f) The Secretary shall direct the Comptroller to establish separate accounts in the 9–1–1 Trust Fund for the payment of administrative expenses and for each county.

(g) (1) Any investment earnings shall be credited to the 9–1–1 Trust Fund.

(2) The Comptroller shall allocate the investment income among the accounts in the 9–1–1 Trust Fund, prorated on the basis of the total fees collected in each county.

§1–309.

(a) On recommendation of the Board, each year the Secretary shall request an appropriation from the 9–1–1 Trust Fund in an amount sufficient to:

(1) carry out the purposes of this subtitle;

(2) pay the administrative costs chargeable to the 9–1–1 Trust Fund; and

(3) reimburse counties for the cost of enhancing a 9–1–1 system.

(b) (1) Subject to the limitations under subsection (e) of this section, the Comptroller shall disburse the money in the 9–1–1 Trust Fund as provided in this

subsection.

(2) Each July 1, the Comptroller shall allocate sufficient money from the 9–1–1 fee to pay the costs of administering the 9–1–1 Trust Fund.

(3) As directed by the Secretary and in accordance with the State budget, the Comptroller, from the appropriate account, shall:

(i) reimburse counties for the cost of enhancing a 9–1–1 system; and

(ii) pay contractors in accordance with § 1–306(b)(12) of this subtitle.

(4) (i) The Comptroller shall pay to each county from its account the money requested by the county to pay the maintenance and operation costs of the county's 9–1–1 system in accordance with the State budget.

(ii) The Comptroller shall pay the money for maintenance and operation costs on September 30, December 31, March 31, and June 30 of each year.

(c) (1) Money accruing to the 9–1–1 Trust Fund may be used as provided in this subsection.

(2) Money collected from the 9–1–1 fee may be used to:

(i) reimburse counties for the cost of enhancing a 9–1–1 system; and

(ii) pay contractors in accordance with § 1–306(b)(12) of this subtitle.

(3) Money collected from the additional charge may be used by the counties for the maintenance and operation costs of the 9–1–1 system.

(4) Money collected from the prepaid wireless E 9–1–1 fee may be used as follows:

(i) 25% for the same purpose as the 9–1–1 fee under paragraph (2) of this subsection; and

(ii) 75% for the same purpose as the additional charge under paragraph (3) of this subsection, prorated on the basis of the total fees collected in each county.

(d) (1) Reimbursement may be made only to the extent that county money was used to enhance the 9–1–1 system.

(2) Reimbursement for the enhancement of 9–1–1 systems shall include the installation of equipment for automatic number identification, automatic location identification, and other technological advancements that the Board requires.

(3) Reimbursement from money collected from the 9–1–1 fee may be used

only for 9–1–1 system enhancements approved by the Board.

(e) (1) The Board may direct the Comptroller to withhold from a county money for 9–1–1 system expenditures if the county violates this subtitle or a regulation of the Board.

(2) (i) The Board shall state publicly in writing its reason for withholding money from a county and shall record its reason in the minutes of the Board.

(ii) On reaching its decision to withhold money, the Board shall notify the county.

(iii) The county has 30 days after the date of notification to respond in writing to the Board.

(3) (i) On notification by the Board, the Comptroller shall hold money for the county in the county's account in the 9–1–1 Trust Fund.

(ii) Money held by the Comptroller under subparagraph (i) of this paragraph does not accrue interest for the county.

(iii) Interest income earned on money held by the Comptroller under subparagraph (i) of this paragraph accrues to the 9–1–1 Trust Fund.

(4) County money withheld by the Comptroller shall be withheld until the Board directs the Comptroller to release the money.

(f) (1) The Legislative Auditor shall conduct fiscal/compliance audits of the 9–1–1 Trust Fund and of the appropriations and disbursements made for purposes of this subtitle.

(2) The cost of the fiscal portion of the audits shall be paid from the 9–1–1 Trust Fund as an administrative cost.

§1–310.

(a) This section does not apply to prepaid wireless telecommunications service.

(b) Each subscriber to switch local exchange access service or CMRS or other 9–1–1–accessible service shall pay a 9–1–1 fee.

(c) The 9–1–1 fee is 25 cents per month, payable when the bill for the telephone service or CMRS or other 9–1–1–accessible service is due.

(d) (1) The Public Service Commission shall direct each telephone company to add the 9–1–1 fee to all current bills rendered for switched local exchange access service in the State.

(2) Each telephone company:

(i) shall act as a collection agent for the 9–1–1 Trust Fund with respect to the 9–1–1 fees;

(ii) shall remit all money collected to the Comptroller on a monthly basis; and

(iii) is entitled to credit, against the money from the 9–1–1 fees to be remitted to the Comptroller, an amount equal to 0.75% of the 9–1–1 fees to cover the expenses of billing, collecting, and remitting the 9–1–1 fees and any additional charges.

(3) The Comptroller shall deposit the money remitted in the 9–1–1 Trust Fund.

(e) (1) Each 9–1–1 service carrier shall add the 9–1–1 fee to all current bills rendered for CMRS or other 9–1–1–accessible service in the State.

(2) Each 9–1–1 service carrier:

(i) shall act as a collection agent for the 9–1–1 Trust Fund with respect to the 9–1–1 fees;

(ii) shall remit all money collected to the Comptroller on a monthly basis; and

(iii) is entitled to credit, against the money from the 9–1–1 fees to be remitted to the Comptroller, an amount equal to 0.75% of the 9–1–1 fees to cover the expenses of billing, collecting, and remitting the 9–1–1 fees and any additional charges.

(3) The Comptroller shall deposit the money remitted in the 9–1–1 Trust Fund.

(4) The Board shall adopt procedures for auditing surcharge collection and remittance by CMRS providers.

(5) On request of a CMRS provider, and except as otherwise required by law, the information that the CMRS provider reports to the Board shall be confidential, privileged, and proprietary and may not be disclosed to any person other than the CMRS provider.

(f) Notwithstanding any other provision of this subtitle, the 9–1–1 fee does not apply to an intermediate service line used exclusively to connect a CMRS or other 9–1–1–accessible service, other than a switched local access service, to another telephone system or switching device.

(g) A CMRS provider that pays or collects 9–1–1 fees under this section has the same immunity from liability for transmission failures as that approved by the

Public Service Commission for local exchange telephone companies that are subject to regulation by the Commission under the Public Utilities Article.

§1–311.

(a) This section does not apply to prepaid wireless telecommunications service.

(b) In addition to the 9–1–1 fee, the governing body of each county, by ordinance or resolution enacted or adopted after a public hearing, may impose an additional charge to be added to all current bills rendered for switched local exchange access service or CMRS or other 9–1–1–accessible service in the county.

(c) (1) The additional charge imposed by a county may not exceed 75 cents per month per bill.

(2) The amount of the additional charges may not exceed a level necessary to cover the total eligible maintenance and operation costs of the county.

(d) The additional charge continues in effect until repealed or modified by a subsequent county ordinance or resolution.

(e) After imposing, repealing, or modifying an additional charge, the county shall certify the amount of the additional charge to the Public Service Commission.

(f) The Public Service Commission shall direct each telephone company that provides service in a county that imposed an additional charge to add, within 60 days, the full amount of the additional charge to all current bills rendered for switched local exchange access service in the county.

(g) Within 60 days after a county enacts or adopts an ordinance or resolution that imposes, repeals, or modifies an additional charge, each 9–1–1 service carrier that provides service in the county shall add the full amount of the additional charge to all current bills rendered for CMRS or other 9–1–1–accessible service in the county.

(h) (1) Each telephone company and each 9–1–1 service carrier shall:

(i) act as a collection agent for the 9–1–1 Trust Fund with respect to the additional charge imposed by each county;

(ii) collect the money from the additional charge on a county basis; and

(iii) remit all money collected to the Comptroller on a monthly basis.

(2) The Comptroller shall deposit the money remitted in the 9–1–1 Trust Fund account maintained for the county that imposed the additional charge.

§1–312.

(a) During each county's fiscal year, the county may spend the amounts distributed to it from 9-1-1 fee collections for the installation, enhancement, maintenance, and operation of a county or multicounty 9-1-1 system.

(b) Subject to the provisions of subsection (c) of this section, maintenance and operation costs may include telephone company charges, equipment costs, equipment lease charges, repairs, utilities, personnel costs, and appropriate carryover costs from previous years.

(c) During a year in which a county raises its local additional charge under § 1-311 of this subtitle, the county:

(1) may use 9-1-1 trust funds only to supplement levels of spending by the county for 9-1-1 maintenance or operations; and

(2) may not use 9-1-1 trust funds to supplant spending by the county for 9-1-1 maintenance or operations.

(d) The Board shall provide for an audit of each county's expenditures for the maintenance and operation of the county's 9-1-1 system.

(e) (1) For a county without an operational Phase II wireless enhanced 9-1-1 system within the time frames established by the Board under § 1-306(b)(6) of this subtitle, the Board shall adopt procedures, to take effect on or after January 1, 2006, to assure that:

(i) the money collected from the additional charge and distributed to the county are expended during the county's fiscal year as follows:

1. for a 9-1-1 system in a county or a multicounty area with a population of 100,000 individuals or less, a maximum of 85% may be spent for personnel costs; and

2. for a 9-1-1 system in a county or multicounty area with a population of over 100,000 individuals, a maximum of 70% may be spent for personnel costs; and

(ii) the total amount collected from the 9-1-1 fee and the additional charge shall be expended only for the installation, enhancement, maintenance, and operation of a county or multicounty system.

(2) The Board may grant an exception to the provisions of paragraph (1) of this subsection in extenuating circumstances.

(3) A county with an operational Phase II wireless enhanced 9-1-1 system is exempt from the provisions of paragraph (1) of this subsection.

§1–313.

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

(2) "Consumer" means a person that purchases prepaid wireless telecommunications service in a retail transaction.

(3) "Provider" means a person that provides prepaid wireless telecommunications service under a license issued by the Federal Communications Commission.

(4) "Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

(b) There is a prepaid wireless E 9–1–1 fee of 60 cents per retail transaction.

(c) (1) (i) The prepaid wireless E 9–1–1 fee shall be collected by the seller from the consumer for each retail transaction in the State.

(ii) The prepaid wireless E 9–1–1 fee collected by the seller under this section is not subject to the sales and use tax under the Tax – General Article.

(2) A retail transaction occurs in the State if:

(i) the sale or recharge takes place at the seller's place of business located in the State;

(ii) the consumer's shipping address is in the State; or

(iii) no item is shipped, but the consumer's billing address or the location associated with the consumer's mobile telephone number is in the State.

(d) The amount of the prepaid wireless E 9–1–1 fee shall be disclosed to the consumer at the time of the retail transaction.

(e) (1) Except as provided in paragraph (2) of this subsection, the prepaid wireless E 9–1–1 fee is the liability of the consumer and not of the seller or of any provider.

(2) The seller is liable for remitting all prepaid wireless E 9–1–1 fees that the seller collects from consumers as provided in this section.

(f) (1) Before December 28, 2013, a seller may deduct and retain 50% of prepaid wireless E 9–1–1 fees collected from consumers for direct start–up costs.

(2) On or after December 28, 2013, a seller may deduct and retain 3% of prepaid wireless E 9–1–1 fees collected from consumers.

(g) A seller shall report and remit to the Comptroller all prepaid wireless E

9–1–1 fees collected by the seller in the manner provided for the remitting of the sales and use tax under Titles 11 and 13 of the Tax – General Article.

(h) The Comptroller shall deposit all reported and remitted prepaid wireless E 9–1–1 fees into the 9–1–1 Trust Fund within 30 days of receipt.

(i) A seller may demonstrate that a sale is not a retail transaction in a manner established by the Comptroller that is substantially similar to the procedures for demonstrating a resale for exemption from the sales and use tax under Titles 11 and 13 of the Tax – General Article.

(j) For the purpose of this section, the audit and appeal procedures established for the sales and use tax under Titles 11 and 13 of the Tax – General Article apply.

(k) A seller that is not a provider of prepaid wireless telecommunications service is not liable for damages in connection with:

(1) the provision of, or failure of, 9–1–1 or E 9–1–1 service;

(2) identifying, or failing to identify, the telephone number, address, location, or name associated with any person or device that is accessing or attempting to access 9–1–1 or E 9–1–1 service; or

(3) the provision of any lawful assistance to any investigative or law enforcement officer.

(l) Providers and sellers of prepaid wireless telecommunications service have the same immunity from liability for transmission failures as that approved by the Public Service Commission for local exchange telephone companies that are subject to regulation by the Commission under the Public Utilities Article.

(m) A tax, a fee, a surcharge, or any other charge may not be imposed by the State, any political subdivision of the State, or any intergovernmental agency, for E 9–1–1 funding purposes, on any provider, seller, or consumer with respect to the sale, purchase, use, or provision of prepaid wireless telecommunications service.

(n) The Comptroller shall adopt regulations to carry out the provisions of this section.

§1–314.

(a) In this section, "multiple–line telephone system" means a system that:

(1) consists of common control units, telephone sets, control hardware and software, and adjunct systems, including network and premises–based systems; and

(2) is designed to aggregate more than one incoming voice communication channel for use by more than one telephone.

(b) (1) Except as provided in paragraph (2) of this subsection, on or before December 31, 2017, a person that installs or operates a multiple–line telephone system shall ensure that the system is connected to the public switched telephone network in such a way that when an individual using the system dials 9–1–1, the call connects to the public safety answering point without requiring the user to dial any other number or set of numbers.

(2) A unit of the Executive Branch of State government shall comply with paragraph (1) of this subsection on the date that the multiple–line telephone system of the unit is next upgraded.

§1–401.

(a) There is a Sexual Offender Advisory Board.

(b) The Board consists of the following members:

(1) the Secretary of Public Safety and Correctional Services, or the Secretary's designee;

(2) the Secretary of Health and Mental Hygiene, or the Secretary's designee;

(3) the Secretary of Juvenile Services, or the Secretary's designee;

(4) a representative of the Department of Public Safety and Correctional Services, designated by the Secretary of Public Safety and Correctional Services;

(5) the Chairman of the Maryland Parole Commission, or the Chairman's designee;

(6) the Director of the Maryland Criminal Justice Information System Central Repository, or the Director's designee;

(7) the Director of the Behavioral Health Administration of the Department of Health and Mental Hygiene, or the Director's designee;

(8) the Secretary of State Police, or the Secretary's designee;

(9) the Executive Director of the Governor's Office of Crime Control and Prevention, or the Executive Director's designee; and

(10) the following members, appointed by the Governor:

(i) a representative from a victims' advocacy organization or victim service provider with recognized expertise in sexual abuse and victimization;

(ii) a licensed mental health professional with recognized expertise in the treatment of sexual offenders;

(iii) a State's Attorney with expertise in the prosecution of sexual and child abuse crimes;

(iv) an assistant public defender with expertise in the defense of sexual and child abuse crimes;

(v) a representative of a local law enforcement unit with expertise in the investigation of sexual and child abuse crimes;

(vi) a representative from a child advocacy center with recognized expertise in sexual abuse and victimization; and

(vii) two citizen members.

(c) (1) The term of a member appointed by the Governor is 4 years.

(2) The terms of the appointed members are staggered as required by the terms provided for members of the Board on October 1, 2010.

(3) At the end of a term an appointed member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member whose term has expired may be reappointed to the Board.

(d) A Board member:

(1) may not receive compensation for serving on the Board; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(e) The Governor shall select a chairman from among the Board's members.

(f) (1) A majority of the Board's members constitutes a quorum.

(2) The Board may adopt rules for conducting business.

(3) The Board shall meet at least twice annually at the times and places determined by the Board.

(g) The Board shall:

(1) in collaboration with the Division of Parole and Probation, develop criteria for measuring a person's risk of reoffending to assist the court in determining whether a person may be appropriately released from supervision under §§ 11–723 and 11–724 of the Criminal Procedure Article;

(2) review the effectiveness of the State's laws and practices concerning sexual offenders, including:

(i) sexual offender registration and monitoring requirements; and

(ii) community notification requirements;

(3) review the laws and practices of other states and jurisdictions concerning sexual offenders;

(4) review practices and procedures of the Maryland Parole Commission and the Division of Parole and Probation concerning supervision and monitoring of sexual offenders;

(5) review developments and make recommendations for the treatment, management, and assessment of sexual offenders, including:

(i) existing and emerging technology for the tracking of sexual offenders;

(ii) civil commitment of sexual offenders;

(iii) existing and emerging technology for the treatment of sexual offenders; and

(iv) best practices for lowering recidivism rates and protecting the public;

(6) develop standards for the certification of sexual offender treatment providers based on current and evolving evidence–based practices and make recommendations for a statewide certification process;

(7) make recommendations to the Division of Parole and Probation for training sexual offender management teams; and

(8) consider ways to increase cooperation among states with regard to sexual offender registration and monitoring.

(h) On or before December 31, 2010, and every year thereafter, the Board shall report the findings and recommendations of the Board to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

(i) Each unit of State and local government shall cooperate with the Board.

(j) The Department of Public Safety and Correctional Services shall provide staff to the Board.

§1–501.

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

(b) "Board" means the Statewide Interoperability Radio Control Board.

(c) "System" means the Statewide Public Safety Interoperability Radio System, also known as Maryland First (first responder interoperable radio system team), that provides interoperable radio communications to first responders in the State.

(d) "User" means a State, federal, county, or municipal agency that has established interoperability with the System and operates on the System as its primary means of daily radio communication.

§1–502.

(a) There is a Statewide Interoperability Radio Control Board in the Department of Information Technology.

(b) The Board consists of the following members:

(1) the Secretary of Information Technology, or the Secretary's designee;

(2) the Secretary of State Police, or the Secretary's designee;

(3) the Secretary of Transportation, or the Secretary's designee;

(4) the Director of the Maryland Institute for Emergency Medical Services Systems, or the Director's designee;

(5) the State Interoperability Director;

(6) the Director of the Governor's Office of Homeland Security, or the Director's designee; and

(7) five members appointed by the Governor who represent local governmental entities that are either users of or contributors to the System.

(c) In selecting representatives of local governmental entities under subsection (b)(7) of this section, the Governor shall:

(1) appoint members who represent the interoperability regions of the State with expertise in public safety and communications issues relevant to varied locations;

(2) consult with the Maryland Association of Counties, the Maryland Municipal League, and appropriate local public safety organizations and professionals; and

(3) give primary consideration to State agencies and local governments that have adopted the System as a primary platform for their public safety communications needs.

(d) (1) The term of a member appointed by the Governor is 4 years and shall begin on June 1.

(2) The terms of the appointed members are staggered as required by the terms provided for members of the Board on June 1, 2014.

(3) At the end of a term, an appointed member continues to serve until a successor is appointed and qualifies.

(4) If a vacancy occurs after a term has begun, the Governor shall appoint a successor to represent the organization or group in which the vacancy occurs.

(5) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(6) A member may be reappointed for a second 4–year term at the request of the Governor.

(e) The Secretary of Information Technology or the Secretary's designee shall serve as the chair of the Board.

(f) The Board shall meet as necessary, but at least once each quarter.

(g) A member of the Board:

(1) may not receive compensation as a member of the Board; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(h) The Department of Information Technology shall provide staff to the Board, including:

(1) a director of the Board who is responsible for the daily operation of the Board; and

(2) staff to handle the increased duties related to completion and maintenance of the System.

§1–503.

(a) The Board shall coordinate the operation and maintenance of a Statewide Public Safety Interoperability Radio System.

(b) The Board's responsibilities include:

(1) establishing standard operating procedures, quality of service standards, and maintenance guidelines for the System;

(2) establishing working groups of the System's users, including:

(i) a System Managers Committee to advise on technical system issues, such as upgrades, security, and enhancements; and

(ii) a System Users Committee to advise on operational issues, such as standard operating procedures, performance, and usage of resources;

(3) approving the addition of new System users and the removal of existing users;

(4) coordinating participatory, collaborative, or reciprocal relationships with local governments, including establishing procedures for:

(i) requests to become part of the System by local governmental entities;

(ii) collaboration or sharing in the purchase, operation, or use of equipment or by the System infrastructure currently used by local governmental entities; and

(iii) review and approval of any requests or arrangements sought under this item;

(5) resolving any conflicts among System users relating to the operation, maintenance, or improvement of the System that cannot be resolved under the standard operating procedures;

(6) reviewing the annual cost estimation provided by the Director of the Board;

(7) recommending to the Governor and the General Assembly funding and resource levels for System operation and maintenance;

(8) advising the Governor and General Assembly on resources needed for appropriate operation and expansion to meet service needs for public safety communications statewide; and

(9) negotiating agreements with federal agencies, surrounding states, or the District of Columbia for the use of the System.

(c) It is the intent of the General Assembly that the Board shall continue to receive guidance and input from the bodies currently constituted under Executive Order 01.01.2008.07, including the Statewide Interoperability Executive Committee (SIEC) for as long as the Executive Order is in effect.

§1–601. IN EFFECT

// EFFECTIVE UNTIL DECEMBER 31, 2018 PER CHAPTER 42 OF 2015 //

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

(b) "Council" means the Justice Reinvestment Coordinating Council.

(c) "Executive Director" means the Executive Director of the Governor's Office of Crime Control and Prevention.

(d) "Office" means the Governor's Office of Crime Control and Prevention.

§1–602. IN EFFECT

// EFFECTIVE UNTIL DECEMBER 31, 2018 PER CHAPTER 42 OF 2015 //

There is a Justice Reinvestment Coordinating Council in the Office.

§1–603. IN EFFECT

// EFFECTIVE UNTIL DECEMBER 31, 2018 PER CHAPTER 42 OF 2015 //

(a) The Council consists of the following members:

(1) three members of the Senate of Maryland, appointed by the President of the Senate;

(2) three members of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Public Safety and Correctional Services, or the Secretary's designee;

(4) the Secretary of Juvenile Services, or the Secretary's designee;

(5) the Attorney General of Maryland, or the Attorney General's designee;

(6) the Public Defender of Maryland, or the Public Defender's designee;

(7) a representative of the Maryland Judiciary, appointed by the Chief Judge of the Court of Appeals; and

(8) the following members, appointed by the Executive Director:

(i) a representative of local detention centers recommended by the Maryland Association of Counties;

(ii) a representative of local law enforcement agencies;

(iii) a representative of the Maryland State's Attorneys Association; and

(iv) any other member with expertise relevant to the work of the Council.

(b) The Executive Director shall be the chair of the Council.

(c) The Office shall provide staff for the Council.

(d) A member of the Council:

(1) may not receive compensation as a member of the Council; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations.

§1–604. IN EFFECT

// EFFECTIVE UNTIL DECEMBER 31, 2018 PER CHAPTER 42 OF 2015 //

The Council shall:

(1) convene an advisory stakeholder group that includes organizations with experience in:

(i) criminal justice policy reform;

(ii) advocating for groups with disproportionate contact with the criminal justice system;

(iii) advocating for victims of crime; and

(iv) community conferencing and mediation for restorative justice;

(2) working with the advisory stakeholder group, conduct roundtable discussion forums seeking public input in all geographic regions of the State;

(3) using a data–driven approach, develop a statewide framework of sentencing and corrections policies to further reduce the State's incarcerated population, reduce spending on corrections, and reinvest in strategies to increase public safety and reduce recidivism; and

(4) request technical assistance from the Council of State Governments Justice Center and the Public Safety Performance Project of the Pew Center on the States to develop the policy framework.

§1–605. IN EFFECT

// EFFECTIVE UNTIL DECEMBER 31, 2018 PER CHAPTER 42 OF 2015 //

The Council shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly the findings and recommendations of the Council on or before December 31, 2015.

§2–101.

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

(b) "Civilian classification" means the position held by a civilian employee.

(c) "Civilian employee" means an employee of the Department other than a police employee.

(d) (1) "Commissioned rank" means the ranks of Lieutenant, Captain, Major, and Lieutenant Colonel.

(2) "Commissioned rank" does not include the Secretary.

(e) "Department" means the Department of State Police.

(f) "Grade" means the status of police employees that have the same primary areas of duty and responsibility within a rank.

(g) (1) "Law enforcement agency" means a law enforcement agency of a department, county, or municipal corporation of the State.

(2) "Law enforcement agency" includes:

(i) sheriffs; and

(ii) similar agencies of other states and the United States.

(h) (1) "Noncommissioned rank" means a rank other than a commissioned rank.

(2) "Noncommissioned rank" does not include the Secretary.

(i) "Police employee" means an employee of the Department to whom the Secretary assigns the powers contained in § 2-412 of this title.

(j) "Rank" means the status, established by rule, of police employees that have the same relative position in the chain of command.

(k) (1) "Rule" means a rule, order, or other directive adopted by the Secretary under this article.

(2) "Rule" does not include a regulation within the meaning of Title 10,

Subtitle 1 of the State Government Article.

(l) "Secretary" means the Secretary of State Police.

§2–201.

There is a Department of State Police, established as a principal department of State government.

§2–202.

(a) The Governor shall appoint the Secretary of State Police with the advice and consent of the Senate.

(b) (1) The appointee shall be a citizen of the United States.

(2) The appointee shall be qualified on the basis of training, experience, and ability to discharge the duties of the Secretary.

(c) The Secretary serves at the pleasure of the Governor.

(d) The Secretary is entitled to the salary provided in the State budget.

(e) (1) The Secretary shall supervise and direct the affairs and operations of the Department.

(2) The Secretary is responsible for carrying out the Governor's policies with respect to those matters specified in Titles 2, 4, 5, 11, and 14 of this article.

(3) The Secretary shall report to the Governor.

§2–203.

(a) With the approval of the Governor, the Secretary may designate without examination one police employee holding the highest commissioned rank to be deputy secretary.

(b) The deputy secretary serves at the pleasure of the Secretary.

(c) The deputy secretary:

(1) is entitled to the salary provided in the State budget; but

(2) may not be paid in accordance with § 2-405 of this title.

(d) (1) The deputy secretary has the authority, responsibility, and duties assigned by the Secretary.

(2) Whenever the Secretary is absent from the State or incapacitated, the

deputy secretary has, until the Secretary returns or is no longer incapacitated, all of the powers and duties conferred by law on the Secretary.

(e) After the Secretary terminates a designation as deputy secretary, the individual:

(1) returns to the rank held before designation as deputy secretary; and

(2) shall then be paid in accordance with § 2-405 of this title.

§2–204.

(a) The Secretary and deputy secretary 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 in the future exercise within their respective jurisdictions.

(b) In addition to any powers set forth elsewhere, the Secretary may:

(1) establish the organization of the Department;

(2) create units in the Department;

(3) define the functions, duties, and responsibilities of each unit in the Department;

(4) redefine periodically the functions, duties, and responsibilities of any unit in the Department, whether created by the Secretary or by law;

(5) assign and reassign employees of the Department to the duties, units, and regional facilities of the Department as the Secretary considers necessary to serve the needs of the Department and the public;

(6) establish standards, qualifications, and prerequisites of character, training, education, and experience for employees of the Department;

(7) establish ranks and grades and, in accordance with Title 6, Subtitle 4 of the State Personnel and Pensions Article, civilian classifications as the Secretary considers necessary and appropriate;

(8) designate the authority, responsibility, and duties of ranks, grades, and civilian classifications and the order of succession to positions of command within the Department;

(9) appoint, promote, reduce in rank or civilian classification, reassign, reclassify, retire, and discharge any employee of the Department in the manner required by law;

(10) regulate attendance, conduct, training, discipline, and procedure for

employees of the Department;

(11) provide systems for periodic evaluation and improvement of the performance and physical condition of employees of the Department, including in-service training programs and courses;

(12) establish headquarters, barracks, posts, commands, and other regional facilities in localities as necessary for the efficient performance of the duties of the Department;

(13) close headquarters, barracks, posts, commands, and other regional facilities when their need ceases to exist;

(14) purchase or otherwise acquire the land, facilities, equipment, or services as are considered essential for the needs of the Department or its employees in carrying out their duties, in the manner required by law;

(15) sell or dispose of land, facilities, or equipment as they become unnecessary or unfit for further use, in the manner required by law;

(16) establish and modify systems for receiving, processing, and maintaining:

(i) reports and records of occurrences or alleged occurrences of crime and motor vehicle accidents in the State; and

(ii) reports and records of the administration, management, and operations of the Department; and

(17) establish procedures for safekeeping, copying, and destroying records of the Department.

(c) The Secretary may not exercise or perform the powers, duties, responsibilities, and functions set forth in §§ 6-301, 6-302, and 6-501 of this article.

§2–205.

(a) The Secretary may adopt rules necessary to:

(1) promote the effective and efficient performance of the duties of the Department; and

(2) ensure the good government of the Department and its employees.

(b) The Secretary may suspend, amend, rescind, abrogate, or cancel any rule adopted by the Secretary or any former Secretary.

§2–206.

The Attorney General shall represent the Department.

§2–207.

The following units are in the Department:

(1) the State Fire Prevention Commission;

(2) the office of State Fire Marshal; and

(3) any other unit determined by the Secretary to be part of the Department or established by law as part of the Department.

§2–208.

(a) (1) Salaries, expenses, and other costs incident to the operation of the Department and the performance of its duties, in accordance with the State budget, shall be disbursed in the manner required by law.

(2) The source of the Department's money for the costs described in paragraph (1) of this subsection shall be determined in accordance with § 12-118 of the Transportation Article or as otherwise provided by law.

(b) Except as provided in § 2-311 of this title or as otherwise provided by law, all other money received by the Department shall be paid into the State Treasury and credited to the use of the Department.

(c) The finances of the Department are subject to audit as provided by law.

§2–301.

(a) (1) The Department has the general duty to safeguard the lives and safety of all persons in the State, to protect property, and to assist in securing to all persons the equal protection of the laws.

(2) Specifically, this duty includes the responsibility to:

(i) preserve the public peace;

(ii) detect and prevent the commission of crime;

(iii) enforce the laws and ordinances of the State, counties, and municipal corporations;

(iv) apprehend and arrest criminals and those who violate or are lawfully accused of violating the laws and ordinances of the State, counties, and municipal corporations;

(v) preserve order at public places;

(vi) maintain the safe and orderly flow of traffic on public streets and highways;

(vii) cooperate with and assist law enforcement agencies in carrying out their respective duties;

(viii) investigate any death of an inmate suspected to be a homicide within or outside a correctional facility as provided in § 9-602.1 of the Correctional Services Article; and

(ix) discharge the duties and responsibilities of the Department with the dignity and in a manner that will inspire public confidence and respect.

(b) The Department shall:

(1) administer the laws that relate to:

(i) the sales of pistols and revolvers;

(ii) the licensing and supervision of private detective agencies;

(iii) the certification of private detectives and security guards;

(iv) the registration of eavesdropping or wiretapping devices; and

(v) the inspection of classes of motor vehicles as provided elsewhere in the Code; and

(2) perform any other duty that may be assigned by the General Assembly.

§2–302.

(a) The powers and duties of the Department with respect to law enforcement are supplemental to and concurrent with similar powers and duties conferred by law on other law enforcement agencies of the State in their respective jurisdictions.

(b) (1) Technological developments, changes in the population and economy of the State, and other factors directly related to proper law enforcement require effective cooperation among all law enforcement agencies in order to provide:

(i) efficient utilization of equipment, personnel, and information; and

(ii) prompt means of collection, analysis, and dissemination of information relevant to the duties of the law enforcement agencies.

(2) The duties imposed on the Department by this title:

(i) shall promote effective cooperation among law enforcement agencies; and

(ii) do not limit the powers or responsibilities of any other law enforcement agency or make any other law enforcement agency subject to the supervision of the Department.

§2–303.

(a) As provided in the State budget, the Department shall make its training facilities available to any law enforcement agency of the State and to the Police Training Commission to the extent that the training facilities and employees of the Department are available.

(b) The Secretary shall adopt rules to govern:

(1) the extent to which the training facilities of the Department may be used;

(2) the course of training; and

(3) the qualifications of individuals who will use the training facilities.

§2–304.

(a) The Department may permit a law enforcement agency of the State or a State unit to connect with and use a computer or communication system established by the Department for statewide use including:

(1) a voice communication system;

(2) a data communication system;

(3) a message switching system;

(4) the Maryland Interagency Law Enforcement System (MILES);

(5) the National Crime Information Center (NCIC); and

(6) the National Law Enforcement Telecommunications System (NLETS).

(b) (1) The connection with and use of a computer or communication system under this section is subject to rules adopted by the Secretary to:

(i) promote the purposes of this title;

(ii) ensure the effective, economical, and efficient utilization of the entire system; and

(iii) prevent interference with the law enforcement duties of the Department.

(2) Violation of a rule adopted under this subsection is a sufficient basis to withdraw permission to connect with and use the computer or communication system.

(c) (1) Except as provided in paragraph (2) of this subsection, as provided in the State budget, the State shall pay the cost of rental of the computer and communication equipment and the circuitry necessary for the equipment under this section.

(2) A law enforcement agency that uses the Department's computer or communication system shall pay the costs of supplies and other charges for the rental or purchase of terminal devices and the circuitry necessary to connect with the Department's computer or communication system.

§2–305.

(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) a temporary 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) an order for protection, as defined in § 4-508.1 of the Family Law Article, issued by a court of another state or a Native American tribe and 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) 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.

(d) A judge or law enforcement agency or officer may access the System to determine the status of:

(1) an outstanding civil child support warrant issued by a court of the State;

(2) an outstanding civil protective order issued by a court of the State; and

(3) an outstanding civil protective order issued by a court of another state or an Indian tribe and filed with the District Court or a circuit court.

§2–306.

(a) The Department shall collect, analyze, and disseminate information about the occurrence of motor vehicle accidents in the State.

(b) The Motor Vehicle Administration, State Highway Administration, State Postmortem Examiners Commission, commissions concerned with highway safety, and law enforcement agencies of the State shall provide information about the occurrence of motor vehicle accidents in the State to the Department at the times and in the form that the Secretary requires by rule.

§2–307.

(a) The Department shall collect, analyze, and disseminate information about the incidence of crime in the State.

(b) (1) The Department shall collect and analyze information about incidents apparently directed against an individual or group because of race, religion, ethnicity, or sexual orientation.

(2) Each local law enforcement agency and the State Fire Marshal shall provide the Department with the information described in paragraph (1) of this

subsection.

(3) The Department shall adopt procedures for the collection and analysis of the information described in paragraph (1) of this subsection.

(4) The Department shall make monthly reports to the Commission on Civil Rights about the information described in paragraph (1) of this subsection.

§2–308. IN EFFECT

(a) (1) Any information, records, or statistics collected under this subtitle shall be available for use by any agency or unit required to provide information to the Department.

(2) By rule, the Secretary may establish conditions for the use or availability of the information described in paragraph (1) of this subsection as necessary:

(i) to preserve the information;

(ii) to protect any confidential information; or

(iii) because of a pending prosecution.

(b) (1) The Department:

(i) shall periodically publish statistics on the incidence of crime in the State; and

(ii) at least monthly shall publish statistics about the occurrence and cause of all motor vehicle accidents in the State.

(2) A statistical report on the incidence of crime published under this subsection may not name or otherwise identify a particular known or suspected offender.

(3) The Department shall distribute the reports required by this subsection to:

(i) each agency or unit that contributed information contained in the reports;

(ii) the press; and

(iii) any other interested person.

(4) By rule, the Secretary may establish conditions under which reports of specific motor vehicle accidents may be made available on request to the public.

(c) (1) The fee for conducting a document search is $4.

(2) The Department shall apply the money received from conducting document searches to the cost of providing this service.

(d) (1) The Department shall provide to the Baltimore City Health Department's Office of Youth Violence Prevention and the Baltimore City Mayor's Office on Criminal Justice, on a written request, information concerning:

(i) a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City; and

(ii) a child convicted of a crime or adjudicated delinquent for an act that caused a death or near fatality.

(2) The Baltimore City Health Department's Office of Youth Violence Prevention:

(i) shall keep confidential any information provided under paragraph (1) of this subsection; and

(ii) may use the information solely to develop appropriate programs and policies aimed at reducing violence against children in Baltimore City.

(3) The Baltimore City Mayor's Office on Criminal Justice:

(i) shall keep confidential any information provided under paragraph (1) of this subsection; and

(ii) may use the information solely to develop appropriate programs and services to a child who is the subject of the record, for a purpose relevant to the provision of the programs and services.

(4) (i) The Baltimore City Health Department's Office of Youth Violence Prevention or the Baltimore City Mayor's Office on Criminal Justice shall be liable for the unauthorized release of information provided to it under paragraph (1) of this subsection.

(ii) Within 180 days after the Baltimore City Health Department's Office of Youth Violence Prevention or the Baltimore City Mayor's Office on Criminal Justice reviews the information provided under paragraph (1) of this subsection, the Baltimore City Health Department's Office of Youth Violence Prevention or the Baltimore City Mayor's Office on Criminal Justice shall submit a report to the Department detailing the purposes for which the information was used.

2–308. // EFFECTIVE SEPTEMBER 30, 2019 PER CHAPTER 474 OF 2013 //

(a) (1) Any information, records, or statistics collected under this subtitle

shall be available for use by any agency or unit required to provide information to the Department.

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(i) to preserve the information;

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(iii) because of a pending prosecution.

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(3) The Department shall distribute the reports required by this subsection to:

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(ii) the press; and

(iii) any other interested person.

(4) By rule, the Secretary may establish conditions under which reports of specific motor vehicle accidents may be made available on request to the public.

(c) (1) The fee for conducting a document search is $4.

(2) The Department shall apply the money received from conducting document searches to the cost of providing this service.

§2–309.

In any report issued under § 2-308 of this subtitle, the Department may include recommendations to the Governor, the Secretary of Public Safety and Correctional Services, and, subject to § 2-1246 of the State Government Article, the General Assembly for legislation that the report indicates is necessary or desirable to promote

traffic safety or reduce crime or otherwise to ensure proper law enforcement.

§2–310.

(a) Unless sufficient facilities are not available, the managing official of a correctional facility shall receive and confine an individual arrested by a police employee without warrant or on warrant from a county.

(b) (1) An individual confined under subsection (a) of this section:

(i) is deemed to be in the custody of the Department; and

(ii) shall remain confined until a court of competent jurisdiction issues a warrant or other process, or the individual is returned to the county.

(2) Before the issuance of a warrant or process, an individual confined under subsection (a) of this section may be released only to and on written order of a police employee.

(c) (1) This section does not abridge the right of an individual to be taken before a judicial officer of the State promptly after arrest.

(2) The managing official of a correctional facility in which an individual is confined under this section, shall notify the State's Attorney immediately if the individual is confined for more than 12 hours.

§2–311.

(a) (1) This section does not apply to personal property purchased or otherwise acquired for use by the Department or to contraband.

(2) This section does not apply to personal property retained by the Department for use as evidence in a criminal prosecution.

(3) This section does not supersede the provisions for seizure and forfeiture contained in Titles 12 and 13 of the Criminal Procedure Article.

(b) (1) Except as provided in paragraph (2) of this subsection, the Department shall hold personal property that comes into the possession of the Department until the Department determines that the property is no longer needed in connection with a prosecution.

(2) Personal property that is used as evidence in a criminal prosecution shall be retained by the Department in the same manner as other evidence retained by the Department.

(c) After the Department determines that personal property is no longer needed in connection with a prosecution, the Department shall deliver the property to the

person who satisfactorily establishes the right to possession of the property and gives a proper receipt for the property.

(d) (1) At any time after personal property has been in the possession of the Department for 3 months and the Department determines that the property is no longer needed in connection with a prosecution, the Department shall:

(i) give notice of the sale of the property by registered or certified mail to those persons entitled to its possession and to those lienholders whose names and addresses can be ascertained by the exercise of reasonable diligence; and

(ii) publish a description of the property and the time, place, and terms of the sale of the property in a newspaper of general circulation in Baltimore City in each of two successive weeks.

(2) After complying with the requirements of paragraph (1) of this subsection, the Department may sell the property at public auction.

(3) The terms and manner of sale may be established by rule.

(e) The certificate of the Department that personal property has been sold under this section is sufficient evidence of title to the property for all purposes, including the right to obtain a certificate of title or registration from an appropriate unit of the State.

(f) (1) The amount received from the sale of personal property in accordance with this section shall be distributed in the following order of priority:

(i) first, to the Department in an amount equal to the expense of sale and all expenses incurred while the property was in the possession of the Department;

(ii) second, to lienholders in order of their priority; and

(iii) third, to the General Fund subject to paragraphs (2) and (3) of this subsection.

(2) At any time within 3 years after the date of a sale under this section, a person who submits satisfactory proof of the right to possession of the property shall be paid, without interest, the amount distributed to the General Fund under paragraph (1)(iii) of this subsection.

(3) A claim under paragraph (2) of this subsection is barred if more than 3 years has passed since the date of a sale under this section.

(g) This section does not create or recognize any cause, action, or defense or abridge any immunity now or in the future held by the Department, the Secretary, or an employee of the Department.

§2–312.

(a) Except as provided in subsection (b) of this section, the Secretary shall charge a fee of $5 per fingerprint card to each individual who requests that the individual be fingerprinted.

(b) A fee may not be charged to an individual who is:

(1) fingerprinted as a matter of procedure in a law enforcement action;

(2) required to have fingerprints retaken because of any fault or error by the Department during the preparation of the fingerprint card; or

(3) otherwise declared by the Secretary to be exempt from this section.

(c) Subject to the Administrative Procedure Act, the Secretary shall adopt regulations to carry out this section.

§2–313.

(a) Each publicly owned dog used for law enforcement work by the State or a local subdivision of the State shall have a license issued by the Department under this section.

(b) (1) A license under this section shall be issued:

(i) on the form prepared and provided by the Department; and

(ii) to the law enforcement officer to whom the licensed dog is assigned.

(2) Each license shall:

(i) be dated and numbered;

(ii) state the law enforcement agency to which the dog belongs; and

(iii) describe the dog that is licensed.

(3) A license issued under this section is valid for all dog licensing purposes anywhere in the State.

(c) A license issued under this section is in effect until the earlier of:

(1) revocation of the license by the Department; and

(2) removal of the licensed dog from law enforcement work.

(d) (1) The Department shall provide with each license a metal tag that:

(i) is stamped "Department of State Police"; and

(ii) bears the license number of the dog.

(2) The tag shall be affixed to a substantial collar to be provided by the law enforcement agency to which the dog belongs.

(3) The tag and collar shall be kept on the licensed dog at all times unless the dog is confined in a kennel or is under the personal charge of the law enforcement officer to whom the dog is assigned.

(e) The licensing responsibility of this section does not create liability for the Department or its officers or employees for any action of a licensed dog or the law enforcement officer to whom it is assigned.

§2–314.

(a) The Department shall establish and maintain a list, by county, of qualifying tow companies for use by the Department in carrying out the duties of this subtitle.

(b) The Department may adopt regulations to establish standards for tow companies, including application procedures and minimum qualification requirements, and must include on the list all qualifying tow companies.

§2–401.

(a) If there are inconsistencies between this article and the State Personnel and Pensions Article, this article controls as to any matter that relates to the Department.

(b) Except as expressly provided in this article, the State Personnel and Pensions Article does not apply to or affect the compensation, rank, grade, or status of police employees.

(c) Except as expressly provided in this article, the compensation, civilian classification, and status of civilian employees shall be determined in accordance with the State Personnel and Pensions Article.

§2–402.

(a) (1) In accordance with the State budget, the Secretary shall appoint the employees that the Secretary considers necessary for the efficient administration of the Department.

(2) The Secretary shall make each appointment from a list of eligible candidates in accordance with the State Personnel and Pensions Article.

(b) Each appointee to the Department shall:

(1) be a resident of the State on the date of appointment; and

(2) have the character, education, and other qualifications established by the Secretary under this title.

§2–402.1.

When the Department advertises for or recruits new employees, the Department shall include advertising that is targeted toward racial and ethnic communities or other individuals that are underrepresented in the Department workforce, including advertising in newspapers or on radio stations whose primary audience is the underrepresented communities and individuals.

§2–403.

(a) Each police employee, including an individual who is appointed to the Department for training before regular assignment as a police employee, shall remain in probationary status for a period of 2 years after the date of appointment to the Department.

(b) Each civilian employee shall remain in probationary status for the period required under Title 7, Subtitle 4 of the State Personnel and Pensions Article.

§2–404.

(a) In this section, "obsolete rank" means a rank designated by the Secretary to which no further promotions will be made.

(b) The Secretary shall make all promotions.

(c) (1) Promotion to a rank, except deputy secretary, shall be made in the manner required by rule.

(2) For a noncommissioned rank that has fewer than 25 police employees, the Secretary by rule may direct that it is unnecessary to fill the noncommissioned rank for purposes of promotion.

(3) (i) This paragraph does not apply to a rank that requires technical knowledge.

(ii) Except as provided in subsection (d) of this section, a police employee may not be appointed or promoted to a rank unless the police employee:

1. is bypassing an obsolete rank and currently fills the rank immediately below the obsolete rank; or

2. has filled the rank immediately below the rank to which the police employee is to be promoted.

(d) (1) Notwithstanding any other provision of law, the Secretary may appoint

without examination:

(i) a police employee who holds a commissioned rank to the rank of Major; and

(ii) a police employee who holds a commissioned rank of not less than Captain to the rank of Lieutenant Colonel.

(2) A police employee appointed in accordance with this subsection continues to serve at the pleasure of the Secretary.

(3) Notwithstanding any other provision of law, on termination of an appointment under this subsection, the police employee may:

(i) return to the rank held before the appointment; or

(ii) be promoted to a higher rank to which the police employee became eligible for promotion during the appointment.

(e) An incumbent police employee in an obsolete rank remains in that rank until promoted, demoted, retired, or terminated.

(f) Promotions of civilian employees shall be made in accordance with the State Personnel and Pensions Article.

§2–405.

(a) (1) The Secretary shall develop a pay plan for police employees, State Police communications operators, and State Police communications supervisors that includes the ranks and the grades within ranks that the Secretary considers appropriate.

(2) The pay plan under this subsection:

(i) is subject to approval by the Secretary of Budget and Management; and

(ii) is effective on approval by the Governor only to the extent that sufficient money is included in the State budget.

(b) Each police employee, State Police communications operator, and State Police communications supervisor is entitled to receive the pay rate, including any increment based on length of service, set forth in the pay plan established under subsection (a) of this section.

(c) (1) Each police employee is entitled to the pay rate for the next highest step within the police employee's rank on:

(i) each July 1, if the police employee was a police employee on July

1, 1967; or

(ii) each anniversary of the date of employment, for all other police employees.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, on promotion a police employee is entitled to the pay specified for the new rank in the same step that the police employee occupied before promotion.

(ii) If the step that the police employee occupied before promotion is higher than that held by a police employee who is already in the rank and has equal or higher total service time, on promotion the police employee is entitled only to the pay specified for the new rank in the next lower step than the police employee occupied before promotion.

§2–406.

(a) (1) The Secretary may approve vouchers in payment of expenses incurred by employees in the discharge of their duties, including expenses for lodging and subsistence while an employee is away from the facility to which the employee is regularly assigned.

(2) The vouchers shall be:

(i) audited and paid in accordance with the State budget in the manner required by law; and

(ii) submitted in a manner consistent with the practices required by the Comptroller's office.

(3) Lodging and subsistence provided to employees at facilities of the Department:

(i) are not expenses within the meaning of this section; and

(ii) may be provided by the Department in accordance with the State budget and rule of the Secretary.

(b) (1) In a civil or criminal case, other than a disciplinary proceeding or an appeal from a disciplinary proceeding, when a police employee is charged with the commission of a wrong as the result of an act done in the course of the police employee's official duties, the Secretary may pay any part of the legal expenses of the police employee if:

(i) the Secretary determines that payment is in the best interests of the Department, the public, and the police employee; and

(ii) the Attorney General approves the payment.

(2) Payment of legal expenses under this subsection may be made in accordance with the State budget or from general or contingency funds of the Department.

§2–407.

(a) (1) The Department shall provide uniforms and equipment necessary for the performance of the duties of employees in accordance with the State budget.

(2) Uniforms and equipment shall be purchased by the Department in accordance with Division II of the State Finance and Procurement Article and remain the property of the State.

(b) (1) Subject to paragraph (2) of this subsection, the Secretary may grant permission to off-duty police employees to use police vehicles during off-duty hours if, in the opinion of the Secretary, the vehicles will not be needed by on-duty police employees.

(2) Only the police employees to whom permission has been granted to use the police vehicles may operate the police vehicles.

§2–408.

(a) Except as allowed by this article, Title 9 or Title 10 of the Labor and Employment Article, or rule, an employee of the Department may not receive money or any other thing of value for services performed by the employee as an employee of the Department or otherwise resulting from employment by the Department.

(b) When an employee is allowed by the Secretary to accept money or any other thing of value, the money or other thing of value shall be delivered to the Department and disposed of as provided by rule.

§2–409.

(a) There is a Sick Leave Reserve.

(b) The Secretary shall administer the Sick Leave Reserve.

(c) The Secretary shall adopt rules and regulations about the eligibility of police employees to withdraw sick leave from the Sick Leave Reserve including:

(1) a requirement that the police employee have a long term illness and be unable to work; and

(2) the length of time for which a police employee may receive sick leave.

(d) With the approval of the Secretary, a police employee may donate up to 2 days of sick leave each year to the Sick Leave Reserve.

(e) (1) The Secretary may transfer days of sick leave that have been accumulated in the Sick Leave Reserve to a police employee who:

(i) has a documented medical disability; and

(ii) has exhausted all forms of leave.

(2) The Secretary may not transfer sick leave under this section to a police employee who has been granted disability retirement by the board of trustees of the State retirement systems for use after the first date on which disability retirement may become effective.

§2–410.

(a) The Secretary may grant work-related administrative leave to a police employee who is temporarily disabled in the performance of the police employee's work if the disability resulted from an injury or illness sustained in the performance of the police employee's work.

(b) (1) The work-related administrative leave remains in effect until the police employee is returned to duty or is retired because of the injury or illness from which the disability resulted.

(2) However, the work-related administrative leave may not:

(i) exceed 2 years; and

(ii) extend beyond the second anniversary of the date of the injury or illness.

(c) (1) Payment to a police employee on work-related administrative leave is based on two-thirds of the police employee's regular pay.

(2) Payment for work-related administrative leave is a separate benefit on account of accidental disability and is not a continuation of salary.

(3) Notwithstanding the reduced rate at which a police employee is paid while on work-related administrative leave, the police employee:

(i) continues seniority and leave accruals based on the police employee's regular pay; and

(ii) does not lose health care benefits with the subsidy allowed in Title 2, Subtitle 5 of the State Personnel and Pensions Article solely because the police employee is on work-related administrative leave.

(4) A police employee may not receive temporary total disability benefits under the Maryland Workers' Compensation Act while the police employee is receiving

payment under this section.

§2–411.

(a) If authorized by the Secretary, a police employee or a 40-hour civilian employee may work an alternative workday of not more than 12 hours instead of an 8-hour workday.

(b) (1) Employees who participate in the alternative modified workday program are entitled to compensation in accordance with § 8-305 of the State Personnel and Pensions Article.

(2) Personal leave for these employees shall be based on an 8-hour workday.

§2–412.

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

(2) "Emergency" means a sudden or unexpected happening or an unforeseen combination of circumstances that calls for immediate action to protect health, safety, welfare, or property from actual or threatened harm or from an unlawful act.

(3) "Municipal corporation" includes Baltimore City.

(b) (1) Police employees 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 in the future exercise within their respective jurisdictions.

(2) A police employee may execute an arrest warrant in any part of the State without further endorsement.

(c) Police employees may not act within the limits of a municipal corporation that maintains a police force except:

(1) when in pursuit of a criminal or suspect;

(2) when in search of a criminal or suspect wanted for a crime committed outside of the limits of the municipal corporation or when interviewing or seeking to interview a witness or supposed witness to the crime;

(3) when a crime is committed in the presence of the police employee, and the arrested party must be immediately transferred to the custody of the local law enforcement agency;

(4) when requested to act by the chief executive officer or chief police

officer of the municipal corporation;

(5) when ordered by the Governor to act within the municipal corporation;

(6) when enforcing the motor vehicle laws of the State, except in Baltimore City;

(7) in Baltimore City, only when enforcing Title 23 of the Transportation Article;

(8) in any building or place when ordered by either the President of the Senate or the Speaker of the House of Delegates 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 municipal corporations of Somerset County;

(11) when enforcing § 11-207 of the Criminal Law Article;

(12) (i) 1. when participating in a joint investigation with officials from another State, federal, or local law enforcement agency at least one of which has 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 item;

(13) when conducting investigations relating to or otherwise enforcing § 7-302 of the Criminal Law Article; or

(14) when conducting an investigation under § 9-602.1 of the Correctional Services Article.

(d) A police employee may not be placed on detached service and act for a federal department, agency, or committee outside of the State without the written approval of the Governor or as otherwise provided by law.

§2–413.

A police employee may not be demoted or otherwise affected in rank, pay, or status except for cause.

§2–414.

Employment of an employee of the Department ends on the death, retirement, resignation, or termination of the employee.

§2–415.

(a) (1) Retirement shall occur in accordance with the State Personnel and Pensions Article.

(2) Except for the Secretary, retirement is mandatory as provided in § 24-401(c) of the State Personnel and Pensions Article.

(b) (1) The Secretary may apply for disability retirement on behalf of a police employee in accordance with § 29-103 of the State Personnel and Pensions Article.

(2) This subsection does not prevent a police employee from exercising the individual's rights under § 21-111 of the State Personnel and Pensions Article.

(c) (1) Notwithstanding any other provision of law, a police employee, on retirement in good standing, may keep or acquire the handgun issued by the State to that police employee if:

(i) the police employee reimburses the Department for the replacement value of the handgun; and

(ii) the Secretary authorizes the transaction.

(2) The Secretary shall adopt regulations necessary to carry out this subsection.

§2–416.

Resignation of an employee is not valid until accepted by the Secretary, but the Secretary may not withhold acceptance unless proceedings for termination are contemplated or pending.

§2–417.

(a) An employee, other than an employee in probationary status, may be terminated from employment only in accordance with the State Personnel and Pensions Article.

(b) The Secretary may terminate the employment of an employee in probationary status for any reason that the Secretary considers sufficient.

§2–418.

(a) (1) Except as otherwise provided in paragraphs (2) and (3) of this

subsection, a police employee who resigns from the Department for any reason may not be reappointed.

(2) A police employee who resigns to enter military service may be reappointed.

(3) By rule, the Secretary may reappoint a police employee who resigned in good standing if the individual meets the requirements then applicable for initial appointment.

(4) An individual may not be reappointed to a rank higher than the rank that the individual previously held as a police employee.

(b) An employee who is terminated from the Department may not be reappointed.

§2–501.

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

(b) "Burglary" includes the crimes enumerated in §§ 6–202, 6–203, and 6–204 of the Criminal Law Article.

(c) (1) "CODIS" means the Federal Bureau of Investigation's "Combined DNA Index System" that allows the storage and exchange of DNA records submitted by federal, state, and local forensic DNA laboratories.

(2) "CODIS" includes the national DNA index administered and operated by the Federal Bureau of Investigation.

(d) "Crime Laboratory" means the Forensic Sciences Division of the Department.

(e) (1) Except as provided in paragraph (2) of this subsection, "crime of violence" has the meaning stated in § 14–101 of the Criminal Law Article.

(2) "Crime of violence" does not include mayhem.

(f) "Director" means the Director of the Crime Laboratory or the Director's designee.

(g) "DNA" means deoxyribonucleic acid.

(h) (1) "DNA record" means DNA information stored in CODIS or the statewide DNA data base system.

(2) "DNA record" includes the information commonly referred to as a DNA profile.

(i) "DNA sample" means a body fluid or tissue sample that is:

(1) provided by an individual who is convicted of a felony or a violation of § 6–205 or § 6–206 of the Criminal Law Article;

(2) provided by an individual who is charged with:

(i) a crime of violence or an attempt to commit a crime of violence; or

(ii) burglary or an attempt to commit burglary; or

(3) submitted to the statewide DNA data base system for testing as part of a criminal investigation.

(j) "Statewide DNA data base system" means the DNA record system administered by the Department for identification purposes.

(k) "Statewide DNA repository" means the State repository of DNA samples collected under this subtitle.

§2–502.

(a) There is a statewide DNA data base system in the Crime Laboratory.

(b) The statewide DNA data base system is the central repository for all DNA testing information as provided in this subtitle.

(c) The Director shall:

(1) administer and manage the statewide DNA data base system;

(2) consult with the Secretary on the adoption of appropriate regulations for protocols and operations of the statewide DNA data base system;

(3) ensure compatibility with Federal Bureau of Investigation and CODIS requirements, including the use of comparable test procedures, quality assurance, laboratory equipment, and computer software;

(4) ensure the security and confidentiality of all records in the statewide DNA data base system; and

(5) provide for a liaison with the Federal Bureau of Investigation and other criminal justice agencies related to the State's participation in CODIS or in any DNA data base designated by the Department.

(d) The Crime Laboratory shall:

(1) receive DNA samples for analysis, classification, storage, and disposal;

(2) file the DNA record of identification characteristic profiles of DNA samples submitted to the Crime Laboratory; and

(3) make information that relates to DNA samples and DNA records available to other agencies and individuals as authorized by this subtitle.

(e) The Director may contract with a qualified DNA laboratory to complete DNA typing analyses if the laboratory meets the guidelines established by the Director.

(f) Subject to § 2-511 of this subtitle, records of testing shall be permanently retained on file at the Crime Laboratory.

§2–503.

(a) After consulting with the Director, the Secretary shall adopt appropriate regulations:

(1) for protocols and operations of the statewide DNA data base system;

(2) to govern the methods used to obtain information from the statewide DNA data base system and CODIS, including procedures to verify the identity and authority of the individual or agency that requests the information; and

(3) to govern the procedures used:

(i) to collect, submit, identify, analyze, store, and dispose of DNA samples; and

(ii) to allow access to and dissemination of typing results and personal identification information of DNA samples that are submitted under this subtitle.

(b) Each procedure adopted by the Director shall include quality assurance guidelines to ensure that DNA records meet standards and audit requirements for laboratories that submit DNA records for inclusion in the statewide DNA data base system and CODIS.

§2–504.

(a) (1) In accordance with regulations adopted under this subtitle, an individual who is convicted of a felony or a violation of § 6–205 or § 6–206 of the Criminal Law Article shall:

(i) have a DNA sample collected either at the time of sentence or on intake to a correctional facility, if the individual is sentenced to a term of imprisonment; or

(ii) provide a DNA sample as a condition of sentence or probation, if

the individual is not sentenced to a term of imprisonment.

(2) An individual who was convicted of a felony or a violation of § 6–205 or § 6–206 of the Criminal Law Article on or before October 1, 2003 and who remains confined in a correctional facility on or after October 1, 1999, shall submit a DNA sample to the Department.

(3) (i) In accordance with regulations adopted under this subtitle, a DNA sample shall be collected from an individual who is charged with:

1. a crime of violence or an attempt to commit a crime of violence; or

2. burglary or an attempt to commit burglary.

(ii) At the time of collection of the DNA sample under this paragraph, the individual from whom a sample is collected shall be given notice that the DNA record may be expunged and the DNA sample destroyed in accordance with § 2–511 of this subtitle.

(iii) DNA evidence collected from a crime scene or collected as evidence of sexual assault at a hospital that a law enforcement investigator considers relevant to the identification or exoneration of a suspect shall be tested as soon as reasonably possible following collection of the sample.

(b) In accordance with regulations adopted under this subtitle, each DNA sample required to be collected under this section shall be collected:

(1) at the time the individual is charged, at a facility specified by the Secretary;

(2) at the correctional facility where the individual is confined, if the individual is confined in a correctional facility on or after October 1, 2003, or is sentenced to a term of imprisonment on or after October 1, 2003;

(3) at a facility specified by the Director, if the individual is on probation or is not sentenced to a term of imprisonment; or

(4) at a suitable location in a circuit court following the imposition of sentence.

(c) A DNA sample shall be collected by an individual who is:

(1) designated by the Director; and

(2) trained in the collection procedures that the Crime Laboratory uses.

(d) (1) A DNA sample collected from an individual charged with a crime under

subsection (a)(3) of this section may not be tested or placed in the statewide DNA data base system prior to the first scheduled arraignment date unless requested or consented to by the individual as provided in paragraph (3) of this subsection.

(2) If all qualifying criminal charges are determined to be unsupported by probable cause:

(i) the DNA sample shall be immediately destroyed; and

(ii) notice shall be sent to the defendant and counsel of record for the defendant that the sample was destroyed.

(3) An individual may request or consent to have the individual's DNA sample processed prior to arraignment for the sole purpose of having the sample checked against a sample that:

(i) has been processed from the crime scene or the hospital; and

(ii) is related to the charges against the individual.

(e) A second DNA sample shall be taken if needed to obtain sufficient DNA for the statewide DNA data base system or if ordered by the court for good cause shown.

(f) Failure of an individual who is not sentenced to a term of imprisonment to provide a DNA sample within 90 days after notice by the Director is a violation of probation.

§2–505.

(a) To the extent fiscal resources are available, DNA samples shall be collected and tested:

(1) to analyze and type the genetic markers contained in or derived from the DNA samples;

(2) as part of an official investigation into a crime;

(3) to help identify human remains;

(4) to help identify missing individuals; and

(5) for research and administrative purposes, including:

(i) development of a population data base after personal identifying information is removed;

(ii) support of identification research and protocol development of forensic DNA analysis methods; and

(iii) quality control.

(b) (1) Only DNA records that directly relate to the identification of individuals shall be collected and stored.

(2) DNA records may not be used for any purposes other than those specified in this subtitle.

§2–506.

(a) Each DNA record of identification characteristics that results from DNA testing under this subtitle shall be stored and maintained only by the Crime Laboratory in the statewide DNA data base system, except as necessary to participate in CODIS.

(b) Each DNA sample obtained under this subtitle shall be stored securely and maintained only by the Crime Laboratory in the statewide DNA repository.

(c) Typing results shall be stored securely in the statewide DNA data base system.

(d) A person may not perform a search of the statewide DNA data base for the purpose of identification of an offender in connection with a crime for which the offender may be a biological relative of the individual from whom the DNA sample was acquired.

§2–507.

At regular intervals not exceeding 180 days, the Crime Laboratory and each analyst who performs DNA analyses at the Crime Laboratory shall undergo external proficiency testing, including at least one external blind test, by a DNA proficiency testing program that meets the standards issued under:

(1) § 1003 of the federal DNA Identification Act of 1994 (42 U.S.C. § 14131); or

(2) the guidelines for a quality assurance program for DNA analysis, known as the "TWGDAM" guidelines.

§2–508.

(a) (1) On written or electronic request after verification by the Director that a match has been made in the population data base, the typing results and personal identification information of the DNA profile of an individual in the statewide DNA data base system may be made available to:

(i) federal, State, or local law enforcement agencies;

(ii) crime laboratories that have been approved by the Director and that serve federal, State, and local law enforcement agencies;

(iii) a State's Attorney's office or other prosecutorial office; and

(iv) a person participating in a judicial proceeding in which the data base information may be offered as evidence.

(2) A request for DNA information under paragraph (1) of this subsection must be in furtherance of a purpose set forth in § 2-505 of this subtitle.

(b) (1) The typing results and personal identification information of the DNA profile of an individual in the statewide DNA data base system shall be made available to a defendant or defendant's counsel on written order of the court in which the case is pending.

(2) A search of the data base to determine the existence of a match to DNA obtained from crime scene evidence taken in relation to the crime for which a defendant is charged shall be conducted if:

(i) the defendant requests the search; and

(ii) a court issues a written order for the search.

(3) This subtitle does not limit a court from ordering discovery of a DNA record or other related material in a criminal case.

(4) The Director shall maintain a file of all orders issued under this subsection.

§2–509.

(a) The Director shall create a population data base composed of DNA samples collected under this subtitle.

(b) All personal identifiers shall be removed before information is entered into the population data base.

(c) (1) Nothing shall prohibit the sharing or disseminating of population data base information with:

(i) federal, State, or local law enforcement agencies;

(ii) crime laboratories that have been approved by the Director and that serve federal, State, and local law enforcement agencies;

(iii) a State's Attorney's office; or

(iv) a third party that the Director considers necessary to assist the Crime Laboratory with statistical analyses of the population data base.

(2) The population data base may be made available to and searched by

any agency that participates in CODIS.

§2–510.

A match obtained between an evidence sample and a data base entry may be used only as probable cause and is not admissible at trial unless confirmed by additional testing.

§2–511.

(a) (1) Except as provided in paragraph (2) of this subsection, any DNA samples and records generated as part of a criminal investigation or prosecution shall be destroyed or expunged automatically from the State DNA data base if:

(i) a criminal action begun against the individual relating to the crime does not result in a conviction of the individual;

(ii) the conviction is finally reversed or vacated and no new trial is permitted; or

(iii) the individual is granted an unconditional pardon.

(2) A DNA sample or DNA record may not be destroyed or expunged automatically from the State DNA data base if the criminal action is put on the stet docket or the individual receives probation before judgment.

(b) If the DNA sample or DNA record was obtained or generated only in connection with a case in which eligibility for expungement has been established, the DNA sample shall be destroyed and the DNA record shall be expunged.

(c) Any DNA record expunged in accordance with this section shall be expunged from every data base into which it has been entered, including local, State, and federal data bases.

(d) An expungement or destruction of sample under this section shall occur within 60 days of an event listed in subsection (a) of this section.

(e) A letter documenting expungement of the DNA record and destruction of the DNA sample shall be sent by the Director to the defendant and the defendant's attorney at the address specified by the court in the order of expungement.

(f) A record or sample that qualifies for expungement or destruction under this section and is matched concurrent with or subsequent to the date of qualification for expungement:

(1) may not be utilized for a determination of probable cause regardless of whether it is expunged or destroyed timely; and

(2) is not admissible in any proceeding for any purpose.

(g) The Director shall adopt procedures to comply with this section.

§2–512.

(a) A person who, by virtue of employment or official position, has possession of or access to individually identifiable DNA information contained in the statewide DNA data base system or statewide DNA repository may not willfully disclose the information in any manner to a person or agency not entitled to receive the information.

(b) A person may not, without authorization, willfully obtain individually identifiable DNA information from the statewide DNA data base system or statewide DNA repository.

(c) A person may not willfully test a DNA sample for information that does not relate to the identification of individuals as specified in this subtitle.

(d) A person may not willfully fail to destroy a DNA sample for which, under this subtitle:

(1) notification has been sent stating that the DNA sample has been destroyed; or

(2) destruction has been ordered.

(e) A person who violates subsection (a), (b), or (c) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $5,000 or both.

(f) A person who violates subsection (d) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000.

§2–513.

(a) (1) (i) On or before April 1, 2010, and on or before April 1 annually thereafter, the Department shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on the status of the statewide DNA data base system as specified in subsection (b) of this section.

(ii) On or before January 31, 2010, and on or before January 31 annually thereafter, local law enforcement agencies shall report to the Department for the preceding calendar year with the information necessary for the Department to comply with the requirements of subsection (b) of this section.

(2) The annual report shall be posted on the Department website on or before April 1 of each year.

(b) The annual report shall include, for the preceding calendar year:

(1) total expenses incurred for the operation and management of the DNA data base and DNA testing program, specifying the actual and human resource costs of DNA collection and transport, DNA analyses, data base operation and oversight, and State laboratory personnel and maintenance;

(2) total funding provided by the State to each forensic crime laboratory in the preceding year;

(3) a statistical analysis of the racial demographics of individuals who have been charged with a crime of violence or burglary, or attempt to commit a crime of violence or burglary, as defined in § 2–501 of this subtitle;

(4) the number of DNA samples collected from individuals charged with a crime of violence or burglary, or attempt to commit a crime of violence or burglary, as defined in § 2–501 of this subtitle;

(5) the sufficiency of protocols and procedures adopted to prevent the unlawful testing of DNA and ensure the expungement of DNA as required under this subtitle; and

(6) a detailed analysis of the investigations aided by DNA profiles that includes:

(i) the number of matches;

(ii) the number of matches that resulted in investigation of the person identified;

(iii) the number of matches that resulted in formal charges;

(iv) the number of matches that resulted in convictions;

(v) the number of matches that resulted in exonerations;

(vi) the number of matches that resulted in convictions for persons not already incarcerated; and

(vii) the prior offenses for which a person has been convicted where a match occurred.

§2–514.

(a) On or before April 1, 2010, and on or before April 1 of every even–numbered year thereafter, each local law enforcement unit shall report to the Governor's Office of Crime Control and Prevention on the status of crime scene DNA collection and analysis in its respective jurisdiction for the preceding calendar year, and the Department shall

report to the Governor's Office of Crime Control and Prevention on the status of crime scene DNA collection statewide for the preceding calendar year, including:

(1) the crimes for which crime scene DNA evidence is routinely collected;

(2) the approximate number of crime scene DNA evidence samples collected during the preceding year for each category of crime;

(3) the average time between crime scene DNA evidence collection and analysis;

(4) the number of crime scene DNA evidence samples collected and not analyzed at the time of the study;

(5) the number of crime scene DNA evidence samples submitted to the statewide DNA data base during the preceding year; and

(6) the number of crime scene DNA evidence samples, including sexual assault evidence, collected by hospitals in the county during the preceding year.

(b) (1) The Governor's Office of Crime Control and Prevention shall compile the information reported by the local law enforcement units and the Department under subsection (a) of this section and submit the information to the Office of Legislative Audits.

(2) The Office of Legislative Audits shall evaluate the information received under paragraph (1) of this subsection and submit an annual summary report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

§2–601.

(a) There is a Local Division in the Department.

(b) The Department may have and provide the employees, buildings, equipment, facilities, and other operating materials for the Local Division as provided in the State budget.

(c) The employees in the Local Division are in addition to the regular number of employees in the Department.

§2–602.

(a) (1) The local governing body of a county and the Secretary may enter into an agreement for the Department to act as and take over all or some of the functions of a local police force for the county or a municipal corporation in the county.

(2) The local governing body of a county may enter into an agreement with

a municipal corporation in the county for the participation of the municipal corporation in an agreement entered into under paragraph (1) of this subsection.

(3) In Charles County and St. Mary's County, a municipal corporation also may enter into a separate agreement with the Department.

(b) (1) In accordance with an agreement entered into under subsection (a) of this section, the Department within the county shall:

(i) enforce the public local laws of the county or municipal corporation;

(ii) perform related police services; and

(iii) perform the Department's other and regular duties in the county.

(2) For purposes of paragraph (1) of this subsection, the Department shall provide the employees, buildings, and facilities that are required by agreement or, if not so required, that the Department considers reasonable and proper to achieve the objectives of the agreement.

(c) Each agreement entered into under subsection (a) of this section shall provide:

(1) that the Secretary shall determine the reasonable and proper cost of the Local Division for and within the particular county or municipal corporation;

(2) that the county or municipal corporation shall reimburse the Department the entire amount of the cost of the Local Division in the county or municipal corporation; and

(3) for the time and manner of reimbursements by the county or municipal corporation to the Department for the cost of the Local Division.

(d) (1) Each agreement entered into under subsection (a) of this section requires the prior approval of the Attorney General as to legal sufficiency.

(2) Financial arrangements in each agreement entered into under subsection (a) of this section require the prior approval of the Secretary of Budget and Management.

§2–603.

(a) If an agreement entered into under § 2-602 of this subtitle is terminated, the value of motor vehicles, radios, and light bars paid for by a county or municipal corporation under the agreement shall be depreciated in accordance with subsection (b) of this section.

(b) The value of motor vehicles, radios, and light bars shall be depreciated over a 5-year period beginning on the date the equipment was put in service as follows:

(1) after 1 year, the equipment shall be valued at 80% of its initial cost;

(2) after 2 years, the equipment shall be valued at 60% of its initial cost;

(3) after 3 years, the equipment shall be valued at 40% of its initial cost;

(4) after 4 years, the equipment shall be valued at 20% of its initial cost; and

(5) after 5 years, the equipment shall be considered to have no remaining value for purposes of this section.

(c) The Department shall reimburse the county or municipal corporation for the depreciated value of the motor vehicles, radios, and light bars.

§2–604.

(a) Subject to subsection (b) of this section, if eight or more police employees are assigned to a county or municipal corporation in accordance with an agreement entered into under § 2-602 of this subtitle:

(1) the county or municipal corporation shall give the Department at least 5 years' notice whenever the county or municipal corporation decides to terminate the services of police employees provided under the agreement; and

(2) the number of police employees assigned to the county or municipal corporation in accordance with the agreement shall be phased out over 5 years.

(b) The Department and county or municipal corporation may modify the manner in which the services of police employees are terminated in an agreement entered into under § 2-602 of this subtitle.

§2–701.

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

(b) "Commercial motor vehicle" has the meaning stated in § 16-803 of the Transportation Article.

(c) "Council" means the Vehicle Theft Prevention Council.

(d) "Fund" means the Vehicle Theft Prevention Fund.

§2–702.

(a) (1) There is a Vehicle Theft Prevention Council in the Department.

(2) The purpose of the Council is to help prevent and deter theft of private passenger and commercial motor vehicles and related crime, including vandalism and theft of property from vehicles, in the State.

(b) (1) The Council consists of the following 13 members appointed by the Governor:

(i) as ex officio members of the Council:

1. the Secretary or a designee;

2. the Secretary of Juvenile Services or a designee;

3. the Secretary of Public Safety and Correctional Services or a designee; and

4. the Motor Vehicle Administrator of the Motor Vehicle Administration; and

(ii) nine regular members.

(2) Of the nine regular members:

(i) one member shall represent a local law enforcement agency;

(ii) one member shall represent a State's Attorney's office in the State;

(iii) one member shall represent a domestic insurer that issues private passenger automobile or commercial motor vehicle liability insurance in the State;

(iv) one member shall represent a foreign insurer that issues private passenger automobile or commercial motor vehicle liability insurance in the State;

(v) one member shall represent the Governor's Office;

(vi) one member shall represent the National Insurance Crime Bureau or a similar organization; and

(vii) three members shall represent the public, including one member who represents a neighborhood or community association.

(c) (1) The members serve at the pleasure of the Governor.

(2) The term of a regular member is 3 years.

(3) The terms of the regular members are staggered as required by the terms provided for members of the Council on October 1, 2003.

(4) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(d) The Governor shall appoint the Chairman of the Council.

(e) A member of the Council:

(1) may not receive compensation as a member of the Council; but

(2) is entitled to reimbursement for expenses from the Fund in accordance with the Standard State Travel Regulations.

(f) (1) The Council shall employ an executive director, who shall be appointed by the Governor.

(2) The expenses of the Council, including staff salaries and administrative expenses, shall be paid from the Fund but may not exceed 7% of the total expenditures from the Fund in a fiscal year.

(3) The Assistant Attorney General assigned to the Department is the legal advisor to the Council.

(g) (1) The Council has the following powers and duties:

(i) to make grants from the Fund for motor vehicle theft intervention programs, as provided in § 2-703 of this subtitle;

(ii) to solicit and accept money for deposit into the Fund, to be used to carry out the purposes of this subtitle;

(iii) to establish or assist in the establishment of programs designed to reduce the incidence of vehicle theft and related crime;

(iv) to identify priorities for theft prevention strategies in the State and criteria for the Council's evaluation of recipients of assistance from the Council; and

(v) to study and propose laws that will further prevent and deter vehicle theft and related crime.

(2) The Council shall develop and implement a plan of operation.

§2–703.

(a) There is a Vehicle Theft Prevention Fund.

(b) (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(c) The Fund consists of:

(1) money received by the Fund under § 17-106 of the Transportation Article;

(2) money received by the Council or the Fund from any source; and

(3) investment earnings of the Fund.

(d) The money of the Fund shall be invested in the same manner as other State money.

(e) The Council shall spend money in the Fund in the following order of priority:

(1) to pay the expenses of the Council; and

(2) to carry out the purposes of this subtitle.

(f) When making grants from the Fund, the Council shall consider and prioritize the following entities and programs:

(1) State and local law enforcement agencies:

(i) to enhance vehicle theft enforcement and prevention teams or efforts; and

(ii) for programs designed to reduce the incidence of vehicle theft;

(2) local prosecutors and judicial agencies, for enhanced prosecution and adjudication of vehicle theft crime;

(3) neighborhood, community, or business organizations, for programs designed to reduce the incidence of vehicle theft;

(4) educational programs designed to inform motor vehicle owners of methods to prevent motor vehicle theft and to provide equipment, for experimental purposes, to enable motor vehicle owners to prevent motor vehicle theft;

(5) programs designed to reduce the incidence of vehicle theft and recidivism by juveniles; and

(6) programs designed to reduce or deter damage or vandalism to vehicles in connection with vehicle theft or theft of property from vehicles.

(g) To the extent practicable, the Council shall allocate grants made under this subtitle among the subdivisions of the State on a pro rata basis determined by the

total number of vehicles registered in each subdivision divided by the total number of vehicles registered in the State.

(h) (1) Expenditures from the Fund may be made only:

(i) in accordance with the State budget; or

(ii) by the budget amendment procedure as provided in § 7-209 of the State Finance and Procurement Article, if at least 45 days have passed since the budget amendment and supporting information were submitted to the budget committees for their review and comment.

(2) The proposed budget and any budget amendment submitted to the General Assembly shall include an itemized list of each grant and other expenditure from the Fund to be made in the fiscal year.

§3–101.

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

(b) (1) "Chief" means the head of a law enforcement agency.

(2) "Chief" includes the officer designated by the head of a law enforcement agency.

(c) (1) "Hearing" means a proceeding during an investigation conducted by a hearing board to take testimony or receive other evidence.

(2) "Hearing" does not include an interrogation at which no testimony is taken under oath.

(d) "Hearing board" means a board that is authorized by the chief to hold a hearing on a complaint against a law enforcement officer.

(e) (1) "Law enforcement officer" means an individual who:

(i) in an official capacity is authorized by law to make arrests; and

(ii) is a member of one of the following law enforcement agencies:

1. the Department of State Police;

2. the Police Department of Baltimore City;

3. the Baltimore City School Police Force;

4. the Baltimore City Watershed Police Force;

5. the police department, bureau, or force of a county;

6. the police department, bureau, or force of a municipal corporation;

7. the office of the sheriff of a county;

8. the police department, bureau, or force of a bicounty agency;

9. the Maryland Transportation Authority Police;

10. the police forces of the Department of Transportation;

11. the police forces of the Department of Natural Resources;

12. the Field Enforcement Bureau of the Comptroller's Office;

13. the Housing Authority of Baltimore City Police Force;

14. the Crofton Police Department;

15. the police force of the Department of Health and Mental Hygiene;

16. the police force of the Maryland Capitol Police of the Department of General Services;

17. the police force of the Department of Labor, Licensing, and Regulation;

18. the police forces of the University System of Maryland;

19. the police force of Morgan State University;

20. the office of State Fire Marshal;

21. the Ocean Pines Police Department;

22. the police force of the Baltimore City Community College;

23. the police force of the Hagerstown Community College;

24. the Internal Investigation Unit of the Department of Public Safety and Correctional Services;

25. the Warrant Apprehension Unit of the Division of Parole and Probation in the Department of Public Safety and Correctional Services; or

26. the police force of the Anne Arundel Community College.

(2) "Law enforcement officer" does not include:

(i) an individual who serves at the pleasure of the Police Commissioner of Baltimore City;

(ii) an individual who serves at the pleasure of the appointing authority of a charter county;

(iii) the police chief of a municipal corporation;

(iv) an officer who is in probationary status on initial entry into the law enforcement agency except if an allegation of brutality in the execution of the officer's duties is made;

(v) a Montgomery County fire and explosive investigator as defined in § 2–208.1 of the Criminal Procedure Article;

(vi) an Anne Arundel County or City of Annapolis fire and explosive investigator as defined in § 2–208.2 of the Criminal Procedure Article;

(vii) a Prince George's County fire and explosive investigator as defined in § 2–208.3 of the Criminal Procedure Article;

(viii) a Worcester County fire and explosive investigator as defined in § 2–208.4 of the Criminal Procedure Article; or

(ix) a City of Hagerstown fire and explosive investigator as defined in § 2–208.5 of the Criminal Procedure Article.

§3–102.

(a) Except for the administrative hearing process under Subtitle 2 of this title that relates to the certification enforcement power of the Police Training Commission, this subtitle supersedes any other law of the State, a county, or a municipal corporation that conflicts with this subtitle.

(b) Any local law is preempted by the subject and material of this subtitle.

(c) This subtitle does not limit the authority of the chief to regulate the competent and efficient operation and management of a law enforcement agency by any reasonable means including transfer and reassignment if:

(1) that action is not punitive in nature; and

(2) the chief determines that action to be in the best interests of the internal management of the law enforcement agency.

§3–103.

(a) (1) Subject to paragraph (2) of this subsection, a law enforcement officer has the same rights to engage in political activity as a State employee.

(2) This right to engage in political activity does not apply when the law enforcement officer is on duty or acting in an official capacity.

(b) A law enforcement agency:

(1) may not prohibit secondary employment by law enforcement officers; but

(2) may adopt reasonable regulations that relate to secondary employment by law enforcement officers.

(c) A law enforcement officer may not be required or requested to disclose an item of the law enforcement officer's property, income, assets, source of income, debts, or personal or domestic expenditures, including those of a member of the law enforcement officer's family or household, unless:

(1) the information is necessary to investigate a possible conflict of interest with respect to the performance of the law enforcement officer's official duties; or

(2) the disclosure is required by federal or State law.

(d) A law enforcement officer may not be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to the law enforcement officer's employment or be threatened with that treatment because the law enforcement officer:

(1) has exercised or demanded the rights granted by this subtitle; or

(2) has lawfully exercised constitutional rights.

(e) A statute may not abridge and a law enforcement agency may not adopt a regulation that prohibits the right of a law enforcement officer to bring suit that arises out of the law enforcement officer's duties as a law enforcement officer.

(f) A law enforcement officer may waive in writing any or all rights granted by this subtitle.

§3–104.

(a) The investigation or interrogation by a law enforcement agency of a law enforcement officer for a reason that may lead to disciplinary action, demotion, or dismissal shall be conducted in accordance with this section.

(b) For purposes of this section, the investigating officer or interrogating officer shall be:

(1) a sworn law enforcement officer; or

(2) if requested by the Governor, the Attorney General or Attorney

General's designee.

(c) (1) A complaint against a law enforcement officer that alleges brutality in the execution of the law enforcement officer's duties may not be investigated unless the complaint is sworn to, before an official authorized to administer oaths, by:

(i) the aggrieved individual;

(ii) a member of the aggrieved individual's immediate family;

(iii) an individual with firsthand knowledge obtained because the individual was present at and observed the alleged incident; or

(iv) the parent or guardian of the minor child, if the alleged incident involves a minor child.

(2) Unless a complaint is filed within 90 days after the alleged brutality, an investigation that may lead to disciplinary action under this subtitle for brutality may not be initiated and an action may not be taken.

(d) (1) The law enforcement officer under investigation shall be informed of the name, rank, and command of:

(i) the law enforcement officer in charge of the investigation;

(ii) the interrogating officer; and

(iii) each individual present during an interrogation.

(2) Before an interrogation, the law enforcement officer under investigation shall be informed in writing of the nature of the investigation.

(e) If the law enforcement officer under interrogation is under arrest, or is likely to be placed under arrest as a result of the interrogation, the law enforcement officer shall be informed completely of all of the law enforcement officer's rights before the interrogation begins.

(f) Unless the seriousness of the investigation is of a degree that an immediate interrogation is required, the interrogation shall be conducted at a reasonable hour, preferably when the law enforcement officer is on duty.

(g) (1) The interrogation shall take place:

(i) at the office of the command of the investigating officer or at the office of the local precinct or police unit in which the incident allegedly occurred, as designated by the investigating officer; or

(ii) at another reasonable and appropriate place.

(2) The law enforcement officer under investigation may waive the right described in paragraph (1)(i) of this subsection.

(h) (1) All questions directed to the law enforcement officer under interrogation shall be asked by and through one interrogating officer during any one session of interrogation consistent with paragraph (2) of this subsection.

(2) Each session of interrogation shall:

(i) be for a reasonable period; and

(ii) allow for personal necessities and rest periods as reasonably necessary.

(i) The law enforcement officer under interrogation may not be threatened with transfer, dismissal, or disciplinary action.

(j) (1) (i) On request, the law enforcement officer under interrogation has the right to be represented by counsel or another responsible representative of the law enforcement officer's choice who shall be present and available for consultation at all times during the interrogation.

(ii) The law enforcement officer may waive the right described in subparagraph (i) of this paragraph.

(2) (i) The interrogation shall be suspended for a period not exceeding 10 days until representation is obtained.

(ii) Within that 10-day period, the chief for good cause shown may extend the period for obtaining representation.

(3) During the interrogation, the law enforcement officer's counsel or representative may:

(i) request a recess at any time to consult with the law enforcement officer;

(ii) object to any question posed; and

(iii) state on the record outside the presence of the law enforcement officer the reason for the objection.

(k) (1) A complete record shall be kept of the entire interrogation, including all recess periods, of the law enforcement officer.

(2) The record may be written, taped, or transcribed.

(3) On completion of the investigation, and on request of the law enforcement officer under investigation or the law enforcement officer's counsel or

representative, a copy of the record of the interrogation shall be made available at least 10 days before a hearing.

(l) (1) The law enforcement agency may order the law enforcement officer under investigation to submit to blood alcohol tests, blood, breath, or urine tests for controlled dangerous substances, polygraph examinations, or interrogations that specifically relate to the subject matter of the investigation.

(2) If the law enforcement agency orders the law enforcement officer to submit to a test, examination, or interrogation described in paragraph (1) of this subsection and the law enforcement officer refuses to do so, the law enforcement agency may commence an action that may lead to a punitive measure as a result of the refusal.

(3) If the law enforcement agency orders the law enforcement officer to submit to a test, examination, or interrogation described in paragraph (1) of this subsection, the results of the test, examination, or interrogation are not admissible or discoverable in a criminal proceeding against the law enforcement officer.

(m) (1) If the law enforcement agency orders the law enforcement officer to submit to a polygraph examination, the results of the polygraph examination may not be used as evidence in an administrative hearing unless the law enforcement agency and the law enforcement officer agree to the admission of the results.

(2) The law enforcement officer's counsel or representative need not be present during the actual administration of a polygraph examination by a certified polygraph examiner if:

(i) the questions to be asked are reviewed with the law enforcement officer or the counsel or representative before the administration of the examination;

(ii) the counsel or representative is allowed to observe the administration of the examination; and

(iii) a copy of the final report of the examination by the certified polygraph examiner is made available to the law enforcement officer or the counsel or representative within a reasonable time, not exceeding 10 days, after completion of the examination.

(n) (1) On completion of an investigation and at least 10 days before a hearing, the law enforcement officer under investigation shall be:

(i) notified of the name of each witness and of each charge and specification against the law enforcement officer; and

(ii) provided with a copy of the investigatory file and any exculpatory information, if the law enforcement officer and the law enforcement officer's representative agree to:

1. execute a confidentiality agreement with the law enforcement agency not to disclose any material contained in the investigatory file and exculpatory information for any purpose other than to defend the law enforcement officer; and

2. pay a reasonable charge for the cost of reproducing the material.

(2) The law enforcement agency may exclude from the exculpatory information provided to a law enforcement officer under this subsection:

(i) the identity of confidential sources;

(ii) nonexculpatory information; and

(iii) recommendations as to charges, disposition, or punishment.

(o) (1) The law enforcement agency may not insert adverse material into a file of the law enforcement officer, except the file of the internal investigation or the intelligence division, unless the law enforcement officer has an opportunity to review, sign, receive a copy of, and comment in writing on the adverse material.

(2) The law enforcement officer may waive the right described in paragraph (1) of this subsection.

§3–105.

(a) A law enforcement officer who is denied a right granted by this subtitle may apply to the circuit court of the county where the law enforcement officer is regularly employed for an order that directs the law enforcement agency to show cause why the right should not be granted.

(b) The law enforcement officer may apply for the show cause order:

(1) either individually or through the law enforcement officer's certified or recognized employee organization; and

(2) at any time prior to the beginning of a hearing by the hearing board.

(c) On a finding that a law enforcement agency obtained evidence against a law enforcement officer in violation of a right granted by this subtitle, the court shall grant appropriate relief.

§3–106.

(a) Subject to subsection (b) of this section, a law enforcement agency may not bring administrative charges against a law enforcement officer unless the agency files the charges within 1 year after the act that gives rise to the charges comes to the

attention of the appropriate law enforcement agency official.

(b) The 1-year limitation of subsection (a) of this section does not apply to charges that relate to criminal activity or excessive force.

§3–106.1.

(a) A law enforcement agency required by law to disclose information for use as impeachment or exculpatory evidence in a criminal case, solely for the purpose of satisfying the disclosure requirement, may maintain a list of law enforcement officers who have been found or alleged to have committed acts which bear on credibility, integrity, honesty, or other characteristics that would constitute exculpatory or impeachment evidence.

(b) A law enforcement agency may not, based solely on the fact that a law enforcement officer is included on the list maintained under subsection (a) of this section, take punitive action against the law enforcement officer, including:

(1) demotion;

(2) dismissal;

(3) suspension without pay; or

(4) reduction in pay.

(c) A law enforcement agency that maintains a list of law enforcement officers under subsection (a) of this section shall provide timely notice to each law enforcement officer whose name has been placed on the list.

(d) A law enforcement officer maintains all rights of appeal provided in this subtitle.

§3–107.

(a) (1) Except as provided in paragraph (2) of this subsection and § 3-111 of this subtitle, if the investigation or interrogation of a law enforcement officer results in a recommendation of demotion, dismissal, transfer, loss of pay, reassignment, or similar action that is considered punitive, the law enforcement officer is entitled to a hearing on the issues by a hearing board before the law enforcement agency takes that action.

(2) A law enforcement officer who has been convicted of a felony is not entitled to a hearing under this section.

(b) (1) The law enforcement agency shall give notice to the law enforcement officer of the right to a hearing by a hearing board under this section.

(2) The notice required under this subsection shall state the time and place of the hearing and the issues involved.

(c) (1) Except as provided in paragraph (4) of this subsection and in § 3-111 of this subtitle, the hearing board authorized under this section shall consist of at least three members who:

(i) are appointed by the chief and chosen from law enforcement officers within that law enforcement agency, or from law enforcement officers of another law enforcement agency with the approval of the chief of the other agency; and

(ii) have had no part in the investigation or interrogation of the law enforcement officer.

(2) At least one member of the hearing board shall be of the same rank as the law enforcement officer against whom the complaint is filed.

(3) (i) If the chief is the law enforcement officer under investigation, the chief of another law enforcement agency in the State shall function as the law enforcement officer of the same rank on the hearing board.

(ii) If the chief of a State law enforcement agency is under investigation, the Governor shall appoint the chief of another law enforcement agency to function as the law enforcement officer of the same rank on the hearing board.

(iii) If the chief of a law enforcement agency of a county or municipal corporation is under investigation, the official authorized to appoint the chief's successor shall appoint the chief of another law enforcement agency to function as the law enforcement officer of the same rank on the hearing board.

(iv) If the chief of a State law enforcement agency or the chief of a law enforcement agency of a county or municipal corporation is under investigation, the official authorized to appoint the chief's successor, or that official's designee, shall function as the chief for purposes of this subtitle.

(4) (i) A law enforcement agency or the agency's superior governmental authority that has recognized and certified an exclusive collective bargaining representative may negotiate with the representative an alternative method of forming a hearing board.

(ii) A law enforcement officer may elect the alternative method of forming a hearing board if:

1. the law enforcement officer works in a law enforcement agency described in subparagraph (i) of this paragraph; and

2. the law enforcement officer is included in the collective bargaining unit.

(iii) The law enforcement agency shall notify the law enforcement officer in writing before a hearing board is formed that the law enforcement officer may elect an alternative method of forming a hearing board if one has been negotiated under this paragraph.

(iv) If the law enforcement officer elects the alternative method, that method shall be used to form the hearing board.

(v) An agency or exclusive collective bargaining representative may not require a law enforcement officer to elect an alternative method of forming a hearing board.

(vi) If the law enforcement officer has been offered summary punishment, an alternative method of forming a hearing board may not be used.

(vii) If authorized by local law, this paragraph is subject to binding arbitration.

(d) (1) In connection with a disciplinary hearing, the chief or hearing board may issue subpoenas to compel the attendance and testimony of witnesses and the production of books, papers, records, and documents as relevant or necessary.

(2) The subpoenas may be served without cost in accordance with the Maryland Rules that relate to service of process issued by a court.

(3) Each party may request the chief or hearing board to issue a subpoena or order under this subtitle.

(4) In case of disobedience or refusal to obey a subpoena served under this subsection, the chief or hearing board may apply without cost to the circuit court of a county where the subpoenaed party resides or conducts business, for an order to compel the attendance and testimony of the witness or the production of the books, papers, records, and documents.

(5) On a finding that the attendance and testimony of the witness or the production of the books, papers, records, and documents is relevant or necessary:

(i) the court may issue without cost an order that requires the attendance and testimony of witnesses or the production of books, papers, records, and documents; and

(ii) failure to obey the order may be punished by the court as contempt.

(e) (1) The hearing shall be conducted by a hearing board.

(2) The hearing board shall give the law enforcement agency and law enforcement officer ample opportunity to present evidence and argument about the

issues involved.

(3) The law enforcement agency and law enforcement officer may be represented by counsel.

(4) Each party has the right to cross-examine witnesses who testify and each party may submit rebuttal evidence.

(f) (1) Evidence with probative value that is commonly accepted by reasonable and prudent individuals in the conduct of their affairs is admissible and shall be given probative effect.

(2) The hearing board shall give effect to the rules of privilege recognized by law and shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(3) Each record or document that a party desires to use shall be offered and made a part of the record.

(4) Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(g) (1) The hearing board may take notice of:

(i) judicially cognizable facts; and

(ii) general, technical, or scientific facts within its specialized knowledge.

(2) The hearing board shall:

(i) notify each party of the facts so noticed either before or during the hearing, or by reference in preliminary reports or otherwise; and

(ii) give each party an opportunity and reasonable time to contest the facts so noticed.

(3) The hearing board may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented.

(h) (1) With respect to the subject of a hearing conducted under this subtitle, the chief shall administer oaths or affirmations and examine individuals under oath.

(2) In connection with a disciplinary hearing, the chief or a hearing board may administer oaths.

(i) (1) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a circuit court.

(2) Witness fees, mileage, and the actual expenses necessarily incurred in securing the attendance of witnesses and their testimony shall be itemized and paid by the law enforcement agency.

(j) An official record, including testimony and exhibits, shall be kept of the hearing.

§3–108.

(a) (1) A decision, order, or action taken as a result of a hearing under § 3-107 of this subtitle shall be in writing and accompanied by findings of fact.

(2) The findings of fact shall consist of a concise statement on each issue in the case.

(3) A finding of not guilty terminates the action.

(4) If the hearing board makes a finding of guilt, the hearing board shall:

(i) reconvene the hearing;

(ii) receive evidence; and

(iii) consider the law enforcement officer's past job performance and other relevant information as factors before making recommendations to the chief.

(5) A copy of the decision or order, findings of fact, conclusions, and written recommendations for action shall be delivered or mailed promptly to:

(i) the law enforcement officer or the law enforcement officer's counsel or representative of record; and

(ii) the chief.

(b) (1) After a disciplinary hearing and a finding of guilt, the hearing board may recommend the penalty it considers appropriate under the circumstances, including demotion, dismissal, transfer, loss of pay, reassignment, or other similar action that is considered punitive.

(2) The recommendation of a penalty shall be in writing.

(c) (1) Notwithstanding any other provision of this subtitle, the decision of the hearing board as to findings of fact and any penalty is final if:

(i) a chief is an eyewitness to the incident under investigation; or

(ii) a law enforcement agency or the agency's superior governmental authority has agreed with an exclusive collective bargaining representative recognized or certified under applicable law that the decision is final.

(2) The decision of the hearing board then may be appealed in accordance with § 3-109 of this subtitle.

(3) If authorized by local law, paragraph (1)(ii) of this subsection is subject to binding arbitration.

(d) (1) Within 30 days after receipt of the recommendations of the hearing board, the chief shall:

(i) review the findings, conclusions, and recommendations of the hearing board; and

(ii) issue a final order.

(2) The final order and decision of the chief is binding and then may be appealed in accordance with § 3-109 of this subtitle.

(3) The recommendation of a penalty by the hearing board is not binding on the chief.

(4) The chief shall consider the law enforcement officer's past job performance as a factor before imposing a penalty.

(5) The chief may increase the recommended penalty of the hearing board only if the chief personally:

(i) reviews the entire record of the proceedings of the hearing board;

(ii) meets with the law enforcement officer and allows the law enforcement officer to be heard on the record;

(iii) discloses and provides in writing to the law enforcement officer, at least 10 days before the meeting, any oral or written communication not included in the record of the hearing board on which the decision to consider increasing the penalty is wholly or partly based; and

(iv) states on the record the substantial evidence relied on to support the increase of the recommended penalty.

§3–109.

(a) An appeal from a decision made under § 3-108 of this subtitle shall be taken to the circuit court for the county in accordance with Maryland Rule 7-202.

(b) A party aggrieved by a decision of a court under this subtitle may appeal to the Court of Special Appeals.

§3–110.

(a) On written request, a law enforcement officer may have expunged from any file the record of a formal complaint made against the law enforcement officer if:

(1) (i) the law enforcement agency that investigated the complaint:

1. exonerated the law enforcement officer of all charges in the complaint; or

2. determined that the charges were unsustained or unfounded; or

(ii) a hearing board acquitted the law enforcement officer, dismissed the action, or made a finding of not guilty; and

(2) at least 3 years have passed since the final disposition by the law enforcement agency or hearing board.

(b) Evidence of a formal complaint against a law enforcement officer is not admissible in an administrative or judicial proceeding if the complaint resulted in an outcome listed in subsection (a)(1) of this section.

§3–111.

(a) This subtitle does not prohibit summary punishment by higher ranking law enforcement officers as designated by the chief.

(b) (1) Summary punishment may be imposed for minor violations of law enforcement agency rules and regulations if:

(i) the facts that constitute the minor violation are not in dispute;

(ii) the law enforcement officer waives the hearing provided under this subtitle; and

(iii) the law enforcement officer accepts the punishment imposed by the highest ranking law enforcement officer, or individual acting in that capacity, of the unit to which the law enforcement officer is attached.

(2) Summary punishment imposed under this subsection may not exceed suspension of 3 days without pay or a fine of $150.

(c) (1) If a law enforcement officer is offered summary punishment in accordance with subsection (b) of this section and refuses:

(i) the chief may convene a hearing board of one or more members; and

(ii) the hearing board has only the authority to recommend the sanctions provided in this section for summary punishment.

(2) If a single member hearing board is convened:

(i) the member need not be of the same rank as the law enforcement officer; but

(ii) all other provisions of this subtitle apply.

§3–112.

(a) This subtitle does not prohibit emergency suspension by higher ranking law enforcement officers as designated by the chief.

(b) (1) The chief may impose emergency suspension with pay if it appears that the action is in the best interest of the public and the law enforcement agency.

(2) If the law enforcement officer is suspended with pay, the chief may suspend the police powers of the law enforcement officer and reassign the law enforcement officer to restricted duties pending:

(i) a determination by a court with respect to a criminal violation; or

(ii) a final determination by a hearing board with respect to a law enforcement agency violation.

(3) A law enforcement officer who is suspended under this subsection is entitled to a prompt hearing.

(c) (1) If a law enforcement officer is charged with a felony, the chief may impose an emergency suspension of police powers without pay.

(2) A law enforcement officer who is suspended under paragraph (1) of this subsection is entitled to a prompt hearing.

§3–113.

(a) A person may not knowingly make a false statement, report, or complaint during an investigation or proceeding conducted under this subtitle.

(b) A person who violates this section is subject to the penalties of § 9-501 of the Criminal Law Article.

§3–201.

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

(b) "Commission" means the Police Training Commission.

(c) "Department" means the Department of Public Safety and Correctional Services.

(d) (1) "Law enforcement agency" means a governmental police force, sheriff's office, or security force or law enforcement organization of the State, a county, or a municipal corporation that by statute, ordinance, or common law is authorized to enforce the general criminal laws of the State.

(2) "Law enforcement agency" does not include members of the Maryland National Guard who:

(i) are under the control and jurisdiction of the Military Department;

(ii) are assigned to the military property designated as the Glenn L. Martin State Airport; and

(iii) are charged with exercising police powers in and for the Glenn L. Martin State Airport.

(e) (1) "Police officer" means an individual who:

(i) is authorized to enforce the general criminal laws of the State; and

(ii) is a member of one of the following law enforcement agencies:

1. the Department of State Police;

2. the Police Department of Baltimore City;

3. the police department, bureau, or force of a county;

4. the police department, bureau, or force of a municipal corporation;

5. the Maryland Transit Administration police force;

6. the Maryland Transportation Authority Police;

7. the police forces of the University System of Maryland;

8. the police force of Morgan State University;

9. the office of the sheriff of a county;

10. the police forces of the Department of Natural Resources;

11. the police force of the Maryland Capitol Police of the Department of General Services;

12. the police force of a State, county, or municipal corporation if the special police officers are appointed under Subtitle 3 of this title;

13. the Housing Authority of Baltimore City Police Force;

14. the Baltimore City School Police Force;

15. the Crofton Police Department;

16. the police force of the Department of Labor, Licensing, and Regulation;

17. the Washington Suburban Sanitary Commission Police Force;

18. the Ocean Pines Police Department;

19. the police force of the Baltimore City Community College;

20. the police force of the Hagerstown Community College;

21. the parole and probation employees of the Warrant Apprehension Unit of the Division of Parole and Probation in the Department who are authorized to make arrests; or

22. the police force of the Anne Arundel Community College.

(2) "Police officer" includes:

(i) a member of the Field Enforcement Bureau of the Comptroller's Office;

(ii) the State Fire Marshal or a deputy State fire marshal;

(iii) an investigator of the Intelligence and Investigative Division of the Department;

(iv) a Montgomery County fire and explosive investigator as defined in § 2–208.1 of the Criminal Procedure Article;

(v) an Anne Arundel County or City of Annapolis fire and explosive investigator as defined in § 2–208.2 of the Criminal Procedure Article;

(vi) a Prince George's County fire and explosive investigator as defined in § 2–208.3 of the Criminal Procedure Article;

(vii) a Worcester County fire and explosive investigator as defined in § 2–208.4 of the Criminal Procedure Article; and

(viii) a City of Hagerstown fire and explosive investigator as defined in § 2–208.5 of the Criminal Procedure Article.

(3) "Police officer" does not include:

(i) an individual who serves as a police officer only because the individual occupies another office or position;

(ii) a sheriff, the Secretary of State Police, a commissioner of police, a deputy or assistant commissioner of police, a chief of police, a deputy or assistant chief of police, or another individual with an equivalent title who is appointed or employed by a government to exercise equivalent supervisory authority; or

(iii) a member of the Maryland National Guard who:

1. is under the control and jurisdiction of the Military Department;

2. is assigned to the military property designated as the Glenn L. Martin State Airport; and

3. is charged with exercising police powers in and for the Glenn L. Martin State Airport.

(f) "Secretary" means the Secretary of Public Safety and Correctional Services.

§3–202.

There is a Police Training Commission in the Department.

§3–203.

(a) (1) The Commission consists of 16 members.

(2) Of the 16 members of the Commission:

(i) one shall be the President of the Maryland Chiefs of Police Association;

(ii) one shall be the President of the Maryland Sheriffs Association;

(iii) one shall be the President of the Maryland Law Enforcement Officers, Inc.;

(iv) one shall be the Attorney General of the State;

(v) one shall be the Secretary of State Police;

(vi) one shall be the Police Commissioner of Baltimore City;

(vii) one shall be the Chancellor of the University System of Maryland;

(viii) one shall be the agent in charge of the Baltimore office of the FBI;

(ix) one shall be the President of the Eastern Shore Police Association;

(x) one shall represent the Maryland State Lodge of Fraternal Order of Police;

(xi) one shall be the Secretary of Public Safety and Correctional Services;

(xii) one shall be the Chairman of the Maryland Municipal League Police Executive Association;

(xiii) three shall be police officials of the State appointed under subsection (b) of this section; and

(xiv) one shall be the President of the Police Chiefs' Association of Prince George's County.

(b) (1) The Secretary shall appoint the three police officials to be members of the Commission with the approval of the Governor and the advice and consent of the Senate.

(2) The three members appointed under paragraph (1) of this subsection shall represent different geographic areas of the State.

(c) (1) The term of a member who is appointed under subsection (b) of this section is 3 years.

(2) The terms of the members who are appointed under subsection (b) of this section are staggered as required by the terms provided for members of the Commission on October 1, 2003.

(3) At the end of a term, a member who is appointed under subsection (b) of this section continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the remainder of the term and until a successor is appointed and qualifies.

(d) Except for the three members appointed by the Secretary under subsection (b) of this section, a member of the Commission may serve personally at a Commission meeting or may designate a representative from the member's unit, agency, or association who may act at any meeting to the same effect as if the member were personally present.

§3–204.

(a) The Secretary of State Police is the chairman of the Commission.

(b) The Commission annually shall elect a vice chairman from among its members.

§3–205.

(a) A majority of the Commission is a quorum.

(b) The Commission shall meet in the State at the times that it or its chairman determines.

(c) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) The Commission shall:

(1) maintain minutes of its meetings and any other records that it considers necessary; and

(2) provide information, on request, regarding the budget, activities, and programs of the Commission.

§3–206.

(a) (1) With the approval of the Secretary, the Commission shall appoint an executive director.

(2) The executive director shall perform general administrative and training management functions.

(3) The executive director serves at the pleasure of the Commission.

(b) (1) With the approval of the Secretary, the Commission shall appoint a deputy director and any other employees that the Commission considers necessary to perform general administrative and training management functions.

(2) The deputy director and other employees appointed under paragraph (1) of this subsection shall serve at the pleasure of the Commission.

(c) In accordance with the State budget, the Commission may set the compensation of:

(1) the executive director and the deputy director; and

(2) a Commission employee in a position that:

(i) is unique to the Commission;

(ii) requires specific skills or experience to perform the duties of the position; and

(iii) does not require the employee to perform functions that are comparable to functions performed in other units of the Executive Branch of State government.

(d) The Secretary of Budget and Management, in consultation with the Commission, shall determine the positions for which the Commission may set compensation under subsection (c) of this section.

§3–207.

Subject to the authority of the Secretary, the Commission has the following powers and duties:

(1) to establish standards for the approval and continuation of approval of schools that conduct police entrance–level and in–service training courses required by the Commission, including State, regional, county, and municipal training schools;

(2) to approve and issue certificates of approval to police training schools;

(3) to inspect police training schools;

(4) to revoke, for cause, the approval or certificate of approval issued to a police training school;

(5) to establish the following for police training schools:

(i) curriculum;

(ii) minimum courses of study;

(iii) attendance requirements;

(iv) eligibility requirements;

(v) equipment and facilities;

(vi) standards of operation; and

(vii) minimum qualifications for instructors;

(6) to require, for entrance–level police training and at least every 3 years for in–service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include special training, attention to, and study of the application and enforcement of:

(i) the criminal laws concerning rape and sexual offenses, including the sexual abuse and exploitation of children and related evidentiary procedures;

(ii) the contact with and treatment of victims of crimes and delinquent acts;

(iii) the notices, services, support, and rights available to victims and victims' representatives under State law; and

(iv) the notification of victims of identity fraud and related crimes of their rights under federal law;

(7) to certify and issue appropriate certificates to qualified instructors for police training schools authorized by the Commission to offer police training programs;

(8) to verify that police officers have satisfactorily completed training programs and issue diplomas to those police officers;

(9) to conduct and operate police training schools authorized by the Commission to offer police training programs;

(10) to make a continuous study of entrance–level and in–service training methods and procedures;

(11) to consult with and accept the cooperation of any recognized federal, State, or municipal law enforcement agency or educational institution;

(12) to consult and cooperate with universities, colleges, and institutions in the State to develop specialized courses of study for police officers in police science and police administration;

(13) to consult and cooperate with other agencies and units of the State concerned with police training;

(14) to develop, with the cooperation of the Office of the Chief Medical Examiner and the Federal Bureau of Investigation, a uniform missing person report form to be available for use by each law enforcement agency of the State on or before October 1, 2008;

(15) to require, for entrance–level police training and annually for in–service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include, for police officers who are issued an electronic control device by a law enforcement agency,

special training in the proper use of electronic control devices, as defined in § 4–109 of the Criminal Law Article, consistent with established law enforcement standards and federal and State constitutional provisions;

(16) to require, for entrance–level police training and, as determined by the Commission, for in–service level training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include, consistent with established law enforcement standards and federal and State constitutional provisions:

(i) training in lifesaving techniques, including Cardiopulmonary Resuscitation (CPR);

(ii) training in the proper level and use of force;

(iii) training regarding sensitivity to cultural and gender diversity; and

(iv) training regarding individuals with physical, intellectual, developmental, and psychiatric disabilities;

(17) to develop, with the cooperation of the Office of the Attorney General, the Governor's Office of Crime Control and Prevention, and the Federal Trade Commission, a uniform identity fraud reporting form that:

(i) makes transmitted data available on or before October 1, 2011, for use by each law enforcement agency of State and local government; and

(ii) may authorize the data to be transmitted to the Consumer Sentinel program in the Federal Trade Commission; and

(18) to perform any other act that is necessary or appropriate to carry out the powers and duties of the Commission under this subtitle.

§3–208.

Subject to the authority of the Secretary, the Commission has the following powers and duties:

(1) to adopt regulations necessary or appropriate to carry out this subtitle; and

(2) to adopt regulations that establish and enforce standards for prior substance abuse by individuals applying for certification as a police officer.

§3–209.

(a) The Commission shall certify as a police officer each individual who:

(1) (i) satisfactorily meets the standards of the Commission; or

(ii) provides the Commission with sufficient evidence that the individual has satisfactorily completed a training program in another state of equal quality and content as required by the Commission; and

(2) submits to a criminal history records check in accordance with § 3–209.1 of this subtitle.

(b) The Commission may certify as a police officer an individual who is not considered a police officer under § 3–201(e)(3) of this subtitle if the individual meets the selection and training standards of the Commission.

(c) Each certificate issued to a police officer under this subtitle remains the property of the Commission.

§3–209.1.

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

(2) "Applicant" means an individual who is seeking certification as a police officer.

(3) "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) An applicant for certification as a police officer shall apply to the Central Repository for a State and national criminal history records check.

(c) As part of the application for a criminal history records check, an applicant shall submit to the Central Repository:

(1) a complete set of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(2) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records; and

(3) the processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(d) In accordance with §§ 10–201 through 10–229 of the Criminal Procedure Article, the Central Repository shall forward to the Commission and the applicant a printed statement of the applicant's criminal history record information.

(e) Information obtained from the Central Repository under this section:

(1) shall be confidential;

(2) may not be redisseminated; and

(3) may be used only for the licensing purpose authorized by this title.

(f) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

(g) If criminal history record information is reported to the Central Repository after the date of the initial criminal history records check, the Central Repository shall provide to the Commission a revised statement of the applicant's or certified police officer's State criminal history record.

§3–210.

(a) The certification of a police officer automatically lapses 3 years after the date of the previous certification.

(b) If the certification of a police officer lapses, the police officer may apply for recertification immediately.

(c) The Commission may recertify a police officer after the certification of the police officer lapses.

§3–211.

(a) If the certification of a police officer is in danger of lapsing or has lapsed because of the failure of the police officer to meet the standards of the Commission, the police officer may request a hearing before the Commission to present evidence that:

(1) the police officer's law enforcement agency unreasonably failed to provide the police officer with the required training or assigned the police officer to special duty that prevented the police officer from completing the required training to achieve this certification; and

(2) this failure is through no fault of the police officer.

(b) (1) On request of the police officer for a hearing under this section, the Commission shall hold a hearing.

(2) For purposes of this subsection, the Commission shall follow the procedures required for a hearing board under the Law Enforcement Officers' Bill of Rights and the police officer is entitled to all of the rights provided under the Law Enforcement Officers' Bill of Rights.

(c) If the Commission concludes that the police officer's law enforcement agency unreasonably failed to provide the police officer with the required training or assigned the police officer to special duty that prevented the police officer from completing the

required training to achieve certification:

(1) the Commission shall stay the lapse of the certification until the police officer and the police officer's law enforcement agency meet the training requirements of the Commission;

(2) the police officer shall be retained in the police officer's law enforcement agency at full pay pending the completion of the training; and

(3) the Commission shall order the police officer's law enforcement agency to pay all reasonable hearing costs and attorney's fees incurred as a result of the action.

§3–212.

(a) Subject to the hearing provisions of subsection (b) of this section, the Commission may suspend or revoke the certification of a police officer if the police officer:

(1) violates or fails to meet the Commission's standards; or

(2) knowingly fails to report suspected child abuse in violation of § 5-704 of the Family Law Article.

(b) (1) Except as otherwise provided in Title 10, Subtitle 2 of the State Government Article, before the Commission takes any final action under subsection (a) of this section, the Commission shall give the individual against whom the action is contemplated an opportunity for a hearing before the Commission.

(2) The Commission shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) A police officer aggrieved by the findings and order of the Commission may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

§3–213.

The Commission may recall the certificate of a police officer if the certification of the police officer is suspended or revoked for any of the following reasons:

(1) the certificate was issued by administrative error;

(2) the certificate was obtained through misrepresentation or fraud;

(3) the police officer has been convicted of a felony; or

(4) the police officer has been convicted of a misdemeanor for which a sentence of imprisonment exceeding 1 year may be imposed.

§3–214.

(a) If the certification of a police officer is revoked, the police officer may not apply for recertification until 2 years after the effective date of the revocation order.

(b) The Commission may recertify an individual as a police officer after the certification of the police officer is revoked.

§3–215.

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

(2) "Permanent appointment" means the appointment of an individual who has satisfactorily met the minimum standards of the Commission and is certified as a police officer.

(3) "Police administrator" means a police officer who has been promoted to first-line administrative duties up to but not exceeding the rank of captain.

(4) "Police supervisor" means a police officer who has been promoted to first-line supervisory duties.

(b) An individual may not be given or accept a probationary appointment or permanent appointment as a police officer, police supervisor, or police administrator unless the individual satisfactorily meets the qualifications established by the Commission.

(c) A probationary appointment as a police officer, police supervisor, or police administrator may be made for a period not exceeding 1 year to enable the individual seeking permanent appointment to take a training course required by this subtitle.

(d) A probationary appointee is entitled to a leave of absence with pay during the period of the training program.

§3–216.

(a) A law enforcement agency may not employ an individual as a police officer for a period not exceeding 1 year unless the individual is certified by the Commission.

(b) (1) In this subsection, "nonfull-time police officer" means an individual who does not work in the law enforcement field at least 7 months during the calendar year.

(2) The certification requirements of subsection (a) of this section do not apply to the nonfull-time police officers of a law enforcement agency that:

(i) employs, during a calendar year, at least 70 full-time sworn police officers; and

(ii) employs at least 100 nonfull-time police officers.

§3–217.

An individual may not serve as a police officer when the certification of the police officer has lapsed or has been suspended or revoked by the Commission.

§3–218.

(a) Except as expressly provided in this subtitle, this subtitle does not limit the powers, rights, duties, or responsibilities of the government of a county or municipal corporation.

(b) This subtitle supersedes any law, ordinance, or regulation of the State, a county, or a municipal corporation that conflicts with this subtitle.

§3–301.

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

(b) "Central Repository" has the meaning stated in § 10–101 of the Criminal Procedure Article.

(c) "Commission" means a special police commission issued under this subtitle.

(d) "Secretary" means the Secretary of State Police.

(e) "Special police officer" means an individual who holds a commission issued under this subtitle.

§3–302.

The Governor may appoint and deputize as a special police officer each individual that the Governor considers qualified for a commission.

§3–303.

(a) The following entities may apply for the appointment of special police officers for the following purposes:

(1) a municipal corporation, county, or other governmental body of the State, in order to protect property owned, leased, or regularly used by the governmental body or any of its units;

(2) another state, or subdivision or unit of another state, that has an interest in property located wholly or partly in this State, in order to protect the property;

(3) a college, university, or public school system in the State, in order to

protect its property or students; or

(4) a person that exists and functions for a legal business purpose, in order to protect its business property.

(b) The applicant for a commission shall be at least 18 years old.

(c) The Secretary may require training and education for special police officers as the Secretary considers necessary.

§3–304.

(a) (1) The employer of an applicant for a commission shall submit the application under this section.

(2) A separate application is required for each individual applicant for a commission.

(b) (1) The employer of an applicant for a commission shall submit to the Secretary:

(i) an application in the manner and format designated by the Secretary; and

(ii) subject to paragraph (4) of this subsection, an application fee of $100, to cover the cost of an investigation of the applicant.

(2) As part of the application for a commission, the applicant shall submit to the Secretary the set of fingerprints and fees required under subsection (c) of this section.

(3) The application fee is nonrefundable.

(4) An application fee may not be charged to a unit of the State.

(c) (1) The Secretary shall apply to the Central Repository for a State and national criminal history records check for each applicant for a special police commission.

(2) As part of the application for a criminal history records check, the Secretary shall submit to the Central Repository:

(i) a complete set of the applicant's legible fingerprints taken in a format approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(3) The Central Repository shall provide a receipt to the applicant for the fees paid in accordance with paragraph (2)(ii) and (iii) of this subsection.

(4) In accordance with Title 10, Subtitle 2 of the Criminal Procedure Article, the Central Repository shall forward to the applicant and the Secretary a printed statement of the applicant's criminal history information.

(5) Information obtained from the Central Repository under this section:

(i) is confidential and may not be disseminated; and

(ii) may be used only for the purposes authorized by this section.

(6) If criminal history record information is reported to the Central Repository after the date of the initial criminal history records check, the Central Repository shall provide to the Department of State Police Licensing Division a revised printed statement of the applicant's or special police officer's State criminal history record.

§3–305.

(a) (1) The Secretary shall investigate the character, reputation, and qualifications of each applicant for a commission.

(2) The investigation shall include an investigation of the applicant's criminal record.

(3) The Secretary shall conduct the investigation in accordance with rules and regulations adopted by the Secretary.

(b) (1) On completion of the investigation, the Secretary shall notify the applicant of the final decision of the Secretary on whether to recommend the denial or the granting of the application to the Governor.

(2) Any person aggrieved by a final decision of the Secretary to recommend the denial of an application under this section may take an appeal as a contested case in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) (1) The Secretary shall transmit to the Governor:

(i) the results of the investigation;

(ii) a recommendation on denying or granting the application;

(iii) the reasons for the recommendation; and

(iv) the final disposition of any appeal made by an aggrieved person described in subsection (b)(2) of this section.

(2) The Governor may accept the recommendation of the Secretary but need not issue a commission approved by the Secretary if the Governor believes it not to be in the best interest of the State to do so.

§3–306.

(a) The Governor shall issue a commission to each applicant approved by the Governor.

(b) The commission shall indicate:

(1) the term of the commission; and

(2) the property that the commission is intended to cover or the purpose for which the commission is issued.

§3–307.

(a) Each special police officer shall protect and preserve peace and good order on the property described in the application for the commission.

(b) A special police officer may:

(1) arrest individuals who trespass or commit offenses on the property described in the application for the commission;

(2) exercise the powers of a police officer on the property described in the application for the commission;

(3) exercise the powers of a police officer in a county or municipal corporation of the State in connection with the care, custody, and protection of other property of the entity that requested the appointment of the special police officer or other property, real or personal, for which the entity has assumed an obligation to maintain or protect; and

(4) direct and control traffic on public highways and roads in the immediate vicinity of the property described in the application for the commission in order to facilitate the orderly movement of traffic to and from the property, if the Secretary approves of this activity in advance.

(c) (1) A special police officer may make an arrest or issue a traffic citation for a violation of the Maryland Vehicle Law or any other State or local traffic law or regulation only if the special police officer:

(i) has a probationary or permanent appointment as a security

officer or is a member of an industrial police force; and

(ii) has completed the basic training course for police officers as established by the Police Training Commission in accordance with Subtitle 2 of this title.

(2) A special police officer may exercise the power described in paragraph (1) of this subsection only on the property of the special police officer's employer as described in the application for the commission, unless the special police officer is in active pursuit for the purpose of immediate apprehension.

§3–308.

(a) The special police officer is responsible for:

(1) any abuse of the special police officer's powers; and

(2) the exercise of the special police officer's powers on property not within the special police officer's jurisdiction.

(b) The entity that requested the appointment of the special police officer is also responsible for:

(1) any wrongful action that the special police officer commits in the course of the special police officer's duties; and

(2) any abuse of the powers granted by the commission, either on or off the premises.

§3–309.

(a) Within 30 days after issuance of a commission and before performing the duties of a special police officer, each special police officer shall take the oath required by Article I, § 9 of the Maryland Constitution before the clerk of the circuit court where the commission is received.

(b) The clerk of the court shall transmit to the Secretary of State a certificate that indicates that the special police officer has taken the oath required by subsection (a) of this section.

§3–310.

(a) (1) Unless a special police officer is on detective duty, the special police officer shall wear:

(i) a uniform that is distinguishable from ordinary civilian clothing and that gives notice that the special police officer is a special police officer; and

(ii) a distinctive police badge that properly identifies the officer as a

special police officer.

(2) The badge shall be worn in plain view.

(3) The uniform, badge, vehicle, equipment, and identification are subject to approval by the Department of State Police.

(b) Each special police officer on detective duty shall carry:

(1) identification that properly identifies the special police officer as a special police officer; and

(2) the distinctive police badge described in subsection (a) of this section.

(c) (1) A special police officer shall surrender to the special police officer's employer any identification or badge that identifies the individual as a special police officer within 48 hours after the suspension or termination of:

(i) the employment of the special police officer; or

(ii) the commission of the special police officer in accordance with § 3–313 of this subtitle.

(2) The special police officer's employer shall return the special police commission card to the Secretary within 10 days after the suspension or termination of a special police officer.

§3–311.

(a) Each special police officer is deemed to be an employee of the entity that requested the appointment.

(b) A special police officer shall be compensated by the entity on whatever terms contracted for.

§3–312.

(a) An initial commission expires 3 years after its date of issuance.

(b) (1) At the end of the term of a commission, the commission is renewable for a 3–year term if the employer of the special police officer submits to the Secretary:

(i) an application in the manner and format designated by the Secretary;

(ii) one complete set of the applicant's legible fingerprints taken in a format approved by the Director of the Federal Bureau of Investigation;

(iii) the mandatory processing fee required by the Federal Bureau of

Investigation for a national criminal history records check; and

(iv) subject to paragraph (2) of this subsection, pays to the Secretary a renewal fee of $60.

(2) A renewal fee may not be charged to a unit of the State.

(c) (1) The Secretary shall apply to the Central Repository for a national criminal history records check for each applicant for a special police commission.

(2) As part of the application for a criminal history records check, the Secretary shall submit to the Central Repository:

(i) a complete set of the applicant's legible fingerprints taken in a format approved by the Director of the Federal Bureau of Investigation; and

(ii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(3) The Central Repository shall provide a receipt to the applicant for the fees paid in accordance with paragraph (2)(ii) of this subsection.

(4) In accordance with Title 10, Subtitle 2 of the Criminal Procedure Article, the Central Repository shall forward to the applicant and the Secretary a printed statement of the applicant's criminal history information.

(5) Information obtained from the Central Repository under this section:

(i) is confidential and may not be disseminated; and

(ii) may be used only for the purposes authorized by this section.

(d) The Secretary may set the deadline for submitting a renewal application to the Secretary.

§3–313.

(a) (1) Except as provided in subsection (c) of this section, a commission is suspended or terminates when the employer of the special police officer files written notice with the Secretary that states that the special police officer is suspended from or relieved of the duties of a special police officer.

(2) The Governor may suspend or terminate a commission:

(i) on recommendation of the Secretary; or

(ii) on the Governor's own motion if the Governor finds it in the best interest of the State.

(3) The suspension or termination shall be noted in the official records of the Governor.

(4) The suspension or termination may not take effect until 5 days after notice is sent to both the special police officer and the special police officer's employer.

(b) (1) The Governor may delegate the power to suspend a commission to the Secretary.

(i) The Secretary may suspend a commission if it appears that the action is in the best interest of the public.

(ii) A suspension issued by the Secretary shall be reviewed by the Governor within 30 days to determine if the suspension should continue or if the commission should be terminated.

(2) The Governor may delegate the power to suspend or terminate a commission to the Secretary of State, the Assistant Secretary of State, or both.

(c) A commission does not terminate if:

(1) an employer no longer needs the services of a special police officer because the employer has transferred the business property described in the commission to another person for legal business purposes; and

(2) the other person executes a form prepared by the Secretary of State that affirms that the other person will employ the special police officer to protect that business property and will assume the responsibilities of the original employer as described in this subtitle.

§3–314.

The State and any subdivision or municipal corporation of the State shall have the immunity from liability described under § 5-613 of the Courts Article unless the subdivision or municipal corporation requests the appointment of an individual as a special police officer and the request is granted as provided in this subtitle.

§3–315.

(a) An individual may not exercise or attempt to exercise any of the powers of a special police officer granted under this subtitle without a commission.

(b) (1) An individual may not exercise or attempt to exercise any of the powers of a special police officer granted under this subtitle if the individual knows of the suspension or termination of the individual's commission or if the individual has in any manner received notice of the suspension or termination of the individual's commission.

(2) An individual is presumed to know of a suspension or termination if

notice of the suspension or termination is filed and mailed in accordance with § 3-313 of this subtitle.

(c) An employer may not knowingly:

(1) hire an individual to perform the duties of a special police officer unless the individual holds a commission; or

(2) continue to employ an individual to perform the duties of a special police officer:

(i) unless the individual holds a commission; or

(ii) if the individual's commission is suspended or terminated.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $1,000 or both.

§3–316.

The Secretary may, as the Secretary considers necessary to carry out the purpose of this subtitle, adopt rules and regulations for the conduct of special police officers.

§3–401.

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

(b) (1) "Railroad company" means a railway company or corporation, together with its subsidiaries, corporate affiliates, and parent companies, that is engaged as a common carrier in the furnishing or sale of transportation subject to Subtitle IV of Title 49 of the United States Code.

(2) "Railroad company" includes a corporation the title of which contains a combination of words similar to "railway company".

(c) "Railroad police officer" means an individual appointed by the Governor to act as a police officer for a railroad company under this subtitle.

(d) "Secretary" means the Secretary of State Police.

§3–402.

Each railroad company located wholly or partly in the State may apply for the appointment of railroad police officers:

(1) to protect property, patrons, passengers, tenants, employees, equipment, and services; and

(2) to preserve peace and order on railroad premises, easements, appurtenant property, trains, cars, and other vehicles.

§3–403.

(a) To qualify for appointment to act as a railroad police officer under this subtitle, an applicant shall be an individual who meets the requirements of this section.

(b) (1) The applicant shall be of good moral character.

(2) The applicant may not have been convicted of a felony or misdemeanor involving moral turpitude.

(c) The applicant shall be at least 21 years old.

(d) The applicant shall:

(1) be a full-time police officer employed by a railroad company on July 1, 1979; or

(2) meet all the educational and training requirements required by the Police Training Commission.

§3–404.

(a) The chief railroad police officer of a railroad company shall:

(1) submit to the Secretary under oath an application for appointment of each railroad police officer on the form that the Secretary requires; and

(2) pay to the Secretary the application fee set by the Secretary.

(b) The application fee is nonrefundable.

§3–405.

(a) (1) The Secretary shall submit to the Governor:

(i) each application for appointment of a railroad police officer received under this subtitle;

(ii) a recommendation on denying or granting the application; and

(iii) the reasons for the recommendation.

(2) The Governor may accept the recommendation of the Secretary but need not issue an appointment approved by the Secretary if the Governor believes it is not in the best interest of the State to do so.

(b) The Governor shall issue an appointment to act as a railroad police officer to each applicant approved by the Governor.

§3–406.

(a) Each railroad police officer has all the powers granted to a peace or police officer.

(b) A railroad police officer may exercise the powers granted under this subtitle only if the railroad police officer:

(1) is on real or personal property owned, leased, operated, or controlled by the railroad company that employs the railroad police officer;

(2) is in fresh pursuit of a suspect;

(3) is requested or authorized to act by the executive officer or chief police officer of a county; or

(4) is ordered to act by the Governor.

§3–407.

The railroad company that employs a railroad police officer is liable for any wrongful action or abuse of power by the railroad police officer.

§3–408.

Before performing the duties of a railroad police officer, each railroad police officer shall take the oath required by Article I, § 9 of the Maryland Constitution before the clerk of the circuit court where the appointment is received.

§3–409.

(a) Each railroad police officer who is in uniform and on duty shall wear in plain view a badge that identifies the railroad company that employs the railroad police officer.

(b) Each railroad police officer shall carry an identification card issued by the railroad company that employs the railroad police officer.

§3–410.

Each railroad police officer shall receive compensation from the railroad company that employs the railroad police officer.

§3–411.

An appointment issued under this subtitle remains in effect until:

(1) terminated by the railroad company that employs the railroad police officer; or

(2) revoked for cause by the Governor.

§3–412.

(a) Employment of a railroad police officer ends on the retirement, resignation, or termination of the railroad police officer.

(b) The powers granted to a railroad police officer under this subtitle end when the employment of the railroad police officer ends.

(c) Within 10 days after the employment of a railroad police officer ends, the railroad company that employed the railroad police officer shall file notice with the Governor that the employment has ended.

§3–413.

(a) If sufficient facilities are available, the person in charge of a jail or place of detention shall receive and confine an individual arrested by a railroad police officer.

(b) An individual confined under subsection (a) of this section:

(1) is deemed to be in the custody of the railroad police; and

(2) has the same status as an individual arrested by any other peace or police officer of the State.

§3–414.

To carry out the purposes of this subtitle, the Governor may enter into a reciprocal agreement with the governor of another state to empower railroad police officers to perform police functions lawfully exercised by an officer of the reciprocal state that relate to the purposes described in this subtitle.

§3–415.

This subtitle may be cited as the Maryland Railroad Police Act.

§3–501.

(a) In this section, "manufacturer" has the meaning stated in § 5–131(a)(2) of this article.

(b) Except as provided in subsection (c) of this section, a law enforcement agency seeking to dispose of a handgun owned by the agency shall:

(1) destroy the handgun;

(2) sell, exchange, or transfer the handgun to another law enforcement agency for official use by that agency;

(3) sell the handgun to a retired police employee in accordance with § 2–415(c) of this article;

(4) sell the handgun to the law enforcement officer to whom the handgun was assigned; or

(5) sell, exchange, or transfer the handgun to a manufacturer.

(c) If a law enforcement officer is killed or dies in the performance of duty, a law enforcement agency may transfer the handgun of the deceased officer to the next of kin of the deceased officer, if the requirements of Title 5, Subtitle 1 of this article relating to firearms applications are met.

§3–502.

(a) In this section, "police officer" means a member of:

(1) a police force of this State or another state;

(2) a police force of a county or municipal corporation of this State or another state;

(3) the United States Secret Service Uniformed Division;

(4) the United States Park Police;

(5) the Washington Metropolitan Area Transit Authority (WMATA) Metro Transit Police;

(6) the Federal Bureau of Investigation;

(7) the Drug Enforcement Administration; or

(8) a division of a federal agency the primary duties of which are the investigation, apprehension, or detention of individuals suspected or convicted of federal crimes.

(b) A person may not, with fraudulent design on person or property, falsely represent that the person is a police officer, special police officer, sheriff, deputy sheriff, or constable.

(c) Except as provided in subsection (e) of this section, a person may not have, use, wear, or display a uniform, shield, button, ornament, badge, identification, or shoulder patch adopted by the Department of State Police to be worn by its members, insignia, or emblem of office, as is worn by a police officer, sheriff, deputy sheriff, or constable.

(d) A person may not, for the purpose of deception, have a simulation or imitation of an article described in subsection (c) of this section as is worn by a police officer, sheriff, deputy sheriff, or constable.

(e) A person may have, use, wear, or display an article described in subsection (c) of this section with the appropriate authority of:

(1) the Secretary of State Police;

(2) a police force of another state;

(3) the Police Commissioner of Baltimore City;

(4) the chief of police of a county or municipal corporation of this State or another state;

(5) a sheriff or deputy sheriff;

(6) a constable;

(7) the United States Secret Service Uniformed Division;

(8) the United States Park Police;

(9) the Washington Metropolitan Area Transit Authority (WMATA) Metro Transit Police;

(10) the Federal Bureau of Investigation;

(11) the Drug Enforcement Administration; or

(12) a division of a federal agency the primary duties of which are the investigation, apprehension, or detention of individuals suspected or convicted of federal crimes.

(f) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding $2,000 or both.

§3–503.

(a) The purpose of this section is to preserve, promote, and protect public safety and peace in the State.

(b) This section applies to an agent, employee, or representative of another state or a political subdivision of another state who is present in this State to enforce the laws of the other state.

(c) (1) A person subject to this section shall register with the law enforcement

agency designated by the governing body of a county when the person enters the county for the purpose of surveillance of the presence or activities of customers or patrons of a business establishment in the State that is engaged in the lawful sale or supply of goods or services.

(2) When registering, a person subject to this section shall provide:

(i) the name and address of the person;

(ii) the name of the person's employer or principal; and

(iii) the location of the proposed surveillance.

(3) On request, the registration record shall be made available during normal business hours to the public and to lawful business or commercial enterprises in the State.

(d) (1) A person who fails to register in accordance with this section may not register for 6 months after the failure to register is judicially determined.

(2) The registration of a person who violates this section shall be suspended for 6 months after the violation is judicially determined.

(e) A person who violates this section while the person's right to register is suspended or while the person's registration is suspended, is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding $1,000 or both.

§3–504.

(a) In this section, "quota" means the mandating of a finite number of arrests made or citations issued that a law enforcement officer must meet in a specified time period.

(b) A law enforcement agency may not:

(1) establish a formal or informal quota for the law enforcement agency or law enforcement officers of the agency; or

(2) use the number of arrests made or citations issued by a law enforcement officer as the sole or primary criterion for promotion, demotion, dismissal, or transfer of the officer.

(c) This section does not preclude a law enforcement agency from:

(1) using quantitative data for arrests, citations, and other law enforcement activities as management tools or in evaluating performance;

(2) collecting, analyzing, and applying information concerning the number

of arrests and citations in order to ensure that a particular law enforcement officer or group of law enforcement officers does not violate an applicable legal obligation; or

(3) assessing the proportion of the arrests made and citations issued by a law enforcement officer or group of law enforcement officers.

§3–505.

(a) In this section, "local law enforcement agency" means the police department of a county or municipal corporation in the State.

(b) (1) This section does not apply to personal property purchased or otherwise acquired for use by a local law enforcement agency or to contraband.

(2) This section does not apply to personal property retained by a local law enforcement agency for use as evidence in a criminal prosecution.

(3) This section does not supersede the provisions for seizure and forfeiture contained in Titles 12 and 13 of the Criminal Procedure Article.

(c) (1) Except as provided in paragraph (2) of this subsection, the local law enforcement agency shall hold personal property that comes into the possession of the local law enforcement agency until the local law enforcement agency determines that:

(i) the property is no longer needed in connection with a prosecution; or

(ii) if the property is not connected to a prosecution, retention of the property is no longer relevant to the local law enforcement agency.

(2) Personal property that is used as evidence in a criminal prosecution shall be retained by a local law enforcement agency in the same manner as other evidence retained by the agency.

(d) (1) After a local law enforcement agency determines that personal property is no longer needed in connection with a prosecution or retention of the property is no longer relevant to the local law enforcement agency, the local law enforcement agency shall notify the owner of the property that the local law enforcement agency is in possession of the property.

(2) After notification, the owner of the property has up to 30 days to secure the immediate release of the property to the owner or the owner's designee with proper identification.

(e) (1) At any time after personal property has been in the possession of a local law enforcement agency for 3 months and the local law enforcement agency determines that the property is no longer needed in connection with a prosecution or retention of the property is no longer relevant to the local law enforcement agency, the local law

enforcement agency shall:

(i) give notice of the sale of the property by registered or certified mail to those persons entitled to its possession and to those lienholders whose names and addresses can be ascertained by the exercise of reasonable diligence; and

(ii) publish a description of the property and the time, place, and terms of the sale of the property in a newspaper of general circulation in the county or municipal corporation in each of two successive weeks.

(2) After complying with the requirements of paragraph (1) of this subsection, the local law enforcement agency may sell the property at public auction.

(3) The terms and manner of sale may be established by rule.

(f) The certificate of the local law enforcement agency that personal property has been sold under this section is sufficient evidence of title to the property for all purposes, including the right to obtain a certificate of title or registration from an appropriate unit of the State.

(g) (1) The amount received from the sale of personal property in accordance with this section shall be distributed in the following order of priority:

(i) first, to the local law enforcement agency in an amount equal to the expense of sale and all expenses incurred while the property was in the possession of the local law enforcement agency;

(ii) second, to lienholders in order of their priority; and

(iii) third, to the general fund of the county or municipal corporation, subject to paragraphs (2) and (3) of this subsection.

(2) At any time within 3 years after the date of a sale under this section, a person who submits satisfactory proof of the right to possession of the property shall be paid, without interest, the amount distributed to the general fund of the county or municipal corporation under paragraph (1)(iii) of this subsection.

(3) A claim under paragraph (2) of this subsection is barred if more than 3 years has passed since the date of a sale under this section.

(h) This section does not create or recognize any cause, action, or defense or abridge any immunity now or in the future held by a local law enforcement agency or an employee of a local law enforcement agency.

§3–506.

(a) On or before December 1, 2007, each law enforcement agency in the State shall adopt written policies relating to eyewitness identification that comply with

the United States Department of Justice standards on obtaining accurate eyewitness identification.

(b) On or before January 1, 2008, each law enforcement agency in the State shall file a copy of the written policy relating to eyewitness identification with the Department of State Police.

(c) (1) On or before February 1, 2008, the Department of State Police shall compile the written policy relating to eyewitness identification of each law enforcement agency in the State.

(2) The Department of State Police shall allow public inspection of each policy compiled.

(d) (1) On or before January 1, 2016, each law enforcement agency in the State shall:

(i) 1. adopt the Police Training Commission's Eyewitness Identification Model Policy; or

2. adopt and implement a written policy relating to identification procedures that complies with § 3–506.1 of this subtitle; and

(ii) file a copy of the written policy with the Department of State Police.

(2) On or before February 1, 2016, the Department of State Police shall compile the written policies relating to identification procedures of each law enforcement agency in the State.

(3) The Department of State Police shall allow public inspection of each policy compiled under this subsection.

§3–506.1.

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

(2) "Administrator" means the person conducting an identification procedure.

(3) "Blind" means the administrator does not know the identity of the suspect.

(4) "Blinded" means the administrator may know who the suspect is but does not know which lineup member is being viewed by the eyewitness.

(5) "Eyewitness" means a person who observes another person at or near the scene of an offense.

(6) "Filler" means a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure.

(7) "Folder shuffle method" means a system for conducting a photo lineup that:

(i) complies with the requirements of this section; and

(ii) is conducted by placing photographs in folders, randomly numbering the folders, shuffling the folders, and then presenting the folders sequentially so that the administrator cannot see or track which photograph is being presented to the eyewitness until after the procedure is completed.

(8) "Identification procedure" means a procedure in which a live lineup is conducted or an array of photographs, including a photograph of a suspect and additional photographs of other persons not suspected of the offense, is displayed to an eyewitness in hard copy form or by computer for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator.

(9) "Identification statement" means a documented statement that is sought by the administrator when an identification is made:

(i) from the eyewitness;

(ii) in the own words of the eyewitness, describing the eyewitness's confidence level that the person identified is the perpetrator of the crime;

(iii) given at the time of the viewing by the eyewitness during the identification procedure; and

(iv) given before the eyewitness is given feedback.

(10) "Live lineup" means a procedure in which a perpetrator is placed among a group of other persons whose general appearance resembles the perpetrator.

(11) "Perpetrator" means a person who committed an offense.

(12) "Suspect" means a person who is suspected of committing an offense.

(b) (1) An identification procedure shall be conducted by a blind or blinded administrator.

(2) An administrator may be blinded through the use of:

(i) an automated computer program that prevents the administrator from seeing which photos the eyewitness is viewing until after the identification procedure is completed; or

(ii) the folder shuffle method.

(3) Before an identification procedure is conducted, an eyewitness shall be instructed, without other eyewitnesses present, that the perpetrator may or may not be among the persons in the identification procedure.

(4) When an identification is made in a live lineup or photo array, the administrator shall document in writing all identification statements made by the eyewitness.

(c) In an identification procedure:

(1) each filler shall resemble the description of the perpetrator given by the eyewitness in significant physical features, including any unique or unusual features;

(2) at least five fillers, in addition to the suspect, shall be included when an array of photographs is displayed to an eyewitness; and

(3) at least four fillers, in addition to the suspect, shall be included in a live lineup.

(d) If an eyewitness has previously participated in an identification procedure in connection with the identification of another person suspected of involvement in the offense, the fillers in the identification procedure shall be different from the fillers used in any prior identification procedure.

(e) If there are multiple eyewitnesses:

(1) the identification procedure shall be conducted separately for each eyewitness;

(2) the suspect shall be placed in a different position for each identification procedure conducted for each eyewitness; and

(3) the eyewitnesses may not be allowed to communicate with each other until all identification procedures have been completed.

(f) (1) Except as provided in paragraph (2) of this subsection, the administrator shall make a written record of the identification procedure that includes the following information:

(i) all identification and nonidentification results obtained during the identification procedures;

(ii) the signed identification statement of the eyewitness;

(iii) the names of all persons present at the identification procedure;

(iv) the date and time of the identification procedure;

(v) any eyewitness identification of a filler; and

(vi) all photographs used in the identification procedure.

(2) If a video or audio record of the identification procedure captures all of the information in paragraph (1) of this subsection, a written record is not required.

§3–507.

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

(2) "Death in the line of duty" means the death of a law enforcement officer occurring while the officer is acting in the officer's official capacity while on duty or while the officer is off duty, but performing activities that are within the scope of the officer's official duties.

(3) "Law enforcement agency" has the meaning stated in § 2–101 of this title.

(4) (i) "Law enforcement officer" has the meaning stated in § 3–101 of this article.

(ii) "Law enforcement officer" includes a private security officer performing duties as part of a contract with a law enforcement agency.

(5) "Officer–involved death" means the death of an individual resulting directly from an act or omission of a law enforcement officer while the officer is on duty or while the officer is off duty, but performing activities that are within the scope of the officer's official duties.

(b) Every year, on or before March 1, 2016, and March 1 of each subsequent year, each local law enforcement agency shall provide the Governor's Office of Crime Control and Prevention with information, for the previous calendar year, about each officer–involved death and death in the line of duty that involved a law enforcement officer employed by the agency, to include at a minimum:

(1) the age, gender, ethnicity, and race of a deceased individual;

(2) the age, gender, ethnicity, and race of the officer involved;

(3) a brief description of the circumstances surrounding the death;

(4) the date, time, and location of the death; and

(5) the law enforcement agency of the officer who:

(i) died, if the incident involved an officer who died in the line of duty; or

(ii) detained, arrested, or was in the process of arresting the deceased, if the incident involved an officer–involved death.

(c) The Governor's Office of Crime Control and Prevention shall adopt procedures for the collection and analysis of the information described in subsection (b) of this section.

(d) The Governor's Office of Crime Control and Prevention shall analyze and disseminate the information provided under subsection (b) of this section.

(e) The Governor's Office of Crime Control and Prevention shall make an annual report on the incidence of officer–involved deaths and deaths in the line of duty in the State to the General Assembly, in accordance with § 2–1246 of the State Government Article, on or before June 30 of each year.

§3–508. IN EFFECT

// EFFECTIVE UNTIL SEPTEMBER 30, 2016 PER CHAPTERS 78 AND 79 OF 2011 //

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

(2) (i) "Discharge" means firing an ECD at a person.

(ii) "Discharge" does not include firing an ECD during a training exercise.

(3) "Electronic control device" or "ECD" means a portable device designed as a weapon capable of injuring, immobilizing, or inflicting pain on an individual by the discharge of electrical current.

(4) "Law enforcement agency" means an agency that is listed in § 3–101(e) of this title.

(5) "Police Training Commission" means the unit within the Department of Public Safety and Correctional Services established under § 3–202 of this title.

(b) On or before March 31 of each year, a law enforcement agency that issues electronic control devices to its law enforcement officers shall report, for each time a law enforcement officer discharges an ECD, the following information to the Governor's Office of Crime Control and Prevention using the format developed under subsection (c) of this section:

(1) the date, time, and location of the discharge;

(2) the type of mode used and the point of impact;

(3) the number of ECD cycles, the duration of each cycle, and the duration between cycles;

(4) the race, gender, and age of the person against whom the ECD was discharged;

(5) the law enforcement officer's reason for discharging the ECD;

(6) the type of weapon, if any, possessed by the person against whom the ECD was discharged;

(7) the type of incident in which the person against whom the ECD was discharged was involved;

(8) any injuries or deaths resulting from the discharge other than punctures or lacerations caused by the ECD probes; and

(9) the type of medical care, if any, provided to the person against whom the ECD was discharged, other than the treatment of punctures or lacerations caused by the ECD probes.

(c) The Police Training Commission, in consultation with the Governor's Office of Crime Control and Prevention, the Maryland Chiefs of Police Association, and the Maryland Sheriffs' Association, shall develop a standardized format that each law enforcement agency shall use in reporting data to the Governor's Office of Crime Control and Prevention under subsection (b) of this section.

(d) A law enforcement agency shall:

(1) compile the data described in subsection (b) of this section for each year as a report in the format required under subsection (c) of this section;

(2) not later than March 31 of each year, submit the report to:

(i) the Governor's Office of Crime Control and Prevention; and

(ii) 1. the local governing body of the jurisdiction served by the law enforcement agency that is the subject of the report; or

2. if the jurisdiction served by the law enforcement agency that is the subject of the report is a municipal corporation, the chief executive officer of the jurisdiction; and

(3) make the report available to the public on request.

(e) (1) The Governor's Office of Crime Control and Prevention shall analyze and summarize the reports of law enforcement agencies submitted under subsection (d) of this section.

(2) The Governor's Office of Crime Control and Prevention shall submit a report of the analyses and summaries of the reports of law enforcement agencies described in paragraph (1) of this subsection to the Governor, the General Assembly, as provided in § 2–1246 of the State Government Article, and each law enforcement agency before September 1 of each year.

(f) (1) If a law enforcement agency fails to comply with the reporting provisions of this section, the Governor's Office of Crime Control and Prevention shall report the noncompliance to the Police Training Commission.

(2) On receipt of a report of noncompliance, the Police Training Commission shall contact the law enforcement agency and request that the agency comply with the required reporting provisions.

(3) If the law enforcement agency fails to comply with the required reporting provisions of this section within 30 days after being contacted by the Police Training Commission with a request to comply, the Governor's Office of Crime Control and Prevention and the Police Training Commission jointly shall report the noncompliance to the Governor and the Legislative Policy Committee of the General Assembly.

§3–509.

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

(2) (i) "Active data" means:

1. data uploaded to individual automatic license plate reader system units before operation; and

2. data gathered during the operation of an automatic license plate reader system.

(ii) "Active data" does not include historical data.

(3) "Automatic license plate reader system" means a system of one or more mobile or fixed high–speed cameras used in combination with computer algorithms to convert images of license plates into computer–readable data.

(4) (i) "Captured plate data" means the global positioning system coordinates, dates and times, photographs, license plate numbers, and any other data collected by or derived from an automatic license plate reader system.

(ii) "Captured plate data" includes active data and historical data.

(5) "Center" means the Maryland Coordination and Analysis Center.

(6) "Historical data" means any data collected by an automatic license plate reader system and stored in an automatic license plate reader database operated by the Maryland Coordination and Analysis Center or by a law enforcement agency.

(7) "Law enforcement agency" has the meaning stated in § 3–201(d) of this title.

(8) "Legitimate law enforcement purpose" means the investigation, detection, or analysis of a crime or a violation of the Maryland vehicle laws or the operation of terrorist or missing or endangered person searches or alerts.

(b) (1) A law enforcement agency may not use captured plate data unless the agency has a legitimate law enforcement purpose.

(2) An employee of a law enforcement agency who violates this subsection is subject to imprisonment not exceeding 1 year and a fine not exceeding $10,000 or both.

(c) (1) The Department of State Police and any law enforcement agency using an automatic license plate reader system shall adopt procedures relating to the operation and use of the system.

(2) The procedures shall include:

(i) which personnel in the Center or a law enforcement agency are authorized to query captured plate data gathered by an automatic license plate reader system;

(ii) an audit process to ensure that information obtained through the use of an automatic license plate reader system is used only for legitimate law enforcement purposes, including audits of requests made by individual law enforcement agencies or an individual law enforcement officer; and

(iii) procedures and safeguards to ensure that Center staff with access to the automatic license plate reader database are adequately screened and trained.

(d) Information gathered by an automatic license plate reader system is not subject to disclosure under the Maryland Public Information Act.

(e) On or before March 1 of each year beginning in 2016, the Department of State Police, in conjunction with the Center and law enforcement agencies that maintain an automatic license plate reader database, shall report to the Senate Judicial Proceedings Committee, the House Judiciary Committee, and the Legislative Policy Committee, in accordance with § 2–1246 of the State Government Article, on the following information based on data from the previous calendar year:

(1) the total number of automatic license plate reader units being operated in the State by law enforcement agencies and the number of units submitting data to the Center;

(2) the number of automatic license plate reader readings made by a law enforcement agency that maintains an automatic license plate reader database and the number of readings submitted to the Center;

(3) the number of automatic license plate reader readings being retained

on the automatic license plate reader database;

(4) the number of requests made to the Center and each law enforcement agency that maintains an automatic license plate reader database for automatic license plate reader data, including specific numbers for:

(i) the number of requests that resulted in a release of information;

(ii) the number of out–of–state requests;

(iii) the number of federal requests;

(iv) the number of out–of–state requests that resulted in a release of information; and

(v) the number of federal requests that resulted in a release of information;

(5) any data breaches or unauthorized uses of the automatic license plate reader database; and

(6) a list of audits that were completed by the Center or a law enforcement agency.

§3–510. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2019 PER CHAPTER 126 OF 2015 //

(a) To the extent practicable, on or before October 1, 2016, the Baltimore City Police Department and the Baltimore County Police Department each shall establish a behavioral health unit.

(b) A behavioral health unit shall consist of at least six officers who are specially trained:

(1) to understand the needs of individuals with mental health, substance use, or co–occurring mental health and substance use disorders; and

(2) in cultural sensitivity and cultural competency.

(c) Training for officers in a behavioral health unit shall be developed in consultation with the Behavioral Health Administration in the Department of Health and Mental Hygiene.

(d) The purpose of a behavioral health unit is to respond to emergency calls involving an individual suspected of having a mental health, substance use, or co–occurring mental health and substance use disorder.

(e) The goals of a behavioral health unit are to:

(1) divert individuals with mental health, substance use, or co–occurring mental health and substance use disorders into treatment instead of the criminal justice system; and

(2) prevent and reduce unnecessary use of force and loss of life in situations involving individuals with mental health, substance use, or co–occurring mental health and substance use disorders.

§3–511.

On or before January 1, 2016, the Maryland Police Training Commission shall develop and publish online a policy for the issuance and use of a body–worn camera by a law enforcement officer that addresses:

(1) the testing of body–worn cameras to ensure adequate functioning;

(2) the procedure for the law enforcement officer to follow if the camera fails to properly operate at the beginning of or during the law enforcement officer's shift;

(3) when recording is mandatory;

(4) when recording is prohibited;

(5) when recording is discretionary;

(6) when recording may require consent of a subject being recorded;

(7) when a recording may be ended;

(8) providing notice of recording;

(9) access to and confidentiality of recordings;

(10) the secure storage of data from a body–worn camera;

(11) review and use of recordings;

(12) retention of recordings;

(13) dissemination and release of recordings;

(14) consequences for violations of the agency's body–worn camera policy;

(15) notification requirements when another individual becomes a party to the communication following the initial notification;

(16) specific protections for individuals when there is an expectation of privacy in private or public places; and

(17) any additional issues determined to be relevant in the implementation and use of body–worn cameras by law enforcement officers.

§3–512.

(a) On or before January 1 of each year, the Police Commissioner of Baltimore City shall report the following information concerning the Baltimore Police Department to the Mayor and City Council of Baltimore and, in accordance with § 2–1246 of the State Government Article, the members of the Baltimore City Delegation to the General Assembly:

(1) as of December 1 of the previous year:

(i) the total number of sworn police officers in the Department;

(ii) the number of sworn African American police officers in the Department;

(iii) the number of sworn female police officers in the Department; and

(iv) the number of sworn police officers in the Department who are residents of Baltimore City; and

(2) in the previous calendar year:

(i) the number of recruiting events the Department sponsored or participated in in Baltimore City;

(ii) the number of instances of use of force that resulted in the admission of a civilian to a hospital, when the injury occurred as a direct result of an officer's actions;

(iii) the number of civilian complaints about the use of force by an officer;

(iv) the number of officers who were suspended with pay;

(v) the number of officers who were suspended without pay;

(vi) the percentage of patrol officers who were assigned to neighborhood patrols;

(vii) the number of youth under the age of 18 years referred to intervention programs by officers; and

(viii) a description of the Department's community policing efforts, including community policing programs, participation in town hall meetings, and efforts to engage with schools, recreation centers, community centers, and senior

centers.

(b) The report required under subsection (a) of this section shall be made available to the public on the Department's Web site.

§3–513.

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

(2) "Commission" has the meaning stated in § 3–201 of this title.

(3) "Law enforcement agency" has the meaning stated in § 3–201 of this title.

(b) (1) A law enforcement agency shall provide a retiring law enforcement officer with an identification card under this section within 45 days after the officer's retirement from the agency if the officer:

(i) meets the requirements of subsection (c) of this section; and

(ii) pays the fee set by the agency under paragraph (3) of this subsection.

(2) If a law enforcement officer retired before October 1, 2015, on request of the retired officer, the law enforcement agency from which the officer retired shall provide the officer with an identification card under this section within 60 days after the officer makes the request if the officer:

(i) meets the requirements of subsection (c) of this section; and

(ii) pays the fee set by the agency under paragraph (3) of this subsection.

(3) A law enforcement agency may charge a reasonable fee not exceeding $20 for each identification card or replacement card issued under this section.

(c) To qualify for an identification card under this section, a law enforcement officer:

(1) shall have retired in good standing as a law enforcement officer for reasons other than mental instability; and

(2) before retirement shall have:

(i) been certified by the Commission;

(ii) had statutory powers of arrest in the State; and

(iii) completed an applicable probationary period.

(d) An identification card issued under this section shall be in the form approved by the Commission and include:

(1) the caption "Retired Law Enforcement Officer" printed on the front of the card;

(2) a photograph of the retired law enforcement officer whose name appears on the card;

(3) the name of the retired law enforcement officer;

(4) the name of the law enforcement agency that issued the card;

(5) the date the card was issued and a statement that the card does not expire; and

(6) the following statement: "This card is the property of the issuing law enforcement agency.".

§3–601.

(a) (1) A law enforcement agency may not establish a mandatory waiting period before taking a missing person report.

(2) A law enforcement agency shall make every effort to inform the general public and the family of a missing person that the agency does not impose a mandatory waiting period before taking a missing person report.

(b) In accordance with subsection (a) of this section, a law enforcement agency:

(1) shall accept without delay a report of a missing person provided in person; and

(2) may accept a report of a missing person by phone or other electronic means if:

(i) that form of reporting is consistent with the policy of the law enforcement agency; and

(ii) the reporting person completes the report in person as soon as possible.

§3–602.

On or before October 1, 2008, all law enforcement agencies in the State shall begin using a uniform report form developed by the Police Training Commission in accordance with § 3-207 of this title when taking a missing person report.

§3–603.

(a) The Office of the Chief Medical Examiner shall maintain files of DNA samples and photographs of unidentified human remains.

(b) The cremation of human remains is subject to the provisions of § 5-502 of the Health - General Article.

§3–604.

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

(2) "Caregiver" means a parent, spouse, guardian, legal custodian, or person responsible for the supervision of another adult.

(3) "Law enforcement agency" means a State, county, or municipal police department or agency, or a sheriff's department.

(4) "Missing person" means an individual:

(i) whose whereabouts are unknown;

(ii) who suffers a cognitive impairment including a diagnosis of Alzheimer's disease or dementia to the extent that the individual requires assistance from a caregiver; and

(iii) whose disappearance poses a credible threat to the health and safety of the individual due to age, health, mental or physical disability, environment, or weather conditions, as determined by a law enforcement agency.

(b) (1) The Department of State Police shall establish a Silver Alert Program to provide a system for rapid dissemination of information to assist in locating a missing person.

(2) The Department of State Police shall:

(i) adopt guidelines and develop procedures for issuing a Silver Alert for a missing person;

(ii) provide training to local law enforcement agencies on the guidelines and procedures to be used to handle a report of a missing person;

(iii) provide assistance to a local law enforcement agency, as necessary, to assist in the safe recovery of a missing person;

(iv) recruit public and commercial television and radio broadcasters, local volunteer groups, and other members of the public to assist in developing and implementing a Silver Alert;

(v) consult with the State Highway Administration to establish a plan for providing information relevant to a Silver Alert to the public through the dynamic message sign system located across the State; and

(vi) consult with the State Department of Education to develop a program that:

1. allows high school students to assist in the search for a missing person under this section;

2. complies with COMAR 13A.03.02.06; and

3. is consistent with the student service–learning guidelines developed by the State Department of Education.

(c) A caregiver or person filing a report regarding a missing person immediately shall notify the local law enforcement agency with which the report was filed and the Department of State Police if:

(1) the missing person who was the subject of the report is located; and

(2) it is unlikely that the local law enforcement agency or the Department of State Police has knowledge that the missing person has been located.

§3–605.

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

(2) "Law enforcement agency" means a State, county, or municipal police department or agency, or a sheriff's department.

(3) "Missing offender" means an individual:

(i) whose whereabouts are unknown;

(ii) who is suspected of killing or seriously injuring a law enforcement officer;

(iii) whose disappearance poses a serious threat to the public and other law enforcement personnel; and

(iv) whose vehicle the reporting law enforcement agency is able to describe, including any information about the vehicle's registration plate.

(b) (1) The Department of State Police shall establish a Blue Alert Program to provide a system for rapid dissemination of information to assist in locating and apprehending a missing offender.

(2) The Department of State Police shall:

(i) adopt guidelines and develop procedures for issuing a Blue Alert for a missing offender;

(ii) provide training to local law enforcement agencies on the guidelines and procedures to be used to make and handle a report of a missing offender;

(iii) provide assistance to a local law enforcement agency, as necessary, to assist in the location and apprehension of a missing offender;

(iv) recruit public and commercial television and radio broadcasters, local volunteer groups, and other members of the public to assist in developing and implementing a Blue Alert; and

(v) consult with the State Highway Administration and the Governor's Division of Emergency Management to establish a plan for providing information relevant to a Blue Alert to the public through the dynamic message sign system located across the State.

(c) A law enforcement officer or agency that apprehends a missing offender who is the subject of a Blue Alert immediately shall notify the Department of State Police and the law enforcement agency that filed the report resulting in the Blue Alert that the missing offender has been apprehended.

§3–606.

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

(2) "Law enforcement agency" means a State, county, or municipal police department or agency, or a sheriff's department.

(3) "Missing suspect" means an individual:

(i) whose whereabouts are unknown;

(ii) who is suspected of violating § 27–113 of the Transportation Article; and

(iii) whose vehicle the reporting law enforcement agency is able to describe, including any information about the vehicle's registration plate.

(b) (1) The Department of State Police shall establish a Yellow Alert Program to provide a system for rapid dissemination of information to assist in locating and apprehending a missing suspect.

(2) The Department of State Police shall:

(i) adopt guidelines and develop procedures for issuing a Yellow

Alert for a missing suspect;

(ii) provide training to local law enforcement agencies on the guidelines and procedures to be used to make and handle a report of a missing suspect;

(iii) provide assistance to a local law enforcement agency, as necessary, to assist in the location and apprehension of a missing suspect;

(iv) recruit public and commercial television and radio broadcasters, local volunteer groups, and other members of the public to assist in developing and implementing a Yellow Alert; and

(v) consult with the State Highway Administration to establish a plan for providing information relating to a Yellow Alert to the public through the dynamic message sign system located across the State.

(c) A law enforcement officer or agency that apprehends a missing suspect who is the subject of a Yellow Alert immediately shall notify the Department of State Police and the law enforcement agency that filed the report resulting in the Yellow Alert that the missing suspect has been apprehended.

§3–701.

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

(2) "Chief" means the head of a law enforcement agency.

(3) (i) "Covert investigation" means an infiltration of or attempt to infiltrate a group or organization in a manner that conceals the identity of the law enforcement agency or the identity of an officer or agent of the law enforcement agency.

(ii) "Covert investigation" does not include the use of plainclothes officers or employees for crowd control and public safety purposes at public events.

(4) "Department" means the Department of State Police.

(5) "First Amendment activities" means:

(i) activities involving constitutionally protected speech or association; or

(ii) conduct related to freedom of speech, free exercise of religion, freedom of the press, the right to assemble, or the right to petition the government.

(6) "Law enforcement agency" means a police or sheriff's department of the State, a county, a municipal corporation, or a public or private institution of higher education.

(7) "Legitimate law enforcement objective" means the detection,

investigation, deterrence, or prevention of crime, or the apprehension and prosecution of a suspected criminal.

(b) (1) This section establishes the responsibilities of a law enforcement agency relating to investigations affecting First Amendment activities and the rights of persons, groups, and organizations engaged in First Amendment activities.

(2) This section does not apply to investigations that do not involve First Amendment activities.

(c) (1) A law enforcement agency may not conduct a covert investigation of a person, a group, or an organization engaged in First Amendment activities unless the chief or the chief's designee makes a written finding in advance or as soon as is practicable afterwards that the covert investigation is justified because:

(i) it is based on a reasonable, articulable suspicion that the person, group, or organization is planning or engaged in criminal activity; and

(ii) a less intrusive method of investigation is not likely to yield satisfactory results.

(2) Membership or participation in a group or organization engaged in First Amendment activities does not alone establish reasonable, articulable suspicion of criminal activity.

(d) A law enforcement agency shall:

(1) conduct all investigations involving First Amendment activities for a legitimate law enforcement objective; and

(2) in the process of conducting an investigation, safeguard the constitutional rights and liberties of all persons.

(e) A law enforcement agency may not investigate, prosecute, disrupt, interfere with, harass, or discriminate against a person engaged in a First Amendment activity for the purpose of punishing, retaliating, preventing, or hindering the person from exercising constitutional rights.

(f) An investigation involving First Amendment activities shall be terminated when logical leads have been exhausted or no legitimate law enforcement objective justifies the continuance of the investigation.

(g) A law enforcement agency may not collect or maintain information solely about the political beliefs, ideologies, and associations of a person, group, or organization if:

(1) the information is not relevant to a criminal investigation; or

(2) the law enforcement agency does not have a reasonable articulable suspicion that the person, group, or organization advocates, supports, or encourages the violation of any federal, State, or local criminal law that prohibits acts of terrorism, racketeering activity, as defined in 18 U.S.C. § 1961, violence, extortion, destruction of property, intimidation, harassment, obstruction of justice, or fraud.

(h) Information maintained in a criminal intelligence file shall be evaluated for the reliability of the source of the information and the validity and accuracy of the information.

(i) (1) A law enforcement agency shall classify accurately intelligence information in its databases to reflect properly the purpose for which the information is collected.

(2) When a law enforcement agency lists in a database a specific crime for which a person, a group, or an organization is under suspicion, the law enforcement agency shall ensure that the classification is accurate based on the information available to the law enforcement agency at the time.

(j) (1) Information gathered and maintained by a law enforcement agency for intelligence purposes may be disseminated only to appropriate persons for legitimate law enforcement objectives in accordance with the law governing the release of police records and with procedures established by the law enforcement agency.

(2) This subsection may not be interpreted to diminish the rights of a person requesting information under the Maryland Public Information Act.

(k) A law enforcement agency knowingly may not include in any criminal intelligence file information that has been obtained in violation of this section.

(l) On or before January 1, 2010, the Department shall adopt regulations governing:

(1) the conduct by the Department of covert investigations of persons, groups, or organizations engaged in First Amendment activities; and

(2) each departmental collection, dissemination, retention, database inclusion, purging, and auditing of intelligence information relating to persons, groups, or organizations engaged in First Amendment activities.

(m) On or before January 1, 2010, each law enforcement agency other than the Department shall adopt a written, publicly available policy governing:

(1) the conduct by the agency of covert investigations of persons, groups, or organizations engaged in First Amendment activities; and

(2) each agency collection, dissemination, retention, database inclusion, purging, and auditing of intelligence information relating to persons, groups, or

organizations engaged in First Amendment activities.

§4–101.

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

(b) "Executive Director" means the Executive Director of the Governor's Office of Crime Control and Prevention.

(c) "Fund" means the Protective Body Armor Fund.

(d) "Local law enforcement agency" means the police department of a county or municipal corporation in the State.

(e) "Protective body armor" means a vest or similar article that is:

(1) designed to be worn on the body to protect against blunt force trauma associated with the impact of a firearm projectile; and

(2) manufactured of bullet resistant fabric that conforms to National Institute of Justice (NIJ) Standard 0101.03 (or the current edition) and V-50 ballistic testing requirements.

§4–102.

(a) There is a Protective Body Armor Fund.

(b) The purposes of the Fund are:

(1) to assist local law enforcement agencies to:

(i) acquire protective body armor for each police officer of the local law enforcement agency; and

(ii) replace protective body armor at least every 10 years, or sooner if testing indicates a need for replacement; and

(2) upon the fulfillment of the purposes specified in paragraph (1) of this subsection, to assist the Division of Parole and Probation of the Department of Public Safety and Correctional Services to acquire protective body armor for its agents with the remainder of the funds.

(c) The Executive Director shall administer the Fund.

(d) The Fund consists of money appropriated in the State budget to the Fund.

(e) (1) As authorized by the Executive Director, the Treasurer shall make payments out of the Fund to local law enforcement agencies and the Division of Parole and Probation.

(2) A local law enforcement agency and the Division of Parole and Probation may use State money provided under this subtitle only to purchase or replace protective body armor.

§4–103.

(a) The Executive Director shall establish procedures for local law enforcement agencies to apply for money from the Fund.

(b) A local law enforcement agency that applies for money from the Fund shall provide the Executive Director with the following information:

(1) the number of violent crime incidents committed within the jurisdiction of the local law enforcement agency for the last 2 years;

(2) the current number of sworn officers;

(3) the current number of sworn officers not assigned protective body armor;

(4) the number and age of protective body armor units currently in use by the local law enforcement agency;

(5) the number of protective body armor units requested:

(i) for officers not currently assigned protective body armor; and

(ii) for officers assigned protective body armor in need of replacement due to age or wear;

(6) the regulations of the local law enforcement agency that relate to the use of protective body armor;

(7) the local law enforcement agency's budget request for supplies and equipment for the current and last 2 fiscal years; and

(8) any other information that the Executive Director considers necessary to make grants for protective body armor.

§4–104.

(a) (1) In accordance with the State budget, the Executive Director shall make grants to local law enforcement agencies to purchase and replace protective body armor based on the comparative needs of each local law enforcement agency as determined by the criteria set forth in § 4-103(b) of this subtitle.

(2) A single grant may not initially exceed 10% of the total money budgeted in the Fund for any fiscal year.

(b) After the initial allocation of money, the Executive Director may distribute any money remaining in the Fund on an equitable basis, as determined by the criteria set forth in § 4-103(b) of this subtitle.

(c) After the allocations of money made in accordance with subsections (a) and (b) of this section, the Executive Director may distribute any of the money remaining in the Fund to the Division of Parole and Probation to assist the Division to acquire protective body armor for its agents.

§4–105.

(a) A local law enforcement agency shall use the money distributed under this subtitle as an addition to and not as a substitute for money appropriated from sources other than the Fund to acquire or replace protective body armor.

(b) (1) Each local law enforcement agency shall spend money from its own sources to acquire or replace protective body armor in an amount at least equal to the amount of State money awarded from the Fund.

(2) After a local law enforcement agency receives notice from the Executive Director of a grant, the local law enforcement agency shall submit to the Executive Director proof of expenditures on protective body armor.

(3) After certifying the expenditures under paragraph (2) of this subsection, the Executive Director may authorize the reimbursement of one-half of the local law enforcement agency's expenditures on protective body armor, up to a maximum of the amount of the grant.

§4–106.

To reduce the cost of protective body armor, the Executive Director should encourage the bulk purchase of protective body armor.

§4–107.

On or before September 1 of each year, the Executive Director shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly on:

(1) the distribution of money under this subtitle; and

(2) the ratio of protective body armor to police officers in each local jurisdiction of the State that applied for money from the Fund.

§4–201.

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

(b) "Executive Director" means the Executive Director of the Governor's Office of Crime Control and Prevention.

(c) "Fund" means the School Bus Safety Enforcement Fund.

(d) "Law enforcement agency" means the Department of State Police, the police department of a county or municipal corporation, or a sheriff's office.

(e) "School vehicle" has the meaning stated in § 11–154 of the Transportation Article.

§4–202.

(a) There is a School Bus Safety Enforcement Fund.

(b) The purpose of the Fund is to assist law enforcement agencies in addressing the problem of drivers illegally failing to stop for school vehicles.

(c) (1) The Executive Director shall administer the Fund.

(2) The Executive Director shall receive from the Fund each fiscal year the amount, not exceeding $50,000 in a fiscal year, necessary to offset its costs in administering this subtitle.

(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund in conjunction with the Executive Director.

(e) The Fund consists of:

(1) money credited to the Fund under § 17–106(e) of the Transportation Article;

(2) money from any other source accepted for the benefit of the Fund; and

(3) investment earnings of the Fund.

(f) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(g) Expenditures from the Fund may only be made:

(1) in accordance with the State budget; or

(2) by the budget amendment procedure as provided in § 7–209 of the State Finance and Procurement Article, if at least 45 days have passed since the budget amendment and supporting information were submitted to the budget committees for

their review and comment.

§4–203.

(a) The Executive Director may make grants to law enforcement agencies from the Fund.

(b) The Executive Director shall establish procedures for law enforcement agencies to apply for grants from the Fund and for the evaluation of progress in addressing the problem of drivers illegally failing to stop for school vehicles.

(c) When making grants from the Fund, the Executive Director shall consider:

(1) the extent of the problem of drivers illegally failing to stop for school vehicles in the area identified by the law enforcement agency applying for a grant;

(2) the law enforcement agency's goals and plans with respect to enhanced enforcement efforts that relate to § 21–706 of the Transportation Article; and

(3) other factors that the Executive Director considers appropriate that relate to drivers illegally failing to stop for school vehicles.

(d) (1) Except as provided in paragraph (2) of this subsection, the Executive Director may not make a grant from the Fund exceeding $35,000 in a fiscal year for use in a single county.

(2) If money remains available in the Fund after grants are initially awarded in a fiscal year, the Executive Director may make supplemental grants to law enforcement agencies in accordance with procedures established by the Executive Director.

(e) A law enforcement agency that receives a grant under this subtitle:

(1) may use the grant only in accordance with the terms of the grant for efforts that relate to the enforcement of § 21–706 of the Transportation Article; and

(2) shall comply with reporting requirements established by the Executive Director to evaluate:

(i) the law enforcement agency's enforcement efforts under the grant; and

(ii) statewide enforcement efforts under this subtitle.

§4–204.

On or before September 1 of each year, the Executive Director shall report to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly on:

(1) the status of the Fund;

(2) the grants made under this subtitle;

(3) the costs of administering this subtitle; and

(4) the effect of this subtitle in reducing the problem of drivers illegally failing to stop for school vehicles.

§4–301.

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

(b) "Executive Director" means the Executive Director of the Governor's Office of Crime Control and Prevention.

(c) "Fund" means the Law Enforcement Equipment Fund.

(d) (1) "Law enforcement equipment" means equipment used for law enforcement purposes.

(2) "Law enforcement equipment" includes body armor, crime tracking technology, photo imaging equipment, surveillance devices, weapons, ammunition, and communication devices.

(e) "Local law enforcement agency" means the agency of a county or municipal corporation in the State that performs police protection functions.

§4–302.

(a) There is a Law Enforcement Equipment Fund.

(b) The purpose of the Fund is to assist local law enforcement agencies in acquiring law enforcement equipment needed to address violent crime.

(c) The Executive Director shall administer the Fund.

(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund in conjunction with the Executive Director.

(e) The Fund consists of money appropriated in the State budget to the Fund.

(f) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(g) As authorized by the Executive Director, the Treasurer shall make

payments out of the Fund to local law enforcement agencies.

§4–303.

(a) The Executive Director shall establish procedures for local law enforcement agencies to apply for money from the Fund, with priority given to those jurisdictions with the highest incidence of violent crime.

(b) A local law enforcement agency that applies for money from the Fund shall provide the Executive Director with:

(1) information on the number of violent crime incidents committed within the jurisdiction of the local law enforcement agency for the last 2 years; and

(2) any other information that the Executive Director considers necessary to make grants for law enforcement equipment.

(c) In accordance with the State budget, the Executive Director shall make grants to local law enforcement agencies to purchase or replace law enforcement equipment based on the comparative needs of each local law enforcement agency as determined from the information provided under subsection (b) of this section.

(d) After a local law enforcement agency receives notice from the Executive Director of a grant, the local law enforcement agency shall submit to the Executive Director proof of expenditures on law enforcement equipment.

(e) Money distributed under this subtitle shall be used to supplement, not supplant, other local law enforcement funding.

§4–304.

On or before September 1 of each year, the Executive Director shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly on the distribution of money under this subtitle.

§4–401.

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

(b) "DNA" means deoxyribonucleic acid.

(c) "DNA technology equipment" means equipment used for DNA testing purposes, including the purposes listed in § 2–505 of this article.

(d) "Executive Director" means the Executive Director of the Governor's Office of Crime Control and Prevention.

(e) "Fund" means the DNA Technology Fund.

(f) "Local law enforcement agency" means an agency of a county or municipal corporation in the State that performs police protection functions.

§4–402.

(a) There is a DNA Technology Fund.

(b) The purpose of the Fund is to assist the Department of State Police and local law enforcement agencies in acquiring DNA technology equipment needed to test DNA samples.

(c) The Executive Director shall administer the Fund.

(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund in conjunction with the Executive Director.

(e) The Fund consists of money received from any private entity or federal agency for the purpose of collecting and testing DNA samples.

(f) The State Treasurer may invest the money in the Fund in the same manner as other State money may be invested.

(g) The State Treasurer shall make payments out of the Fund to the Department of State Police and local law enforcement agencies if the Executive Director authorizes the payments.

§4–403.

(a) The Executive Director shall establish procedures for the Department of State Police and local law enforcement agencies to use when applying for money from the Fund.

(b) An applicant shall provide the Executive Director with any information the Executive Director considers necessary to make grants for DNA technology equipment.

(c) The Executive Director shall make grants to the Department of State Police and local law enforcement agencies to purchase or replace DNA technology equipment based on the needs of the Department of State Police and the comparative need of each local law enforcement agency as determined from the information provided under subsection (b) of this section.

(d) After the Department of State Police or a local law enforcement agency receives notice from the Executive Director of a grant award, the Department of State Police or the local law enforcement agency shall submit proof of expenditures on DNA technology equipment to the Executive Director.

§4–404.

On or before September 1 of each year, the Executive Director shall report to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly on the distribution of money under this subtitle.

§4–501.

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

(b) "Adjusted assessed valuation of real property" means the sum of:

(1) 100% of the assessed valuation of the operating real property of public utilities;

(2) 40% of the assessed valuation of all other real property for State purposes, as reported by the Department of Assessments and Taxation as of July 1 of the second fiscal year preceding the fiscal year for which the calculation of State aid is to be made; and

(3) 20% of new property assessed between July 1 and December 31 of the second preceding fiscal year.

(c) "Aggregate expenditures for police protection" means the sum of expenditures for police protection of a county and of every qualifying municipality in the county.

(d) "County" does not include Baltimore City.

(e) "Executive Director" means the Executive Director of the Governor's Office of Crime Control and Prevention.

(f) (1) "Expenditures for police protection" means expenses for the fiscal year immediately preceding the fiscal year for which the calculation of State aid under this subtitle is to be made for:

(i) salaries, wages, and other operating expenses for police protection;

(ii) capital outlays from current operating funds for police protection;

(iii) debt service identifiable for police protection;

(iv) officers of a sheriff's office to the extent that the officers perform police protection functions; and

(v) traffic control, park police, and a share of the cost of a central alarm system proportionate to its police use.

(2) "Expenditures for police protection" does not include expenses for collecting from or servicing parking meters or constructing or operating local correctional facilities.

(g) "Fund" means the State Aid for Police Protection Fund.

(h) (1) "Municipality" means an incorporated city or town.

(2) "Municipality" does not include Baltimore City.

(i) "Net taxable income" means the taxable income of individuals under Title 10 of the Tax – General Article, as certified by the Comptroller for the third completed calendar year preceding the fiscal year for which the calculation of State aid is to be made.

(j) "Qualified police officer" means a police officer that the Executive Director determines to be qualified under § 4–504(d) of this subtitle.

(k) "Qualifying municipality" means a municipality that:

(1) (i) has expenditures for police protection that exceed $5,000; and

(ii) employs at least one full–time qualified police officer; or

(2) (i) has expenditures for police protection that exceed $80,000; and

(ii) employs at least two part–time qualified police officers from a county police department or county sheriff's department.

(l) "Real property" means all property classified as real property under § 8–101(b) of the Tax – Property Article.

(m) "Sworn officer" means:

(1) a law enforcement officer certified by the Police Training Commission; or

(2) a full–time probationary employee of a local government who:

(i) is hired to attend a police training academy to become a certified law enforcement officer; and

(ii) is in training or is functioning as a law enforcement officer pending training.

(n) "Wealth base" means the sum of the adjusted assessed valuation of real property and net taxable income.

§4–502.

Nothing in this subtitle may be construed as requiring a county or qualifying municipality to spend more for police protection than the greater of:

(1) the actual expenditures for police protection, not including capital expenditures; or

(2) the sum of:

(i) the amount received in State aid under this subtitle; and

(ii) local funds equal to the percentage of local wealth used in calculating the State share in basic expenditures under § 4–506(b) of this subtitle.

§4–503.

(a) There is a State Aid for Police Protection Fund.

(b) The Fund provides a continuing grant from the General Fund of the State that shall be used exclusively to provide adequate police protection in the counties and qualifying municipalities through the sharing of costs on an equitable basis within certain limits related to population factors.

§4–504.

(a) The Executive Director shall administer the Fund.

(b) The Executive Director shall:

(1) certify to the Comptroller, counties, and qualifying municipalities the amount of payments under this subtitle to the counties and qualifying municipalities; and

(2) adopt regulations and require reports that are necessary to certify the amounts.

(c) In administering the Fund, the Executive Director shall:

(1) make a continuing effort to establish standards of police protection adequate to the various local situations; and

(2) subject to § 2–1246 of the State Government Article, report periodically to the General Assembly on progress in establishing and meeting those standards, including the payment amounts certified under subsection (b) of this section and any other relevant fiscal information.

(d) The Executive Director shall apply the minimum standards determined by the Police Training Commission under Title 3, Subtitle 2 of this article to determine

whether police officers are qualified.

(e) The Police Training Commission shall print and distribute to all municipalities its regulations that set forth the minimum standards for police qualifications.

(f) (1) If a municipality fails to meet the minimum standards for police qualifications for 2 successive years, the Executive Director shall withhold from the municipality payments that would otherwise be payable the second year.

(2) (i) Any payment withheld for noncompliance is forfeited.

(ii) A municipality may not make a claim for the withheld payment.

§4–505.

For population and density determinations under this subtitle:

(1) population numbers for a county shall be those estimated by the Department of Health and Mental Hygiene, as of July 1 of each year; and

(2) the percentage of population residing in municipalities shall be determined from time to time by the most recently published federal decennial census data.

§4–506.

(a) (1) Except as provided in paragraph (2) of this subsection and subject to § 4–507 of this subtitle and the limitations and requirements provided in this subtitle, each fiscal year the State shall pay to each county and each qualifying municipality, in the manner provided in this subtitle, an amount determined as provided in this section.

(2) Notwithstanding any other provision of this subtitle, for each of fiscal years 2015 and 2016, the total amount of the grants provided under this subtitle shall be $67,277,067.

(b) (1) If the aggregate expenditures for police protection in a county equal or exceed $6.00 per person, the State shall pay to the county the amount by which $6.00 per person exceeds 0.09% of the wealth base of the county.

(2) If the aggregate expenditures for police protection in a county are less than $6.00 per person, the State shall pay to the county the amount by which aggregate expenditures for police protection exceed the amount obtained by multiplying 0.09% of the wealth base of the county times a fraction:

(i) the numerator of which is the aggregate expenditures for police protection; and

(ii) the denominator of which is $6.00 per person.

(c) (1) Except as otherwise provided in this subsection, in addition to the amount, if any, payable under subsection (b) of this section, the State shall pay to each county 25% of the amount by which aggregate expenditures for police protection in the county exceed $6.00 per person.

(2) For a county with a population density of less than 100 per square mile and in which less than 30% of the total population resides in a municipality, the State shall make no payment under this subsection.

(3) For a county with a population density of at least 100 but less than 500 per square mile, and for a county with a population density of less than 100 per square mile and in which at least 30% of the total population resides in a municipality, payment under this subsection may not exceed $3.50 per person.

(4) For a county with a population density of at least 500 but less than 900 per square mile, payment under this subsection may not exceed $7.50 per person.

(5) For a county with a population density of at least 900 but less than 1,100 per square mile, payment under this subsection may not exceed $8.00 per person.

(6) For a county with a population density of at least 1,100 but less than 1,300 per square mile, payment under this subsection may not exceed $9.25 per person.

(7) For a county with a population density of at least 1,300 but less than 8,000 per square mile, payment under this subsection shall be:

(i) 25% of the amount by which aggregate expenditures for police protection in the county exceed $6.00 per person but do not exceed $36.00 per person; and

(ii) 50% of the amount by which aggregate expenditures for police protection in the county exceed $36.00 per person but do not exceed $45.50 per person.

(8) For a county with a population density of at least 8,000 per square mile, payment under this subsection shall be:

(i) 25% of the amount by which aggregate expenditures for police protection in the county exceed $6.00 per person but do not exceed $36.00 per person; and

(ii) 50% of the amount by which aggregate expenditures for police protection in the county exceed $36.00 per person but do not exceed $101.50 per person.

(d) (1) The State shall pay to each county the amount by which $2.50 per person exceeds the total payments determined under subsections (b) and (c) of this section.

(2) A county for which the population estimate is less than the population estimated for the first year of the grant may not receive in any year a smaller amount of State aid for police protection than it received in any previous year if it has not reduced the level of expenditures for police protection which entitled it to the amount of the previous year's grant.

(e) In addition to the payments made under subsections (b), (c), and (d) of this section, the State shall pay to each county with a population density of less than 500 per square mile, $2.00 per person.

(f) (1) In addition to the payments made under subsections (b) through (e) of this section, the State shall pay:

(i) to each county, $2.50 per person, subject to paragraph (2) of this subsection;

(ii) to Baltimore City, $0.50 per person; and

(iii) to each county that borders the District of Columbia, in addition to the amount required under item (i) of this paragraph, $0.50 per person living in the county within 1 mile of the border between the State and the District of Columbia.

(2) The State shall allocate the supplemental grant on a per person basis among the county and the qualifying municipalities in that county and distribute the resulting allocation to each county and qualifying municipality.

(g) Each fiscal year, the State shall pay to each county an additional grant equal to the greater of:

(1) 10% of the total of the payments determined under subsections (b) through (e) of this section; or

(2) an amount not to exceed $1 per person.

(h) The State shall pay each county the amount by which the grant paid to the county in fiscal year 1984 exceeds the total payments determined under subsections (b) through (g) of this section.

(i) Each fiscal year, the State shall pay to each qualifying municipality, in addition to the payments made under subsections (b) through (h) of this section, $1,950 for each sworn officer actually employed on a full–time basis by the qualifying municipality, as determined by the Executive Director.

(j) The payment made to each county under subsections (b), (c), (d), (e), (g), and (h) of this section shall be allocated to each county and qualifying municipality by multiplying the total payment by a fraction:

(1) the numerator of which equals the expenditures for police protection

of the county or the qualifying municipality; and

(2) the denominator of which equals the aggregate expenditures for police protection.

§4–507.

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

(2) "Crime assessment" means an amount obtained for each county or Baltimore City by multiplying the percent of total Part I crimes in the State that were committed in the county or Baltimore City by 10% of the costs for the crime laboratory of the State Police as provided in the State budget for the fiscal year of the assessment.

(3) "Part I crimes" means the crimes reported by the State Police as Part I crimes in the annual uniform crime report for the second completed calendar year preceding the fiscal year of the crime assessment.

(4) "Wealth assessment" means an amount obtained for each county or Baltimore City by multiplying the percent of the total wealth base of the State that is attributable to the wealth base of the county or Baltimore City by 20% of the costs for the crime laboratory of the State Police as provided in the State budget for the fiscal year of the assessment.

(b) For each fiscal year, the amount determined under § 4–506 of this subtitle for each county or Baltimore City shall be reduced by the sum of the crime assessment and the wealth assessment for the county or Baltimore City.

§4–508.

The State Treasurer shall make the payments required under this subtitle to each county and qualifying municipality:

(1) on warrants of the Comptroller;

(2) at the end of each quarter of each fiscal year; and

(3) in approximately equal amounts for each quarter to the appropriate county or qualifying municipality.

§4–509.

(a) If the Executive Director finds that a county is not complying with § 4–502 of this subtitle, the Executive Director shall notify the county or qualifying municipality of the noncompliance.

(b) If a county or qualifying municipality disputes the finding in the notice issued under subsection (a) of this section within 30 days of the issuance of the notice,

the dispute shall be promptly referred to the Secretary of Budget and Management, who shall make a final determination.

(c) On receipt of certification of noncompliance by the Executive Director or the Secretary of Budget and Management, the Comptroller shall suspend, until notification of compliance is received, payment of any funds due the county or qualifying municipality for the current fiscal year, under § 4–506 of this subtitle, to the extent that the State's aid due the county or qualifying municipality in the current fiscal year under § 4–506 of this subtitle exceeds the amount that the county or qualifying municipality received in the prior fiscal year.

§5–101.

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

(b) "Antique firearm" has the meaning stated in § 4–201 of the Criminal Law Article.

(b–1) (1) "Convicted of a disqualifying crime" includes:

(i) a case in which a person received probation before judgment for a crime of violence; and

(ii) a case in which a person received probation before judgment in a domestically related crime as defined in § 6–233 of the Criminal Procedure Article.

(2) "Convicted of a disqualifying crime" does not include a case in which a person received a probation before judgment:

(i) for assault in the second degree; or

(ii) that was expunged under Title 10, Subtitle 1 of the Criminal Procedure Article.

(c) "Crime of violence" means:

(1) abduction;

(2) arson in the first degree;

(3) assault in the first or second degree;

(4) burglary in the first, second, or third degree;

(5) carjacking and armed carjacking;

(6) escape in the first degree;

(7) kidnapping;

(8) voluntary manslaughter;

(9) maiming as previously proscribed under former Article 27, § 386 of the Code;

(10) mayhem as previously proscribed under former Article 27, § 384 of the Code;

(11) murder in the first or second degree;

(12) rape in the first or second degree;

(13) robbery;

(14) robbery with a dangerous weapon;

(15) sexual offense in the first, second, or third degree;

(16) home invasion under § 6–202(b) of the Criminal Law Article;

(17) an attempt to commit any of the crimes listed in items (1) through (16) of this subsection; or

(18) assault with intent to commit any of the crimes listed in items (1) through (16) of this subsection or a crime punishable by imprisonment for more than 1 year.

(d) "Dealer" means a person who is engaged in the business of:

(1) selling, renting, or transferring firearms at wholesale or retail; or

(2) repairing firearms.

(e) "Dealer's license" means a State regulated firearms dealer's license.

(f) "Designated law enforcement agency" means a law enforcement agency that the Secretary designates to process applications to purchase regulated firearms for secondary sales.

(g) "Disqualifying crime" means:

(1) a crime of violence;

(2) a violation classified as a felony in the State; or

(3) a violation classified as a misdemeanor in the State that carries a statutory penalty of more than 2 years.

(h) (1) "Firearm" means:

(i) a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive; or

(ii) the frame or receiver of such a weapon.

(2) "Firearm" includes a starter gun.

(i) "Firearm applicant" means a person who makes a firearm application.

(j) "Firearm application" means an application to purchase, rent, or transfer a regulated firearm.

(k) "Fugitive from justice" means a person who has fled to avoid prosecution or giving testimony in a criminal proceeding.

(l) "Habitual drunkard" means a person who has been found guilty of any three crimes under § 21–902(a), (b), or (c) of the Transportation Article, one of which occurred in the past year.

(m) "Habitual user" means a person who has been found guilty of two controlled dangerous substance crimes, one of which occurred in the past 5 years.

(n) (1) "Handgun" means a firearm with a barrel less than 16 inches in length.

(2) "Handgun" includes signal, starter, and blank pistols.

(o) "Handgun qualification license" means a license issued by the Secretary that authorizes a person to purchase, rent, or receive a handgun.

(p) "Licensee" means a person who holds a dealer's license.

(q) "Qualified handgun instructor" means a certified firearms instructor who:

(1) is recognized by the Maryland Police and Correctional Training commissions;

(2) has a qualified handgun instructor license issued by the Secretary; or

(3) has a certification issued by a nationally recognized firearms organization.

(r) "Regulated firearm" means:

(1) a handgun; or

(2) a firearm that is any of the following specific assault weapons or their copies, regardless of which company produced and manufactured that assault weapon:

(i) American Arms Spectre da Semiautomatic carbine;

(ii) AK–47 in all forms;

(iii) Algimec AGM–1 type semi–auto;

(iv) AR 100 type semi–auto;

(v) AR 180 type semi–auto;

(vi) Argentine L.S.R. semi–auto;

(vii) Australian Automatic Arms SAR type semi–auto;

(viii) Auto–Ordnance Thompson M1 and 1927 semi–automatics;

(ix) Barrett light .50 cal. semi–auto;

(x) Beretta AR70 type semi–auto;

(xi) Bushmaster semi–auto rifle;

(xii) Calico models M–100 and M–900;

(xiii) CIS SR 88 type semi–auto;

(xiv) Claridge HI TEC C–9 carbines;

(xv) Colt AR–15, CAR–15, and all imitations except Colt AR–15 Sporter H–BAR rifle;

(xvi) Daewoo MAX 1 and MAX 2, aka AR 100, 110C, K–1, and K–2;

(xvii) Dragunov Chinese made semi–auto;

(xviii) Famas semi–auto (.223 caliber);

(xix) Feather AT–9 semi–auto;

(xx) FN LAR and FN FAL assault rifle;

(xxi) FNC semi–auto type carbine;

(xxii) F.I.E./Franchi LAW 12 and SPAS 12 assault shotgun;

(xxiii) Steyr–AUG–SA semi–auto;

(xxiv) Galil models AR and ARM semi–auto;

(xxv) Heckler and Koch HK–91 A3, HK–93 A2, HK–94 A2 and A3;

(xxvi) Holmes model 88 shotgun;

(xxvii) Avtomat Kalashnikov semiautomatic rifle in any format;

(xxviii) Manchester Arms "Commando" MK–45, MK–9;

(xxix) Mandell TAC–1 semi–auto carbine;

(xxx) Mossberg model 500 Bullpup assault shotgun;

(xxxi) Sterling Mark 6;

(xxxii) P.A.W.S. carbine;

(xxxiii) Ruger mini–14 folding stock model (.223 caliber);

(xxxiv) SIG 550/551 assault rifle (.223 caliber);

(xxxv) SKS with detachable magazine;

(xxxvi) AP–74 Commando type semi–auto;

(xxxvii) Springfield Armory BM–59, SAR–48, G3, SAR–3, M–21 sniper rifle, M1A, excluding the M1 Garand;

(xxxviii) Street sweeper assault type shotgun;

(xxxix) Striker 12 assault shotgun in all formats;

(xl) Unique F11 semi–auto type;

(xli) Daewoo USAS 12 semi–auto shotgun;

(xlii) UZI 9mm carbine or rifle;

(xliii) Valmet M–76 and M–78 semi–auto;

(xliv) Weaver Arms "Nighthawk" semi–auto carbine; or

(xlv) Wilkinson Arms 9mm semi–auto "Terry".

(s) "Rent" means the temporary transfer for consideration of a regulated firearm that is taken from the property of the owner of the regulated firearm.

(t) "Secondary sale" means a sale of a regulated firearm in which neither party to the sale:

(1) is a licensee;

(2) is licensed by the federal government as a firearms dealer;

(3) devotes time, attention, and labor to dealing in firearms as a regular

course of 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.

(u) "Secretary" means the Secretary of State Police or the Secretary's designee.

(v) "Straw purchase" means a sale of a regulated firearm in which a person uses another, known as the straw purchaser, to:

(1) complete the application to purchase a regulated firearm;

(2) take initial possession of the regulated firearm; and

(3) subsequently transfer the regulated firearm to the person.

§5–102.

This subtitle does not apply to:

(1) the transfer or possession of a regulated firearm or detachable magazine:

(i) for testing or experimentation authorized by the Secretary; and

(ii) by a federally licensed gun manufacturer, dealer, or importer;

(2) the sale, transfer, or possession of an antique firearm;

(3) an unserviceable firearm sold, transferred, or possessed as a curio or museum piece;

(4) law enforcement personnel of any unit of the federal government, members of the armed forces of the United States or the National Guard, or law enforcement personnel of the State or any local agency in the State, while those personnel or members are acting within the scope of their official duties;

(5) a regulated firearm modified to render it permanently inoperative;

(6) purchases, sales, and transportation to or by a federally licensed gun manufacturer, dealer, or importer;

(7) an organization that is required or authorized by federal law governing its specific business or activity to maintain firearms;

(8) the receipt of a regulated firearm by inheritance, if the heir forwards to the Secretary a completed application to purchase or transfer that regulated firearm; or

(9) a signal pistol or other visual distress signal that the United States Coast Guard approves as a marine safety device.

§5–103.

This subtitle does not affect:

(1) a sale or transfer for bona fide resale of a regulated firearm in the ordinary course of business of a licensee; or

(2) a sale, rental, transfer, or the use of a regulated firearm by a person authorized or required to do so as part of the person's duties as a member of:

(i) an official police force or other law enforcement agency;

(ii) the armed forces of the United States, including all official reserve organizations; or

(iii) the Maryland National Guard.

§5–104.

This subtitle supersedes any restriction that a local jurisdiction in the State imposes on a sale of a regulated firearm, and the State preempts the right of any local jurisdiction to regulate the sale of a regulated firearm.

§5–105.

The Secretary shall adopt regulations to carry out this subtitle.

§5–106.

(a) A person must lawfully possess a dealer's license issued by the Secretary before the person engages in the business of selling, renting, or transferring regulated firearms.

(b) One dealer's license is required for each place of business where regulated firearms are sold.

§5–107.

(a) (1) An applicant for a dealer's license shall:

(i) submit to the Secretary an application on the form that the Secretary provides; and

(ii) pay to the Secretary an application fee of $50, payable to the Comptroller.

(2) A refund or proration of the application fee is prohibited.

(b) An application for a dealer's license shall contain:

(1) the applicant's name, address, Social Security number, place and date of birth, height, weight, race, eye and hair color, and signature;

(2) a clear and recognizable photograph of the applicant, unless the photograph has been submitted with a prior year's application;

(3) a set of the applicant's fingerprints, unless the fingerprints have been submitted with a prior year's application; and

(4) a statement by the applicant that the applicant:

(i) is a citizen of the United States;

(ii) is at least 21 years old;

(iii) has never been convicted of a disqualifying crime;

(iv) has never been convicted of a violation classified as a common law crime and received a term of imprisonment of more than 2 years;

(v) is not a fugitive from justice;

(vi) is not a habitual drunkard;

(vii) is not addicted to a controlled dangerous substance or is not a habitual user; and

(viii) has never spent more than 30 consecutive days in a medical institution for treatment of a mental disorder, unless a physician's certificate issued within 30 days before the date of application is attached to the application, certifying that the applicant is capable of possessing a regulated firearm without undue danger to the applicant or to another.

(c) Each application for a dealer's license shall contain 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.".

(d) If an applicant is a corporation, a corporate officer who is a resident of the State shall complete and execute the application.

§5–108.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and

Correctional Services.

(b) The Secretary shall apply to the Central Repository for a State and national criminal history records check for each applicant for a dealer's license.

(c) As part of the application for a criminal history records check, the Secretary shall submit to the Central Repository:

(1) two complete sets of the applicant's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(2) the fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records; and

(3) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(d) In accordance with §§ 10-201 through 10-234 of the Criminal Procedure Article, the Central Repository shall forward to the applicant and the Secretary a printed statement of the applicant's criminal history record information.

(e) Information obtained from the Central Repository under this section:

(1) is confidential and may not be disseminated; and

(2) shall be used only for the licensing purpose authorized by this section.

(f) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10-223 of the Criminal Procedure Article.

§5–109.

The Secretary shall conduct an investigation to determine the truth or falsity of the information supplied and the statements made in an application for a dealer's license.

§5–110.

(a) The Secretary shall disapprove an application for a dealer's license if:

(1) the Secretary determines that the applicant supplied false information or made a false statement;

(2) the Secretary determines that the application is not properly completed;

(3) the Secretary receives a written notification from the applicant's

licensed attending physician that the applicant suffers from a mental disorder and is a danger to the applicant or to another; or

(4) the Secretary determines that the applicant intends that a person who is not eligible to be issued a dealer's license or whose dealer's license has been revoked or suspended:

(i) will participate in the management or operation of the business for which the license is sought; or

(ii) holds a legal or equitable interest in the business for which the license is sought.

(b) If the Secretary disapproves an application for a dealer's license, the Secretary shall notify the applicant in writing of:

(1) the disapproval of the application; and

(2) the reason the application was denied.

(c) A person whose application for a dealer's license has been disapproved may not engage in the business of selling, renting, or transferring regulated firearms, unless the disapproval has been subsequently withdrawn by the Secretary or overruled by a court in accordance with subsection (d) of this section.

(d) (1) An applicant who is aggrieved because the Secretary has disapproved the application for a dealer's license may appeal to the circuit court of the county where the applicant's place of business is to be located.

(2) The appeal must be filed not later than 30 days after the Secretary mails notification of disapproval to the applicant.

(3) If the appeal is properly and timely filed, the court shall affirm or reverse the disapproval of the Secretary depending on whether the court finds that:

(i) the applicant supplied false information or made a false statement; or

(ii) the application was not properly completed.

(4) The Secretary or the applicant may appeal the decision of the circuit court to the Court of Special Appeals.

§5–111.

(a) Unless a dealer's license is renewed for a 1-year term as provided in this section, a dealer's license expires on the first June 30 after its effective date.

(b) (1) Before a dealer's license expires, the licensee periodically may renew

it for an additional 1-year term, if the licensee:

(i) is otherwise entitled to be licensed;

(ii) pays to the Secretary a renewal fee of $25, payable to the Comptroller; and

(iii) submits to the Secretary a renewal application on the form that the Secretary provides.

(2) A refund or proration of the renewal fee is prohibited.

§5–112.

(a) A dealer's license is not transferable.

(b) Before moving a place of business, a licensee shall inform the Secretary and surrender the dealer's license.

(c) If a cause to revoke the dealer's license does not exist, the Secretary shall issue a new dealer's license without charge covering the new place of business for the rest of the term of the surrendered dealer's license.

§5–113.

(a) A licensee shall display conspicuously the dealer's license and any other license required by law at the licensee's place of business.

(b) The dealer's license shall identify the licensee and the location of the licensee's place of business.

§5–114.

(a) (1) The Secretary shall suspend a dealer's license if the licensee:

(i) is under indictment for a crime of violence; or

(ii) is arrested for a violation of this subtitle that prohibits the purchase or possession of a regulated firearm.

(2) (i) The Secretary may suspend a dealer's license if the licensee is not in compliance with the record keeping and reporting requirements of § 5–145 of this subtitle.

(ii) The Secretary may lift a suspension under this paragraph after the licensee provides evidence that the record keeping violation has been corrected.

(b) The Secretary shall revoke a dealer's license if:

(1) it is discovered that false information has been supplied or false statements have been made in an application required by this subtitle; or

(2) the licensee:

(i) is convicted of a disqualifying crime;

(ii) is convicted of a violation classified as a common law crime and receives a term of imprisonment of more than 2 years;

(iii) is a fugitive from justice;

(iv) is a habitual drunkard;

(v) is addicted to a controlled dangerous substance or is a habitual user;

(vi) has spent more than 30 consecutive days in a medical institution for treatment of a mental disorder, unless the licensee produces a physician's certificate, issued after the last institutionalization and certifying that the licensee is capable of possessing a regulated firearm without undue danger to the licensee or to another;

(vii) has knowingly or willfully manufactured, offered to sell, or sold a handgun not on the handgun roster in violation of § 5-406 of this title; or

(viii) has knowingly or willfully participated in a straw purchase of a regulated firearm.

(c) If the Secretary suspends or revokes a dealer's license, the Secretary shall notify the licensee in writing of the suspension or revocation.

(d) A person whose dealer's license is suspended or revoked may not engage in the business of selling, renting, or transferring regulated firearms, unless the suspension or revocation has been subsequently withdrawn by the Secretary or overruled by a court in accordance with § 5-116 of this subtitle.

§5–115.

(a) (1) A person whose dealer's license is suspended or revoked or who is fined for a violation of this subtitle and who is aggrieved by the action of the Secretary may request a hearing by writing to the Secretary within 30 days after the Secretary forwards notice to the applicant under § 5–114(c) of this subtitle.

(2) The Secretary shall grant the hearing within 15 days after receiving the request.

(b) The hearing shall be held in accordance with Title 10, Subtitle 2 of the State Government Article.

§5–116.

(a) A revocation may not take effect while an appeal is pending.

(b) Any subsequent judicial review shall be held in accordance with Title 10, Subtitle 2 of the State Government Article.

§5–117.

A person must submit a firearm application in accordance with this subtitle before the person purchases, rents, or transfers a regulated firearm.

§5–117.1.

(a) This section does not apply to:

(1) a licensed firearms manufacturer;

(2) a law enforcement officer or person who is retired in good standing from service with a law enforcement agency of the United States, the State, or a local law enforcement agency of the State;

(3) a member or retired member of the armed forces of the United States or the National Guard; or

(4) a person purchasing, renting, or receiving an antique, curio, or relic firearm, as defined in federal law or in determinations published by the Bureau of Alcohol, Tobacco, Firearms and Explosives.

(b) A dealer or any other person may not sell, rent, or transfer a handgun to a purchaser, lessee, or transferee unless the purchaser, lessee, or transferee presents to the dealer or other person a valid handgun qualification license issued to the purchaser, lessee, or transferee by the Secretary under this section.

(c) A person may purchase, rent, or receive a handgun only if the person:

(1) (i) possesses a valid handgun qualification license issued to the person by the Secretary in accordance with this section;

(ii) possesses valid credentials from a law enforcement agency or retirement credentials from a law enforcement agency;

(iii) is an active or retired member of the armed forces of the United States or the National Guard and possesses a valid military identification card; or

(iv) is purchasing, renting, or receiving an antique, curio, or relic firearm, as defined in federal law or in determinations published by the Bureau of Alcohol, Tobacco, Firearms and Explosives; and

(2) is not otherwise prohibited from purchasing or possessing a handgun under State or federal law.

(d) Subject to subsections (f) and (g) of this section, the Secretary shall issue a handgun qualification license to a person who the Secretary finds:

(1) is at least 21 years old;

(2) is a resident of the State;

(3) except as provided in subsection (e) of this section, has demonstrated satisfactory completion, within 3 years prior to the submission of the application, of a firearms safety training course approved by the Secretary that includes:

(i) a minimum of 4 hours of instruction by a qualified handgun instructor;

(ii) classroom instruction on:

1. State firearm law;

2. home firearm safety; and

3. handgun mechanisms and operation; and

(iii) a firearms orientation component that demonstrates the person's safe operation and handling of a firearm; and

(4) based on an investigation, is not prohibited by federal or State law from purchasing or possessing a handgun.

(e) An applicant for a handgun qualification license is not required to complete a firearms safety training course under subsection (d) of this section if the applicant:

(1) has completed a certified firearms training course approved by the Secretary;

(2) has completed a course of instruction in competency and safety in the handling of firearms prescribed by the Department of Natural Resources under § 10–301.1 of the Natural Resources Article;

(3) is a qualified handgun instructor;

(4) is an honorably discharged member of the armed forces of the United States or the National Guard;

(5) is an employee of an armored car company and has a permit issued under Title 5, Subtitle 3 of the Public Safety Article; or

(6) lawfully owns a regulated firearm.

(f) (1) In this subsection, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(2) The Secretary shall apply to the Central Repository for a State and national criminal history records check for each applicant for a handgun qualification license.

(3) As part of the application for a criminal history records check, the Secretary shall submit to the Central Repository:

(i) a complete set of the applicant's legible fingerprints taken in a format approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(4) The Central Repository shall provide a receipt to the applicant for the fees paid in accordance with paragraph (3)(ii) and (iii) of this subsection.

(5) In accordance with §§ 10–201 through 10–234 of the Criminal Procedure Article, the Central Repository shall forward to the applicant and the Secretary a printed statement of the applicant's criminal history information.

(6) Information obtained from the Central Repository under this section:

(i) is confidential and may not be disseminated; and

(ii) shall be used only for the licensing purpose authorized by this section.

(7) If criminal history record information is reported to the Central Repository after the date of the initial criminal history records check, the Central Repository shall provide to the Department of State Police Licensing Division a revised printed statement of the applicant's or licensee's State criminal history record.

(g) An applicant for a handgun qualification license shall submit to the Secretary:

(1) an application in the manner and format designated by the Secretary;

(2) a nonrefundable application fee to cover the costs to administer the

program of up to $50;

(3) (i) proof of satisfactory completion of:

1. a firearms safety training course approved by the Secretary; or

2. a course of instruction in competency and safety in the handling of firearms prescribed by the Department of Natural Resources under § 10–301.1 of the Natural Resources Article; or

(ii) a valid firearms instructor certification;

(4) any other identifying information or documentation required by the Secretary; and

(5) a statement made by the applicant under the penalty of perjury that the applicant is not prohibited under federal or State law from possessing a handgun.

(h) (1) Within 30 days after receiving a properly completed application, the Secretary shall issue to the applicant:

(i) a handgun qualification license if the applicant is approved; or

(ii) a written denial of the application that contains:

1. the reason the application was denied; and

2. a statement of the applicant's appeal rights under subsection (l) of this section.

(2) (i) An individual whose fingerprints have been submitted to the Central Repository, and whose application has been denied, may request that the record of the fingerprints be expunged by obliteration.

(ii) Proceedings to expunge a record under this paragraph shall be conducted in accordance with § 10–105 of the Criminal Procedure Article.

(iii) On receipt of an order to expunge a fingerprint record, the Central Repository shall expunge by obliteration the fingerprints submitted as part of the application process.

(iv) An individual may not be charged a fee for the expungement of a fingerprint record in accordance with this paragraph.

(i) A handgun qualification license issued under this section expires 10 years from the date of issuance.

(j) (1) The handgun qualification license may be renewed for successive

periods of 10 years each if, at the time of an application for renewal, the applicant:

(i) possesses the qualifications for the issuance of the handgun qualification license; and

(ii) submits a nonrefundable application fee to cover the costs to administer the program up to $20.

(2) An applicant renewing a handgun qualification license under this subsection is not required to:

(i) complete the firearms safety training course required in subsection (d)(3) of this section; or

(ii) submit to a State and national criminal history records check as required in subsection (f) of this section.

(k) (1) The Secretary may revoke a handgun qualification license issued or renewed under this section on a finding that the licensee no longer satisfies the qualifications set forth in subsection (d) of this section.

(2) A person holding a handgun qualification license that has been revoked by the Secretary shall return the license to the Secretary within 5 days after receipt of the notice of revocation.

(l) (1) A person whose original or renewal application for a handgun qualification license is denied or whose handgun qualification license is revoked, may submit a written request to the Secretary for a hearing within 30 days after the date the written notice of the denial or revocation was sent to the aggrieved person.

(2) A hearing under this section shall be granted by the Secretary within 15 days after the request.

(3) A hearing and any subsequent proceedings of judicial review under this section shall be conducted in accordance with Title 10, Subtitle 2 of the State Government Article.

(4) A hearing under this section shall be held in the county of the legal residence of the aggrieved person.

(m) (1) If an original or renewal handgun qualification license is lost or stolen, a person may submit a written request to the Secretary for a replacement license.

(2) Unless the applicant is otherwise disqualified, the Secretary shall issue a replacement handgun qualification license on receipt of a written request and a nonrefundable fee to cover the cost of replacement up to $20.

(n) The Secretary may adopt regulations to carry out the provisions of this

section.

§5–118.

(a) A firearm applicant shall:

(1) submit to a licensee or designated law enforcement agency a firearm application on the form that the Secretary provides; and

(2) pay to the licensee or designated law enforcement agency an application fee of $10.

(b) A firearm application shall contain:

(1) the firearm applicant's name, address, Social Security number, place and date of birth, height, weight, race, eye and hair color, signature, driver's or photographic identification soundex number, occupation, and regulated firearm information for each regulated firearm to be purchased, rented, or transferred;

(2) the date and time that the firearm applicant delivered the completed firearm application to the prospective seller or transferor;

(3) a statement by the firearm applicant under the penalty of perjury that the firearm applicant:

(i) is at least 21 years old;

(ii) has never been convicted of a disqualifying crime;

(iii) has never been convicted of a violation classified as a common law crime and 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 addicted to a controlled dangerous substance or is not a habitual user;

(vii) does not suffer from a mental disorder as defined in § 10–101(i)(2) of the Health – General Article and have a history of violent behavior against the firearm applicant or another;

(viii) has never been found incompetent to stand trial under § 3–106 of the Criminal Procedure Article;

(ix) has never been found not criminally responsible under § 3–110 of the Criminal Procedure Article;

(x) has never been voluntarily admitted for more than 30 consecutive days to a facility as defined in § 10–101 of the Health – General Article;

(xi) has never been involuntarily committed to a facility as defined in § 10–101 of the Health – General Article;

(xii) is not under the protection of a guardian appointed by a court under § 13–201(c) or § 13–705 of the Estates and Trusts Article, except for cases in which the appointment of a guardian is solely a result of a physical disability;

(xiii) is not a respondent against whom:

1. a current non ex parte civil protective order has been entered under § 4–506 of the Family Law Article; or

2. an order for protection, as defined in § 4–508.1 of the Family Law Article, has been issued by a court of another state or a Native American tribe and is in effect; and

(xiv) if under the age of 30 years at the time of application, has not been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult; and

(4) a copy of the applicant's handgun qualification license.

(c) Each firearm application shall contain 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.".

(d) If the firearm applicant is a corporation, a corporate officer who is a resident of the State shall complete and execute the firearm application.

§5–120.

(a) (1) On receipt of a firearm application, a licensee or designated law enforcement agency shall promptly forward one copy of it to the Secretary by electronic means approved by the Secretary.

(2) The copy of the firearm application forwarded to the Secretary shall contain the name, address, and signature of the prospective seller, lessor, or transferor.

(b) (1) The prospective seller, lessor, or transferor shall keep one copy of the firearm application for not less than 3 years.

(2) The firearm applicant is entitled to a copy of the firearm application.

(c) The licensee or designated law enforcement agency shall forward the $10

application fee with the firearm application to the Secretary.

§5–121.

(a) On receipt of a firearm application, the Secretary shall conduct an investigation promptly to determine the truth or falsity of the information supplied and statements made in the firearm application.

(b) In conducting an investigation under this subsection, 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.

§5–122.

(a) The Secretary shall disapprove a firearm application if:

(1) the Secretary determines that the firearm applicant supplied false information or made a false statement;

(2) the Secretary determines that the firearm application is not properly completed; or

(3) the Secretary receives written notification from the firearm applicant's licensed attending physician that the firearm applicant suffers from a mental disorder and is a danger to the firearm applicant or to another.

(b) (1) If the Secretary disapproves a firearm application, the Secretary shall notify the prospective seller, lessor, or transferor in writing of the disapproval within 7 days after the date that the executed firearm application is forwarded to the Secretary by certified mail or facsimile machine.

(2) After notifying the prospective seller, lessor, or transferor under paragraph (1) of this subsection, the Secretary shall notify the prospective purchaser, lessee, or transferee in writing of the disapproval.

(3) The date when the prospective seller, lessor, or transferor forwards the executed firearm application to the Secretary by certified mail or by facsimile machine is the first day of the 7-day period allowed for notice of disapproval to the prospective seller, lessor, or transferor.

§5–123.

(a) A licensee may not sell, rent, or transfer a regulated firearm until after 7 days following the time a firearm application is executed by the firearm applicant, in triplicate, and the original is forwarded by the prospective seller or transferor to the Secretary.

(b) A licensee shall complete the sale, rental, or transfer of a regulated firearm within 90 days after the firearm application was stamped by the Secretary as not being disapproved.

(c) (1) If the sale, rental, or transfer of a regulated firearm is not completed within 90 days after the firearm application was stamped by the Secretary as not being disapproved, a licensee shall return the firearm application to the Secretary within 7 days.

(2) The Secretary shall void a firearm application returned under paragraph (1) of this subsection as an incomplete sale, rental, or transfer.

(d) (1) (i) A licensee who sells, rents, or transfers a regulated firearm in compliance with this subtitle shall forward a copy of the written notification of the completed transaction to the Secretary within 7 days after delivery of the regulated firearm.

(ii) The notification shall contain an identifying description of the regulated firearm, including its caliber, make, model, any manufacturer's serial number, and any other special or peculiar characteristic or marking by which the regulated firearm may be identified.

(2) The Secretary shall maintain a permanent record of all notifications received of completed sales, rentals, and transfers of regulated firearms in the State.

§5–124.

(a) (1) A person who is not a licensee may not sell, rent, transfer, or purchase a regulated firearm until after 7 days following the time a firearm application is executed by the firearm applicant, in triplicate, and the original is forwarded by a licensee to the Secretary.

(2) As an alternative to completing a secondary sale of a regulated firearm through a licensee, a prospective seller, lessor, or transferor and a prospective purchaser, lessee, or transferee may complete the transaction through a designated law enforcement agency.

(b) A firearm applicant for a secondary sale of a regulated firearm through a licensee shall pay to the licensee a processing fee not exceeding $20.

(c) A person shall complete the sale, rental, or transfer of a regulated firearm within 90 days after the firearm application was stamped by the Secretary as not being disapproved.

(d) (1) If the sale, rental, or transfer of a regulated firearm is not completed within 90 days after the firearm application was stamped by the Secretary as not being disapproved, a person shall return the firearm application to the Secretary within 7 days.

(2) The Secretary shall void a firearm application returned under paragraph (1) of this subsection as an incomplete sale, rental, or transfer.

(e) (1) (i) A person who sells, rents, or transfers a regulated firearm in compliance with this subtitle shall forward a copy of the written notification of the completed transaction to the Secretary within 7 days after delivery of the regulated firearm.

(ii) The notification shall contain an identifying description of the regulated firearm, including its caliber, make, model, any manufacturer's serial number, and any other special or peculiar characteristic or marking by which the regulated firearm may be identified.

(2) The Secretary shall maintain a permanent record of all notifications received of completed sales, rentals, and transfers of regulated firearms in the State.

§5–125.

(a) An approved firearm application is valid only for the purchase, rental, or transfer of the regulated firearm listed in the firearm application.

(b) A licensee or other person may not sell, rent, or transfer a regulated firearm to a firearm applicant whose firearm application is placed on hold because of an open disposition of criminal proceedings against the firearm applicant or disapproved, unless the hold or disapproval has been subsequently withdrawn by the Secretary or overruled by a court in accordance with § 5-127 of this subtitle.

§5–126.

(a) (1) A firearm applicant who is aggrieved by the action of the Secretary may request a hearing by writing to the Secretary within 30 days after the Secretary forwards notice to the firearm applicant under § 5-122 of this subtitle.

(2) The Secretary shall grant the hearing within 15 days after receiving the request.

(b) The hearing shall be held in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The hearing shall be held in the county of the legal residence of the firearm applicant.

§5–127.

Any subsequent judicial review shall be held in accordance with Title 10, Subtitle 2 of the State Government Article.

§5–128.

(a) Subsection (b) of this section does not apply to:

(1) a law enforcement agency;

(2) an agency authorized to perform law enforcement duties;

(3) a State or local correctional facility;

(4) a private security company licensed to do business in the State;

(5) the purchase of an antique firearm;

(6) a purchase by a licensee;

(7) 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 30 days immediately before the exchange or replacement; or

(8) a person whose regulated firearm is stolen or irretrievably lost and who considers it essential that the regulated firearm be replaced immediately, if:

(i) the person provides the licensee with a copy of the official police report or an official summary of the report, a copy of which shall be attached to the firearm application;

(ii) 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 when the loss or theft was reported to the law enforcement agency; and

(iii) the loss or theft occurred within 30 days before the person's attempt to replace the regulated firearm, as reflected by the date of loss or theft on the official police report or official summary of the report.

(b) A person may not purchase more than one regulated firearm in a 30-day period.

(c) A licensee or other person may not sell, rent, or transfer a regulated firearm to a firearm applicant whose firearm application is placed on hold because of an open disposition of criminal proceedings against the firearm applicant or disapproved, unless the hold or disapproval has been subsequently withdrawn by the Secretary or overruled by a court in accordance with § 5-127 of this subtitle.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

§5–129.

(a) Notwithstanding § 5-128(b) of this subtitle, a person may purchase more than one regulated firearm in a 30-day period if:

(1) the person applies for and the Secretary approves a multiple purchase; and

(2) (i) the purchase of the regulated firearms is for a private collection or a collector series;

(ii) the purchase of the regulated firearms is a bulk purchase from an estate sale;

(iii) 1. the purchase of not more than two regulated firearms is a multiple purchase to take advantage of a licensee's discounted price available only for a multiple purchase; and

2. the purchaser is prohibited from purchasing a regulated firearm during the following 30-day period unless approved under item (i) or (ii) of this item; or

(iv) the purchase is for other purposes similar to items (i) through (iii) of this item.

(b) (1) The application for a multiple purchase shall:

(i) list the regulated firearms to be purchased;

(ii) state the purpose of the purchase of more than one regulated firearm in a 30-day period;

(iii) be witnessed by a licensee or designated law enforcement agency; and

(iv) be signed under the penalty of perjury by the firearm applicant.

(2) The application for a multiple purchase of regulated firearms shall be attached to a completed firearm application and forwarded to the Secretary by a licensee or designated law enforcement agency.

(c) On receipt of the firearm application and the application for a multiple purchase, the Secretary shall conduct a background investigation as required in § 5-121 of this subtitle.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

§5–130.

(a) In this section, "gun show" means any organized gathering open to the public at which any firearm is displayed.

(b) Subsections (c) through (h) of this section do not apply to a licensee.

(c) A person must obtain a temporary transfer permit issued by the Secretary before the person displays a regulated firearm for sale or transfer from a table or fixed display at a gun show.

(d) (1) An applicant for a temporary transfer permit shall:

(i) submit to the Secretary an application on the form that the Secretary provides; and

(ii) pay to the Secretary a fee of $10 for each calendar year.

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

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

(f) Each application for a temporary transfer permit shall contain 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 not more than $5,000 or both.".

(g) (1) 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.

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

(3) The Secretary shall disapprove an application for a temporary transfer permit if the Secretary determines that:

(i) the applicant supplied false information or made a false statement; or

(ii) the application is not properly completed.

(4) If the Secretary disapproves an application for a temporary transfer permit, the Secretary shall notify the applicant in writing of the disapproval.

(h) (1) 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.".

(2) The temporary transfer permit shall be placed in public view as part of any display of a regulated firearm.

(i) (1) A person may not receive more than five temporary transfer permits during a single calendar year.

(2) To display a regulated firearm for sale, trade, or transfer at more than five gun shows in a calendar year, a person shall obtain a dealer's license under this subtitle.

(j) A sale or transfer of a regulated firearm from a table or fixed display at a gun show is governed by §§ 5-103, 5-104, 5-117 through 5-129, and 5-136 of this subtitle.

§5–132.

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

(2) "Authorized user" means the owner of a handgun or a person authorized by the owner to possess and use the handgun.

(3) "External safety lock" means an external device that is:

(i) attached to a handgun with a key or combination lock; and

(ii) designed to prevent a handgun from being discharged unless the device has been deactivated.

(4) "Handgun" does not include a signal, starter, or blank pistol.

(5) "Handgun Roster Board" means the Handgun Roster Board established under § 5-404 of this title.

(6) "Integrated mechanical safety device" means a disabling or locking device that is:

(i) built into a handgun; and

(ii) designed to prevent the handgun from being discharged unless the device has been deactivated.

(7) "Personalized handgun" means a handgun manufactured with incorporated design technology that:

(i) allows the handgun to be fired only by the authorized user; and

(ii) prevents any of the safety characteristics of the handgun from being readily deactivated.

(b) This section does not apply to:

(1) the purchase, sale, or transportation of a handgun to or by a federally licensed gun dealer or manufacturer that provides or services a handgun for:

(i) personnel of any unit of the federal government;

(ii) members of the armed forces of the United States or the National Guard;

(iii) law enforcement personnel of the State or any local law enforcement agency in the State while acting within the scope of their official duties; and

(iv) an organization that is required by federal law governing its specific business or activity to maintain handguns and applicable ammunition;

(2) a firearm modified to be permanently inoperative;

(3) the sale or transfer of a handgun by a federally licensed gun dealer or manufacturer covered under item (1) of this subsection;

(4) the sale or transfer of a handgun by a federally licensed gun dealer or manufacturer to a lawful customer outside the State; or

(5) an antique firearm.

(c) (1) A dealer may not sell, offer for sale, rent, or transfer in the State a handgun manufactured on or before December 31, 2002, unless the handgun is sold, offered for sale, rented, or transferred with an external safety lock.

(2) On or after January 1, 2003, a dealer may not sell, offer for sale, rent, or transfer in the State a handgun manufactured on or after January 1, 2003, unless the handgun has an integrated mechanical safety device.

(d) (1) The Handgun Roster Board annually shall:

(i) review the status of personalized handgun technology; and

(ii) on or before July 1, report its findings to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly.

(2) In reviewing the status of personalized handgun technology under paragraph (1) of this subsection, the Handgun Roster Board shall consider:

(i) the number and variety of models and calibers of personalized

handguns that are available for sale;

(ii) each study, analysis, or other evaluation of personalized handguns conducted or commissioned by:

1. the National Institute of Justice;

2. a federal, State, or local law enforcement laboratory; or

3. any other entity with an expertise in handgun technology; and

(iii) any other information that the Handgun Roster Board considers relevant.

§5–133.

(a) This section supersedes any restriction that a local jurisdiction in the State imposes on the possession by a private party of a regulated firearm, and the State preempts the right of any local jurisdiction to regulate the possession of a regulated firearm.

(b) Subject to § 5–133.3 of this subtitle, a person may not possess a regulated firearm if the person:

(1) has been convicted of a disqualifying crime;

(2) has been convicted of a violation classified as a common law crime and received a term of imprisonment of more than 2 years;

(3) is a fugitive from justice;

(4) is a habitual drunkard;

(5) is addicted to a controlled dangerous substance or is a habitual user;

(6) suffers from a mental disorder as defined in § 10–101(i)(2) of the Health – General Article and has a history of violent behavior against the person or another;

(7) has been found incompetent to stand trial under § 3–106 of the Criminal Procedure Article;

(8) has been found not criminally responsible under § 3–110 of the Criminal Procedure Article;

(9) has been voluntarily admitted for more than 30 consecutive days to a facility as defined in § 10–101 of the Health – General Article;

(10) has been involuntarily committed to a facility as defined in § 10–101

of the Health – General Article;

(11) is under the protection of a guardian appointed by a court under § 13–201(c) or § 13–705 of the Estates and Trusts Article, except for cases in which the appointment of a guardian is solely a result of a physical disability;

(12) except as provided in subsection (e) of this section, is a respondent against whom:

(i) a current non ex parte civil protective order has been entered under § 4–506 of the Family Law Article; or

(ii) an order for protection, as defined in § 4–508.1 of the Family Law Article, has been issued by a court of another state or a Native American tribe and is in effect; or

(13) if under the age of 30 years at the time of possession, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult.

(c) (1) A person may not possess a regulated firearm if the person was previously convicted of:

(i) a crime of violence;

(ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–612, § 5–613, or § 5–614 of the Criminal Law Article; or

(iii) an offense under the laws of another state or the United States that would constitute one of the crimes listed in item (i) or (ii) of this paragraph if committed in this State.

(2) (i) Subject to paragraph (3) of this subsection, a person who violates this subsection is guilty of a felony and on conviction is subject to imprisonment for not less than 5 years and not exceeding 15 years.

(ii) The court may not suspend any part of the mandatory minimum sentence of 5 years.

(iii) Except as otherwise provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(3) At the time of the commission of the offense, if a period of more than 5 years has elapsed since the person completed serving the sentence for the most recent conviction under paragraph (1)(i) or (ii) of this subsection, including all imprisonment, mandatory supervision, probation, and parole:

(i) the imposition of the mandatory minimum sentence is within the discretion of the court; and

(ii) the mandatory minimum sentence may not be imposed unless the State's Attorney notifies the person in writing at least 30 days before trial of the State's intention to seek the mandatory minimum sentence.

(4) Each violation of this subsection is a separate crime.

(d) (1) Except as provided in paragraph (2) of this subsection, a person who is under the age of 21 years may not possess 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 if the person is:

1. under the supervision of another who is at least 21 years old and who is not prohibited by State or federal law from possessing a firearm; 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 member of the armed forces of the United States or the National Guard while performing official duties;

(iv) the temporary transfer or possession of a regulated firearm if the person 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 and who holds a permit under Subtitle 3 of this title; or

(vi) the possession of a firearm for 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.

(e) This section does not apply to a respondent transporting a regulated firearm if the respondent is carrying a civil protective order requiring the surrender of the regulated firearm and:

(1) the regulated firearm is unloaded;

(2) the respondent has notified the law enforcement unit, barracks, or station that the regulated firearm is being transported in accordance with the civil protective order; and

(3) the respondent transports the regulated firearm directly to the law enforcement unit, barracks, or station.

§5–133.1.

(a) In this section, "ammunition" means a cartridge, shell, or any other device containing explosive or incendiary material designed and intended for use in a firearm.

(b) A person may not possess ammunition if the person is prohibited from possessing a regulated firearm under § 5–133 (b) or (c) of this subtitle.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

§5–133.2.

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

(2) "Facility" has the meaning stated in § 10–101 of the Health – General Article.

(3) "NICS Index" means the Federal Bureau of Investigation's National Instant Criminal Background Check System.

(b) (1) A court shall promptly report information required in paragraph (2) of this subsection through a secure data portal approved by the Department of Public Safety and Correctional Services if a court:

(i) determines that a person is not criminally responsible under § 3–110 of the Criminal Procedure Article;

(ii) finds that a person is incompetent to stand trial under § 3–106 of the Criminal Procedure Article; or

(iii) finds under § 13–201(c) or § 13–705 of the Estates and Trust Article that a person should be under the protection of a guardian, except for cases in which the appointment of a guardian is solely a result of a physical disability.

(2) On a finding or determination under paragraph (1) of this subsection, the following information shall be reported to the NICS Index:

(i) the name and identifying information of the person; and

(ii) the date of the determination or finding.

(c) (1) A facility shall report information required in paragraph (2) of this subsection regarding a person admitted to the facility under § 10–609 of the Health – General Article or committed to the facility under Title 10, Subtitle 6, Part III of the Health – General Article to the NICS Index through a secure data portal approved by the Department of Public Safety and Correctional Services, if:

(i) the person has been admitted to a facility for 30 consecutive days or more; or

(ii) the person has been involuntarily committed to a facility.

(2) On admission to a facility the following information shall be reported to the NICS Index:

(i) the name and identifying information of the person admitted or committed;

(ii) the date the person was admitted or committed to the facility; and

(iii) the name of the facility to which the person was admitted or committed.

§5–133.3.

(a) In this section, "Health Department" means the Department of Health and Mental Hygiene.

(b) A person subject to a regulated firearms disqualification under § 5–133(b)(6), (7), (8), (9), (10), or (11) of this subtitle, a rifle or shotgun disqualification under § 5–205(b)(6), (7), (8), (9), (10), or (11) of this title, or prohibited from the shipment, transportation, possession, or receipt of a firearm by 18 U.S.C. §§ 922(d)(4) or (g)(4) as a result of an adjudication or commitment that occurred in the State may be authorized to possess a firearm if:

(1) the person is not subject to another firearms restriction under State or federal law; and

(2) the Health Department, in accordance with this section, determines that the person may possess a firearm.

(c) A person who seeks relief from a firearms disqualification shall file an application with the Health Department in the form and manner set by the Health Department.

(d) An application for relief from a firearms disqualification shall include:

(1) a complete and accurate statement explaining the reason why the applicant is prohibited from possessing a regulated firearm under § 5–133(b)(6), (7), (8), (9), (10), or (11) of this subtitle or a rifle or shotgun under § 5–205(b)(6), (7), (8), (9), (10), or (11) of this title, or is prohibited from the shipment, transportation, possession, or receipt of a firearm by 18 U.S.C. §§ 922(d)(4) or (g)(4) as a result of an adjudication or commitment that occurred in the State;

(2) a statement why the applicant should be relieved from the prohibition described in item (1) of this subsection;

(3) if the applicant is subject to a prohibition described in item (1) of this subsection, a certificate issued within 30 days of the submission of the application on a form approved by the Health Department and signed by an individual licensed in the State as a physician who is board certified in psychiatry or as a psychologist stating:

(i) the length of time that the applicant has not had symptoms that cause the applicant to be a danger to the applicant or others, or, if the disqualification relates to an intellectual disability, the length of time that the applicant has not engaged in behaviors that cause the applicant to be a danger to the applicant or others;

(ii) the length of time that the applicant has been compliant with the treatment plan for the applicant's mental illness, or, if the disqualification relates to an intellectual disability, the length of time that the applicant has been compliant with any behavior plan or behavior management plan;

(iii) an opinion as to whether the applicant, because of mental illness, would be a danger to the applicant if allowed to possess a firearm and a statement of reasons for the opinion; and

(iv) an opinion as to whether the applicant, because of mental illness, would be a danger to another person or poses a risk to public safety if allowed to possess a firearm;

(4) if the applicant is prohibited from possessing a firearm under § 5–133(b)(11) of this subtitle or § 5–205(b)(11) of this title:

(i) a copy of all pleadings, affidavits, and certificates submitted into evidence at the guardianship proceeding; and

(ii) all orders issued by the court relating to the guardianship, including, if applicable, an order indicating that the guardianship is no longer in effect;

(5) a signed authorization, on a form approved by the Health Department, allowing the Health Department to access any relevant health care, mental health, disability, guardianship, and criminal justice records, including court ordered or required mental health records, of the applicant for use in determining whether the applicant should be relieved from a firearms disqualification;

(6) three statements signed and dated within 30 days of submission to the Health Department on a form designated by the Health Department attesting to the applicant's reputation and character relevant to firearm ownership or possession including:

(i) at least two statements provided by an individual who is not related to the applicant; and

(ii) contact information for each individual providing a statement; and

(7) any other information required by the Health Department.

(e) The Health Department may not approve an application under this section if a determination is made that:

(1) the applicant supplied incomplete or false information or made a false statement;

(2) the application is not properly completed; or

(3) on review of the application and supporting documentation and any other information relating to the application requested by the Health Department, including any criminal history records and mental health records of the applicant, the applicant has not shown by a preponderance of the evidence that the applicant will be unlikely to act in a manner dangerous to the applicant or to public safety and that granting a license to possess a regulated firearm or authorizing the possession of a rifle or shotgun would not be contrary to the public interest.

(f) (1) If the Health Department determines that the application shall be approved, the Health Department shall provide the applicant with a certificate affirming the applicant's mental competence to possess a firearm.

(2) A certificate provided under paragraph (1) of this subsection or a written statement that the individual is not mentally competent to possess a firearm shall be provided to the applicant within 60 days from the Health Department's receipt of a completed application, which includes any records necessary to review an application.

(3) A certificate issued under paragraph (1) of this subsection shall be presented to the Department of State Police as evidence of the applicant's eligibility to possess a firearm.

(g) (1) An applicant who is aggrieved by the action of the Health Department under subsection (e) of this section may request a hearing in writing to the Secretary of Health and Mental Hygiene within 30 days after the Health Department mails notice of the decision to the applicant.

(2) (i) The hearing requested under paragraph (1) of this subsection shall be held in accordance with Title 10, Subtitle 2 of the State Government Article within 60 days after the Health Department receives the request.

(ii) At the hearing, the information described in subsections (d) and (e) of this section shall be considered and used to determine whether the applicant, if allowed to possess a firearm, would not be likely to act in a manner dangerous to the public safety and whether granting the relief would not be contrary to the public interest.

(3) (i) Judicial review of the determination on an application under this section for relief from a firearms prohibition may be sought in accordance with §§ 10–222 and 10–223 of the State Government Article.

(ii) Notwithstanding the provisions of § 10–222 of the State Government Article, the circuit court may give deference to the final decision of the Health Department and may in its discretion receive additional evidence that it determines to be necessary to conduct an adequate review.

(h) The Board of Review of the Health Department does not have jurisdiction to review a final decision of the Health Department under this section.

(i) After a determination on the merits of a hearing requested under this section, an applicant may not request a subsequent hearing within 1 year after the completion of the hearing process and any judicial review of the administrative decision.

(j) The Secretary of Health and Mental Hygiene may adopt regulations establishing fees to cover the administrative costs associated with the implementation of this section.

(k) An individual licensed in the State as a physician who is board certified in psychiatry, or a psychologist who, in good faith and with reasonable grounds, acts in compliance with this section, may not be held civilly or criminally liable for actions authorized by this section.

§5–134.

(a) This section supersedes any restriction that a local jurisdiction in the State imposes on the transfer by a private party of a regulated firearm, and the State preempts the right of any local jurisdiction to regulate the transfer of a regulated firearm.

(b) A dealer or other person may not sell, rent, or transfer a regulated firearm to a purchaser, lessee, or transferee who the dealer or other person knows or has reasonable cause to believe:

(1) is under the age of 21 years;

(2) has been convicted of a disqualifying crime;

(3) has been convicted of a conspiracy to commit a felony;

(4) has been convicted of a violation classified as a common law crime and received a term of imprisonment of more than 2 years;

(5) is a fugitive from justice;

(6) is a habitual drunkard;

(7) is addicted to a controlled dangerous substance or is a habitual user;

(8) suffers from a mental disorder as defined in § 10–101(i)(2) of the Health – General Article, and has a history of violent behavior against the purchaser, lessee, or transferee or another, unless the purchaser, lessee, or transferee possesses a physician's certificate that the recipient is capable of possessing a regulated firearm without undue danger to the purchaser, lessee, or transferee or to another;

(9) has been confined for more than 30 consecutive days to a facility as defined in § 10–101 of the Health – General Article, unless the purchaser, lessee, or transferee possesses a physician's certificate that the recipient is capable of possessing a regulated firearm without undue danger to the purchaser, lessee, or transferee or to another;

(10) is a respondent against whom a current non ex parte civil protective order has been entered under § 4–506 of the Family Law Article;

(11) if under the age of 30 years at the time of the transaction, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult;

(12) is visibly under the influence of alcohol or drugs;

(13) is a participant in a straw purchase; or

(14) subject to subsection (c) of this section for a transaction under this subsection that is made on or after January 1, 2002, has not completed a certified firearms safety training course conducted free of charge by the Police Training Commission or that meets standards established by the Police Training Commission under § 3–207 of this article.

(c) A person is not required to complete a certified firearms safety training course under subsection (b)(14) of this section if the person:

(1) has already completed a certified firearms safety training course required under subsection (b)(14) of this section;

(2) is a law enforcement officer of the State or any local law enforcement agency in the State;

(3) is a member, retired member, or honorably discharged member of the armed forces of the United States or the National Guard;

(4) is a member of an organization that is required by federal law governing its specific business or activity to maintain handguns and applicable ammunition; or

(5) has been issued a permit to carry a handgun under Subtitle 3 of this title.

(d) (1) A person may not sell, rent, or transfer:

(i) ammunition solely designed for a regulated firearm to a person who is under the age of 21 years; or

(ii) 1. a firearm other than a regulated firearm to a minor;

2. ammunition for a firearm to a minor;

3. pepper mace, which is an aerosol propelled combination of highly disabling irritant based products and is also known as oleo–resin capsicum (O.C.) spray, to a minor; or

4. another deadly weapon to a minor.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

§5–135.

A regulated firearm that is sold, rented, transferred, possessed, received, or purchased in violation of this subtitle may be:

(1) seized by a law enforcement agency as contraband; and

(2) after a finding of guilt, disposed of in accordance with Title 13, Subtitle 2 of the Criminal Procedure Article.

§5–136.

(a) (1) This section does not apply to a person who purchases a regulated firearm as a gift if:

(i) the regulated firearm is a gift to a resident of the State; and

(ii) 1. both the purchaser and recipient of the gift comply with the requirements of this subtitle that relate to the possession, sale, rental, receipt, transfer, or purchase of a regulated firearm; or

2. if the gift is in the form of a gift certificate, only the recipient of the gift need comply with the requirements of this subtitle that relate to the possession, sale, rental, receipt, transfer, or purchase of a regulated firearm.

(2) If the regulated firearm is a gift to the purchaser's spouse, parent, grandparent, grandchild, sibling, or child, the recipient shall:

(i) complete an application to purchase or transfer a regulated firearm; and

(ii) forward the application to the Secretary within 5 days after receipt of the regulated firearm.

(3) The Secretary shall waive the $10 application fee required under § 5-118(a)(2) of this subtitle for a gift purchased in accordance with this subsection.

(b) A person may not knowingly or willfully participate in a straw purchase of a regulated firearm.

§5–137.

(a) A person who seeks to own a regulated firearm and purchases the regulated firearm from an out-of-state federally licensed gun importer, manufacturer, or dealer shall:

(1) have the federally licensed importer, manufacturer, or dealer ship the regulated firearm to a licensee for processing; and

(2) comply with §§ 5-103, 5-104, 5-117 through 5-129, and 5-136 of this subtitle.

(b) If a person purchases a regulated firearm for use within the scope of the person's official duties, the Secretary may waive the 7-day waiting period under § 5-124 of this subtitle for:

(1) law enforcement personnel of any unit of the federal government;

(2) members of the armed forces of the United States or the National Guard; or

(3) law enforcement personnel of the State or any local agency in the State.

§5–138.

A person may not possess, sell, transfer, or otherwise dispose of a stolen regulated

firearm if the person knows or has reasonable cause to believe that the regulated firearm has been stolen.

§5–139.

(a) A person may not knowingly give false information or make a material misstatement in a firearm application or in an application for a dealer's license.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

§5–140.

(a) A dealer or other person may not transport a regulated firearm into the State for the purpose of unlawfully selling or trafficking of the regulated firearm.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $25,000 or both.

(c) Each violation of this section is a separate crime.

§5–141.

(a) A dealer or other person may not be a knowing participant in a straw purchase of a regulated firearm to a minor or to a person prohibited by law from possessing a regulated firearm.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $25,000 or both.

(c) Each violation of this section is a separate crime.

§5–142.

(a) A person may not obliterate, remove, change, or alter the manufacturer's identification mark or number on a firearm.

(b) If on trial for a violation of this section possession of the firearm by the defendant is established, the defendant is presumed to have obliterated, removed, changed, or altered the manufacturer's identification mark or number on the firearm.

§5–143.

(a) (1) A person who moves into the State with the intent of becoming a resident shall register all regulated firearms with the Secretary within 90 days after establishing residency.

(2) The Secretary shall prepare and, on request of an applicant, provide an application form for registration under this section.

(b) An application for registration under this section shall contain:

(1) the make, model, manufacturer's serial number, caliber, type, barrel length, finish, and country of origin of each regulated firearm; and

(2) the firearm applicant's name, address, Social Security number, place and date of birth, height, weight, race, eye and hair color, signature, driver's or photographic identification Soundex number, and occupation.

(c) An application for registration filed with the Secretary of State Police shall be accompanied by a nonrefundable total registration fee of $15, regardless of the number of firearms registered.

(d) Registration data provided under this section is not open to public inspection.

§5–144.

(a) Except as otherwise provided in this subtitle, a dealer or other person may not:

(1) knowingly participate in the illegal sale, rental, transfer, purchase, possession, or receipt of a regulated firearm in violation of this subtitle; or

(2) knowingly violate § 5–142 of this subtitle.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $10,000 or both.

(c) Each violation of this section is a separate crime.

§5–145.

(a) (1) A licensed dealer shall keep records of all receipts, sales, and other dispositions of firearms affected in connection with the licensed dealer's business.

(2) The Secretary shall adopt regulations specifying:

(i) subject to paragraph (3) of this subsection, the information that the records shall contain;

(ii) the time period for which the records are to be kept; and

(iii) the form in which the records are to be kept.

(3) The records shall include:

(i) the name and address of each person from whom the dealer acquires a firearm and to whom the dealer sells or otherwise disposes of a firearm;

(ii) a precise description, including make, model, caliber, and serial number of each firearm acquired, sold, or otherwise disposed of; and

(iii) the date of each acquisition, sale, or other disposition.

(4) Records maintained under 18 U.S.C. § 923(g)(1)(a) may be used to satisfy the requirements of this section, if the Secretary is granted access to those records.

(b) (1) When required by a letter issued by the Secretary, a licensee shall submit to the Secretary the information required to be kept under subsection (a) of this section for the time periods specified by the Secretary.

(2) The Secretary shall determine the form and method by which the records shall be maintained.

(c) When a firearms business is discontinued and succeeded by a new licensee, the records required to be kept under this section shall reflect the business discontinuance and succession and shall be delivered to the successor licensee.

(d) (1) A licensee shall respond within 48 hours after receipt of a request from the Secretary for information contained in the records required to be kept under this section when the information is requested in connection with a bona fide criminal investigation.

(2) The information requested under this subsection shall be provided orally or in writing, as required by the Secretary.

(3) The Secretary may implement a system by which a licensee can positively establish that a person requesting information by telephone is authorized by the Secretary to request the information.

(e) The Secretary may make available to a federal, State, or local law enforcement agency any information that the Secretary obtains under this section relating to the identities of persons who have unlawfully purchased or received firearms.

(f) The Secretary:

(1) shall inspect the inventory and records of a licensed dealer at least once every 2 years; and

(2) may inspect the inventory and records at any time during the normal

business hours of the licensed dealer's business.

(g) (1) A person who violates this section is subject to a civil penalty not exceeding $1,000 imposed by the Secretary.

(2) For a second or subsequent offense, a person who knowingly violates this section is guilty of a misdemeanor and is subject to imprisonment not exceeding 3 years or a fine not exceeding $10,000 or both.

(3) The penalties provided in this subsection are not intended to apply to inconsequential or inadvertent errors.

§5–146.

(a) A dealer or any other person who sells or transfers a regulated firearm shall notify the purchaser or recipient of the regulated firearm at the time of purchase or transfer that the purchaser or recipient is required to report a lost or stolen regulated firearm to the local law enforcement agency as required under subsection (b) of this section.

(b) If a regulated firearm is lost or stolen, the owner of the regulated firearm shall report the loss or theft to the local law enforcement agency within 72 hours after the owner first discovers the loss or theft.

(c) On receipt of a report of a lost or stolen regulated firearm, a local law enforcement agency shall report to the Secretary and enter into the National Crime Information Center (NCIC) database, to the extent known, the caliber, make, model, manufacturer, and serial number of the regulated firearm and any other distinguishing number or identification mark on the regulated firearm.

(d) (1) A knowing and willful first–time violation of this section is a civil offense punishable by a fine not exceeding $500.

(2) A person who knowingly and willfully violates this section for a second or subsequent time is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding $500 or both.

(e) The imposition of a civil or criminal penalty under this section does not preclude the pursuit of any other civil remedy or criminal prosecution authorized by law.

§5–201.

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

(b) "Rifle" has the meaning stated in § 4-201 of the Criminal Law Article.

(c) "Short-barreled rifle" has the meaning stated in § 4-201 of the Criminal Law

Article.

(d) "Short-barreled shotgun" has the meaning stated in § 4-201 of the Criminal Law Article.

(e) "Shotgun" has the meaning stated in § 4-201 of the Criminal Law Article.

§5–202.

This subtitle does not apply to a short-barreled rifle or short-barreled shotgun that is:

(1) an antique firearm as defined in § 4-201 of the Criminal Law Article;

(2) a device designed or redesigned for use other than as a weapon;

(3) a device designed or redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; or

(4) a firearm that cannot:

(i) discharge a projectile by an explosive; and

(ii) be readily restored to a firing condition.

§5–203.

(a) A person may not possess a short-barreled rifle or short-barreled shotgun unless:

(1) the person, while on official business is:

(i) a member of the law enforcement personnel of the federal government, the State, or a political subdivision of the State;

(ii) a member of the armed forces of the United States or the National Guard while on duty or traveling to or from duty;

(iii) a member of the law enforcement personnel of another state or a political subdivision of another state, while temporarily in this State;

(iv) a warden or correctional officer of a correctional facility in the State; or

(v) a sheriff or a temporary or full-time deputy sheriff; or

(2) the short-barreled shotgun or short-barreled rifle has been registered with the federal government in accordance with federal law.

(b) In a prosecution under this section, the defendant has the burden of proving the lawful registration of the short-barreled shotgun or short-barreled rifle.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $5,000 or both.

§5–204.

(a) In this section, "adjacent state" means Delaware, Pennsylvania, Virginia, or West Virginia.

(b) If a resident of this State is eligible to purchase a rifle or shotgun under the laws of an adjacent state, the resident may purchase a rifle or shotgun from a federally licensed gun dealer in the adjacent state.

(c) If a resident of an adjacent state is eligible to purchase a rifle or shotgun under the laws of this State, the resident may purchase a rifle or shotgun from a federally licensed gun dealer in this State.

§5–205.

(a) This subtitle does not apply to a rifle or shotgun that is an antique firearm as defined in § 4–201 of the Criminal Law Article.

(b) A person may not possess a rifle or shotgun if the person:

(1) has been convicted of a disqualifying crime as defined in § 5–101 of this title;

(2) has been convicted of a violation classified as a crime under common law and received a term of imprisonment of more than 2 years;

(3) is a fugitive from justice;

(4) is a habitual drunkard as defined in § 5–101 of this title;

(5) is addicted to a controlled dangerous substance or is a habitual user as defined in § 5–101 of this title;

(6) suffers from a mental disorder as defined in § 10–101(i)(2) of the Health – General Article and has a history of violent behavior against the person or another;

(7) has been found incompetent to stand trial under § 3–106 of the Criminal Procedure Article;

(8) has been found not criminally responsible under § 3–110 of the Criminal Procedure Article;

(9) has been voluntarily admitted for more than 30 consecutive days to a facility as defined in § 10–101 of the Health – General Article;

(10) has been involuntarily committed to a facility as defined in § 10–101 of the Health – General Article;

(11) is under the protection of a guardian appointed by a court under § 13–201(c) or § 13–705 of the Estates and Trusts Article, except for cases in which the appointment of a guardian is solely a result of a physical disability;

(12) except as provided in subsection (c) of this section, is a respondent against whom:

(i) a current non ex parte civil protective order has been entered under § 4–506 of the Family Law Article; or

(ii) an order for protection, as defined in § 4–508.1 of the Family Law Article, has been issued by a court of another state or a Native American tribe and is in effect; or

(13) if under the age of 30 years at the time of possession, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult.

(c) This section does not apply to a person transporting a rifle or shotgun if the person is carrying a civil protective order requiring the surrender of the rifle or shotgun and:

(1) the rifle or shotgun is unloaded;

(2) the person has notified the law enforcement unit, barracks, or station that the rifle or shotgun is being transported in accordance with the civil protective order; and

(3) the person transports the rifle or shotgun directly to the law enforcement unit, barracks, or station.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $1,000 or both.

(e) A person who is disqualified from owning a rifle or shotgun under subsection (b)(6), (7), (8), (9), (10), or (11) of this section may seek relief from the disqualification in accordance with § 5–133.3 of this title.

§5–206.

(a) A person may not possess a rifle or shotgun if the person was previously

convicted of:

(1) a crime of violence as defined in § 5–101 of this title;

(2) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–612, § 5–613, or § 5–614 of the Criminal Law Article; or

(3) an offense under the laws of another state or the United States that would constitute one of the crimes listed in item (1) or (2) of this subsection if committed in this State.

(b) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 15 years.

(c) Each violation of this subsection is a separate crime.

§5–301.

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

(b) "Board" means the Handgun Permit Review Board.

(c) "Handgun" has the meaning stated in § 4–201 of the Criminal Law Article.

(d) "Permit" means a permit issued by the Secretary to carry, wear, or transport a handgun.

(e) "Qualified handgun instructor" has the meaning stated in § 5–101 of this title.

(f) "Secretary" means the Secretary of State Police or the Secretary's designee.

§5–302.

(a) There is a Handgun Permit Review Board in the Department of Public Safety and Correctional Services.

(b) The Board consists of five members appointed from the public by the Governor with the advice and consent of the Senate.

(c) (1) The term of a member is 3 years.

(2) The terms of the members are staggered as required by the terms provided for members of the Board on October 1, 2003.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the

rest of the term and until a successor is appointed and qualifies.

(5) A member of the Board is eligible for reappointment.

(d) A member of the Board is entitled to:

(1) compensation in accordance with the State budget for each day that the member actually is engaged in the discharge of the member's official duties; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§5–303.

A person shall have a permit issued under this subtitle before the person carries, wears, or transports a handgun.

§5–304.

(a) An application for a permit shall be made under oath.

(b) (1) Subject to subsections (c) and (d) of this section, the Secretary may charge a nonrefundable fee payable when an application is filed for a permit.

(2) The fee may not exceed:

(i) $75 for an initial application;

(ii) $50 for a renewal or subsequent application; and

(iii) $10 for a duplicate or modified permit.

(3) The fees under this subsection are in addition to the fees authorized under § 5-305 of this subtitle.

(c) The Secretary may reduce the fee under subsection (b) of this section accordingly for a permit that is granted for one day only and at one place only.

(d) The Secretary may not charge a fee under subsection (b) of this section to:

(1) a State, county, or municipal public safety employee who is required to carry, wear, or transport a handgun as a condition of governmental employment; or

(2) a retired law enforcement officer of the State or a county or municipal corporation of the State.

(e) The applicant may pay a fee under this section by a personal check, business check, certified check, or money order.

§5–305.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) Except as provided in subsection (g) of this section, the Secretary shall apply to the Central Repository for a State and national criminal history records check for each applicant for a permit.

(c) As part of the application for a criminal history records check, the Secretary shall submit to the Central Repository:

(1) two complete sets of the applicant's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(2) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records; and

(3) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(d) In accordance with §§ 10–201 through 10–234 of the Criminal Procedure Article, the Central Repository shall forward to the applicant and the Secretary a printed statement of the applicant's criminal history record information.

(e) Information obtained from the Central Repository under this section:

(1) is confidential and may not be disseminated; and

(2) shall be used only for the licensing purpose authorized by this section.

(f) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

(g) For an employee of an armored car company who is an applicant for a permit, the Secretary may accept a criminal background investigation performed on behalf of the armored car company in place of the criminal history records check required by this section if:

(1) the criminal background investigation meets the minimum requirements established by the Department of State Police; and

(2) the Secretary performs a cursory check to verify the facts listed in the criminal background investigation.

§5–306.

(a) Subject to subsection (c) of this section, the Secretary shall issue a permit within a reasonable time to a person who the Secretary finds:

(1) is an adult;

(2) (i) has not been convicted of a felony or of a misdemeanor for which a sentence of imprisonment for more than 1 year has been imposed; or

(ii) if convicted of a crime described in item (i) of this item, has been pardoned or has been granted relief under 18 U.S.C. § 925(c);

(3) has not been convicted of a crime involving the possession, use, or distribution of a controlled dangerous substance;

(4) is not presently an alcoholic, addict, or habitual user of a controlled dangerous substance unless the habitual use of the controlled dangerous substance is under legitimate medical direction;

(5) except as provided in subsection (b) of this section, has successfully completed prior to application and each renewal, a firearms training course approved by the Secretary that includes:

(i) 1. for an initial application, a minimum of 16 hours of instruction by a qualified handgun instructor; or

2. for a renewal application, 8 hours of instruction by a qualified handgun instructor;

(ii) classroom instruction on:

1. State firearm law;

2. home firearm safety; and

3. handgun mechanisms and operation; and

(iii) a firearms qualification component that demonstrates the applicant's proficiency and use of the firearm; and

(6) based on an investigation:

(i) has not exhibited a propensity for violence or instability that may reasonably render the person's possession of a handgun a danger to the person or to another; and

(ii) has good and substantial reason to wear, carry, or transport a handgun, such as a finding that the permit is necessary as a reasonable precaution

against apprehended danger.

(b) An applicant for a permit is not required to complete a certified firearms training course under subsection (a) of this section if the applicant:

(1) is a law enforcement officer or a person who is retired in good standing from service with a law enforcement agency of the United States, the State, or any local law enforcement agency in the State;

(2) is a member, retired member, or honorably discharged member of the armed forces of the United States or the National Guard;

(3) is a qualified handgun instructor; or

(4) has completed a firearms training course approved by the Secretary.

(c) An applicant under the age of 30 years is qualified only if the Secretary finds that the applicant has not been:

(1) committed to a detention, training, or correctional institution for juveniles for longer than 1 year after an adjudication of delinquency by a juvenile court; or

(2) adjudicated delinquent by a juvenile court for:

(i) an act that would be a crime of violence if committed by an adult;

(ii) an act that would be a felony in this State if committed by an adult; or

(iii) an act that would be a misdemeanor in this State that carries a statutory penalty of more than 2 years if committed by an adult.

(d) The Secretary may issue a handgun qualification license, without an additional application or fee, to a person who:

(1) meets the requirements for issuance of a permit under this section; and

(2) does not have a handgun qualification license issued under § 5–117.1 of this title.

§5–307.

(a) A permit is valid for each handgun legally in the possession of the person to whom the permit is issued.

(b) The Secretary may limit the geographic area, circumstances, or times of the day, week, month, or year in which a permit is effective.

§5–308.

A person to whom a permit is issued or renewed shall carry the permit in the person's possession whenever the person carries, wears, or transports a handgun.

§5–309.

(a) A permit expires on the last day of the holder's birth month following 2 years after the date the permit is issued.

(b) A permit may be renewed for successive periods of 3 years each if, at the time of an application for renewal, the applicant possesses the qualifications for the issuance of a permit and pays the renewal fee stated in this subtitle.

§5–310.

(a) The Secretary may revoke a permit on a finding that the holder:

(1) does not meet the qualifications described in § 5-306 of this subtitle; or

(2) violated § 5-308 of this subtitle.

(b) A holder of a permit that is revoked by the Secretary shall return the permit to the Secretary within 10 days after receipt of written notice of the revocation.

§5–311.

(a) A person who is denied a permit or renewal of a permit or whose permit is revoked or limited may request the Secretary to conduct an informal review by filing a written request within 10 days after receipt of written notice of the Secretary's initial action.

(b) An informal review:

(1) may include a personal interview of the person who requested the informal review; and

(2) is not subject to Title 10, Subtitle 2 of the State Government Article.

(c) In an informal review, the Secretary shall sustain, reverse, or modify the initial action taken and notify the person who requested the informal review of the decision in writing within 30 days after receipt of the request for informal review.

(d) A person need not file a request for an informal review under this section before requesting review under § 5-312 of this subtitle.

§5–312.

(a) (1) A person who is denied a permit or renewal of a permit or whose permit

is revoked or limited may request the Board to review the decision of the Secretary by filing a written request with the Board within 10 days after receipt of written notice of the Secretary's final action.

(2) A person whose application for a permit or renewal of a permit is not acted on by the Secretary within 90 days after submitting the application to the Secretary may request a hearing before the Board by filing a written request with the Board.

(b) Within 90 days after receiving a request to review a decision of the Secretary, the Board shall:

(1) review the record developed by the Secretary; or

(2) conduct a hearing.

(c) The Board may receive and consider additional evidence submitted by a party in conducting a review of the decision of the Secretary.

(d) (1) Based on the Board's consideration of the record and any additional evidence, the Board shall sustain, reverse, or modify the decision of the Secretary.

(2) If the action by the Board results in the denial of a permit or renewal of a permit or the revocation or limitation of a permit, the Board shall submit in writing to the applicant or the holder of the permit the reasons for the action taken by the Board.

(e) (1) Any hearing and any subsequent proceedings of judicial review shall be conducted in accordance with Title 10, Subtitle 2 of the State Government Article.

(2) Notwithstanding paragraph (1) of this subsection, a court may not order the issuance or renewal of a permit or alter a limitation on a permit pending a final determination of the proceeding.

§5–313.

(a) A person may not fail to return a revoked permit.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine of not less than $100 or exceeding $1,000 or both.

§5–314.

(a) A person who holds a permit may not wear, carry, or transport a handgun while the person is under the influence of alcohol or drugs.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding

$1,000 or both.

§5–401.

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

(b) "Board" means the Handgun Roster Board.

(c) (1) "Handgun" means a pistol, a revolver, or any other firearm capable of being concealed on the person.

(2) "Handgun" does not include a shotgun, a rifle, a short–barreled rifle, a short–barreled shotgun, or an antique firearm.

(d) "Handgun roster" means the roster of authorized handguns compiled by the Board under § 5–405 of this subtitle.

(e) "Secretary" means the Secretary of State Police or the Secretary's designee.

§5–402.

(a) This subtitle does not affect a person's right to:

(1) manufacture, sell, or offer to sell a rifle or other weapon that is not defined as a handgun in § 4-201 of the Criminal Law Article;

(2) manufacture a prototype handgun model required for design, development, testing, and approval by the Board; and

(3) manufacture in this State a handgun that is not on the handgun roster by a federally licensed gun manufacturer who is also licensed as a regulated firearms dealer in this State for direct sale to a unit of:

(i) the federal government;

(ii) a state other than this State;

(iii) a local government in a state other than this State; or

(iv) a law enforcement agency in a state other than this State.

(b) (1) A person is not strictly liable for damages for injuries to another that result from the criminal use of a firearm by a third person.

(2) Paragraph (1) of this subsection does not apply if the person conspired with the third person to commit the criminal act in which the firearm was used or willfully aided, abetted, or caused the commission of the criminal act in which the firearm was used.

(3) This subtitle does not otherwise negate, limit, or modify the doctrine of negligence or strict liability that relates to abnormally dangerous products or activities and defective products.

§5–403.

The Secretary shall adopt regulations necessary to carry out this subtitle.

§5–404.

(a) There is a Handgun Roster Board in the Department of State Police.

(b) (1) The Board consists of 11 members.

(2) Of the 11 members of the Board:

(i) one shall be the Secretary as an ex officio member;

(ii) ten shall be appointed by the Governor with the advice and consent of the Senate; and

(iii) all shall be Maryland residents.

(3) Of the ten appointed members of the Board:

(i) one shall be a representative of the Association of Chiefs of Police;

(ii) one shall be a representative of the Maryland State's Attorneys' Association;

(iii) one shall be a handgun dealer, gunsmith, or representative of a handgun manufacturer;

(iv) one shall be a resident of the State who is a representative of the National Rifle Association or its affiliated State association;

(v) one shall be a representative of an organization that advocates against handgun violence; and

(vi) five shall be public members, two of whom shall be mechanical or electrical engineers.

(c) The term of an appointed member is 4 years.

(d) The Secretary shall serve as chairman.

(e) The Board shall meet at the request of the chairman or of a majority of the members.

§5–405.

(a) The Board shall:

(1) compile and maintain a handgun roster of authorized handguns that are useful for legitimate sporting, self-protection, or law enforcement purposes;

(2) annually publish the handgun roster in the Maryland Register; and

(3) semiannually send a copy of the handgun roster to all persons who hold a State regulated firearm dealer's license under Subtitle 1 of this title.

(b) The Board shall consider carefully each of the following characteristics of a handgun without placing undue weight on any one characteristic in determining whether any handgun should be placed on the handgun roster:

(1) concealability;

(2) ballistic accuracy;

(3) weight;

(4) quality of materials;

(5) quality of manufacture;

(6) reliability as to safety;

(7) caliber;

(8) detectability by the standard security equipment that is commonly used at an airport or courthouse and that is approved by the Federal Aviation Administration for use at airports in the United States; and

(9) utility for legitimate sporting activities, self-protection, or law enforcement.

(c) (1) The Board may place a handgun on the handgun roster on its own initiative.

(2) The Board shall place a handgun on the handgun roster on the successful petition of any person subject to subsections (d) and (e) of this section, unless a court, after all appeals are exhausted, has made a finding that the decision of the Board shall be affirmed.

(3) A petition to place a handgun on the handgun roster shall be submitted to the Board in writing in the form and manner that the Board requires.

(4) A person who petitions for placement of a handgun on the handgun

roster has the burden of proving to the Board that the handgun should be placed on the handgun roster.

(d) (1) Within 45 days after receipt of a petition to place a handgun on the handgun roster, the Board shall:

(i) deny the petition in writing, stating the reasons for denial; or

(ii) approve the petition and publish a description of the handgun in the Maryland Register, including notice that any objection to the handgun's inclusion on the handgun roster shall be filed with the Board within 30 days.

(2) If the Board fails to deny or approve a petition within the time required under paragraph (1) of this subsection, the petition shall be considered denied.

(e) (1) If the Board denies a petition to place a handgun on the handgun roster, the Board shall notify the petitioner by certified mail, return receipt requested.

(2) The petitioner may request a hearing within 15 days after the date that the Board's denial letter is received.

(3) (i) If the petitioner requests a hearing under paragraph (2) of this subsection, within a reasonable time not to exceed 90 days after receiving the request, the Board shall:

1. hold a hearing on the petition; and

2. issue a written final decision on the petition.

(ii) The Board shall provide notice of the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(iii) At a hearing held under this paragraph, the petitioner has the burden of proving to the Board that the handgun should be placed on the handgun roster because the handgun is useful for legitimate sporting activities, self-protection, or law enforcement purposes.

(4) Any party of record who is aggrieved may appeal within 30 days after a final decision of the Board in accordance with Title 10, Subtitle 2 of the State Government Article.

(f) This section does not require the Board to test any handgun or have any handgun tested at the expense of the Board.

§5–406.

(a) (1) Except as provided in § 5-402 of this subtitle, a person may not manufacture for distribution or sale a handgun that is not included on the handgun

roster in the State.

(2) A person may not sell or offer for sale in the State a handgun manufactured after January 1, 1985, that is not included on the handgun roster.

(3) A person may not manufacture, sell, or offer for sale a handgun on which the manufacturer's identification mark or number is obliterated, removed, changed, or otherwise altered.

(b) The Secretary may seek an order from a circuit court to permanently or temporarily enjoin the willful and continuous manufacture, sale, or offer for sale, in violation of this section, of a handgun that is not included on the handgun roster.

(c) (1) A person who manufactures a handgun for distribution or sale in violation of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $10,000 for each violation.

(2) A person who sells or offers to sell a handgun in violation of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $2,500 for each violation.

(3) For purposes of this subsection, each handgun manufactured, sold, or offered for sale in violation of this subsection is a separate violation.

§5–501.

In this subtitle, "Council" means the Cease Fire Council.

§5–502.

(a) There is a Cease Fire Council in the Governor's Office of Crime Control and Prevention.

(b) (1) The Council consists of 11 members.

(2) Of the 11 members of the Council:

(i) one shall be the Secretary of Juvenile Services or a designee;

(ii) one shall be the Secretary of State Police or a designee;

(iii) one shall be the Secretary of Public Safety and Correctional Services or a designee;

(iv) one shall be the Executive Director of the Governor's Office of Crime Control and Prevention or a designee;

(v) two shall be State's Attorneys who are recommended by the President of the Maryland State's Attorneys' Association, appointed by the Governor;

(vi) one shall be a sheriff, appointed by the Governor;

(vii) one shall represent the Maryland Chiefs of Police Association, appointed by the Governor;

(viii) one shall represent the Maryland Municipal Police Executives Association, appointed by the Governor; and

(ix) two shall represent the public, appointed by the Governor.

(c) (1) The appointed members serve at the pleasure of the Governor.

(2) The term of an appointed member is 3 years.

(3) The terms of the appointed members are staggered as required by the terms provided for appointed members of the Council on October 1, 2003.

(4) At the end of a term, an appointed member continues to serve until a successor is appointed and qualifies.

(d) The Secretary of State Police or the Secretary's designee is the Chairman of the Council.

(e) A member of the Council:

(1) may not receive compensation as a member of the Council; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) (1) The Governor's Office of Crime Control and Prevention shall provide staff support for the Council.

(2) The Assistant Attorney General assigned to the Governor's Office of Crime Control and Prevention is the legal advisor to the Council.

§5–503.

(a) The purpose of the Council is to administer the Cease Fire Council Grant Program to support innovative and collaborative firearms violence reduction initiatives.

(b) The Council shall:

(1) make grants in accordance with § 5-504 of this subtitle;

(2) establish or assist in the establishment of programs designed to reduce the incidence of firearms violence related crime and encourage participation in existing programs with these objectives;

(3) identify specific goals, objectives, and methodologies to be used in support of programs eligible for funding under this subtitle;

(4) identify priorities for firearms violence related crime prevention strategies in the State; and

(5) develop criteria to evaluate the outcomes of programs that receive money under this subtitle.

§5–504.

(a) There is a Cease Fire Council Grant Program.

(b) The Cease Fire Council Grant Program shall be funded as provided in the State budget.

(c) Grants made by the Council shall be used to carry out the purposes of this subtitle.

(d) When making grants, the Council shall consider and give priority to:

(1) comprehensive and coordinated law enforcement and prosecution programs that target criminals and juveniles who use or illegally possess firearms;

(2) law enforcement and prosecution salaries and overtime in support of firearm violence reduction programs;

(3) covert firearms-related investigations and debriefing of criminal and juvenile arrestees and offenders for information related to illegal firearms trafficking;

(4) initiatives that support the tracing of firearms used to commit crimes or delinquent acts and the identification of illegal firearms traffickers;

(5) purchases of technology and information systems to support firearm violence reduction initiatives; and

(6) other efforts that aid in apprehending and prosecuting criminals or apprehending and filing a complaint against juveniles who use or illegally possess firearms.

(e) Expenditures from the Cease Fire Council Grant Program may be made only in accordance with the State budget or by budget amendment.

(f) The Council shall adopt regulations for the grant process and the oversight of grants made by the Council.

§6–101.

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

(b) "Commission" means the State Fire Prevention Commission.

(c) "Department" means the Department of State Police.

(d) "Secretary" means the Secretary of State Police.

§6–201.

There is a State Fire Prevention Commission in the Department.

§6–202.

(a) (1) The Commission consists of nine members.

(2) Of the nine members of the Commission:

(i) one shall be a member of a career fire company;

(ii) three shall be members of volunteer fire companies;

(iii) one shall be an architect or engineer;

(iv) one shall be a building contractor;

(v) two shall be representatives of industry; and

(vi) one shall be a member of the public.

(3) Of the nine members of the Commission:

(i) one shall reside in Western Maryland, which is the region that consists of Allegany, Carroll, Frederick, Garrett, and Washington counties;

(ii) one shall reside in Central Maryland, which is the region that consists of Baltimore, Harford, and Howard counties;

(iii) one shall reside in Southern Maryland, which is the region that consists of Anne Arundel, Calvert, Charles, and St. Mary's counties;

(iv) one shall reside in the Washington Metropolitan Area, which is the region that consists of Montgomery and Prince George's counties;

(v) one shall reside on the Eastern Shore, which is the region that consists of Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester counties; and

(vi) four shall represent the State at large.

(4) The Secretary shall appoint the members with the approval of the

Governor.

(b) Each member shall have experience and training to deal with the matters that are the responsibilities of the Commission.

(c) (1) The term of a member is 5 years.

(2) The terms of members are staggered as required by the terms provided for members of the Commission on October 1, 2003.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member may not serve more than 2 terms.

(d) With the approval of the Governor, the Secretary may remove a member for neglect of duty or other sufficient cause.

§6–203.

(a) The Commission shall elect a chairman and vice chairman from among its members.

(b) If the chairman is absent, the vice chairman shall exercise the powers and perform the duties of the chairman.

§6–204.

(a) (1) A majority of the authorized membership of the Commission is a quorum.

(2) The Commission may not do business unless:

(i) there is a quorum; and

(ii) either the chairman or vice chairman is present.

(b) The Commission shall meet:

(1) at least once every 2 months; and

(2) when called by the chairman or the Secretary.

(c) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§6–205.

(a) The Commission may make recommendations to the Secretary about the daily operations of the office of State Fire Marshal, including recommendations about budget and personnel matters, but the Commission does not have direct line authority over the administration of the office of State Fire Marshal.

(b) The Commission may issue subpoenas and administer oaths in connection with any public hearing held under this title.

(c) On or before September 30 of each year, the Commission shall transmit to the Governor and the Secretary an annual report of the Commission's activities.

(d) At least once each year, the Commission shall promote and conduct seminars, conferences, workshops, and meetings to inform the public and fire fighting personnel of the latest techniques in:

(1) fire prevention programs and procedures;

(2) life safety measures;

(3) changes in the State Fire Prevention Code; and

(4) development of improved fire safety goals.

§6–206.

(a) (1) (i) To protect life and property from the hazards of fire and explosion, the Commission shall adopt comprehensive regulations as a State Fire Prevention Code.

(ii) The State Fire Prevention Code shall comply with standard safe practice as embodied in widely recognized standards of good practice for fire prevention and fire protection.

(iii) The State Fire Prevention Code has the force and effect of law in the political subdivisions of the State.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the regulations adopted under this subsection do not apply to existing installations, plants, or equipment.

(ii) If the Commission determines that an installation, plant, or equipment is a hazard so inimicable to the public safety as to require correction, the regulations adopted under this subsection apply to the installation, plant, or

equipment.

(b) (1) The Commission shall adopt regulations to establish and administer a fee schedule for:

(i) reviewing building plans to ensure compliance with the State Fire Prevention Code; and

(ii) conducting inspections in accordance with Subtitle 3 of this title.

(2) The Commission shall review the fee schedule annually to ensure that the money collected at least covers the costs of administering plan review and conducting inspections.

(3) This subsection does not limit the authority of a local authority to establish a fee schedule for plan review and inspections conducted by the local authority.

(c) (1) Before adopting a regulation, the Commission shall hold at least one public hearing on the proposed regulation.

(2) (i) The Commission shall publish notice of the hearing at least 15 days before the hearing in a newspaper of general circulation in the State.

(ii) At the same time, the Commission shall send a copy of the notice to each person who has filed a request for notification with the Commission.

(iii) The notice shall contain the time, place, and subject of the hearing and the place and times to examine the proposed regulation.

(d) (1) The State Fire Prevention Code establishes the minimum requirements to protect life and property from the hazards of fire and explosion.

(2) If a State or local law or regulation is more stringent than the State Fire Prevention Code, the more stringent law or regulation governs if the more stringent law or regulation is:

(i) not inconsistent with the State Fire Prevention Code; and

(ii) not contrary to recognized standards and good engineering practices.

(3) If there is a question whether a State or local law or regulation governs, the decision of the Commission determines:

(i) which law or regulation governs; and

(ii) whether State and local officials have complied with the State Fire Prevention Code.

(e) The Commission shall make available for public information a copy of the State Fire Prevention Code, and any amendments to the State Fire Prevention Code, in each county courthouse in the State.

§6–207.

The exercise of all powers and authority and the performance of all duties and functions vested in the Commission under this article are subject to the powers and authority of the Secretary set forth in Title 2 of this article or elsewhere in State law.

§6–301.

There is an office of State Fire Marshal in the Department.

§6–302.

(a) The Secretary shall appoint a State Fire Marshal from a list of three names submitted by the Commission.

(b) The State Fire Marshal shall:

(1) be a graduate of an accredited college or university; and

(2) have 5 years of recent progressively responsible experience, at least 3 years of which shall have been at the administrative level, in fire prevention inspection, fire investigation, fire safety promotion, fire protection engineering, fire fighting, or teaching fire safety engineering.

(c) The State Fire Marshal serves for a term of 6 years.

(d) The State Fire Marshal is in the executive service of the State Personnel Management System.

(e) (1) At any time, the Secretary may remove the State Fire Marshal for neglect of duty or other conduct unbecoming the office.

(2) The Commission may recommend to the Secretary that the State Fire Marshal be removed for cause.

(3) (i) Before removing the State Fire Marshal, the Secretary shall give the State Fire Marshal:

1. timely notice with a statement of the charges; and

2. an opportunity for a public hearing on the charges.

(ii) The State Fire Marshal may be represented at the hearing by counsel.

(f) The State Fire Marshal is entitled to the salary provided in the State budget.

§6–303.

(a) The State Fire Marshal may employ a staff in accordance with the State budget.

(b) (1) The full time investigative and inspection assistants in the office shall be known as deputy State fire marshals.

(2) Deputy State fire marshals shall meet the minimum qualifications and complete the training required by the Police Training Commission for a police officer.

(3) The qualification and training requirements of paragraph (2) of this subsection do not apply to the fire inspectors and fire investigators of the political subdivisions of the State.

(c) (1) The State Fire Marshal may designate civilian employees to conduct inspections and submit reports as necessary.

(2) The minimum qualifications for a civilian employee shall be completion of the National Fire Protection Association Standard 1031.

§6–304.

(a) (1) A county or municipal corporation of the State may designate a fire marshal or appropriate fire official to serve as assistant State fire marshal to carry out this title, including issuing orders, in that county or municipal corporation.

(2) An assistant State fire marshal may not receive compensation from the State.

(3) The State Fire Marshal shall carry out this title in a county or municipal corporation that has not designated an assistant State fire marshal.

(b) (1) An assistant State fire marshal shall have at least completed National Fire Protection Association (NFPA) Standard 1031 - Fire Inspector I, or the equivalent, as determined by the State Fire Marshal.

(2) The State Fire Marshal may administer an examination based on NFPA Standard 1031 before designating an individual as an assistant State fire marshal.

(c) (1) The State Fire Marshal may designate as a special assistant State fire marshal:

(i) a law enforcement officer involved in arson investigations;

(ii) any other suitable individual who meets the standards

established under this section; or

(iii) on the advice of an assistant State fire marshal, a member of a fire department if:

1. the designee is a full-time employee of the fire department;

2. the designee performs fire inspections or fire investigations for the fire department; and

3. the fire department is organized and operates in the State.

(2) A special assistant State fire marshal serves at the pleasure of the State Fire Marshal.

(3) A special assistant State fire marshal may not receive compensation from the State.

(4) Each special assistant State fire marshal shall assist the State Fire Marshal in carrying out the duties of the State Fire Marshal under this title.

(d) The Commission may remove an assistant or special assistant State fire marshal for just cause by a majority decision:

(1) on the recommendation of the State Fire Marshal; and

(2) after an administrative hearing.

§6–305.

(a) The State Fire Marshal shall enforce:

(1) all laws of the State that relate to:

(i) the prevention of fire;

(ii) the storage, sale, and use of explosives, combustibles, or other dangerous articles, in solid, liquid, or gaseous form;

(iii) the installation and maintenance of all kinds of equipment intended to control, detect, or extinguish fire;

(iv) the means and adequacy of exit, in case of fire, from buildings and all other places in which individuals work, live, or congregate, except buildings that are used solely as dwelling houses for no more than two families; and

(v) the suppression of arson; and

(2) the regulations adopted by the Commission under Subtitle 2 of this

title.

(b) By delegation of authority vested in the Commission and within policy established by the Commission, the State Fire Marshal shall implement fire safety programs in the State to minimize fire hazards and disasters and loss of life and property from these causes, including:

(1) the establishment and enforcement of fire safety practices throughout the State;

(2) preventive inspection and correction activities;

(3) coordination of fire safety programs with volunteer and career fire companies and other State agencies and political subdivisions exercising enforcement aspects; and

(4) critical analysis and evaluation of State fire loss statistics to determine problems and solutions.

(c) On request, the State Fire Marshal shall assist in fire prevention matters:

(1) a chief of a fire company or department;

(2) a legally designated fire marshal of a county or municipal corporation; or

(3) a unit or agency of the State or a county or municipal corporation.

(d) (1) The State Fire Marshal, assistant State fire marshals, and special assistant State fire marshals shall develop for each property owned or leased by the State:

(i) fire safety procedures, including fire drills at least quarterly; and

(ii) emergency evacuation procedures.

(2) Information about fire safety and emergency evacuation procedures shall be available to all State employees on request.

(3) The State Fire Marshal shall require the State unit exercising control over the property owned or leased by the State to keep records of fire drills or other exercises that relate to fire safety and emergency evacuation procedures conducted in the property.

(e) The State Fire Marshal may issue permits and licenses as required under this article.

(f) On request, the State Fire Marshal may assist police and fire authorities to dispose of hazardous devices and substances.

§6–306.

(a) (1) Subject to Title 10, Subtitle 2 of the Criminal Procedure Article, a fire department or rescue squad of the State or a political subdivision of the State, a volunteer fire company or rescue squad, or an ambulance service licensed under § 13-515 of the Education Article may request the State Fire Marshal or other authorized agency that has access to the Criminal Justice Information System Central Repository in the Department of Public Safety and Correctional Services to conduct an initial criminal history records check on an applicant for employment or appointment as a volunteer or career firefighter, rescue squad member, or paramedic.

(2) The request shall be made on the form required by the State Fire Marshal.

(b) (1) An applicant for employment or appointment as a volunteer or career firefighter, rescue squad member, or paramedic shall provide a classifiable set of fingerprints in accordance with paragraphs (2) and (3) of this subsection:

(i) for submission to the Criminal Justice Information System Central Repository for a criminal history records check; and

(ii) for forwarding to the Federal Bureau of Investigation for a national criminal history records check.

(2) The applicant shall provide the fingerprints on a form approved by the Director of the Criminal Justice Information System Central Repository.

(3) (i) On request of the State Fire Marshal or an appropriate authority designated by rule of the State Fire Marshal, the applicant shall provide the fingerprints to the State Fire Marshal or the designated authority.

(ii) In a jurisdiction that has designated an assistant State fire marshal, on request of the assistant State fire marshal an applicant in the jurisdiction shall provide the fingerprints to the assistant State fire marshal.

(c) A fire department or rescue squad operated by the State or a political subdivision of the State or a volunteer fire company or rescue squad may obtain conviction and arrest records produced by a criminal history records check based on a classifiable set of fingerprints.

(d) A volunteer or career fire company or rescue squad may consider the existence of a criminal conviction in determining whether to employ or appoint an applicant.

§6–307.

(a) (1) The State Fire Marshal shall inspect for fire exits and reasonable safety standards:

(i) all institutions owned by the State or a county or municipal corporation; and

(ii) all schools, theaters, churches, and other places of public assembly.

(2) The State Fire Marshal shall report the findings of an inspection and any recommendations to the individual in charge of the institution or other place that was inspected.

(b) (1) This subsection does not apply to a building or premises actually occupied as a private dwelling.

(2) The State Fire Marshal may enter a building or premises within the jurisdiction of the State Fire Marshal at reasonable hours to conduct an inspection that the State Fire Marshal considers necessary under this subtitle.

(c) An individual, including an employee of the State Fire Marshal, may not give prior notice of an inspection authorized under this subtitle without the written approval of the State Fire Marshal or designee of the State Fire Marshal.

(d) (1) Subject to regulations adopted by the Commission, whenever the State Fire Marshal or designee of the State Fire Marshal inspects a place of employment, a representative of the employer and an authorized employee representative shall be given an opportunity to accompany the State Fire Marshal or designee during the inspection.

(2) If there is no authorized employee representative, the State Fire Marshal or designee shall consult with a reasonable number of employees about matters of safety and health in the place of employment.

(e) (1) In this subsection, "trade secret" means a confidential formula, pattern, device, or compilation of information that:

(i) is used in an employer's business;

(ii) gives the employer an opportunity to obtain an advantage over competitors who do not know or use the information; and

(iii) is known only to the employer and those employees to whom it is necessary to confide the information.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, any information reported to or otherwise obtained by the State Fire Marshal or designee of the State Fire Marshal in connection with an inspection or proceeding under this subtitle that contains or might reveal a trade secret is confidential.

(ii) Information described in subparagraph (i) of this paragraph may

be disclosed only:

1. to other officers or employees responsible for carrying out this subtitle; or

2. if relevant in a proceeding under this subtitle.

(3) In a proceeding under this subtitle, the State Fire Marshal, designee of the State Fire Marshal, or a court of competent jurisdiction, as applicable, shall issue appropriate orders to protect the confidentiality of a trade secret.

§6–308.

(a) (1) Except as provided in paragraph (2) of this subsection, the State Fire Marshal shall collect the fees established by the Commission under § 6-206 of this title for conducting inspections.

(2) The State Fire Marshal may not collect a fee for inspecting property that is owned by:

(i) the State or a county or municipal corporation; or

(ii) a government-affiliated or volunteer fire, rescue, or emergency medical services entity.

(b) (1) (i) In this subsection, "plan review" means the review of all construction drawings and specifications for commercial and residential construction.

(ii) "Plan review" includes the review of site, architectural, mechanical, electrical, sprinkler, fire alarm, and special extinguishing systems drawings and specifications.

(2) This subsection does not apply to:

(i) construction of one- and two-family dwellings; or

(ii) construction for which plan review is conducted by the local authority.

(3) The State Fire Marshal shall collect the fees established by the Commission under § 6-206 of this title for reviewing building plans to ensure compliance with the State Fire Prevention Code.

(4) The fee for plan review shall be submitted with the plans.

(c) The State Fire Marshal shall:

(1) keep records of all fees collected under this section; and

(2) pay the money collected under this section into the General Fund.

§6–309.

(a) At any time, the State Fire Marshal may investigate the origin or circumstances of a fire or explosion or an attempt to cause a fire or explosion that occurs in the State.

(b) At any time, the State Fire Marshal:

(1) may enter into and examine a building or premises where a fire is burning or where a fire or attempt to cause a fire has occurred;

(2) may enter into a building or premises adjacent to a building or premises where a fire or attempt to cause a fire has occurred; and

(3) may take full control and custody of the building or premises and place an individual that the State Fire Marshal considers proper in charge of the building or premises, until the examination and investigation of the State Fire Marshal is completed.

§6–310.

(a) (1) The State Fire Marshal may:

(i) take the testimony under oath of any person suspected to know or to have the means to know any facts that relate to the matter that is the subject of the inspection or investigation; and

(ii) cause the testimony to be reduced to writing.

(2) The State Fire Marshal shall transmit a copy of the testimony taken under paragraph (1) of this subsection to the State's Attorney for the county where the fire or explosion or attempt to cause a fire or explosion occurred.

(b) The State Fire Marshal may:

(1) issue subpoenas requiring the attendance of witnesses to testify in relation to any matter that is the subject of an investigation by the State Fire Marshal under this subtitle;

(2) issue subpoenas requiring the production of documents that relate to any matter that is the subject of an investigation by the State Fire Marshal under this subtitle; and

(3) administer oaths to witnesses.

(c) A person who testifies falsely under oath in a matter or proceeding of the State Fire Marshal under this subtitle is guilty of perjury and on conviction is subject

to the penalties for perjury.

§6–311.

(a) If in the judgment of the State Fire Marshal testimony taken under oath discloses that a fire or explosion or an attempt to cause a fire or explosion was of incendiary origin or was related to a destructive device, as defined in § 4-501 of the Criminal Law Article, the State Fire Marshal may arrest the suspected incendiary or cause the suspected incendiary to be arrested and charged.

(b) If on investigation the State Fire Marshal has probable cause to believe that a person has committed or has attempted to commit a crime that involves a fire, fire bombing, or false alarm, or that involves the possession or manufacture of destructive devices or explosive substances, fireworks, or fire bombs, the State Fire Marshal may arrest that person or cause the person to be arrested and charged.

§6–312.

(a) At the request of the governing body of a county or municipal corporation of the State, the State Fire Marshal shall make a written report of the investigation of a fire that occurred within that county or municipal corporation.

(b) At the request of the owner or insurer of property destroyed or damaged by fire or explosion, or in which an attempt to cause a fire or explosion may have occurred, the State Fire Marshal shall make a written report of the result of the investigation regarding the property.

§6–313.

(a) On determining that a chimney contributed to causing a fire, the State Fire Marshal or the local authority with jurisdiction over fire investigations shall file with the State Fire Marshal a report that identifies the chimney as:

(1) a lined, masonry chimney;

(2) an unlined, masonry chimney; or

(3) a prefabricated, metal chimney.

(b) The State Fire Marshal shall establish and maintain a repository of reports filed in accordance with subsection (a) of this section.

§6–314.

(a) Within 10 days after the adjustment of a loss from a fire in excess of $5,000 damage sustained by an insurer doing business in the State, the insurer shall report to the State Fire Marshal, on a form provided by the State Fire Marshal, the information that the State Fire Marshal considers necessary.

(b) The report required under subsection (a) of this section is in addition to any information required by the Insurance Commissioner.

§6–315.

(a) The State Fire Marshal, a designee of the State Fire Marshal, a full-time fire investigator who is a member of a fire department, or a police officer may apply to a judge of the District Court or a circuit court for an administrative search warrant to enter a vehicle, building, or premises where a fire has occurred to conduct a search to determine the cause and origin of the fire.

(b) An application under subsection (a) of this section shall:

(1) be in writing;

(2) be signed and sworn to by the applicant; and

(3) particularly describe the vehicle, building, or premises to be searched and the nature, scope, and purpose of the search to be performed by the applicant.

(c) A judge of the District Court or a circuit court may issue the warrant on finding that:

(1) a fire of undetermined origin has occurred;

(2) the scope of the proposed search is reasonable and will not intrude unnecessarily on the fire victim's privacy;

(3) the search will be executed at a reasonable and convenient time; and

(4) the owner, tenant, or other individual in charge of the property has denied access to the property, or after making a reasonable effort, the applicant has been unable to locate any of these individuals.

(d) (1) An administrative search warrant issued under this section shall specify the vehicle, building, or premises to be searched.

(2) The search conducted may not exceed the limits specified in the warrant.

(e) An administrative search warrant issued under this section shall be executed and returned to the judge who issued it within:

(1) the time specified in the warrant, not exceeding 30 days; or

(2) if no time period is specified in the warrant, 15 days after its issuance.

§6–316.

(a) The State Fire Marshal, a designee of the State Fire Marshal, or a full-time fire prevention inspector who is employed by a fire department may apply to a judge of the District Court or a circuit court for an administrative search warrant to enter a building or premises to conduct a fire prevention inspection.

(b) An application under subsection (a) of this section shall:

(1) be in writing;

(2) be signed and sworn to by the applicant; and

(3) particularly describe the building or premises to be searched and the nature, scope, and purpose of the search to be performed by the applicant.

(c) A judge of the District Court or a circuit court may issue the warrant on finding that:

(1) the applicant is authorized or required by law to make the inspection;

(2) the applicant has demonstrated that the inspection of the premises is sought as a result of:

(i) evidence of an existing violation of this article that relates to fire safety, the State Fire Prevention Code, or a local fire prevention code, if applicable; or

(ii) a general and neutral administrative plan to conduct fire prevention inspections;

(3) the owner, tenant, or other individual in charge of the property has denied access to the property, or after making a reasonable effort, the applicant has been unable to locate any of these individuals; and

(4) the inspection is sought for safety related purposes.

(d) (1) An administrative search warrant issued under this section shall specify the building or premises to be searched.

(2) The inspection conducted may not exceed the limits specified in the warrant.

(e) An administrative search warrant issued under this section shall be executed and returned to the judge who issued it within:

(1) the time specified in the warrant, not exceeding 30 days; or

(2) if no time period is specified in the warrant, 15 days after its issuance.

(f) Information obtained in accordance with an administrative search warrant under this section is confidential and may not be disclosed except:

(1) to the extent used in an administrative or judicial proceeding that arises out of a violation that relates to the purpose for which the warrant was issued and within the scope of the warrant; or

(2) to an owner or occupant of the building or premises.

§6–317.

(a) A person may not erect, construct, reconstruct, alter, maintain, or use a building, structure, or equipment or use land:

(1) in a way that endangers life or property due to the hazards of fire or explosion; or

(2) in violation of any regulation adopted by the Commission under § 6-206 of this title.

(b) Each day on which a violation of this section continues after knowledge or official notice of the violation is a separate offense.

§6–318.

(a) The State Fire Marshal may issue a reasonable abatement order if the State Fire Marshal:

(1) determines that a building or structure has been constructed, altered, or repaired in a manner that violates a regulation adopted by the Commission before the construction, alteration, or repairs began;

(2) determines that a building or structure:

(i) is a fire hazard because of disrepair, age, dilapidated or abandoned condition, or for any other reason; and

(ii) endangers other buildings and property; or

(3) finds in a building or on premises a combustible, flammable, or explosive substance or material, or other condition dangerous to the safety of individuals who occupy the building or premises and adjacent premises or property.

(b) An abatement order under this section shall:

(1) be in writing;

(2) be directed to the owner or occupant of the building, structure, or premises; and

(3) contain a notice that:

(i) compliance with the order is required within the time specified in the notice; and

(ii) any person aggrieved by the order may file an appeal from the order in accordance with Subtitle 5 of this title.

(c) The abatement order may order:

(1) the repair or demolition of the building or structure or the removal of the combustible, flammable, or explosive substance or material; and

(2) the remedying of any condition found to be in violation of a regulation adopted by the Commission or to be dangerous to the safety of individuals or property.

§6–319.

(a) An abatement order directed to the occupant of the premises shall be served within 5 days after the order is issued:

(1) by delivering a true copy of the order to the occupant or to an adult who is apparently in charge of the premises; or

(2) if no occupant or adult is found on the premises:

(i) by posting a true copy of the order in a conspicuous place on the door or other prominent entrance to the premises; and

(ii) 1. by mailing a copy of the order by certified mail, return receipt requested, to the occupant at the occupant's last known address; or

2. if the address of the occupant is not known, by mailing a copy of the order by certified mail, return receipt requested, to the occupant in care of general delivery at the post office that serves the community where the premises are located.

(b) An abatement order directed to the owner of the premises shall be served within 5 days after the order is issued:

(1) by delivering a true copy of the order to the owner; or

(2) if the owner is absent from the State or the owner's whereabouts are unknown to the State Fire Marshal:

(i) by posting a true copy of the order in a conspicuous place on the door or other prominent entrance to the premises; and

(ii) 1. by mailing a copy of the order by certified mail, return

receipt requested, to the owner at the owner's last known address; or

2. if the address of the owner is not known, by mailing a copy of the order by certified mail, return receipt requested, to the owner in care of general delivery at the post office that serves the community where the premises are located.

§6–320.

(a) If an owner or occupant of a building, structure, or premises who is served with a copy of an abatement order in accordance with § 6-319 of this subtitle fails to comply with the order within 30 days after the order is issued, or within 30 days after a court's affirmation of the order becomes final, the State Fire Marshal:

(1) may enter the building, structure, or premises affected by the order; and

(2) at the expense of the owner or occupant, may cause:

(i) the building, structure, or premises to be repaired or demolished;

(ii) the combustible, flammable, or explosive materials to be removed; and

(iii) the dangerous conditions to be remedied.

(b) If the owner or occupant fails to reimburse the State Fire Marshal for the expenses incurred by the State Fire Marshal under subsection (a) of this section within 30 days after written demand is mailed to the owner or occupant at the owner's or occupant's last known address, the State Fire Marshal may sue in the name of the State to recover the expenses, with interest, in a court of competent jurisdiction.

(c) (1) If the owner or occupant fails to comply with the abatement order after the period of time specified in subsection (a) of this section, the governing body of a county or municipal corporation may cooperate with the State Fire Marshal in repairing, demolishing, or otherwise remedying dangerous conditions in a building or structure in the county or municipal corporation.

(2) A lien shall attach to the property on which the building or structure stood in the amount of the expense of the work done by the county or municipal corporation.

§6–321.

If a building, structure, or equipment is or is proposed to be erected, constructed, reconstructed, altered, maintained, or used, or if land is or is proposed to be used in a way that endangers life or property due to the hazards of fire or explosion or in violation of this article or of any regulation adopted by the Commission under this article, the Commission, State Fire Marshal, or Attorney General may, in addition to

other remedies provided by law, file an action for injunction, mandamus, or abatement or any other appropriate action to prevent, enjoin, abate, or remove the unlawful erection, construction, reconstruction, alteration, maintenance, or use.

§6–322.

The exercise of all powers and authority and the performance of all duties and functions vested in the State Fire Marshal under this article are subject to the powers and authority of the Secretary set forth in Title 2 of this article or elsewhere in State law.

§6–401.

The powers, duties, and jurisdiction conferred by this article on the Commission and the State Fire Marshal, and any code, regulation, or practice adopted by them under the authority of this article, apply in Baltimore City only to:

(1) properties owned or operated by the State;

(2) hospitals, nursing homes, and similar institutions that require State licensure; and

(3) the licensing of fire sprinkler contractors.

§6–402.

On request of the chief of the Baltimore City Fire Department, the Commission and State Fire Marshal shall provide any assistance necessary to:

(1) enforce fire prevention regulations in Baltimore City; and

(2) investigate the cause or origin of a fire in Baltimore City.

§6–403.

The Baltimore City Fire Department shall report to the appropriate agency any noncompliance with the fire prevention code or regulations of Baltimore City or the fire prevention requirements of the State or federal government:

(1) on property that is owned by the State; and

(2) in a hospital, nursing home, institution, or school that is licensed by the State or that receives any money from the State or federal government.

§6–501.

An appeal to the Commission may be taken by:

(1) a person who is aggrieved by an order or decision of the State Fire

Marshal made in the administration or enforcement of this article; or

(2) an officer, unit, or agency of the State or a political subdivision of the State that is affected by an order or decision of the State Fire Marshal made in the administration or enforcement of this article.

§6–502.

The time within which an appeal under § 6-501 of this subtitle must be taken, and the effect, form, and other procedures that relate to the appeal, shall be as specified in regulations adopted by the Commission.

§6–503.

A party who is aggrieved by a final decision of the Commission is entitled to judicial review of the decision as provided in Title 10, Subtitle 2 of the State Government Article.

§6–601.

(a) A person may not knowingly violate this title or a regulation adopted by the Commission.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 days or a fine not exceeding $1,000 or both.

§6–602.

(a) A person may not willfully interfere with or obstruct the State Fire Marshal, a deputy State fire marshal, or a special assistant State fire marshal while the State Fire Marshal, deputy State fire marshal, or special assistant State fire marshal:

(1) is fighting a fire, performing emergency service, or proceeding to a fire or other emergency; or

(2) is dispatched on a call for emergency service.

(b) A person may not willfully interfere with or obstruct the State Fire Marshal, a deputy State fire marshal, or a special assistant State fire marshal in the course of conducting an inspection or investigating a fire or explosion.

(c) A person may not, with fraudulent design on person or property, falsely represent that the person is a State fire marshal or a sworn employee of the office of State Fire Marshal.

(d) A person may not have, use, wear, or display without proper authority, for the purpose of deception, a uniform, shield, button, ornament, identification, or

shoulder patch, or a simulation or imitation of these articles, adopted by the office of State Fire Marshal.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years.

§7–101.

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

(b) "Fire, rescue, or emergency medical services entity" means:

(1) a governmental subdivision, by its appropriate designated authority;

(2) a board or fire commission of a fire department or governmental subdivision;

(3) a fire department;

(4) a fire company;

(5) a rescue squad; or

(6) an emergency medical services unit, including an entity that provides emergency medical services at any level.

(c) (1) "Mutual aid agreement" means an agreement to establish and carry out a plan to assist in extinguishing fires and preserving life and property by providing fire fighting, rescue, or emergency medical equipment, personnel, and services.

(2) "Mutual aid agreement" includes a reciprocal agreement entered into in accordance with former Article 38A, § 37 of the Code before July 1, 1989.

§7–102.

This subtitle shall be liberally construed in order to effect its purpose to provide mutual aid for a fire, rescue, or emergency medical services entity in time of need.

§7–103.

(a) A fire, rescue, or emergency medical services entity may enter into and renew a mutual aid agreement in accordance with this section with:

(1) Delaware;

(2) the District of Columbia;

(3) Pennsylvania;

(4) Virginia;

(5) West Virginia; or

(6) a fire, rescue, or emergency medical services entity of this State, Delaware, the District of Columbia, Pennsylvania, Virginia, or West Virginia.

(b) (1) Subject to paragraph (2) of this subsection, a mutual aid agreement may provide that a party that requests assistance under the mutual aid agreement indemnifies and holds harmless a party that provides assistance under the mutual aid agreement from any claim by a third party for property damage or personal injury that arises out of the mutual aid activities, including travel, of the party that provides assistance that occurs outside its own jurisdiction.

(2) The party that requests assistance need not indemnify the party that provides assistance if:

(i) the party that provides assistance does not cooperate in defending against a claim made by a third party; or

(ii) the claim by a third party arises out of a malicious act of the party that provides assistance.

(c) Each mutual aid agreement shall provide that each party to the mutual aid agreement shall waive any and all claims against all other parties to the mutual aid agreement if the claim arises out of the activities of a party outside its own jurisdiction under the mutual aid agreement.

§7–104.

(a) A fire, rescue, or emergency medical services entity may enter into an agreement with the federal government in accordance with this section to provide fire fighting or rescue activities on property under the jurisdiction of the United States.

(b) An agreement entered into under this section shall be limited to the provision of fire fighting or rescue equipment and personnel or both.

(c) An agreement entered into under this section shall include:

(1) a waiver by each party of any claim against any other party for compensation for any loss, damage, personal injury, or death that occurs in the performance of the agreement;

(2) a provision to indemnify and hold harmless each party to the agreement from any claim by a third party for property damage or personal injury, within the limitations permitted by federal law, that arise out of the activities of each party to the agreement; and

(3) a provision that entitles the fire, rescue, or emergency medical services entity to obtain reimbursement from the appropriate federal authority for all or part of the cost of providing fire protection on property under the jurisdiction of the United States in accordance with federal law.

(d) If an individual engaging in an activity authorized under this section sustains an injury that arises out of the activity, the individual is entitled to any or all benefits available under the Maryland Workers' Compensation Act as the primary remedy for reimbursement of expenses for medical bills, loss of earnings, and disability that arises under or as a result of this section.

§7–105.

(a) Each fire department in the State may have members trained in response measures that involve fire and other emergency techniques including, if approved by the Secretary of State Police, the use of helicopters or other equipment of the Department of State Police.

(b) On request of a fire chief at any location in the State, a firefighter or member of the Department of State Police who has been trained in the response measures described in subsection (a) of this section may function at that location.

§7–106.

For purposes of a workers' compensation or other law or benefit that would accrue to an individual, career or volunteer, who is performing a service anywhere for a fire, rescue, or emergency medical services entity under a mutual aid agreement, the individual is considered to have performed that service in the course of employment and in the line of duty.

§7–107.

Necessary expenditures for purposes of this subtitle shall be made out of any appropriations usually available to a fire, rescue, or emergency medical services entity.

§7–201.

In Part I of this subtitle, "Board" means the Board of Trustees of the Maryland State Firemen's Association.

§7–202.

(a) (1) A member of a volunteer fire company or volunteer rescue squad is eligible for disability benefits from the Maryland State Firemen's Association if:

(i) the member's fire company or rescue squad recommends that the member receive benefits; and

(ii) the member is permanently or temporarily disabled:

1. as a direct result of actively participating in fighting a fire;

2. while going to or from a fire;

3. while performing other duties necessary to the operation or maintenance of the fire company;

4. while actively participating in the emergency medical services unit, or rescue work of a volunteer advanced life support unit or a volunteer fire, ambulance, or rescue company located in the State; or

5. while providing emergency or rescue assistance, whether acting alone or at the direction of or with a fire, ambulance, or rescue company or advanced life support unit.

(2) A benefit under this section shall be paid:

(i) regardless of the district in which the beneficiary was disabled; or

(ii) regardless of whether the beneficiary was disabled in this State, Delaware, the District of Columbia, Pennsylvania, Virginia, or West Virginia.

(b) The Board shall pay a benefit under this section from the treasury of the Maryland State Firemen's Association in the amount and in the manner that the Board determines until the beneficiary is no longer disabled.

(c) The secretary of the Board shall add the name of each beneficiary under this section to the Disabled Firemen's and Rescue Squadmen's List.

§7–203.

(a) (1) The Board shall pay death benefits under this section if a member of a volunteer fire company or member of a volunteer rescue squad dies:

(i) as a direct result of actively participating in fighting a fire;

(ii) while going to or from a fire;

(iii) while performing other duties necessary to the operation or maintenance of the fire company;

(iv) while actively participating in the ambulance, advanced life support, or rescue work of a volunteer advanced life support unit or volunteer fire, ambulance, or rescue company located in the State; or

(v) while providing emergency or rescue assistance, whether acting

alone or at the direction of or with a fire, ambulance, or rescue company or advanced life support unit.

(2) A benefit under this subsection shall be paid:

(i) regardless of the district in which the decedent died; or

(ii) regardless of whether the decedent died in this State, Delaware, the District of Columbia, Pennsylvania, Virginia, or West Virginia.

(b) (1) The Board shall pay a benefit under this section from the treasury of the Maryland State Firemen's Association in the amount that the Board determines, but not less than $2,000.

(2) The Board shall pay a benefit under this subsection:

(i) to the decedent's surviving spouse or dependent child;

(ii) if no individual is eligible under item (i) of this paragraph, to the decedent's surviving dependent parent;

(iii) if no individual is eligible under item (i) or (ii) of this paragraph, to each surviving child of the decedent in equal shares;

(iv) if no individual is eligible under item (i), (ii), or (iii) of this paragraph, to the decedent's surviving parent; or

(v) if no individual is eligible under item (i), (ii), (iii), or (iv) of this paragraph, to each surviving sister, brother, or grandparent of the decedent in equal shares.

(c) (1) If there is a surviving spouse or dependent child:

(i) until the surviving spouse remarries, the surviving spouse is entitled to receive a pension from the Maryland State Firemen's Association; and

(ii) until the dependent child becomes an adult, each dependent child is entitled to receive a pension from the Maryland State Firemen's Association.

(2) The Board shall pay a benefit under this subsection from the treasury of the Maryland State Firemen's Association in the amount, at the times, and in the installments that the Board determines.

(3) The secretary of the Board shall add the name of each beneficiary under this subsection to the Disabled Firemen's and Rescue Squadmen's List.

§7–204.

(a) The Governor shall include in the State budget each year at least $55,000:

(1) for the purposes set forth in §§ 7-202 and 7-203 of this subtitle; and

(2) for scholarships for children of members of volunteer fire companies or volunteer rescue squads who are killed or disabled in the line of duty, as provided in § 18-602 of the Education Article.

(b) The Board:

(1) shall administer the money provided under subsection (a) of this section; and

(2) may not use it for administrative costs.

§7–205.

A member of a volunteer fire company or rescue squad who is engaged in a fire fighting or rescue activity with an organized fire or rescue company is considered to be on duty during the activity for the purposes of the Federal Public Safety Officers' Benefits Act of 1976.

§7–208.

In Calvert County, the fire and rescue commission shall administer a length of service award program for members of volunteer fire companies and rescue squads, as provided in Title 14 of the Code of Public Local Laws of Calvert County.

§7–209.

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

(2) "Board" means the Board of County Commissioners of Cecil County.

(3) "Program" means the Volunteer Length of Service Award Program.

(b) In Cecil County, the Board may establish and fund a Volunteer Length of Service Award Program for qualified members of volunteer fire departments, rescue squads, and ambulance corps.

(c) (1) The Board may adopt bylaws for the Program by resolution.

(2) In the bylaws, the Board may:

(i) define terms;

(ii) establish eligibility requirements for certification procedures based on length of service, number of hours of service, amount of training, number of hours of training, prior service, or any other criteria considered relevant by the Board based on requirements and procedures recommended by the Cecil County Fireman's Association;

(iii) establish appeals procedures for members who contest eligibility requirement determinations by the Board;

(iv) establish a benefits schedule and determine eligibility requirements, including age and length of service requirements;

(v) delegate record–keeping responsibilities of the Program to the Program administrative committee of the Cecil County Fireman's Association;

(vi) delegate administration of the Program to the Cecil County treasurer, a committee or board, an insurer, a financial institution, or any other agency, group, or organization that the Board determines is competent to administer the Program;

(vii) subject to paragraph (3) of this subsection, establish disability, death, and survivor benefits for qualified individuals;

(viii) establish any other requirements, criteria, or benefits considered by the Board to be in the best interest of Cecil County and the best interest of the volunteer fire departments, rescue squads, and ambulance corps;

(ix) subject to paragraph (4) of this subsection, allocate from the general revenue of Cecil County or from any other source, funds for the Program; and

(x) establish any other provision for the administration of the Program.

(3) A surviving spouse benefit is discontinued when the survivor remarries.

(4) Funds for the Program allocated from the general revenue of Cecil County may not exceed:

(i) $35,000 during the first year of the Program;

(ii) $39,000 during the second year of the Program;

(iii) $44,000 during the third year of the Program;

(iv) $49,000 during the fourth year of the Program;

(v) $55,000 during the fifth year of the Program; and

(vi) an additional $10,000 for each additional year of the Program or whatever amount would make the Program actuarially sound by July 1, 2014.

(d) To carry out this section, the Board shall adopt the following provisions as part of the Program:

(1) a member who has certified credit volunteer service on or after January 1, 1979 or who discontinued active volunteer service before January 1, 1979 may receive credit for this service after being certified in accordance with this section to have performed 5 years of active volunteer service after January 1, 1979;

(2) a member who has completed 25 years of certified volunteer service and is under the age of 60 years may be qualified and will be eligible for benefits when the member reaches the age of 60 years if the member is certified to the 25 years of qualified service before January 1, 1984;

(3) after January 1, 1984, and on or before June 30, 2008, a member who accumulates the proper number of points needed to qualify and certify for 25 years of service and who fails to remain active or maintain membership in a volunteer fire company is not disqualified or otherwise restricted from receiving benefits at the age of 60 years; and

(4) on or after July 1, 2008, a member who accumulates the proper number of points needed to qualify and certify for 25 years of service may receive benefits at the age of 55 years.

§7–210.

In Charles County, the County Commissioners shall administer the length of service award program for members of volunteer fire companies, rescue squads, and mobile intensive care units, as provided in §§ 54-8 through 54-11 of the Code of Public Local Laws of Charles County.

§7–211.

(a) To encourage volunteer service in Frederick County, the governing body of Frederick County may enact a monetary service award plan based on length of service for members of volunteer fire companies in Frederick County.

(b) The governing body of Frederick County may implement the plan by enacting an ordinance that relates to the provisions and implementation of the plan.

§7–212.

The Board of County Commissioners of St. Mary's County may:

(1) establish a length of service award program for qualified members of volunteer fire departments and rescue squads; and

(2) adopt bylaws for the program by resolution.

§7–212.1.

By resolution or ordinance, the Board of County Commissioners for Somerset

County may establish and fund a volunteer service award program for qualified members of volunteer fire departments, ambulance companies, and rescue squads.

§7–213.

By resolution or ordinance, the Washington County Commissioners may establish and fund a volunteer length of service award program for qualified members of volunteer fire departments, rescue squads, and ambulance corps.

§7–301.

In this subtitle, "commanding officer" means the captain, chief, or other officer in charge of a fire company or ambulance company.

§7–302.

(a) This section applies only to Baltimore County, Cecil County, Dorchester County, and Queen Anne's County.

(b) The sheriff of a county subject to this section may appoint as deputy sheriffs members of fire companies, whether volunteer, career, incorporated, or unincorporated, to exercise the powers of deputy sheriffs at fires and while going to and from fires.

(c) (1) The commanding officer may designate three members of the fire company to be appointed as deputy sheriffs.

(2) The commanding officer may be one of the three members designated under this subsection.

(d) (1) The sheriff of a county subject to this section shall appoint as deputy sheriff a member of the fire company designated under subsection (c) of this section on request of the designated member.

(2) A request for appointment shall be accompanied by a written certificate of designation signed by the commanding officer.

(e) (1) Except as provided in paragraph (2) of this subsection, a member of a fire company appointed as deputy sheriff under this section may exercise the powers of deputy sheriffs at fires and while going to and from fires.

(2) The powers of members appointed as deputy sheriffs do not apply and may not be exercised in a municipal corporation that maintains an organized police force.

(f) (1) The appointment of a member of a fire company as deputy sheriff terminates if the member ceases to be a member of the fire company.

(2) The sheriff of a county subject to this section may remove a member

appointed as deputy sheriff at any time for just cause.

(3) If a member appointed as deputy sheriff dies, resigns, is dismissed, refuses to serve, or is unable to serve, the commanding officer may designate another member of the fire company to be appointed as deputy sheriff.

(4) If the commanding officer designates another member of the fire company to be appointed as deputy sheriff, the sheriff of the county shall appoint that member as deputy sheriff, subject to subsections (d) and (e) of this section.

§7–303.

(a) (1) This section applies only to Allegany County, Caroline County, Carroll County, Cecil County, Dorchester County, Frederick County, Harford County, Kent County, Somerset County, Talbot County, Wicomico County, and Worcester County.

(2) Except as modified by this section, the provisions of § 7–302 of this subtitle apply to this section.

(b) (1) Except as provided in paragraph (2) of this subsection, the commanding officer may designate 12 members of a fire company to be appointed as deputy sheriffs.

(2) In Cecil County and Harford County, the commanding officer may designate 20 members of a fire company to be appointed as deputy sheriffs.

(c) (1) The sheriff of a county subject to this section may require a member of a fire company appointed as deputy sheriff to demonstrate a satisfactory level of training in those areas of law enforcement commensurate with the duties of deputy sheriff described in this section.

(2) If the sheriff requires demonstration of a satisfactory level of training, then the sheriff must provide the training, at a time and place that the sheriff considers suitable.

(d) (1) The powers of members of fire companies appointed as deputy sheriffs under this section are limited to those necessary to perform the duties of deputy sheriffs while functioning at:

(i) parades;

(ii) accidents;

(iii) floods;

(iv) other emergencies; or

(v) public events conducted by or under the auspices of a fire

company or the sheriff's department.

(2) The powers authorized under this subsection may be exercised:

(i) in a municipal corporation, subject to the discretion and control of the chief of the police force of the municipal corporation;

(ii) in other areas of the county; and

(iii) on State roads, subject to the discretion and control of the Department of State Police.

(3) A member appointed as deputy sheriff is deemed to be performing the duties of deputy sheriff when on duty and wearing a badge of authority.

(4) A member appointed as deputy sheriff may not use a weapon in the performance of duties authorized under this subsection.

(5) In Allegany County, Caroline County, Carroll County, Frederick County, Harford County, and Talbot County, a member appointed as deputy sheriff may also perform traffic control for public functions held by a municipal corporation, group, or committee on request for and approval of the services by the sheriff.

(e) (1) (i) A member appointed as deputy sheriff performing the duties of deputy sheriff in an emergency situation to which a fire company or ambulance company has been dispatched by the Allegany County Emergency Management Center in Allegany County, the Frederick County Central Alarm Board in Frederick County, or the Carroll County Emergency Operations Center in Carroll County, is subject to the authority of the commanding officer of that fire company or ambulance company.

(ii) If a member appointed as deputy sheriff is not a member in good standing of the fire company or ambulance company that has been dispatched, then the member may not perform the duties described in this section.

(2) A member appointed as deputy sheriff performing the duties of deputy sheriff at a public event conducted by or under the auspices of a fire company or ambulance company is subject to the authority of the commanding officer of that fire company or ambulance company.

§7–304.

(a) In this section, "fire and ambulance company" means a volunteer, career, incorporated, or unincorporated fire or ambulance company.

(b) This section applies only to Washington County.

(c) (1) (i) The commanding officer may designate to the Sheriff of Washington County up to 20 individuals who are members of the commanding officer's

fire or ambulance company to be appointed as fire police in Washington County.

(ii) A written certificate of designation signed by the commanding officer shall accompany each request for appointment under subparagraph (i) of this paragraph.

(2) The Sheriff of Washington County shall appoint individuals to serve as fire police in Washington County from those members designated by the commanding officer under paragraph (1) of this subsection.

(d) (1) The powers of individuals serving as fire police in Washington County are limited to traffic control and scene safety while functioning at:

(i) parades;

(ii) accidents;

(iii) fires;

(iv) floods;

(v) other emergencies; or

(vi) public events conducted by a fire or ambulance company or the Sheriff's department.

(2) The powers authorized under this subsection may be exercised:

(i) in a municipal corporation in Washington County, subject to the discretion, and control of the chief of the police force of the municipal corporation; or

(ii) in other areas of Washington County.

(3) An individual appointed to serve as fire police in Washington County may not use a weapon in the performance of duties authorized under this subsection.

(e) (1) The appointment of a member of a fire or ambulance company as fire police in Washington County terminates if the member ceases to be a member of the fire or ambulance company.

(2) The Sheriff of Washington County may remove a member appointed as fire police at any time.

(3) If a member appointed to serve as fire police in Washington County dies, resigns, is dismissed, refuses to serve, or is unable to serve, the commanding officer may designate another member of the fire or ambulance company to be appointed as fire police.

(f) An individual appointed to serve as fire police in Washington County under

this section is deemed an appointed official and shall be treated as an appointed official for purposes of Title 22 and Title 23 of the State Personnel and Pensions Article.

§7–401.

(a) This section does not apply to nonemergency transportation or ambulance billing services performed by an ambulance service or by any other provider.

(b) A county or municipal corporation that bargains collectively with fire, emergency medical services, paramedic, and rescue personnel may not contract with a for-profit entity to provide the county's or municipal corporation's complete fire suppression or ambulance and rescue services without the enactment of an ordinance or other local law that authorizes the action.

(c) The requirement that a county or municipal corporation enact an ordinance or other local law under subsection (b) of this section may not be satisfied through the enactment of a local budget bill.

§7–402.

(a) A person may not willfully interfere with or obstruct a firefighter, a rescue squad member, or emergency services personnel while the firefighter, rescue squad member, or emergency services personnel:

(1) is fighting a fire, performing emergency services, or proceeding to a fire or other emergency; or

(2) is dispatched on a call for emergency services.

(b) A person may not, with fraudulent design on person or property, falsely represent that the person is a member of a career or volunteer fire department, rescue squad, or emergency services unit of the State or a county or municipal corporation of the State.

(c) A person may not have, use, wear, or display without proper authority, for the purpose of deception, a uniform, shield, button, ornament, identification, or shoulder patch, or a simulation or imitation of these articles, adopted by a career or volunteer fire department, rescue squad, or emergency services unit.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years.

§7–403.

If no public water source is available to a fire company to supply water to extinguish a fire or mitigate an emergency incident, a fire company may enter private property to obtain water from a private water source, such as a privately owned pond, lake, river, stream, canal, cistern, or swimming pool, to extinguish the fire or

otherwise mitigate the emergency incident.

§8–101.

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

(b) (1) "Administrative costs" means any costs that are for administrative functions, including:

(i) billing and collection expenses;

(ii) promotion and marketing expenses;

(iii) taxes, fees, and assessments;

(iv) legal expenses; and

(v) other general and administrative costs as determined by the Director.

(2) "Administrative costs" does not include:

(i) accounting and financial reporting expenses, including the costs of auditing the Fund in accordance with § 8–104 of this subtitle; or

(ii) computer software, if used exclusively for fire protection, rescue, and ambulance services.

(c) "Bank account" means a checking or savings account that is maintained in a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation.

(d) "Capital equipment" means any equipment item or furnishing that has:

(1) a useful life greater than 1 year; and

(2) a procurement cost of at least $10,000 per unit.

(e) "Capital expenditure" means revenues appropriated for:

(1) the acquisition of land, buildings, or capital equipment; or

(2) new construction.

(f) (1) "Computer software" means any program that is used to cause a computer to perform a specific task or set of tasks.

(2) "Computer software" includes:

(i) system and application programs; and

(ii) database storage and management programs.

(g) "Director" means the Director of the Maryland Emergency Management Agency.

(h) "Encumber" means to create a legal obligation that requires a portion of an appropriation to be reserved to pay money in the future.

(i) (1) "Expenditures for fire protection" means:

(i) revenues appropriated or to be appropriated by a county for fire protection, rescue, and ambulance services; and

(ii) the proceeds of any county bonds used to finance facilities that house equipment for fire protection, rescue, and ambulance services.

(2) "Expenditures for fire protection" includes:

(i) revenues appropriated by a county to volunteer fire, rescue, and ambulance companies;

(ii) accounting and financial reporting expenses, including the costs of auditing the Fund in accordance with § 8–104 of this subtitle; and

(iii) the costs of training personnel.

(3) "Expenditures for fire protection" does not include:

(i) salaries, workers' compensation, fringe benefits, or other personnel costs;

(ii) administrative costs;

(iii) capital expenditures; or

(iv) in Carroll County, appropriations for loans to a volunteer fire, rescue, or ambulance company, secured by mortgages, notes, or other evidence of indebtedness of the volunteer fire, rescue, or ambulance company, if the appropriations derive from the proceeds of bonds used to finance facilities that house equipment for fire protection, rescue, and ambulance services.

(j) "Fund" means the Senator William H. Amoss Fire, Rescue, and Ambulance Fund.

(k) "Legal obligation" includes:

(1) a purchase order;

(2) a written agreement for the purchase of goods and services;

(3) a written agreement between a county and a volunteer fire, rescue, or ambulance company; and

(4) a written agreement between a county and a vendor.

(l) (1) "Qualified municipal corporation" means a municipal corporation in the State whose expenditures for fire protection from municipal sources exceed $25,000.

(2) "Qualified municipal corporation" does not include Baltimore City.

(m) "Rehabilitate", with regard to a facility, does not include purchasing office equipment or incurring administrative expenses.

(n) "Routine maintenance costs" means expenditures for activities that are:

(1) normally established by a manufacturer or an industry trade association;

(2) planned and performed at regular intervals; and

(3) necessary to extend the useful life or to prevent the premature failure of building components or equipment.

§8–102. IN EFFECT

(a) There is a Senator William H. Amoss Fire, Rescue, and Ambulance Fund.

(b) The purposes of the Fund are to promote:

(1) the delivery of effective and high quality fire protection, rescue, and ambulance services in the State;

(2) increased financial support for fire, rescue, and ambulance companies by counties; and

(3) the continued financial viability of volunteer fire, rescue, and ambulance companies given the greatly increased costs of equipment.

(c) (1) The Director shall administer the Fund.

(2) Subject to paragraph (3) of this subsection, the Director may adopt procedures to carry out this subtitle, including additional auditing and reporting requirements.

(3) The Director may not impose training or operational requirements as a precondition to receipt of money, except as otherwise expressly provided in this subtitle.

(d) The Fund consists of:

(1) money appropriated in the State budget to the Fund; and

(2) revenue distributed to the Fund under § 16–609 of the Business Regulation Article.

(e) (1) As authorized by the Director, the Treasurer shall make payments out of the Fund to each county on warrant of the Comptroller.

(2) The Treasurer shall make the payments required under this subsection to the appropriate county on or about November 15.

(f) (1) State money provided under this section may only be used to:

(i) acquire or rehabilitate fire or rescue equipment, including ambulances;

(ii) acquire or rehabilitate capital equipment used in connection with fire or rescue equipment;

(iii) rehabilitate facilities used primarily to house fire fighting equipment, ambulances, and rescue vehicles;

(iv) install life safety and fire protection systems at a fire, a rescue, or an ambulance facility;

(v) acquire land that is adjacent to an existing fire, rescue, or ambulance facility for the purpose of rehabilitating that facility;

(vi) acquire wireless telecommunications devices, computers, and related computer equipment if used exclusively for fire protection, rescue, and ambulance services; and

(vii) acquire machinery and equipment if used exclusively for fire protection, rescue, and ambulance services.

(2) State money provided under this section may not be used:

(i) for administrative costs;

(ii) for compensation or fringe benefits to employees or members of county governments, or fire, rescue, or ambulance companies;

(iii) for travel or meal expenses;

(iv) for fuel, utility, or routine maintenance costs of facilities or equipment;

(v) to acquire new or replacement fire hydrants or water mains;

(vi) for insurance;

(vii) for fund–raising activities;

(viii) to replace or repair eligible items to the extent that insurance proceeds are available;

(ix) for costs associated with the "9–1–1" emergency telephone system; or

(x) for land or interests in land, except as provided in paragraph (1)(v) of this subsection.

8–102. ** CONTINGENCY – NOT IN EFFECT – CHAPTER 497 OF 2007 **

(a) There is a Senator William H. Amoss Fire, Rescue, and Ambulance Fund.

(b) The purposes of the Fund are to promote:

(1) the delivery of effective and high quality fire protection, rescue, and ambulance services in the State;

(2) increased financial support for fire, rescue, and ambulance companies by counties; and

(3) the continued financial viability of volunteer fire, rescue, and ambulance companies given the greatly increased costs of equipment.

(c) (1) The Director shall administer the Fund.

(2) Subject to paragraph (3) of this subsection, the Director may adopt procedures to carry out this subtitle, including additional auditing and reporting requirements.

(3) The Director may not impose training or operational requirements as a precondition to receipt of money, except as otherwise expressly provided in this subtitle.

(d) The Fund consists of money appropriated in the State budget to the Fund.

(e) (1) As authorized by the Director, the Treasurer shall make payments out of the Fund to each county on warrant of the Comptroller.

(2) The Treasurer shall make the payments required under this subsection to the appropriate county on or about November 15.

(f) (1) State money provided under this section may only be used to:

(i) acquire or rehabilitate fire or rescue equipment, including ambulances;

(ii) acquire or rehabilitate capital equipment used in connection with fire or rescue equipment;

(iii) rehabilitate facilities used primarily to house fire fighting equipment, ambulances, and rescue vehicles;

(iv) install life safety and fire protection systems at a fire, a rescue, or an ambulance facility;

(v) acquire land that is adjacent to an existing fire, rescue, or ambulance facility for the purpose of rehabilitating that facility;

(vi) acquire wireless telecommunications devices, computers, and related computer equipment if used exclusively for fire protection, rescue, and ambulance services; and

(vii) acquire machinery and equipment if used exclusively for fire protection, rescue, and ambulance services.

(2) State money provided under this section may not be used:

(i) for administrative costs;

(ii) for compensation or fringe benefits to employees or members of county governments, or fire, rescue, or ambulance companies;

(iii) for travel or meal expenses;

(iv) for fuel, utility, or routine maintenance costs of facilities or equipment;

(v) to acquire new or replacement fire hydrants or water mains;

(vi) for insurance;

(vii) for fund–raising activities;

(viii) to replace or repair eligible items to the extent that insurance proceeds are available;

(ix) for costs associated with the "9–1–1" emergency telephone system; or

(x) for land or interests in land, except as provided in paragraph (1)(v) of this subsection.

§8–103.

(a) Subject to subsection (c) of this section, each county shall receive an initial allocation of money based on a percentage to be determined in the following manner:

(1) the Director of Assessments and Taxation shall certify to the Director each county's total percentage of land use property tax accounts, including vacant unimproved properties, relative to the statewide total of all land use property tax accounts for the first completed fiscal year immediately preceding the fiscal year for which money is to be allocated;

(2) except as provided in item (3) of this subsection, the percentage determined in item (1) of this subsection shall then be applied for each county to any amount included in the State budget for the purposes of this subtitle; and

(3) each county shall receive an allocation of at least 2% of the total Fund as appropriated in the State budget, in addition to the amount that is distributed to fire, rescue, and ambulance companies, departments, or stations located in qualified municipal corporations in accordance with subsection (c) of this section.

(b) (1) In accordance with the formula provided in paragraph (2) of this subsection, each county shall distribute a minimum percentage of funds that the county receives from the Fund to volunteer fire, rescue, and ambulance companies.

(2) The percentage of funds required to be distributed by each county under paragraph (1) of this subsection shall be equal to the same total percentage of funds distributed by each county to volunteer fire, rescue, and ambulance companies from the Fund in fiscal year 2011 or at least 51% of the allocation received by each county under subsection (a) of this section, whichever is greater.

(3) Each county shall distribute the money provided under this subsection on the basis of need, as determined by the county, to volunteer fire, rescue, and ambulance companies.

(4) In determining need under this subsection, the county shall consider:

(i) the failure to meet minimum standards established by the county or the Maryland State Firemen's Association;

(ii) the existence or potential existence of an emergency situation as described in § 8–203 of this title;

(iii) the age and condition of existing facilities and equipment;

(iv) the lack of availability of mutual aid;

(v) any service problems associated with demographic conditions;

(vi) a company's inability to raise money to pay for an item; and

(vii) any other relevant factors.

(5) This subsection does not apply to:

(i) Baltimore City; or

(ii) distributions made to fire, rescue, and ambulance companies, departments, or stations located in qualified municipal corporations in accordance with subsection (c) of this section.

(c) (1) Subject to paragraph (6) of this subsection, each county shall distribute the money provided under this subtitle on the basis of need to fire, rescue, and ambulance companies, departments, or stations in the county, including companies, departments, or stations:

(i) located in municipal corporations; or

(ii) located outside the State if the company, department, or station:

1. has been a member of the Maryland State Firemen's Association for at least the past 10 years; and

2. has a first due response area in the State.

(2) Each county shall determine need in accordance with procedures that the county uses to adopt its budget.

(3) In determining need under this subsection, the county shall consider:

(i) the failure to meet minimum standards established by the county or the Maryland State Firemen's Association;

(ii) the existence or potential existence of an emergency situation as described in § 8–203 of this title;

(iii) the age and condition of existing facilities and equipment;

(iv) the lack of availability of mutual aid;

(v) any service problems associated with demographic conditions; and

(vi) any other relevant factors.

(4) In addition to consideration of the factors in paragraph (3) of this subsection, for a volunteer company the county shall consider the company's inability to raise money to pay for the item.

(5) Notwithstanding paragraphs (3) and (4) of this subsection, each county shall give the highest funding priority to the failure to meet minimum standards or the existence of an emergency situation as described in § 8–203 of this title.

(6) (i) In this paragraph, "expenditures of the qualified municipal corporation" includes revenues appropriated to volunteer fire, rescue, and ambulance companies.

(ii) Distribution of money to fire, rescue, and ambulance companies, departments, or stations located in qualified municipal corporations in a county in the aggregate may not be less than 50% of the proportion that the expenditures of the qualified municipal corporation bear to total aggregate expenditures for fire protection in that county.

(iii) A county shall distribute the money allocated under this paragraph to fire, rescue, and ambulance companies, departments, or stations located in qualified municipalities.

(7) (i) To receive money under this subsection, each county shall participate in the Maryland Fire Incident Reporting System and Ambulance Information System.

(ii) A county shall be deemed in compliance with subparagraph (i) of this paragraph if the county has participated in the Maryland Fire Incident Reporting System and Ambulance Information System during the immediately preceding fiscal year for which money is to be allocated.

(iii) The State Fire Marshal shall:

1. adopt policies and procedures for determining if a county has participated in the Maryland Fire Incident Reporting System; and

2. certify to the Director by July 1 of each year whether a county has participated in the Maryland Fire Incident Reporting System during the immediately preceding fiscal year.

(iv) The Executive Director of the Maryland Institute for Emergency Medical Services Systems shall:

1. adopt policies and procedures for determining if a county has participated in the Ambulance Information System; and

2. certify to the Director by July 1 of each year whether a county has participated in the Ambulance Information System during the immediately preceding fiscal year.

§8–104.

(a) (1) (i) The money distributed under this subtitle shall be used by each county for the purposes listed in § 8–102(f)(1) of this subtitle as an addition to and may not be substituted for any money appropriated from sources other than the Fund.

(ii) In each fiscal year, each county shall make expenditures for fire protection from sources other than the Fund in an amount that is at least equal to the average amount of the expenditures for fire protection during the 3 preceding fiscal years.

(2) (i) If a county does not comply with the requirements of paragraph (1) of this subsection, the Director may withhold money allocated to the county for the fiscal year that begins after the submission of the report required under § 8–105 of this subtitle.

(ii) The penalty imposed under subparagraph (i) of this paragraph shall be equal to the percentage by which the county failed to meet the county's maintenance of effort under paragraph (1)(ii) of this subsection.

(3) (i) The Director shall automatically withhold money allocated to a county from the Fund if:

1. the county fails to comply with the requirements of paragraph (1) of this subsection for two consecutive fiscal years; and

2. no waiver has been granted by the Board of Public Works or the General Assembly in accordance with subsection (d) of this section.

(ii) The penalty imposed under subparagraph (i) of this paragraph shall be equal to the percentage by which the county failed to meet the county's maintenance of effort for the second consecutive fiscal year under paragraph (1)(ii) of this subsection.

(b) (1) Each county shall make expenditures for fire protection from its own sources that are at least equal to the amount of State money to be received.

(2) A county may receive less than the amount initially allocated.

(3) In determining the amount of expenditures for fire protection made by a county, before certification, the Director shall review the financial information of the county for the first completed fiscal year before the fiscal year for which State money is appropriated.

(4) Money received from the Volunteer Company Assistance Fund under § 8–203 of this title or other State money may not be used as the match required under this subsection.

(c) (1) Money not distributed to a county because the requirements of subsections (a) and (b) of this section are not satisfied shall be distributed to the counties that meet the requirements of subsections (a) and (b) of this section in accordance with this subsection.

(2) (i) Subject to subparagraph (ii) of this paragraph, each county that meets the requirements of subsections (a) and (b) of this section shall receive an allocation of the money distributed under paragraph (1) of this subsection based on a percentage to be determined in accordance with § 8–103(a) of this subtitle.

(ii) For purposes of determining the percentage allocated to each county under this subsection, the property tax accounts of each county that fails to satisfy the requirements of subsection (a) or (b) of this section shall be excluded from the statewide total.

(3) Each county shall distribute money provided under this subsection in accordance with § 8–103(c) of this subtitle.

(d) (1) The maintenance of effort requirement in subsection (a)(1)(ii) of this section does not apply to a county if the county requests and is granted a waiver from the requirement based on a determination that the county's fiscal condition significantly impedes the county's ability to fund the maintenance of effort requirement.

(2) (i) In order to qualify for a waiver for a fiscal year, a county shall:

1. seek a waiver from the General Assembly by legislation during the legislative session preceding the fiscal year in which the penalty for failing to comply with the maintenance of effort requirement is to be imposed; or

2. make a request for a waiver to the Board of Public Works by June 30 of the fiscal year preceding the fiscal year in which the penalty for failing to comply with the maintenance of effort requirement is to be imposed.

(ii) The Director shall provide a preliminary assessment of a waiver request to the Board of Public Works.

(3) When considering whether to grant a county's waiver request, the Board of Public Works shall consider the following factors:

(i) external environmental factors such as a loss of a major employer or industry affecting the county or a broad economic downturn affecting more than one county;

(ii) the county's tax base;

(iii) the county's maintenance of effort requirement relative to the county's statutory ability to raise revenues;

(iv) the county's history of exceeding the required maintenance of effort amount under subsection (a)(1)(ii) of this section;

(v) significant reductions in State aid to the county and municipalities of the county for the fiscal year for which a waiver is requested or new costs imposed on the county or municipalities of the county due to a change in State law, regulation, or policy; and

(vi) the number of waivers the county has received in the past 5 years.

(4) The Board of Public Works shall inform the county whether the waiver for a fiscal year is approved or denied in whole or part no later than 60 days after receipt of an application or August 30 of the fiscal year in which the waiver is requested, whichever is later.

(5) If a county is granted a waiver from the maintenance of effort provision in subsection (a)(1)(ii) of this section by either the Board of Public Works or the General Assembly for any fiscal year, the maintenance of effort calculation for the next fiscal year shall be calculated based on the three most recent fiscal years in which the county met the maintenance of effort requirement.

(6) (i) If a county is granted a waiver from the maintenance of effort calculation in subsection (a)(1)(ii) of this section by either the Board of Public Works or the General Assembly for 5 consecutive fiscal years, the county may request a waiver from the Board of Public Works to rebase the maintenance of effort calculation.

(ii) The Board of Public Works shall establish policies and procedures for:

1. requesting a waiver to rebase the maintenance of effort calculation; and

2. determining whether to grant a waiver to rebase the maintenance of effort calculation.

(iii) If a waiver to rebase the maintenance of effort calculation under this paragraph is granted, the maintenance of effort calculation shall be rebased to the average amount of expenditures for fire protection from sources other than the Fund during the 3 preceding fiscal years.

(7) A waiver granted by either the Board of Public Works or the General Assembly may not relieve a county of the requirement under subsection (b)(1) of this section.

(e) (1) The money distributed under this subtitle and allocated to a county shall be:

(i) audited in accordance with the procedures for accounting and

auditing of other governmental revenues; or

(ii) accounted for in a format developed by the Director.

(2) Money not expended by the county by the end of a fiscal year shall be placed in a special fund for expenditure in the next succeeding fiscal year.

(3) (i) Money distributed under this subtitle that remains unencumbered or unexpended by the county after the second fiscal year shall be repaid to the Director for deposit in the Fund.

(ii) The Comptroller may set off any shared revenues due to a county instead of repayment under this subsection.

(4) A volunteer fire, rescue, or ambulance company may not enter into a legal obligation to encumber money received under this subtitle with a duration of more than 2 years without prior approval from the county.

(5) (i) If a written agreement between a county and a volunteer fire, rescue, or ambulance company to encumber money becomes null and void, the money shall be placed in a special fund for expenditure by the county in the next succeeding fiscal year.

(ii) Money distributed under this paragraph that remains unencumbered or unexpended by the county after the second fiscal year shall be repaid to the Director for deposit in the Fund.

(iii) The Comptroller may set off any shared revenues due to a county instead of repayment under this paragraph.

(6) If a volunteer fire, rescue, or ambulance company creates a legal obligation to encumber money received from the Fund, the Director shall consider the legal obligation to be an encumbrance of the county for purposes of this subtitle.

(7) (i) Money distributed under this subtitle to be expended by a volunteer or municipal fire, rescue, or ambulance company shall be:

1. maintained in a separate bank account; and

2. except as provided in subparagraph (ii) of this paragraph, audited in the same manner as other money of the volunteer or municipal company is audited.

(ii) Money distributed under this subtitle to a volunteer or municipal fire, rescue, or ambulance company may be accounted for in a format developed by the Director.

(iii) Copies of the audit of the separate bank account shall be

submitted to the respective county government and to the Maryland Emergency Management Agency.

(8) (i) A county or municipality may hold money distributed under this subtitle to a fire, rescue, or ambulance company in the county or municipality's bank account.

(ii) Money held by a county or municipality under subparagraph (i) of this paragraph may be maintained in a bank account with other county or municipal funds.

(iii) Money held by a county or municipality under subparagraph (i) of this paragraph shall be:

1. audited in accordance with the procedures for accounting and auditing of other governmental revenues; or

2. accounted for in a format developed by the Director.

§8–105.

(a) (1) On or before December 31 of each year, each county shall submit to the Director a report for the preceding fiscal year in the format provided by the Director.

(2) The report required under paragraph (1) of this subsection shall include:

(i) the amount of money distributed to each recipient and the purpose of expenditure of this money categorized as provided in § 8–102(f)(1) of this subtitle;

(ii) the amount and disposition of any unencumbered or unexpended money;

(iii) the amount of expenditures for fire protection by the county, including the amount of money distributed to volunteer fire, rescue, and ambulance companies from sources other than the Fund; and

(iv) the nature and estimated dollar amount of any in–kind contributions made by the county to volunteer fire, rescue, and ambulance companies.

(3) Each county shall provide a copy of the report required under paragraph (1) of this subsection, subject to § 2–1246 of the State Government Article, to the Department of Legislative Services.

(b) (1) Each year the Director shall report to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly on the information provided by the counties on the distribution of money provided under this subtitle,

including an assessment of the extent to which the purposes of this subtitle are being achieved.

(2) The report under paragraph (1) of this subsection shall state the amount of money distributed by each county under § 8–103(b) of this subtitle to volunteer fire, rescue, and ambulance companies.

§8–106.

(a) (1) After notice and an opportunity for a hearing, a county may withhold money allocated for the next fiscal year from a fire, rescue, or ambulance company that does not comply with the provisions of this subtitle.

(2) The failure of a fire, rescue, or ambulance company to comply with this subtitle may result in the forfeiture of the allocated money, in whole or in part.

(3) Money forfeited by a fire, rescue, or ambulance company under paragraph (2) of this subsection shall be reallocated by the county to compliant fire, rescue, and ambulance companies.

(b) (1) The Director may withhold money allocated for the next fiscal year under this subtitle from a county if the county does not comply with this subtitle.

(2) After notice and an opportunity for a hearing, failure of a county to comply with this subtitle may result in the forfeiture of the allocated money, in whole or in part.

(c) Money withheld under this section reverts to the Fund.

§8–201.

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

(b) "Association" means the Maryland State Firemen's Association.

(c) "Department" means the Military Department.

(d) "Fund" means the Volunteer Company Assistance Fund.

(e) "Volunteer company" means a volunteer ambulance, fire, or rescue company:

(1) located in the State; or

(2) located outside the State if the company:

(i) has been a member of the Association for at least the past 10 years; and

(ii) has a first due response area in the State.

§8–202.

(a) There is a Volunteer Company Assistance Fund.

(b) (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(c) After consultation with the Association, the Governor may include in the State budget each year an appropriation to the Fund.

(d) (1) Any investment earnings of the Fund shall be credited to the Fund.

(2) Repayments on loans from the Fund shall be placed in the Fund and made available to fund grant or loan requests.

(e) For the purpose of making loans under this subtitle, the Association shall:

(1) develop loan criteria;

(2) develop loan terms, including interest rates; and

(3) recommend to the Board of Public Works the approval or denial of loans.

§8–203.

(a) The purpose of the Fund is to ensure adequate fire protection and rescue services in the State.

(b) A grant or loan awarded under this section shall be used only for purchasing, replacing, or improving:

(1) equipment, including elevated equipment, pumpers, tankers, ladder trucks, ambulances, rescue vehicles, or other large equipment used for fire fighting and emergency services;

(2) communications equipment;

(3) protective equipment, including helmets, turnout coats and pants, boots, eyeshields, gloves, and self-contained respiratory protection units;

(4) any other equipment necessary to carry out the ordinary functions of supporting fire fighting and rescue activities; or

(5) facilities used to house fire fighting equipment, ambulances, and rescue vehicles.

(c) (1) (i) A volunteer company receiving a grant from the Fund shall provide at least a 30% match of the amount of the grant.

(ii) If a volunteer company cannot reasonably provide the required match before the grant is disbursed, the Board of Public Works may waive the requirement or may allow repayment of the match within a reasonable time not exceeding 18 months after the purchase, replacement, or improvement of the equipment or facilities.

(2) (i) Money to provide the required match may include contributions from local government.

(ii) A local government may not reduce the amount of money that the volunteer company would otherwise be entitled to receive from the local government because of State money provided under this section.

(3) Loans from the Fund may only be awarded to assist with up to 75% of the total cost of the equipment or facilities being purchased.

(d) After a favorable recommendation from the Association, the Board of Public Works may award a grant, loan, or both from the Fund to a volunteer company if:

(1) for a grant award:

(i) an act of God or other unforeseen event substantially impairs the ability of the volunteer company to provide adequate and safe service; or

(ii) the volunteer company is unable to maintain the minimum level of performance for adequate and safe service established by standards of the Association because of a demonstrated lack of financial resources; and

(2) the Association and the volunteer company have executed an agreement that:

(i) provides that the grant or loan will be used as represented to the Board of Public Works in the request for approval; and

(ii) gives to the State security in the equipment or facilities purchased with the loan and in the proceeds of that equipment or those facilities as determined by the Board of Public Works to be appropriate and adequate.

(e) A grant or loan awarded under this section may not:

(1) be used to refinance a debt or other obligation of a volunteer company; or

(2) be spent to replace or repair eligible items to the extent that insurance proceeds are available for those purposes.

(f) The Board of Public Works may not approve a grant or loan from the Fund to a volunteer company if the volunteer company has not made a good faith effort to obtain money from its local government.

§8–204.

(a) (1) A volunteer company shall submit each request for a grant or loan from the Fund to the Association for approval by a board of review in accordance with the Association's bylaws.

(2) Each request for a grant or loan shall include:

(i) financial statements for the 2 fiscal years immediately preceding the fiscal year in which the request is made;

(ii) any available audit of the financial statements; and

(iii) a detailed explanation of the reasons for the request.

(3) For each request for a grant or loan from the Fund, the volunteer company shall certify that the volunteer company applied for money from its local government and was denied, either wholly or partly.

(b) (1) If the Association disapproves a request or does not take action within 90 days after the request for any reason other than because funds are not available, the volunteer company requesting a grant or loan may appeal to a panel composed of the president of the Association, the State Fire Marshal, and the chairman of the Fire and Rescue Education and Training Commission.

(2) The decision of the panel is final and is not subject to further review.

(c) On approval of a request for a grant or loan, the Association or the panel shall transmit its recommendation to the Board of Public Works.

(d) As authorized by the Board of Public Works, the Treasurer shall disburse money from the Fund to the Association in the name of a volunteer company for the purposes of this subtitle on warrant of the Comptroller.

(e) The Baltimore City Fire Department may submit a request for a grant or loan from the Fund for the purposes set forth in § 8-203(b) of this subtitle.

§8–205.

(a) After consultation with the Association, the Governor may include in the State budget each year an amount for the purposes set forth in subsection (b) of this section.

(b) The Association may use money appropriated under subsection (a) of this

section to:

(1) formulate, publish, and distribute the fire laws of Maryland and other state and federal standards, laws, guidelines, and recommendations;

(2) formulate, publish, and distribute an annual report and monthly or other timely bulletins and reports;

(3) purchase, publish, and distribute fire prevention, emergency services, and safety education materials and sponsor seminars and other public forums to disseminate this information to Association members and residents of the State;

(4) maintain and distribute records that relate to the annual inspections of fire and rescue equipment and facilities;

(5) establish and maintain a database on manpower availability and training, operational cost, equipment availability, response time, State and local financial support, and other relevant factors in providing fire and rescue services;

(6) maintain membership through fees, subscriptions, and meeting attendance in organizations that disseminate training and education and provide guidance to volunteer emergency service organizations and their members and represent their interests on a State and national level;

(7) provide fuel, insurance, and maintenance to vehicles owned and operated by the Association and used in representing the volunteers and disseminating information throughout the State;

(8) provide professional services including accounting, auditing, and legal consultation and operational costs associated with the objectives established in this subsection; and

(9) promote, disseminate, and advocate programs and services that pertain to improving the safety, health, and wellbeing of fire and rescue personnel throughout the State.

§8–206.

(a) On or before August 30 of each fiscal year, the Association shall submit to the Department, the Legislative Auditor, and to the Board of Public Works an annual report that includes:

(1) the number and total amount of grants and the number and total amount of loans made in the previous fiscal year;

(2) for each grant or loan made:

(i) the volunteer company that received the grant or loan;

(ii) the amount of the grant or loan; and

(iii) the specific purpose of making the grant or loan;

(3) for each volunteer company that received a grant or loan:

(i) the financial statement of the volunteer company for the previous fiscal year or the year in which the grant or loan was received, whichever is available; and

(ii) documentation of the volunteer company's actual expenditures from the grant or loan;

(4) for each loan made, the terms of the loan, including origination date, loan term, payment terms, payment amount, payments made to date, outstanding balance, and loan status; and

(5) summary listings of grants and loans made during the previous fiscal year and outstanding loans, by county.

(b) The Department shall:

(1) review the documentation submitted in accordance with subsection (a) of this section on an annual basis to determine if each grant or loan was spent in accordance with this subtitle and the request approved by the Board of Public Works; and

(2) report the findings to the Senate Budget and Taxation Committee and the House Appropriations Committee on an annual basis.

(c) The Legislative Auditor may:

(1) review the documentation submitted in accordance with subsection (a) of this section to determine if each grant or loan was spent in accordance with this subtitle and the requests approved by the Board of Public Works; and

(2) report the findings to the Department and, subject to § 2-1246 of the State Government Article, to the Joint Audit Committee of the General Assembly.

(d) The Comptroller may audit the financial affairs of the Association to ensure compliance with this subtitle.

§8–301.

(a) This section does not apply to Anne Arundel County, Baltimore County, Cecil County, Howard County, Prince George's County, Queen Anne's County, and Worcester County.

(b) The county commissioners of each county have the express power to

contribute money to a volunteer fire company in the county.

§8–302.

(a) This section applies only to Dorchester County.

(b) (1) Subject to paragraph (4) of this subsection, the County Commissioners of Dorchester County shall pay at least the sum of $118,500 each year to the volunteer fire companies in the county for their benefit as long as the volunteer fire companies are active, fire-fighting organizations.

(2) Each volunteer fire company shall use the money received to support, maintain, equip, and operate the volunteer fire company for the purpose of fighting fires in the county.

(3) Each volunteer fire company shall comply with the bylaws of the Volunteer Fire Companies Association of Dorchester County.

(4) The County Commissioners may not make a payment to a volunteer fire company unless the volunteer fire company complies with the bylaws of the Volunteer Fire Companies Association of Dorchester County.

(c) The County Commissioners shall use property tax revenue to pay volunteer fire companies in accordance with subsection (b) of this section.

(d) (1) The County Commissioners shall distribute the money required by subsection (b) of this section on October 1 of each year to the following volunteer fire companies in at least the following amounts:

Cambridge	$10,500
Hurlock	9,500
Secretary	9,000
Vienna	9,000
East New Market	8,000
Eldorado	7,500
Neck	7,500
Lloyds	7,500
Lakes & Straits	8,500
Church Creek	8,500
Madison	8,500
Hoopers Island	8,500
Linkwood-Salem	7,500

Taylors Island 8,500

(2) The Elliotts Volunteer Fire Company shall receive an amount set by the County Commissioners.

(e) (1) Before paying money to a volunteer fire company, the County Commissioners may require the officers of the volunteer fire company to appear before the County Commissioners and submit evidence satisfactory to the County Commissioners that the volunteer fire company:

(i) is an active fire-fighting organization; and

(ii) has spent the money received in prior years under this section in accordance with this section.

(2) If a volunteer fire company ceases to be an active fire-fighting organization or fails to spend the money received in accordance with this section, the County Commissioners shall:

(i) withhold the current year's money from the volunteer fire company; and

(ii) allocate the unspent money to the contingent fund of Dorchester County.

§8–303.

(a) This section applies to Allegany County, Calvert County, Charles County, Frederick County, Garrett County, Kent County, and St. Mary's County.

(b) The county commissioners of a county subject to this section have the express power to guarantee or insure financial loans made by a governmental third party to a volunteer fire company that:

(1) is located within the county; or

(2) has a mutual aid agreement with the county.

§9–101.

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

(b) "Sleeping area" means a space that includes one or more sleeping rooms and a hall or common area immediately adjacent to any sleeping room.

(c) "Sleeping room" means an enclosed room with a bed arranged to be used as a bedroom.

(d) "Smoke alarm" means a single or multiple station device that detects visible or invisible products of combustion and includes a built–in internal alarm signal.

(e) "Smoke detector" means a system–connected smoke sensing device tied to a fire alarm control panel or a household fire warning panel.

§9–102.

(a) This subtitle applies throughout the State, including Baltimore City.

(b) An automatic smoke alarm shall be provided in each sleeping area within each residential occupancy, including one– and two–family dwellings, lodging or rooming houses, hotels, dormitories, and apartment buildings, as defined in NFPA 101: Life Safety Code as adopted by the State Fire Prevention Commission.

(c) Smoke alarms shall:

(1) be installed in accordance with NFPA 72: National Fire Alarm Code as referenced by the State Fire Prevention Code;

(2) be listed and labeled by a nationally recognized testing laboratory to comply with Underwriters Laboratories (UL) 217, "Standard for safety for single and multiple station smoke alarms";

(3) be suitable for sensing visible or invisible products of combustion; and

(4) sound an alarm suitable to warn the occupants.

(d) Local jurisdictions may adopt smoke alarm regulations that are more stringent than the provisions of this subtitle.

§9–103.

(a) This section applies only to new residential units constructed on or after July 1, 2013.

(b) At least one smoke alarm shall be installed in each sleeping room, in the hallway or common area outside of sleeping rooms, and in the hallway or common area on each level within a residential dwelling unit, including basements and excluding unoccupied attics, garages, and crawl spaces.

(c) If two or more smoke alarms are required within a residential unit, the smoke alarms shall be arranged so that activation of any one smoke alarm causes alarm activation of all other required smoke alarms within the residential unit.

(d) Each smoke alarm required by this section shall operate on an alternating current (AC) primary source of electric power with a battery backup or an approved alternate secondary power source.

(e) In one– and two–family dwellings, a smoke detector installed as a part of an approved household fire alarm system is an acceptable alternative to the AC powered–battery backup smoke alarm required by this section, if the smoke detector is installed and located as specified in subsection (b) of this section.

(f) A smoke detector installed as a part of an approved fire alarm system is an acceptable alternative to the AC powered–battery backup smoke alarm required by this section, if the smoke detector is installed and located as specified in subsection (b) of this section.

§9–104.

(a) (1) At least one smoke alarm shall be provided in each residential sleeping area.

(2) Smoke alarms required in one– and two–family dwellings constructed before July 1, 1975, shall be battery powered or alternating current (AC) primary electric powered units.

(3) Smoke alarms required in one– and two–family dwellings constructed between July 1, 1975, and June 30, 1990, shall be alternating current (AC) primary electric powered units.

(4) Smoke alarms required in multifamily residential occupancies including apartments, lodging or rooming houses, dormitories, and hotels shall be alternating current (AC) primary electric powered units.

(5) Smoke alarms required in a residential occupancy constructed on or after July 1, 1990, shall be alternating current (AC) primary electric powered units with battery backup or an approved alternate secondary power source.

(b) At least one smoke alarm shall be installed in each level of a residential occupancy constructed on or after January 1, 1989, including basements and excluding unoccupied attics, garages, and crawl spaces.

(c) If two or more smoke alarms are required within a residential unit constructed on or after January 1, 1989, the smoke alarms shall be arranged so that activation of any one smoke alarm causes alarm activation of all other required smoke alarms within the residential unit.

(d) (1) Subject to paragraph (2) of this subsection, smoke alarm placement in a one– or two–family dwelling shall be upgraded to comply with paragraph (3) of this subsection in existing residential occupancies when any one of the following occurs:

(i) the existing smoke alarms exceed 10 years from the date of manufacture;

(ii) the existing smoke alarms fail to respond to operability tests or

otherwise malfunction;

(iii) there is a change of tenant in a residential unit and the residential unit has not previously been equipped in accordance with this subtitle with sealed long–life battery smoke alarms with silence/hush button features within the 10 years preceding the change of tenant; or

(iv) a building permit is issued for an additional residential unit or alteration to a residential unit.

(2) Smoke alarm placement shall be upgraded to comply with paragraph (3) of this subsection in all existing residential occupancies on or before January 1, 2018.

(3) Upgraded smoke alarm placement shall include the following:

(i) a minimum of one smoke alarm on each level of the residential unit, including basements and excluding unoccupied attics, garages, and crawl spaces;

(ii) smoke alarms shall be alternating current (AC) primary powered units with battery backup, except as follows:

1. smoke alarms in one– and two–family dwellings constructed before July 1, 1975, may be battery operated; and

2. smoke alarms required in new locations by this section, if smoke alarms did not previously exist, may be battery operated; and

(iii) if battery operated smoke alarms are permitted, only sealed, tamper resistant units incorporating a silence/hush button and using long–life batteries may be used.

(e) In one– and two–family dwellings, a smoke detector installed as a part of an approved household fire alarm system is an acceptable alternative to the AC powered–battery backup smoke alarms required by this section, if the smoke detectors are installed and located as specified in subsection (a) of this section.

(f) A smoke detector installed as a part of an approved fire alarm system is an acceptable alternative to the AC powered–battery backup smoke alarms required by this section, if the smoke detectors are installed and located as specified in subsection (a) of this section.

§9–105.

(a) Each sleeping room occupied by a deaf or hard of hearing individual shall be provided with a smoke alarm suitable to alert the deaf or hard of hearing individual.

(b) (1) On written request on behalf of a tenant who is deaf or hard of hearing,

a sleeping room occupied by a deaf or hard of hearing individual shall be provided with an approved notification appliance designed to alert deaf or hard of hearing individuals.

(2) The landlord shall provide a notification appliance that, when activated, provides a signal that is sufficient to warn the deaf or hard of hearing tenant in those sleeping rooms.

(c) Hotels and motels shall have available at least one approved notification appliance for the deaf or hard of hearing individual for each 50 units or fraction of 50 units.

(d) Hotels and motels shall post in a conspicuous place at the registration desk a permanent sign that states the availability of smoke alarm notification appliances for the deaf or hard of hearing individual.

(e) (1) Hotels and motels may require a refundable deposit for notification appliances for the deaf or hard of hearing individual.

(2) The amount of the deposit may not exceed the value of the notification appliance.

(f) A landlord may require reimbursement from a tenant for the cost of a smoke alarm required under this section.

§9–106.

(a) Smoke alarm requirements shall be enforced by the State Fire Marshal, a county or municipal fire marshal, a fire chief, the Baltimore City Fire Department, or any other designated authority having jurisdiction.

(b) (1) The building permit applicant is responsible for the proper installation of required smoke alarms in residential occupancies constructed on or after July 1, 2013.

(2) If a building permit is not required, the general contractor shall bear the responsibility described in paragraph (1) of this subsection.

(c) The landlord or property owner is responsible for the installation, repair, maintenance, and replacement of smoke alarms required by this subtitle.

(d) Occupants of a residential occupancy may not remove or tamper with a required smoke alarm or otherwise render the smoke alarm inoperative.

(e) (1) Testing of smoke alarms is the responsibility of the occupant of the residential unit.

(2) (i) A tenant shall notify the landlord in writing of the failure or malfunction of a required smoke alarm.

(ii) The written notification required under subparagraph (i) of this paragraph shall be delivered by certified mail, return receipt requested to the landlord, or by hand delivery to the landlord or the landlord's agent, at the address used for the payment of rent.

(iii) If the delivery of the notification is made by hand as described in subparagraph (ii) of this paragraph, the landlord or the landlord's agent shall provide to the tenant a written receipt for the delivery.

(iv) The landlord shall provide written acknowledgment of the notification and shall repair or replace the smoke alarm within 5 calendar days after the notification.

(f) (1) If a residential unit does not contain alternating current (AC) primary electric power, battery operated smoke alarms or smoke alarm operation on an approved alternate source of power may be permitted.

(2) Battery operated smoke alarms shall be sealed, tamper resistant units incorporating a silence/hush button and using long–life batteries.

(g) A smoke alarm may be combined with a carbon monoxide alarm if the device complies with:

(1) this subtitle;

(2) Title 12 of this article; and

(3) Underwriters Laboratories (UL) Standards 217 and 2034.

§9–107.

Failure to comply with this subtitle may not be used as a policy defense in the settlement of a property insurance claim.

§9–108.

(a) If the State Fire Marshal or other designated authority with jurisdiction finds the absence of operating, required smoke detectors, the State Fire Marshal or other authority shall issue a smoke alarm installation order to the responsible landlord, owner, or occupant.

(b) The responsible person shall comply with a smoke alarm installation order within 5 calendar days.

§9–109.

(a) A person may not knowingly violate this subtitle.

(b) A person who violates this section is guilty of a misdemeanor and on

conviction is subject to imprisonment not exceeding 10 days or a fine not exceeding $1,000 or both.

§9–201.

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

(b) (1) "Dormitory" means a building or space in a building that:

(i) is under joint occupancy and single management; and

(ii) provides group sleeping accommodations:

1. with or without meals, but without individual cooking facilities;

2. for more than 16 individuals who are not members of the same family group; and

3. in one room or in a series of closely associated rooms.

(2) "Dormitory" includes a school dormitory, fraternity house, and military barracks.

(c) "Dwelling unit" means a single unit that:

(1) provides complete, independent living facilities for one or more individuals; and

(2) contains permanent provisions for living, sleeping, eating, cooking, and sanitation.

(d) (1) "Hotel" means a building or group of buildings that:

(i) is under the same management;

(ii) contains more than 16 sleeping accommodations for hire; and

(iii) is used primarily by transients who are lodged with or without meals.

(2) "Hotel" includes an inn, motel, club, and apartment hotel.

(e) (1) "Lodging or rooming house" means a building:

(i) in which separate sleeping rooms are rented; and

(ii) that provides sleeping accommodations:

1. for 16 or fewer individuals;

2. on either a transient or permanent basis; and

3. with or without meals, but without individual cooking facilities.

(2) "Lodging or rooming house" includes an inn, club, and bed and breakfast establishment.

(f) (1) "Multifamily residential dwelling" means a building or part of a building that:

(i) contains more than two dwelling units; and

(ii) is not classified as a one or two family dwelling.

(2) "Multifamily residential dwelling" does not include a town house.

(g) (1) "Public water system" means a system that:

(i) provides the public with piped water for human consumption; and

(ii) has at least 15 service connections or regularly serves at least 25 individuals.

(2) "Public water system" includes:

(i) a collection, treatment, storage, or distribution facility that is under the control of the operator of the system and is used primarily in connection with the system; and

(ii) a collection or pretreatment storage facility that is not under the control of the operator of the system and is used primarily in connection with the system.

(h) "Sprinkler system" means a device that:

(1) opens automatically by operation of a heat responsive releasing mechanism;

(2) discharges water in a specific pattern over a designated area to extinguish or control fire; and

(3) uses the same service water supply pipe to the dwelling unit that the public water system uses.

(i) "Town house" means a single family dwelling unit that is constructed in a horizontal series of attached units with property lines separating the units.

§9–202.

(a) Except as provided in subsection (b) of this section, this subtitle does not preclude a local jurisdiction from adopting more stringent standards to govern the installation of sprinkler systems in new construction.

(b) Industrialized buildings under the authority of the Department of Housing and Community Development in accordance with Title 12, Subtitle 3 of this article shall comply with the standard for the installation of sprinkler systems in residential occupancies as adopted in the regulations of the State Fire Prevention Commission.

§9–203.

The State Fire Marshal or a local or State authority with jurisdiction over the enforcement of fire and building codes may enforce this subtitle.

§9–204.

(a) Each sprinkler system required under this section shall:

(1) be installed in accordance with accepted engineering practices that meet the standard for the installation of sprinkler systems in residential occupancies under the regulations of the State Fire Prevention Commission or the local authority with jurisdiction over the enforcement of fire and building codes;

(2) meet the requirements of the current National Fire Protection Association standards; and

(3) be approved by the State Fire Marshal or the local authority with jurisdiction over the enforcement of fire codes.

(b) (1) In a jurisdiction in which building permits are issued, a sprinkler system shall be installed in:

(i) each newly constructed dormitory, hotel, lodging or rooming house, or multifamily residential dwelling for which the initial building permit is issued on or after July 1, 1990; and

(ii) each newly constructed town house for which the initial building permit is issued on or after July 1, 1992.

(2) In a jurisdiction in which building permits are not issued, a sprinkler system shall be installed in:

(i) each dormitory, hotel, lodging or rooming house, or multifamily residential dwelling on which construction begins on or after July 1, 1990; and

(ii) each town house on which construction begins on or after July 1,

1992.

(c) If a dwelling unit is not serviced by a public water system, subsections (a) and (b) of this section do not apply.

§9–205.

(a) Except as provided in subsection (b) of this section, if there is clear evidence that an exception will not adversely affect the fire safety of a building or its occupants, the State Fire Marshal or a local authority with jurisdiction over the enforcement of fire and building codes may grant an exception to:

(1) a requirement of a State or local fire and building code if a sprinkler system is installed in a building as required by this subtitle; or

(2) the sprinkler system requirement of this subtitle if, on or before June 30, 1990:

(i) the local authority gave approval to a construction plan for a dormitory, hotel, lodging or rooming house, multifamily residential unit, or town house; and

(ii) the approved plan did not include the installation of a sprinkler system as required by this subtitle.

(b) The State Fire Marshal or a local authority may not grant an exception under this section to a smoke detector requirement.

§9–206.

(a) A person may not knowingly violate this subtitle.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 days or a fine not exceeding $1,000 or both.

§9–301.

(a) This subtitle:

(1) is in addition to any existing fire safety laws; and

(2) does not limit the authority of the State Fire Prevention Commission or State Fire Marshal to act under existing fire safety laws.

(b) If there is clear evidence that equivalent protection of human life will be provided as required by this subtitle, exceptions to this subtitle may be made by:

(1) the State Fire Prevention Commission;

(2) the State Fire Marshal;

(3) a county fire chief;

(4) a fire administrator with responsibility for code enforcement; and

(5) in Baltimore City, the Board of Fire Commissioners or the Chief of the Fire Department.

(c) This subtitle does not prevent a county or municipal corporation from enacting more stringent laws to govern the installation of fire sprinkler systems.

§9–302.

A county fire chief, fire administrator, or municipal fire chief may enforce this subtitle.

§9–303.

(a) Except as provided in subsection (b) of this section, each hotel or motel with 10 or more units for which a contract for construction is executed after July 1, 1989, shall have installed a fast response residential fire sprinkler system that is intended:

(1) to detect and control a fire automatically;

(2) to provide improved protection against injury, loss of life, and property damage;

(3) to maintain survivable conditions in the room of fire origin; and

(4) to improve the chance for occupants to escape or be evacuated.

(b) A hotel or motel need not install a fast response residential fire sprinkler system if:

(1) the hotel or motel is a one or two story building; and

(2) all occupants are able to exit directly to the exterior of the building and not only to a central corridor through an approved exit door, as those terms are used in the most recent edition of the National Fire Protection Association Life Safety Code adopted by the State Fire Prevention Commission.

§9–304.

Each fast response residential fire sprinkler system installed shall:

(1) be designed and constructed in accordance with accepted engineering practices; and

(2) comply with standards and regulations developed and adopted by:

(i) the State Fire Prevention Commission;

(ii) a county fire chief;

(iii) a fire administrator with responsibility for code enforcement; or

(iv) in Baltimore City, the Chief of the Fire Department.

§9–305.

When evaluating and approving a builder's overall site development and construction plans, the cost of the builder's installation of fast response residential fire sprinkler systems shall be considered by:

(1) local building officials;

(2) local fire chiefs;

(3) the State Fire Prevention Commission;

(4) the State Fire Marshal;

(5) fire administrators with responsibility for code enforcement; and

(6) in Baltimore City, the Chief of the Fire Department.

§9–306.

A person who violates this subtitle is subject to the penalty provided in § 6-601 of this article.

§9–401.

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

(b) (1) "High–rise building" means a building for human occupancy that is:

(i) four or more stories above grade level; or

(ii) over 45 feet in height.

(2) "High–rise building" does not include:

(i) a structure or building used exclusively for open air parking; or

(ii) a building used exclusively for agricultural purposes.

(c) "Local fire department" means a career or volunteer fire department.

(d) "Mobility impaired" means unable to carry objects or to move or travel without the use of an assistive device or service animal.

(e) "Public way" means a paved thoroughfare over 21 feet in width that:

(1) is located on privately owned and privately maintained property but is designated for public use; or

(2) is publicly owned and publicly maintained.

§9–402.

(a) The purpose of this subtitle is to provide for the physical safety and protection of property of occupants of high-rise buildings in case of fire.

(b) (1) Without adequate protection, residents of high-rise buildings are dependent on descending multiple flights of steps or jumping from windows when a fire occurs.

(2) For many elderly residents of high-rise buildings, this is physically impossible.

(3) Most fire fighting and rescue operations are also conducted inside the high-rise building, where there are greater obstacles to rescuing occupants and controlling and extinguishing the fire.

(4) Many tragedies could be avoided by installation of automatic fire extinguishing equipment in these situations, usually at no great additional cost to builders.

§9–403.

(a) Each high-rise building constructed after July 1, 1974, shall be protected by a complete automatic sprinkler system installed in accordance with accepted engineering practices as approved by the authority with jurisdiction.

(b) (1) This section does not apply to a building that is less than 75 feet in height above grade level if:

(i) the local fire department has at least one approved first line piece of aerial equipment that is capable of reaching the roof of the building; and

(ii) accessibility to the building is provided on two sides of the perimeter of the building by a public way that is:

1. kept accessible at all times to the local fire department; and

2. close enough to the building to allow the fire department aerial equipment to reach 75 feet in height.

(2) For purposes of this subsection, height above grade level shall be determined by using the lowest elevation of the public way as a reference datum.

§9–404.

(a) An order for compliance with the requirements of § 9-403 of this subtitle that is issued in accordance with the authority granted under Title 6, Subtitle 3 of this article may be appealed to the State Fire Prevention Commission.

(b) An order for compliance with the requirements of § 9-403 of this subtitle that is issued in accordance with the authority granted by a local law, ordinance, or regulation may be appealed as provided by law, ordinance, or regulation of the local jurisdiction.

§9–405.

For fire safety purposes, the owner of a residential high–rise building with rental units shall provide reasonable written notice annually to all residents of the residential high–rise building to inform residents who are mobility impaired of their right to request a rental unit on the first five floors of the high–rise building if one should become available.

§9–501.

(a) This subtitle does not apply to Washington County.

(b) This subtitle:

(1) is in addition to any existing fire safety laws; and

(2) does not limit the authority of the State Fire Prevention Commission or State Fire Marshal to act under existing fire safety laws.

§9–502.

Each hotel, motel, and lodging house shall post in a prominent place in each guest room a notice that states:

(1) the location of the nearest exits and fire pull stations;

(2) the procedures to be followed if the fire or smoke detector gives warning signals; and

(3) the procedures to be followed if fire or smoke develops.

§9–503.

(a) Each building constructed after July 1, 1977, that is intended to house 50 or more occupants who, because of age, blindness, disability, or physical or mental illness,

are unable to evacuate the building without assistance in case of fire, shall be protected throughout the entire building by a system that is:

(1) designed to detect and extinguish a fire automatically while sounding an alarm; and

(2) installed in accordance with accepted engineering practices approved by the authority with jurisdiction.

(b) (1) An order for compliance with the requirements of this section that is issued in accordance with the authority granted under Title 6, Subtitle 3 of this article may be appealed to the State Fire Prevention Commission.

(2) An order for compliance with the requirements of this section that is issued in accordance with the authority granted by a local law, ordinance, or regulation may be appealed as provided by law, ordinance, or regulation of the local jurisdiction.

§9–505.

Alternative and equivalent fire and safety requirements are allowed in acute care hospitals in accordance with current nationally recognized codes and standards adopted by the appropriate authority with jurisdiction.

§9–506.

(a) A person who violates this subtitle is subject to the penalties provided in § 6-601 of this article.

(b) A hotel, motel, or lodging house that violates a regulation adopted by the State Fire Prevention Commission is subject to the penalties provided in § 6-601 of this article.

§9–601.

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

(b) (1) "Fire investigator" means an official of the State, a county, or a municipal corporation who is legally designated to have legal responsibility for investigating fires and suppressing arson.

(2) "Fire investigator" includes a fire marshal.

(c) "Insurer" means a person licensed or established by the State to insure property of any kind.

§9–602.

On request of a fire investigator, an insurer investigating a fire loss of real or personal property shall cooperate with and release to the fire investigator any

information it has about the fire loss, including:

(1) each insurance policy and application for the policy relevant to the fire loss;

(2) policy premium payment records;

(3) previous claims made by the insured for fire loss; and

(4) material that relates to the investigation of the fire loss, proof of loss, and any other relevant evidence.

§9–603.

If an insurer has reason to suspect that a fire loss to real or personal property of the insured was caused by incendiary means, the insurer shall:

(1) notify the fire investigator;

(2) provide the fire investigator with all relevant material acquired during the insurer's investigation of the fire loss;

(3) cooperate with and take any action requested by the fire investigator; and

(4) allow a person, on court order, to inspect any of the insurer's records that relate to the policy and the fire loss.

§9–604.

A fire investigator who receives information under this subtitle shall keep the information confidential until the release of the information is required in accordance with a civil or criminal proceeding.

§9–605.

(a) In the absence of fraud, an insurer or person who provides information on its behalf is not subject to criminal prosecution for an oral or written statement made or other action taken that is necessary to provide information required under this subtitle.

(b) An insurer or person who provides information on its behalf has the immunity from liability described in § 5-409 of the Courts Article.

§9–606.

(a) A person may not purposely:

(1) refuse to release information that a fire investigator requests under § 9-602 of this subtitle;

(2) refuse to report a fire loss to a fire investigator under §§ 9-602 and 9-603 of this subtitle;

(3) refuse to provide a fire investigator with relevant information required to be provided under §§ 9-602 and 9-603 of this subtitle; or

(4) fail to keep information confidential as required under § 9-604 of this subtitle.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 days or a fine not exceeding $1,000 or both.

§9–701.

(a) Subject to subsection (e) of this section, the local governing body of each county and the legislative body of each municipal corporation in the State may adopt by ordinance or resolution a fire prevention code to:

(1) provide for protection against fires and the removal of fire hazards;

(2) provide for the appointment of inspectors to enforce the fire prevention code; and

(3) establish penalties for violation of the fire prevention code or an ordinance, resolution, or regulation for the prevention of fires or removal of fire hazards.

(b) (1) Subject to paragraph (2) of this subsection, a fire prevention code of a county or municipal corporation adopted under this section may incorporate by reference a code or part of a code prepared by a governmental unit or a trade or professional association for general distribution in printed form as a standard or model on any subject that relates to fire prevention, fire hazards, or flammable or dangerous substances.

(2) An amendment to a standard or model code described in paragraph (1) of this subsection is not effective until specifically incorporated into the fire prevention code of the county or municipal corporation.

(c) (1) Except as provided in subsection (e) of this section, the local governing body of a county or legislative body of a municipal corporation may not adopt a fire prevention code under this section until a summary of the proposal is published for at least 3 weeks in one or more newspapers of general circulation in the county or municipal corporation.

(2) The summary shall specify the date for a public hearing on the proposal and shall state that copies of the proposal may be obtained on application to:

(i) for a county fire prevention code, the administrative officer of the county; or

(ii) for a municipal fire prevention code, the clerk of the municipal corporation.

(d) Except as provided in subsection (e) of this section, a fire prevention code adopted by a county under this section does not apply within a municipal corporation that has adopted a fire prevention code after the effective date of the adoption of the fire prevention code by the municipal corporation.

(e) (1) This subsection applies only to Frederick County.

(2) The summary of the fire prevention code required to be published under subsection (c) of this section shall be published in one or more newspapers of general circulation in the county at least 2 weeks before the adoption of the fire prevention code by the county.

(3) A copy of the fire prevention code proposed for adoption under this section may be obtained on application to the administrative officer of the county.

§9–702.

(a) In this section, "plan review" has the meaning stated in § 6-308 of this article.

(b) (1) This section applies only to:

(i) a county that has adopted a comprehensive nationally recognized fire prevention code as the fire prevention code of the county; or

(ii) a municipal corporation that has adopted a comprehensive nationally recognized fire prevention code as the fire prevention code of the municipal corporation.

(2) This section does not apply to an inspection or plan review that is not within the jurisdiction of or is not conducted by:

(i) the county fire prevention bureau or office of county fire marshal; or

(ii) the municipal fire prevention bureau or office of municipal fire marshal.

(c) (1) To ensure compliance with the fire prevention code of the county or municipal corporation, the local governing body of the county or legislative body of the municipal corporation may adopt ordinances or regulations to establish and administer a fee schedule for conducting inspections and plan reviews.

(2) (i) The county fire prevention bureau shall:

1. collect the fees established by the local governing body of the county for conducting inspections;

2. keep records of all fees collected under this section; and

3. pay all moneys collected under this section into the general fund of the county.

(ii) The municipal fire prevention bureau shall:

1. collect the fees established by the legislative body of the municipal corporation for conducting inspections;

2. keep records of all fees collected under this section; and

3. pay all moneys collected under this section into the general fund of the municipal corporation.

(3) To ensure that the moneys collected at least cover the costs of conducting inspections and plan reviews, the fee schedule adopted under this section shall be reviewed annually by:

(i) for a county, the local governing body of the county and the chief fiscal officer of the county; and

(ii) for a municipal corporation, the legislative body of the municipal corporation and the chief fiscal officer of the municipal corporation.

(d) (1) Plans shall be submitted to the county fire prevention bureau and to the municipal fire prevention bureau for plan review and approval before actual construction of:

(i) a new building or addition;

(ii) a building undergoing a change of occupancy that requires substantial modification; or

(iii) a part of a building that has sustained damage from fire, explosion, or other cause.

(2) Plans for a building undergoing alterations, renovations, or remodeling that do not require submission under paragraph (1) of this subsection shall be submitted for review of maintenance of proper egress and fire protection features.

(3) (i) The county fire prevention bureau shall conduct a plan review to ensure compliance with the fire prevention code of the county.

(ii) The municipal fire prevention bureau shall conduct a plan review to ensure compliance with the fire prevention code of the municipal corporation.

(4) The fee for each plan review shall be submitted with the plans.

§9–801.

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

(b) "Combustible material" includes waste paper, rags, shavings, waste, leather, rubber, crates, boxes, barrels, rubbish, or other material that is or may become dangerous as a fire menace.

(c) "Fire official" means:

(1) a member of a board of fire commissioners of a municipal corporation of the State;

(2) a chief or assistant to the chief of a fire department of a municipal corporation of the State;

(3) an officer or member of a fire department of a municipal corporation of the State acting under the direction of the board of fire commissioners or fire chief; or

(4) a chief, chief engineer, captain, or lieutenant of a volunteer fire company, fire district, or any other organization created for the purpose of and engaged in the work of extinguishing fires in an unincorporated town, municipal corporation, or county of the State.

§9–802.

This subtitle does not apply to Baltimore County.

§9–803.

(a) (1) A fire official may inspect a building, structure, or other place under the jurisdiction of the fire official, except the interior of a private dwelling, where combustible material has been allowed to accumulate or where the fire official has reason to believe that combustible material has accumulated or may be accumulated.

(2) At any time and without liability for trespass, a fire official:

(i) may enter, at the fire official's own risk, a building, including a private dwelling, or on premises where a fire is burning, or where there is reasonable cause to believe a fire is burning, to extinguish the fire;

(ii) may enter, at the fire official's own risk, a building, including a private dwelling, or on premises near the scene of a fire to protect the building or premises or to extinguish the fire;

(iii) when responding to or operating at a fire or other emergency:

1. may order an individual to leave a building or place in the vicinity of the fire or other emergency to protect the individual from injury;

2. may order, after consultation with the senior railroad or transportation official present, a convoy, caravan, or train of vehicles, craft, or railway cars to be detached or uncoupled if the fire official determines that to do so is in the interest of safety of individuals or property; and

3. may enter a building that is in danger of the spread of fire to prevent a potential emergency, including an explosion, in the building; and

(iv) to maintain order in the vicinity of a fire or other emergency:

1. may direct the actions of firefighters at the fire or other emergency;

2. may keep bystanders or other individuals at a safe distance from the fire or other emergency and from fire equipment;

3. may facilitate the speedy movement and operation of fire-fighting equipment and firefighters; and

4. until the arrival of sufficient police officers, may direct traffic personally or have a subordinate do so to facilitate the movement of traffic.

(b) Notwithstanding subsection (a) of this section, a fire official may not inhibit or obstruct members of rescue squads from performing their duties in the vicinity of a fire or other emergency.

§9–804.

(a) A fire official shall give written notice to the occupant of premises where combustible material has accumulated to remove the combustible material from the premises within 48 hours after receipt of the notice, if after an inspection made under this subtitle, the fire official determines that the accumulation of combustible material increases the danger of fire to:

(1) the premises where the combustible material has accumulated; or

(2) adjacent property.

(b) (1) If the combustible material is not removed from the premises within 48 hours after receipt of a notice under subsection (a) of this section, the fire official may:

(i) remove the combustible material from the premises;

(ii) send a bill to the occupant of the premises for the cost of the removal; and

(iii) certify the cost of the removal to the treasurer of the jurisdiction.

(2) If the cost of the removal is not paid to the treasurer within 30 days after receipt of the bill, the jurisdiction may bring a civil action against the occupant to recover the cost.

(c) (1) A person may not refuse or neglect to remove combustible material within 48 hours after receipt of a notice under subsection (a) of this section.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to a fine of not less than $5 and not exceeding $50 for each violation.

§9–805.

(a) A person may not hinder, obstruct, or refuse to allow a fire inspection under this subtitle.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject for each violation to imprisonment not exceeding 30 days or a fine not less than $10 and not exceeding $100.

§9–901.

In this subtitle, "fire sprinkler contractor" means a person who designs, installs, inspects, tests, repairs, or modifies a fire sprinkler system.

§9–902.

(a) The State Fire Prevention Commission shall adopt regulations to establish a program to license and regulate fire sprinkler contractors in the State.

(b) The State Fire Prevention Commission shall adopt regulations to:

(1) define fire sprinkler contractor;

(2) define fire sprinkler system, in a manner that does not conflict with § 12-101(l), (m), or (n) of the Business Occupations and Professions Article;

(3) designate and identify exemptions to the regulations;

(4) establish requirements for licensure including professional and technical standards and requirements for liability insurance;

(5) establish a schedule of fees for licenses that will recover but not exceed the direct and indirect costs associated with the issuance of the licenses; and

(6) establish procedures for the State Fire Marshal to deny, suspend, or revoke the license of a person who fails to comply with any regulation adopted by the State Fire Prevention Commission under this subtitle.

§9–903.

(a) Except as provided in subsection (b) of this section, a person may not provide services as a fire sprinkler contractor in the State unless the person is licensed by the State Fire Marshal.

(b) This subtitle does not prohibit:

(1) inspections and tests of fire sprinkler systems by insurance representatives if the representatives are acting in the performance of their assigned duties;

(2) inspections, tests, and repairs of fire sprinkler systems by full–time maintenance employees of a property owner if the employees:

(i) are knowledgeable about fire sprinkler systems; and

(ii) are acting in the performance of their assigned duties for the property owner;

(3) inspections, tests, plan review, and ensuring the maintenance of fire sprinkler systems, emergency maintenance activity on fire sprinkler systems, or restoration to active service of operating or recently operated fire sprinkler systems by members of State, county, municipal, career, or volunteer fire departments, or authorities with jurisdiction if the members are acting in their capacity as members of the fire departments or authorities;

(4) installation of limited area fire sprinkler systems or emergency temporary repairs on fire sprinkler systems performed by master plumbers if the plumbers are acting in accordance with regulations adopted by the State Fire Prevention Commission; or

(5) inspections, tests, preparation of design and specification documents, hydraulic calculations, layout, and plan review of fire sprinkler systems by Maryland professional engineers if the engineers are knowledgeable about fire sprinkler systems.

§9–904.

The State Fire Marshal shall:

(1) issue fire sprinkler contractors licenses;

(2) collect license fees established by the State Fire Prevention Commission;

(3) keep records of all fees collected under this subtitle;

(4) pay all money collected under this subtitle into the General Fund; and

(5) investigate complaints related to violations of this subtitle.

§9–905.

(a) A person may not knowingly violate this subtitle.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 days or a fine not exceeding $1,000 or both.

§9–1001.

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

(2) "Barbecue grill" means equipment used for outdoor cooking that uses as its heat source electricity or the burning of charcoal, liquid propane gas, or other fuel.

(3) (i) "Residential dwelling" means a building or part of a building that provides living or sleeping facilities for one or more individuals.

(ii) "Residential dwelling" includes a multifamily residential dwelling, hotel, motel, boardinghouse, lodging house, rooming house, inn, club, or dormitory.

(iii) "Residential dwelling" does not include:

1. a single family residential dwelling; or

2. a multifamily residential dwelling in which the individual dwelling units are arranged in a row, side by side, and not constructed above each other.

(b) In Charles County and Wicomico County, a person may not use a barbecue grill:

(1) on a balcony of a residential dwelling; and

(2) within 20 feet of any part, including a balcony, of a residential dwelling.

(c) A person who violates this section is subject to the penalties of § 6-601 of this article.

§10–101.

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

(b) (1) "1.3 G fireworks" means special fireworks designed primarily to produce visible or audible effects by combustion or explosion.

(2) "1.3 G fireworks" includes:

(i) toy torpedoes, railway torpedoes, firecrackers and salutes that do not qualify as 1.4 G fireworks, exhibition display pieces, illuminating projectiles, incendiary projectiles, and incendiary grenades;

(ii) smoke projectiles or bombs containing expelling charges but without bursting charges;

(iii) flash powders in inner units not exceeding 2 ounces each, flash sheets in interior packages, and flash powder or spreader cartridges containing an amount not exceeding 72 grains of flash powder each; and

(iv) flash cartridges consisting of a paper cartridge shell, small arms primer, and flash composition, not exceeding 180 grains, all assembled in one piece.

(c) (1) "1.4 G fireworks" means common fireworks designed primarily to produce visible effects by combustion.

(2) "1.4 G fireworks" includes:

(i) small devices containing less than 2 grains of pyrotechnic composition designed to produce an audible effect;

(ii) Roman candles, not exceeding 10 balls, that have a total pyrotechnic composition not exceeding 20 grams and inside tube diameter not exceeding 3/8 inch;

(iii) sky rockets with sticks, that have a total pyrotechnic composition not exceeding 20 grams and an inside tube diameter not exceeding 1/2 inch;

(iv) helicopter–type rockets that have a total pyrotechnic composition not exceeding 20 grams and an inside tube diameter not exceeding 1/2 inch;

(v) wheels that have a total pyrotechnic composition not exceeding 60 grams for each driver unit or 240 grams for each wheel and an inside tube diameter of driver units not exceeding 1/2 inch;

(vi) illuminating torches and colored fire in any form that have a total pyrotechnic composition not exceeding 100 grams each;

(vii) dipped sticks that have a pyrotechnic composition containing any perchlorate not exceeding 5 grams;

(viii) mines or shells in which the mortar is an integral part, that have

a total pyrotechnic composition not exceeding 40 grams;

(ix) firecrackers or salutes with casings that have a total pyrotechnic composition not exceeding 2 grains each and external dimensions not exceeding 1 1/2 inches in length or 1/4 inch in diameter; and

(x) novelties that consist of two or more 1.4 G fireworks.

(d) "Explosive composition" means a mixture or substance that, when ignited, may cause such a generation of highly heated gases that the resulting gaseous pressures are capable of producing destructive effects on contiguous objects.

(e) "Finishing and assembling building" means a structure in which fireworks are assembled and packed but are not mixed or pressed.

(f) (1) "Fireworks" means combustible, implosive or explosive compositions, substances, combinations of substances, or articles that are prepared to produce a visible or audible effect by combustion, explosion, implosion, deflagration, or detonation.

(2) "Fireworks" includes 1.3 G fireworks, 1.4 G fireworks, firecrackers, squibs, rockets, Roman candles, fire balloons, and signal lights.

(3) "Fireworks" does not include:

(i) toy pistols, toy canes, toy guns, or other devices that use paper caps that contain 0.25 grains or less of explosive composition if the devices are constructed so that a hand cannot touch the cap when the cap is in place for use;

(ii) toy pistol paper caps that contain less than 0.20 grains of explosive composition;

(iii) sparklers that do not contain chlorates or perchlorates;

(iv) ground–based sparkling devices that are nonaerial and nonexplosive, and are labeled in accordance with the requirements of the U.S. Consumer Product Safety Commission;

(v) paper wrapped snappers that contain less than 0.03 grains of explosive composition; or

(vi) ash–producing pellets known as "snakes" that do not contain mercury and are not regulated by the U.S. Department of Transportation.

(g) (1) "Fireworks plant" means land and any building on the land used in connection with the manufacture, packaging, repackaging, or processing of fireworks.

(2) "Fireworks plant" includes a storage building used in connection with

plant operation.

(h) "Mixing building" means a building primarily used to mix and blend pyrotechnic composition other than wet sparkler mixes.

(i) "Press building" means a building used primarily for pressing or loading pyrotechnic composition into tubes or containers.

(j) "Pyrotechnic composition" means a chemical mixture that on burning and without explosion produces visible or brilliant displays, bright lights, or whistles.

(k) "Storage building" means a structure in which finished fireworks or fireworks in any state of processing are stored, but in which processing or manufacturing is not performed.

§10–102.

(a) This title does not apply to:

(1) the sale, possession, or use of fireworks to or by the federal government or a state or a political subdivision of a state;

(2) the sale, possession, or use of a combustible or explosive preparation to or by an industrial or commercial business for use as a signal or otherwise in the normal course of business;

(3) the possession or use of a fusee, railroad torpedo, rocket, Very signal cartridge, or other signal device that is essential to and is kept and used to promote safety in the operation of a motor vehicle, boat, railroad, or aircraft;

(4) the use of a flare, signal pistol, or other equipment if used as a signal in an athletic contest or for a similar purpose; or

(5) subject to the terms and conditions of a permit issued by the State Fire Marshal under subsection (b) of this section, the sale, possession, or use of an explosive device or preparation with a slow-burning fuse rope to or by a farmer for controlling destructive animals.

(b) The State Fire Marshal or a State game warden as a representative of the State Fire Marshal may grant a nontransferable permit to a farmer to use an explosive device or preparation described under subsection (a)(5) of this section for controlling destructive animals.

§10–103.

(a) Subject to subsections (b) and (c) of this section, the State Fire Marshal may issue a permit to authorize the discharge of fireworks in a place where the discharge of fireworks is legal.

(b) The State Fire Marshal shall issue a permit to discharge fireworks only if the State Fire Marshal determines that the proposed discharge of fireworks will:

(1) not endanger health or safety or damage property; and

(2) be supervised by an experienced and qualified person who has previously secured written authority from the State Fire Marshal to discharge fireworks.

(c) A permit to discharge fireworks:

(1) does not authorize the holder of the permit to possess or discharge fireworks in violation of an ordinance or regulation of the political subdivision where the fireworks are to be discharged; and

(2) does not relieve an applicant for a permit from any requirement to obtain any additional license or authority from the governing body of the political subdivision where the fireworks are to be discharged.

§10–104.

(a) A person must have a permit to discharge fireworks as provided by this subtitle before the person:

(1) discharges fireworks; or

(2) possesses fireworks with the intent to discharge fireworks or to allow the discharge of fireworks.

(b) An applicant for a permit to discharge fireworks shall:

(1) apply to the State Fire Marshal for the permit at least 10 days before the date of discharge;

(2) pay to the State Fire Marshal a permit fee of $50; and

(3) post a bond with the State Fire Marshal in accordance with § 10-105 of this subtitle.

(c) If the State Fire Marshal does not receive the application for a permit required under subsection (b) of this section at least 10 days before the date of the discharge, the State Fire Marshal shall charge the applicant a late fee of $50 in addition to all required fees.

(d) The permit fee required under subsection (b)(2) of this section and the late fee required under subsection (c) of this section do not apply to a volunteer fire department or volunteer ambulance and rescue company.

(e) A permit to discharge fireworks is nontransferable.

§10–105.

(a) (1) Before issuing a permit to discharge fireworks, the State Fire Marshal shall require an applicant to furnish a surety bond with corporate surety approved by the State Fire Marshal or an approved liability and property insurance policy.

(2) The State Fire Marshal shall prescribe the amount of the bond or policy.

(3) The bond or policy:

(i) shall be conditioned on the payment of all damages to persons or property caused by the discharge of fireworks described in the permit;

(ii) shall be payable to the State; and

(iii) may be enforced by a person who suffers damage caused by the discharge of fireworks described in the permit by suit filed in the name of the State for the benefit of the person.

(b) If claims under a bond or policy required under this subtitle are for an amount greater than the penal sum of the bond or amount of the policy, the claims shall be payable pro rata to the amount of the penal sum of the bond or amount of the policy.

§10–106.

An applicant for a permit shall provide:

(1) workers' compensation coverage as required by the Maryland Workers' Compensation Act; and

(2) for operators not covered by workers' compensation, approved accident insurance coverage in amounts that the State Fire Marshal prescribes.

§10–107.

The State Fire Marshal may deputize the chief or another member of a local fire department or another qualified official to inspect, investigate, and receive applications for permits.

§10–108.

A person may not advertise in written or printed form that a fireworks display or discharge will take place in Baltimore City unless the advertisement states:

(1) that the promoter is covered by a policy of liability insurance; and

(2) the name of the insurer and the policy number of the insurance policy.

§10–109.

The State Fire Prevention Commission shall adopt regulations to carry out this subtitle.

§10–110.

(a) Unless the person holds a permit issued under this subtitle, a person may not:

(1) discharge fireworks; or

(2) possess fireworks:

(i) with intent to discharge or allow the discharge of the fireworks in violation of this subtitle; or

(ii) for the purpose of disposing or selling the fireworks to a person for use or discharge without a permit, if a permit is required by this subtitle.

(b) (1) Except as otherwise provided in this subtitle, a person may not sell fireworks to another person without a permit issued under this subtitle.

(2) (i) A person licensed by the State Fire Marshal under Subtitle 2 of this title may sell or deliver fireworks to a bona fide distributor, jobber, or wholesaler with a principal place of business in a state where the sale or possession of fireworks is allowed.

(ii) The State Fire Marshal may require a person who is an out-of-state distributor, jobber, or wholesaler to submit a certificate issued by the person's state of operation that demonstrates authority to buy and receive fireworks.

§10–111.

(a) A person who possesses or discharges fireworks in violation of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $250 for each offense.

(b) A person who sells fireworks in violation of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 for each offense.

(c) (1) At the expense of the owner, the State Fire Marshal shall seize and remove all fireworks possessed or sold in violation of this subtitle.

(2) Fireworks described in paragraph (1) of this subsection shall be forfeited and destroyed.

§10–112.

(a) A person may not sell sparklers or sparkling devices to a person under the age of 16 years.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000.

§10–113.

(a) This section applies to a distributor or wholesaler of sparklers or sparkling devices who:

(1) intends to conduct business in the State; or

(2) sells, ships, or assigns for sale in the State the products of the distributor or wholesaler.

(b) A distributor or wholesaler shall register annually with the State Fire Marshal on forms the State Fire Marshal provides.

(c) The annual fee for registration under this section is $750.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

§10–201.

(a) (1) Only the State Fire Marshal may issue a license to operate a fireworks plant.

(2) A person shall be licensed by the State Fire Marshal before the person may operate a fireworks plant in the State.

(3) A license to operate a fireworks plant issued under this subtitle authorizes the licensee to:

(i) manufacture, process, and store 1.4 G fireworks, sparklers, sparkling devices, rockets, and Roman candles as authorized under this subtitle; and

(ii) store 1.4 G fireworks and 1.3 G fireworks at an approved location in a storage building approved by the State Fire Marshal or a local authority having jurisdiction over local fire prevention codes.

(b) Each fireworks plant in the State, regardless of when constructed, must conform to the requirements of this subtitle before a license to operate a fireworks plant is issued or renewed.

(c) Before the State Fire Marshal issues or renews a license to operate a fireworks plant:

(1) the State Fire Marshal, or a designee of the State Fire Marshal, shall:

(i) inspect the fireworks plant for compliance with this subtitle and regulations adopted under this subtitle; and

(ii) find the fireworks plant to be in full compliance with this subtitle and the regulations adopted under this subtitle;

(2) each unit of the State or political subdivision of the State that is responsible for determining compliance with other applicable statutes, ordinances, and regulations shall:

(i) determine whether the fireworks plant is in compliance with the other applicable statutes, ordinances, and regulations; and

(ii) report the results of the determination to the State Fire Marshal; and

(3) the State Fire Marshal must receive a report from each unit of the State or political subdivision of the State that is responsible for determining compliance with applicable statutes, ordinances, and regulations, that states that the fireworks plant is in full compliance.

(d) The State Fire Marshal may deny a license to operate a fireworks plant to an applicant who has been convicted of a felony under federal law or any state law.

(e) The term of a license may not exceed 1 year.

(f) An applicant shall pay to the State Fire Marshal a license fee of $750.

(g) (1) Except as provided in paragraph (2) or (3) of this subsection, if a licensee commits a violation of this subtitle or a regulation adopted by the State Fire Prevention Commission under this subtitle, the State Fire Marshal may suspend the license of the licensee for not more than 30 days.

(2) The State Fire Marshal shall suspend for 30 days the license of a licensee who, within 5 years of committing a first violation, commits a second violation of this subtitle or a regulation adopted by the State Fire Prevention Commission under this subtitle.

(3) The State Fire Marshal shall revoke the license of a licensee who, within 5 years of committing a first violation, commits a third violation, of this subtitle or a regulation adopted by the State Fire Prevention Commission under this subtitle.

(4) On suspending or revoking a license under this subsection, the State

Fire Marshal shall:

(i) file and keep a statement of the nature of the violation that resulted in the suspension or revocation; and

(ii) provide a copy of the statement to the owner and the operator of the fireworks plant.

(5) (i) If the State Fire Marshal suspends, revokes, or refuses to renew a license, the State Fire Marshal or designee of the State Fire Marshal shall:

1. determine whether the continued presence of explosive composition within the fireworks plant constitutes a danger to public safety; and

2. if there is a finding of a danger to public safety, remove and dispose of the explosive composition.

(ii) If the State Fire Marshal determines that the danger to public safety under subparagraph (i) of this paragraph is a clear and present danger, the State Fire Marshal or designee of the State Fire Marshal shall remove and dispose of the explosive composition even if an appeal is pending.

§10–202.

(a) As necessary or advisable to protect the safety of employees of a fireworks plant and the public and to protect public property, the State Fire Prevention Commission shall:

(1) adopt regulations consistent with this subtitle; and

(2) enforce the regulations through the office of the State Fire Marshal.

(b) The scope of the regulations adopted under this section may include:

(1) the implementation of this subtitle; and

(2) requirements relating to:

(i) the location, construction, arrangement, and operation of a fireworks plant;

(ii) personnel;

(iii) public liability and workers' compensation insurance; and

(iv) fireworks plant safety.

§10–203.

(a) The State Fire Marshal or a designee of the State Fire Marshal shall inspect periodically each fireworks plant owned or operated by a person licensed under this subtitle.

(b) An inspection under this section shall include all aspects of fireworks plant operation.

§10–204.

(a) (1) Subject to paragraphs (2) and (3) of this subsection, a mixing building or storage building of a fireworks plant shall be located at least:

(i) 1,000 feet from a school, church, hospital, place of public assembly, or gasoline or fuel oil storage building or service station; and

(ii) 200 feet from any other inhabited building, a highway, or a railroad.

(2) A building within a fireworks plant that contains hazardous mixes or items may not be located nearer to the fireworks plant property line than is authorized under regulations adopted by the State Fire Prevention Commission.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, a finishing and assembling building shall be located at least:

1. 75 feet from any other finishing and assembling building; and

2. 200 feet from any storage building used primarily to store finished fireworks other than sparklers.

(ii) If a candle building or rocket press building of a fireworks plant is constructed of approved fire-resistant materials, is barricaded, and otherwise meets the requirements of the State Fire Prevention Commission, the building shall be located at least 50 feet from other finishing and assembling buildings.

(4) A licensee may package and repackage 1.4 G fireworks in finished form in a storage building if there is a minimum separation distance of 25 feet between the packaging area and any stored fireworks.

(5) Except as provided under paragraph (3)(ii) of this subsection, a distance prescribed under this section may not be reduced because of the presence of a barricade or earth cover.

(b) (1) Except as provided in paragraph (2) of this subsection, a fireworks plant shall be completely surrounded by a substantial fence that:

(i) is at least 6 feet tall;

(ii) contains at least three strands of barbed wire; and

(iii) except as provided in paragraph (3) of this subsection, contains openings equipped with suitable gates that are kept securely locked when not in use.

(2) Except for an office building in which processing or storage is prohibited, each building in a fireworks plant shall be located within the fence required under paragraph (1) of this subsection.

(3) The main gate of the plant may be left open during the regular hours of plant operation if the gate is within the unobstructed view and under the observation of authorized responsible employees or guards.

(4) The licensee shall post conspicuous signs at least every 500 feet along the fence of the fireworks plant that state "WARNING - NO SMOKING - NO TRESPASSING".

§10–205.

(a) Each building in a fireworks plant shall be constructed as provided in this section.

(b) (1) This subsection applies to a building that is constructed or improved after July 1, 1970, or to which an addition is made after July 1, 1970.

(2) The following buildings in a fireworks plant shall have exterior walls and roofs that are constructed of noncombustible material and shall be constructed to be frangible:

(i) a finishing and assembling building;

(ii) a press building; and

(iii) a mixing building.

(c) A building in a fireworks plant may not contain a basement or exceed one story.

(d) (1) The interior wall surfaces and ceilings of a building in a fireworks plant shall:

(i) be smooth, free from cracks and crevices, and fire resistant; and

(ii) contain a minimum number of horizontal ledges on which dust may accumulate.

(2) (i) A floor or work surface in a building in a fireworks plant may not

have cracks or crevices in which explosives may lodge.

(ii) A wall joint or opening for wiring or plumbing in a building in a fireworks plant shall be sealed to prevent entry of dust.

(3) A mixing building or press building in a fireworks plant shall contain conductive flooring that is properly grounded.

(e) A building in a fireworks plant shall be heated by:

(1) steam;

(2) indirectly radiating hot air;

(3) hot water; or

(4) any other means approved by the State Fire Prevention Commission.

(f) (1) All electric wiring in a fireworks plant shall be permanent and installed in approved conduits.

(2) All electrical service shall comply with applicable electrical codes.

(3) Temporary or loose electric wiring or extension lights may not be used except:

(i) during repair operations while using approved temporary extensions; and

(ii) after the area has been cleared of all explosive composition and washed of dust.

(4) Each fireworks plant shall have a master switch that:

(i) is located at the point where electric current enters the fireworks plant; and

(ii) on being opened, immediately cuts off all electric current to the fireworks plant.

(5) Other than in a warehouse, an open knife switch may not be used inside a building of a fireworks plant.

(6) Artificial lighting in a fireworks plant shall be provided by electric, vapor-proof, keyless lamps.

(g) (1) Except as provided in paragraph (2) of this subsection, each building shall contain:

(i) at least two exits for each work area; and

(ii) at least two exits from the building.

(2) Each small building with a designated capacity of one individual may have only one exit.

(3) Each exit shall be at least 30 inches wide.

(4) Exits shall be located:

(i) so that the path of travel from the work area is unobstructed; and

(ii) at opposite ends of the work area.

(5) An exit door shall:

(i) open outward;

(ii) remain unlocked during the hours that the work area or building is occupied; and

(iii) remain unobstructed.

§10–206.

(a) Each building in a fireworks plant shall be equipped as provided in this section.

(b) (1) A stove, an exposed flame, or an electric heater may not be used in a fireworks plant, except in a boiler room, machine shop, office building, pump house, or lavatory in which fireworks, fireworks components, or volatile chemicals are prohibited.

(2) If a unit heater is located inside a building that could, at any time, contain explosive composition:

(i) the heater shall be equipped with an explosion-proof motor; and

(ii) the switches controlling the motor of the unit heater shall be located outside the building in which the motor is located.

(c) An electric motor, fan, open switch, or other device capable of producing an open spark shall be located:

(1) outside any building in a fireworks plant that at any time contains explosive composition; and

(2) in a manner so that an open spark cannot be introduced into a building in a fireworks plant that, at any time, contains explosive composition.

(d) A press or other mechanical device located in a building in a fireworks plant that, at any time, contains explosive composition shall be properly grounded to prevent the accumulation of static electricity.

§10–207.

(a) (1) In this subsection, "explosive composition" or "pyrotechnic composition" includes raw materials, materials being processed, and finished products.

(2) By regulation, the State Fire Prevention Commission shall determine the maximum amount of explosive composition or pyrotechnic composition that may be safely kept in any building in a fireworks plant at any time.

(3) A licensee shall:

(i) post conspicuously on each building in the fireworks plant, the limits on the amount of explosive composition or pyrotechnic composition authorized under this subsection; and

(ii) strictly comply with the limits.

(b) (1) A licensee shall keep each building in a fireworks plant clean, orderly, and free from accumulated dust or rubbish.

(2) If powder or other explosive materials are spilled on the floor of a building in a fireworks plant, the licensee shall ensure that the floor is cleaned immediately and that the powder or materials are removed immediately from the building.

(c) (1) A licensee shall ensure that rags, combustible and explosive scrap, and paper are:

(i) kept separate from each other; and

(ii) placed in approved marked containers.

(2) A licensee shall ensure that waste and rejected hazardous materials are:

(i) removed daily from each building;

(ii) removed at regular intervals from the fireworks plant; and

(iii) destroyed by submersion in water or by burning.

(3) A licensee shall ensure that nonhazardous waste is:

(i) removed at regular intervals from the fireworks plant; and

(ii) disposed of in a landfill system or by other suitable means.

(d) A licensee shall ensure that adequate and appropriate fire extinguishers that meet the State Fire Prevention Code are:

(1) kept in each building in a fireworks plant; and

(2) readily accessible at all times.

(e) (1) Unless an individual has signed into a log and has stated in writing the purpose of the individual's visit to the fireworks plant, a licensee may not allow entry into a fireworks plant by an individual other than:

(i) an authorized employee; or

(ii) a representative of a unit of the federal government, a state government, or a political subdivision, having jurisdiction over the fireworks plant.

(2) A licensee shall:

(i) maintain the log of visitors to the fireworks plant for at least 2 years; and

(ii) make the log available for inspection by the State Fire Marshal or a representative of the State Fire Marshal.

(3) All visitors shall wear conductive footwear.

(f) (1) There shall be at least one competent security guard present on duty whenever any explosive composition is located within a fireworks plant.

(2) The security guard:

(i) may not sleep on duty; and

(ii) shall patrol the entire fireworks plant regularly when the fireworks plant is not in operation.

§10–208.

(a) A licensee may test fireworks or their components only in an area that is:

(1) set aside for that purpose; and

(2) located at a safe distance from any fireworks plant building or other structure, considering the nature of the materials being tested.

(b) A licensee may experiment with fireworks, pyrotechnics, or their components only as authorized by the State Fire Marshal.

§10–209.

(a) (1) The licensee shall designate an employee in each fireworks plant as safety officer.

(2) When an employee of a fireworks plant begins employment in the fireworks plant and at least annually thereafter, the safety officer shall instruct the employee formally about:

(i) the provisions of this subtitle;

(ii) regulations adopted by the State Fire Prevention Commission;

(iii) proper methods and procedures in fireworks plants;

(iv) safety requirements and procedures for handling explosives and fireworks; and

(v) other subjects that the State Fire Prevention Commission requires.

(3) After receiving each course of instruction, the employee shall sign a statement that the employee:

(i) has received instruction in the subjects required under paragraph (2) of this subsection; and

(ii) understands the requirements for safe practices.

(4) The statement required under paragraph (3) of this subsection shall be:

(i) filed in the personnel records of the fireworks plant; and

(ii) made available for inspection by the State Fire Marshal.

(b) A licensee shall post conspicuously in each building signs stating the maximum number of workers and visitors who may be present in the building at any one time.

(c) (1) A licensee shall:

(i) provide cotton working uniforms and conductive shoes to each individual working in a mixing building and press building in a fireworks plant;

(ii) provide facilities for:

1. individuals to change into and out of uniforms; and

2. the safekeeping of clothing;

(iii) wash uniforms frequently to prevent the accumulation of explosive composition on the uniforms; and

(iv) provide for employees washing and showering facilities designated by the Secretary of Health and Mental Hygiene.

(2) (i) Each individual working in a mixing building and press building in a fireworks plant shall wear the cotton uniforms and conductive shoes that the licensee provides.

(ii) Each individual working in a production building in a fireworks plant shall wear the type of eye protection designated by the Secretary of Health and Mental Hygiene.

(iii) Each individual working in a mixing area in a fireworks plant shall wear the type of respirator designated by the Secretary of Health and Mental Hygiene.

(3) An individual may not wear the uniform outside the fireworks plant.

(d) (1) Except as provided in paragraph (2) of this subsection, a person may not smoke or carry a lighted pipe, cigarette, cigar, match, lighter, or open flame inside the fence of a fireworks plant.

(2) A licensee may allow smoking in:

(i) an office building; or

(ii) another building if:

1. the building is used exclusively as a lunchroom or for rest rooms; and

2. the presence of fireworks or any explosive composition in the building is prohibited.

(3) The licensee shall mark locations in which smoking is authorized.

(4) Smoking locations shall contain:

(i) suitable receptacles for cigarette and cigar butts and pipe heels; and

(ii) at least one serviceable fire extinguisher of a type that is acceptable to the State Fire Marshal.

(5) A person whose clothing is so contaminated with explosives or other

dangerous materials as to possibly endanger the safety of other fireworks plant personnel may not be allowed in a smoking location.

(e) (1) A person may not bring into a finishing and assembling building, press building, mixing building, or storage building:

(i) a match, cigarette lighter, or other flame-producing device; or

(ii) a key, knife, coin, or other personal article made of metal.

(2) A person shall only use properly maintained and nonferrous safety hand tools in any area of a fireworks plant in which there is a danger that materials may be ignited by sparks.

(f) A person may not:

(1) enter or attempt to enter a fireworks plant while:

(i) possessing liquor or narcotics; or

(ii) under the influence of liquor or narcotics; or

(2) consume intoxicants or narcotics while in a fireworks plant.

§10–210.

(a) (1) A person may not manufacture or process fireworks in the State except in a fireworks plant of a licensee.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

(b) (1) Unless otherwise authorized by law, a person under this subtitle may not manufacture:

(i) 1.3 G fireworks other than rockets and Roman candles;

(ii) fireworks commonly known as "flash and sound";

(iii) products utilizing potassium chlorate; or

(iv) explosives.

(2) Except as otherwise authorized under this subtitle or Title 11, Subtitle 1 of this article, a person may not store 1.3 G fireworks other than rockets or Roman candles.

(3) A person who violates this subsection is guilty of a misdemeanor and

on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

(c) (1) A person who has been denied a license to operate a fireworks plant in the State or whose license to operate a fireworks plant in the State has been suspended or revoked may not operate that fireworks plant in the State.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding $2,000 or both.

§11–101.

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

(b) (1) "Dealer" means a person who is engaged in the business of buying or selling explosives.

(2) "Dealer" does not include a manufacturer.

(c) (1) "Explosives" means gunpowder, powders for blasting, high explosives, blasting materials, fuses other than electric circuit breakers, detonators and other detonating agents, smokeless powder, and any chemical compound or mechanical mixture that contains oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that ignition by fire, friction, concussion, percussion, or detonation of any part of the compound or mixture may and is intended to cause an explosion.

(2) "Explosives" includes:

(i) bombs and destructive devices designed to operate by chemical, mechanical, or explosive action; and

(ii) two or more components that are advertised and sold together with instructions on how to combine the components to create an explosive, as defined in paragraph (1) of this subsection.

(3) "Explosives" does not include fixed ammunition for small arms, small arms ammunition primers, small arms percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, friction primers, fireworks, or common matches when used in their original configuration.

(d) "Explosives for use in firearms" means:

(1) smokeless powder for loading or reloading small arms ammunition; or

(2) black powder for loading or reloading small arms ammunition, antique arms, or replicas of antique arms.

(e) "Local licensing authority" means the sheriff or chief of police of the county or community where the applicant for a license resides or has a regular place of business.

(f) "Manufacturer" means a person who manufactures or otherwise produces explosives.

§11–102.

(a) This subtitle does not apply to explosives while being transported on vessels, vehicles, or railroad cars, or while being held for delivery, if the transportation or delivery is subject to and conforms with regulations adopted by the United States Department of Transportation or United States Coast Guard.

(b) This subtitle does not apply to the receipt, possession, and use of signals required for the safe operation of vessels, motor vehicles, railroad cars, or aircraft by their operators.

§11–103.

The State Fire Prevention Commission may adopt regulations to carry out this subtitle.

§11–104.

(a) (1) The State Fire Marshal may investigate an explosion or fire that occurs in any place where explosives or ingredients for explosives are manufactured, transported, stored, or used.

(2) The State Fire Marshal may investigate an explosion, accident, or fire if there is reason to believe explosives were involved.

(b) The State Fire Marshal may report the findings of an investigation under subsection (a) of this section to federal or State authorities:

(1) if the explosion or fire was a willful act, for criminal prosecution of the person causing the willful act; or

(2) if the explosion or fire was accidental, so that precautions may be taken to prevent similar accidents from occurring.

(c) (1) In an investigation under subsection (a) of this section, the employees under the direction of the State Fire Marshal may enter the premises where the explosion or fire has occurred to:

(i) examine documents; or

(ii) administer oaths to and examine witnesses and other persons concerned.

(2) The owner, lessee, or operator of the premises where the explosion or fire has occurred, or an agent of these persons, may not hinder the actions of an employee of the State Fire Marshal described under paragraph (1) of this subsection.

(d) The State Fire Marshal may collect a fee of $20 for inspection of the vehicle of an explosive hauler.

§11–105.

(a) Except as otherwise provided in this subtitle, a person shall obtain a license issued under this subtitle before the person engages in business as a manufacturer or dealer, possesses explosives other than explosives for use in firearms, or possesses or stores explosives for use in firearms in the State.

(b) (1) A person shall obtain a license to engage in business as a dealer under this subtitle before the person engages in the business of loading or reloading small arms ammunition in the State.

(2) The owner or operator of a mine, quarry, or other operation or business that uses explosives, or a contractor who performs work that uses explosives, shall obtain a license to engage in business as a dealer under this subtitle.

(c) This section does not apply to the armed forces of the United States, the National Guard, the State Guard, or officers or employees of the United States, the State, or a local subdivision of the State who are authorized to handle explosives in the performance of their duties.

(d) (1) Subject to paragraph (2) of this subsection, a person need not obtain a license to possess or store up to 5 pounds of smokeless powder for the loading or reloading of small arms ammunition, and up to 5 pounds of black powder for the loading or reloading of small arms ammunition or for use in the loading of antique arms or replicas of antique arms, if the smokeless powder and black powder are stored in their original shipping containers and are possessed only for personal use in firearms.

(2) A person may not possess or store explosives for use in firearms in any quantity in multifamily dwellings, apartments, dormitories, hotels, schools, other public buildings, or buildings or structures open for public use.

(3) Notwithstanding paragraph (2) of this subsection, the State Fire Marshal may issue a permit to allow temporary possession of explosives for use in firearms in a building or structure open for public use.

§11–106.

(a) (1) An applicant for a license to engage in business as a manufacturer or dealer, to possess explosives other than explosives for use in firearms, or to possess explosives for use in firearms, and an applicant for a blaster's permit shall:

(i) submit an application to the State Fire Marshal on the form that the State Fire Marshal provides;

(ii) submit the documents required under this section; and

(iii) pay to the State Fire Marshal the fees required under subsection (d) of this section and the cost of the criminal history records check.

(2) The application form shall require the following information:

(i) the name and address of the applicant;

(ii) the reason for desiring the requested license or permit;

(iii) if the applicant is an individual, the citizenship of the individual;

(iv) if the applicant is a partnership, association, or corporation, the names, addresses, and citizenship of the partners of the partnership or officers and directors of the association or corporation; and

(v) proof of liability insurance in the amount that the State Fire Prevention Commission sets.

(b) As part of the application for a license or permit, the applicant shall submit to the State Fire Marshal the fingerprints required under subsection (e)(3)(i) of this section for each applicant and each officer, agent, or employee of the applicant who will be handling explosives.

(c) As part of the application for a license or permit, the State Fire Marshal shall require the applicant to submit with the application:

(1) the place where the explosives will be stored;

(2) the place where the explosives will be used; and

(3) the specific purpose for using the explosives.

(d) Each application for a license or permit shall be accompanied by the following fee:

(1) license to engage in business as a manufacturer of:

(i) less than 500 pounds of explosives..... $150

(ii) 500 pounds or more of explosives but less than 5,000 pounds..... $300

(iii) 5,000 pounds or more of explosives but less than 10,000 pounds $750

(iv) 10,000 pounds or more of explosives $1,500

(2) license to engage in business as a dealer for:

(i) retail only $75

(ii) users..... $150

(iii) wholesale and retail $300

(3) license to possess explosives other than for use in firearms $150

(4) license to possess explosives for use in firearms $150

(5) storage license for:

(i) Class A - 500 pounds or more of explosives $150

(ii) Class B - less than 500 pounds of explosives..... $75

(6) blaster's permit $60

(e) (1) In this subsection, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(2) The State Fire Marshal shall apply to the Central Repository for a State and national criminal history records check for each applicant and each officer, agent, or employee of the applicant who will be handling explosives.

(3) As part of the application for a criminal history records check, the State Fire Marshal shall submit to the Central Repository:

(i) two complete sets of legible fingerprints of each applicant and each officer, agent, or employee of the applicant who will be handling explosives, taken on forms approved by the Central Repository and the Federal Bureau of Investigation;

(ii) the fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(4) In accordance with Title 10, Subtitle 2 of the Criminal Procedure Article, the Central Repository shall forward to the applicant and the State Fire Marshal a printed statement of the criminal history record information of the subject of the criminal history records check.

(5) Information obtained from the Central Repository under this

subsection:

(i) shall be confidential and may not be disseminated; and

(ii) shall be used only for the purpose authorized by this subsection.

(6) The subject of a criminal history records check under this subsection may challenge the contents of the printed statement issued by the Central Repository as provided in § 10-223 of the Criminal Procedure Article.

§11–107.

(a) The State Fire Marshal shall issue a license or permit to each applicant who meets the requirements of this subtitle.

(b) Subject to subsection (c) of this section, the State Fire Marshal shall deny an application for a license or permit if the State Fire Marshal finds that:

(1) the applicant, or an officer, agent, or employee of the applicant who will be handling explosives, is not sufficiently experienced and will not work under satisfactory supervision in manufacturing, dealing in, or handling of explosives, as applicable;

(2) the applicant lacks suitable facilities for manufacturing, dealing in, or handling explosives;

(3) the applicant, or an officer, agent, or employee of the applicant who will be handling explosives, has been convicted of a felony or crime involving violence;

(4) the applicant, or an officer, agent, or employee of the applicant who will be handling explosives, is disloyal to the United States or has renounced United States citizenship;

(5) the applicant, or an officer, agent, or employee of the applicant who will be handling explosives, will use the explosives for an illegal purpose;

(6) the applicant, or an officer, agent, or employee of the applicant who will be handling explosives, is a fugitive as defined in § 9-401 of the Criminal Law Article;

(7) the applicant, or an officer, agent, or employee of the applicant who will be handling explosives, has been adjudicated mentally defective as defined in § 3-301 of the Criminal Law Article;

(8) the applicant, or an officer, agent, or employee of the applicant who will be handling explosives, has been committed to a mental institution;

(9) the applicant, or an officer, agent, or employee of the applicant who will be handling explosives, has been dishonorably discharged from the United States

military;

(10) the applicant, or an officer, agent, or employee of the applicant who will be handling explosives, is an alien other than an alien authorized to receive explosives under the federal Safe Explosives Act;

(11) the applicant, or an officer, agent, or employee of the applicant who will be handling explosives, is a user of, or addicted to, a controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;

(12) the application contains false information; or

(13) the application fails to provide required information.

(c) (1) An applicant for a license to possess explosives for use in firearms need not have sufficient experience in handling explosives or work under satisfactory supervision in handling explosives.

(2) An applicant for a license to possess explosives to be used for agricultural purposes need not:

(i) have sufficient experience in handling explosives or work under satisfactory supervision in handling explosives; or

(ii) have suitable facilities for handling explosives.

(d) Before a license or permit may be issued under this subtitle to an employer to engage in an activity in which the employer may employ a covered employee, as defined in § 9-101 of the Labor and Employment Article, the employer shall file with the State Fire Marshal:

(1) a certificate of compliance with the Maryland Workers' Compensation Act; or

(2) the number of a workers' compensation insurance policy or binder.

(e) On issuance of a license or permit under this section, the State Fire Marshal shall notify:

(1) the fire chief or fire administrator in the county where the license or permit was issued; or

(2) if the county does not have a county fire chief or fire administrator, the local 9-1-1 center.

§11–108.

A license to engage in business as a dealer authorizes the licensee to store 1.4 G fireworks and 1.3 G display fireworks at approved locations in storage buildings

approved by the State Fire Marshal or the local authority with jurisdiction over local fire prevention codes.

§11–109.

A license issued under this subtitle expires on the third anniversary of its effective date unless sooner revoked.

§11–110.

(a) The owner or operator of a mine, quarry, or other operation or business that uses explosives, or a contractor who performs work that uses explosives, required to obtain a license to engage in business as a dealer under this subtitle:

(1) may issue or sell to each employee only the amount of explosives as is reasonably required by that employee to perform the employee's duties;

(2) shall ensure that any explosives issued or sold to an employee are not taken by the employee to a place not necessary for the employee to perform the employee's duties; and

(3) shall ensure that any unused explosives are returned to the owner, operator, or contractor on termination of the work for which the explosives were issued or sold to the employee.

(b) Regardless of whether the owner, operator, or contractor has obtained a license to engage in business as a dealer, an employee of the owner, operator, or contractor need not obtain a license to possess explosives other than explosives for use in firearms in order to possess explosives issued or sold to the employee by the owner, operator, or contractor.

§11–111.

A license issued under this subtitle may be revoked by the State Fire Marshal for:

(1) a ground specified under § 11-107 of this subtitle for denying an application for a license; or

(2) a violation of regulations adopted by the State Fire Prevention Commission to regulate the use, handling, and storage of explosives.

§11–112.

(a) (1) Each manufacturer and each dealer shall keep, for all explosives shipped, purchased, or sold, a record that includes:

(i) the name and address of each consignee, buyer, or seller of the explosives;

(ii) the date of each shipment, purchase, or sale; and

(iii) the amount and description of the explosives.

(2) Each record kept under this subsection shall at all times be open for inspection by agents of the licensing authority and by federal, State, and local law enforcement officers.

(3) (i) Subject to subparagraph (ii) of this paragraph, each manufacturer and each dealer shall provide a copy of each record kept under this subsection to the State Fire Marshal in the form that the State Fire Marshal requires.

(ii) A record kept under this subsection shall be provided on request, but need not be filed more than once in each calendar month.

(b) (1) Subject to paragraph (2) of this subsection, each manufacturer shall file with the licensing authority of each state, other than this State, to which explosives have been shipped by the manufacturer, a report that includes:

(i) the name of each buyer to whom explosives have been shipped in that state; and

(ii) the amount and description of the explosives.

(2) A report required under paragraph (1) of this subsection shall be filed on request, but need not be filed more than once in each calendar month.

(3) In like manner, each manufacturer shall file with the State Fire Marshal a report that includes:

(i) the name of each buyer of explosives in this State; and

(ii) the amount and description of the explosives.

§11–113.

Each theft or other unauthorized taking of explosives from a licensee under this subtitle shall be reported by the licensee to the State Fire Marshal:

(1) immediately by telephone; and

(2) by a written report in the form required by the State Fire Marshal.

§11–114.

(a) Except as otherwise provided in this subtitle, a person may not engage in business as a manufacturer or dealer in the State unless the person is licensed under this subtitle.

(b) Except as otherwise provided in this subtitle, a person may not possess explosives other than explosives for use in firearms in the State unless the person is licensed under this subtitle.

(c) Except as otherwise provided in this subtitle, a dealer may not sell, barter, give, or dispose of explosives other than explosives for use in firearms to a person unless the person is licensed under this subtitle.

(d) The owner or operator of a mine, quarry, or other operation that uses explosives, and a contractor performing work that uses explosives, may not engage in business as a dealer in the State unless the person is licensed under this subtitle.

(e) An employee of an owner or operator of a mine, quarry, or other operation that uses explosives, or of a contractor performing work that uses explosives, may not possess explosives in a place not necessary for the employee to perform the employee's duties unless the employee is licensed to possess explosives under this subtitle.

(f) A person may not violate a regulation adopted under this subtitle.

(g) Except as otherwise provided in § 11-116 of this subtitle, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $5,000 or both.

§11–115.

(a) (1) A person may not possess at any time or store in any one place more than 5 pounds of smokeless powder or more than 5 pounds of black powder for use in firearms unless the person is licensed under this subtitle.

(2) A person may not engage in the business of loading or reloading small arms ammunition unless the person is licensed to engage in business as a dealer under this subtitle.

(3) Except as otherwise provided in this subtitle, a person may not possess or store explosives for use in firearms in any quantity in multifamily dwellings, apartments, dormitories, hotels, schools or other public buildings, or buildings or structures open for public use.

(b) A dealer may not sell, barter, give, or dispose of more than 5 pounds of black powder or more than 5 pounds of smokeless powder for use in firearms to any one person at any one time unless the person is licensed under this subtitle.

(c) A person may not fail to file reports or records required under § 11-112 of this subtitle.

(d) A person may not fail to file a report of theft of explosives required under § 11-113 of this subtitle.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $500 or both.

§11–116.

(a) (1) Except as otherwise provided in paragraph (2) of this subsection, a person who violates § 11–114(b) of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years or a fine not exceeding $10,000 or both.

(2) Paragraph (1) of this subsection does not apply to a person who neither intended to use nor used the explosives involved in violation of:

(i) Title 3, Subtitle 1 or Subtitle 5, Title 5, Subtitle 1, Subtitle 2, Subtitle 3, or Subtitle 4, § 6–602, § 7–402, or § 12–701 of this article;

(ii) Title 1, Subtitle 3, Title 3, Subtitle 7, or § 4–123.1 of the Agriculture Article;

(iii) Title 19, Subtitle 2 or Subtitle 3 of the Business Regulation Article;

(iv) Title 14, Subtitle 29, § 11–810, or § 14–1317 of the Commercial Law Article;

(v) § 3–218, § 3–305(c)(2), § 3–409(a) or (c), § 3–803(b), § 3–807(i), § 3–808(d), § 3–811(c), § 8–801, § 8–802, § 9–602(e), § 11–702(d)(8), § 11–708(d)(7)(ii), § 11–711(h)(2), § 11–712(c)(6)(ii), § 11–715(g)(2), § 11–716(h)(2), § 11–723(b)(8), or § 11–726 of the Correctional Services Article;

(vi) the Criminal Law Article other than Title 8, Subtitle 2, Part II or § 10–614;

(vii) Title 5, Subtitle 10A of the Environment Article;

(viii) § 5–503 of the Family Law Article;

(ix) Title 20, Subtitle 7 or § 21–259.1 of the Health – General Article;

(x) § 8–713.1, § 8–724.1, § 8–725.5, § 8–725.6, § 8–726.1, § 8–738.2, § 8–740.1, or § 10–411(a) or (d), as it relates to Harford County, of the Natural Resources Article;

(xi) § 14–127 of the Real Property Article;

(xii) Article 2B, Title 22 or § 18–104 of the Code;

(xiii) § 109 of the Code of Public Local Laws of Caroline County;

(xiv) § 4–103 of the Code of Public Local Laws of Carroll County; or

(xv) § 8A–1 of the Code of Public Local Laws of Talbot County.

(b) (1) Except as otherwise provided in paragraph (2) of this subsection, a person who violates § 11–114(c) of this subtitle or who conspires to violate § 11–114(b) of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years or a fine not exceeding $10,000 or both.

(2) Paragraph (1) of this subsection does not apply to a person who had probable cause to believe that the explosives involved would be used for a purpose other than the violation of:

(i) Title 3, Subtitle 1 or Subtitle 5, Title 5, Subtitle 1, Subtitle 2, Subtitle 3, or Subtitle 4, § 6–602, § 7–402, or § 12–701 of this article;

(ii) Title 1, Subtitle 3, Title 3, Subtitle 7, or § 4–123.1 of the Agriculture Article;

(iii) Title 19, Subtitle 2 or Subtitle 3 of the Business Regulation Article;

(iv) Title 14, Subtitle 29, § 11–810, or § 14–1317 of the Commercial Law Article;

(v) § 3–218, § 3–305(c)(2), § 3–409(a) or (c), § 3–803(b), § 3–807(i), § 3–808(d), § 3–811(c), § 8–801, § 8–802, § 9–602(e), § 11–702(d)(8), § 11–703(d)(5)(iii), § 11–706(b)(8), § 11–708(d)(7)(ii), § 11–711(h)(2), § 11–712(c)(6)(ii), § 11–714(c)(6), § 11–715(g)(2), § 11–716(h)(2), § 11–723(b)(8), or § 11–726 of the Correctional Services Article;

(vi) the Criminal Law Article other than Title 8, Subtitle 2, Part II or § 10–614;

(vii) Title 5, Subtitle 10A of the Environment Article;

(viii) § 5–503 of the Family Law Article;

(ix) Title 20, Subtitle 7 or § 21–259.1 of the Health – General Article;

(x) § 8–713.1, § 8–724.1, § 8–725.5, § 8–725.6, § 8–726.1, § 8–738.2, § 8–740.1, or § 10–411(a) or (d), as it relates to Harford County, of the Natural Resources Article;

(xi) § 14–127 of the Real Property Article;

(xii) Article 2B, Title 22 or § 18–104 of the Code;

(xiii) § 109 of the Code of Public Local Laws of Caroline County;

(xiv) § 4–103 of the Code of Public Local Laws of Carroll County; or

(xv) § 8A–1 of the Code of Public Local Laws of Talbot County.

§11–117.

(a) If a person has been convicted of a violation of § 11–114(a) and (b) of this subtitle, or of a violation of §§ 11–115(a) and 11–114(b) of this subtitle, and the convictions arise out of the same transaction, the conviction under § 11–114(a) or § 11–115(a) of this subtitle merges into the conviction under § 11–114(b) of this subtitle.

(b) If a person has been convicted of two or more violations under this subtitle and has been penalized under § 11–114(g), § 11–115(e), or § 11–116 of this subtitle for one violation, the person is not subject to an additional penalty under § 11–116 of this subtitle.

§11–118.

In an action under this subtitle:

(1) the State need not disprove any exception, excuse, proviso, or exemption under this subtitle; and

(2) the burden of proof of an exception, excuse, proviso, or exemption is on the defendant or the holder of any alleged security interest, as the case may be.

§12–101.

(a) This section applies only to inspections under § 12-909 and Subtitle 8, Part II of this title.

(b) An inspector of the Division of Labor and Industry may apply to the District Court for an administrative search warrant under this section if the inspector:

(1) is authorized or required by law to inspect property in the State; and

(2) is denied access to the property after making a proper request for access of the owner, lessee, or other person in charge of the property.

(c) A judge may issue an administrative search warrant under this section if the application:

(1) specifies the nature, scope, and purpose of the inspection; and

(2) shows that:

(i) the applicant is authorized or required by law to inspect the property;

(ii) the applicant was denied access to the property after making a proper request for access at a reasonable time;

(iii) the application is approved by the Attorney General; and

(iv) the inspection is sought for safety or health related purposes.

§12–201.

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

(2) "Department" means the Department of Housing and Community Development.

(3) "Industrialized building" has the meaning stated in § 12-301 of this title.

(b) The General Assembly finds that:

(1) the potential benefits of new materials and techniques for building construction are not readily available to the State partly because existing building codes preclude their use; and

(2) several subdivisions in the State have no building codes of any type to protect the public against unsafe, unsound, or unsanitary buildings in their communities and this measure of protection should be provided to these communities.

(c) The Department may adopt a Model Performance Code for building construction in the State.

(d) The Model Performance Code for building construction is not binding in a subdivision of the State unless the subdivision specifically adopts it.

(e) (1) The Model Performance Code for building construction shall cover elements appropriate to ensure safe and sound construction, including plumbing, structure, and electrical systems.

(2) Any part of the Model Performance Code that relates to structure shall incorporate by reference the Maryland Building Performance Standards established under Subtitle 5 of this title.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, any part of the Model Performance Code that relates to plumbing shall be consistent with the State Plumbing Code currently in effect under the Maryland Plumbing Act.

(ii) Subparagraph (i) of this paragraph does not apply to industrialized buildings.

(4) The Model Performance Code shall also include elements that promote

the efficient utilization of energy resources.

(5) The Model Performance Code shall be framed in terms of the purposes for which building codes are enacted instead of the specifications of materials and methods required to achieve the goals.

(f) (1) The Department shall adopt regulations to establish standards for industrialized buildings.

(2) After public hearing, the Department shall adopt regulations to prohibit a jurisdiction in which the Model Performance Code is applicable from altering or modifying the Model Performance Code without the approval of the Department.

(3) The Department shall provide an appeal procedure for challenges to the interpretation or application of the Model Performance Code.

(4) The Department shall:

(i) consult regularly with local officials to review the application and effectiveness of the Model Performance Code in each jurisdiction; and

(ii) review recommendations from local officials for changes, modifications, or exceptions to increase the effectiveness and usefulness of the Model Performance Code in those jurisdictions.

(5) The Department shall train and certify building code enforcement officials in each jurisdiction where the Model Performance Code is in effect.

(g) The Department may not unreasonably withhold approval of requests for special provisions in the Model Performance Code to meet local conditions.

§12–202.

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

(2) "Department" means the Department of Housing and Community Development.

(3) "Historic property" means a qualified historic building or facility that is:

(i) listed or eligible for listing in the National Register of Historic Places; or

(ii) designated as historic under State or local law.

(b) (1) The Department shall adopt by regulation a State building code to make buildings and facilities accessible and usable by individuals with physical

disabilities to the extent feasible.

(2) The regulations shall be developed in conjunction with:

(i) the Maryland Department of Disabilities;

(ii) the Maryland Rehabilitation Association; and

(iii) the Maryland Society of Architects.

(c) The Maryland Accessibility Code shall be enforced by local jurisdictions or any other governmental units with authority over buildings or facilities.

(d) The Department:

(1) shall decide questions of interpretation of the Maryland Accessibility Code; and

(2) may authorize waivers or exemptions under the Maryland Accessibility Code.

(e) In addition to any other penalty for a violation of the Maryland Accessibility Code, the Department shall investigate to determine if a violation exists.

(f) (1) If the Department determines that a violation of the Maryland Accessibility Code exists, the Department may resolve any issue related to the violation by mediation and conciliation.

(2) In addition, the Department may bring an action for equitable or other appropriate relief in a court in the jurisdiction in which the violation occurred, including an action to enjoin the construction, renovation, or occupancy of a building or facility that violates the Maryland Accessibility Code.

(3) Notwithstanding paragraph (2) of this subsection, the Department may not seek an injunction until 5 working days after the Department has sought to resolve the violation through mediation and conciliation.

(g) The Attorney General may prosecute civil cases that arise under this section that are referred to the Attorney General by the Department.

(h) (1) The Department shall cooperate with and provide technical assistance to the Commission on Civil Rights concerning an action brought by the Commission on Civil Rights to enforce § 20–705 or § 20–706 of the State Government Article.

(2) This section does not limit the authority of the Commission on Civil Rights to enforce §§ 20–705 and 20–706 of the State Government Article.

(i) (1) A person may not willfully violate the Maryland Accessibility Code.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject for each violation to imprisonment not exceeding 3 months or a fine not exceeding $500 for each day the violation exists or both.

(3) A penalty imposed under this subsection is in addition to and not a substitute for any other penalty imposed under federal, State, or local law.

(j) (1) This subsection does not apply to an aggrieved individual who has an existing private right of action against a housing authority to enforce accessibility requirements under:

(i) Section 504 of the federal Rehabilitation Act of 1973; or

(ii) the federal Americans with Disabilities Act of 1990.

(2) Subject to paragraph (3) of this subsection, an occupant, a dependent of an occupant, or a prospective tenant who otherwise meets the requirements for tenancy may commence a civil action in the District Court or circuit court to obtain relief for a violation of the Maryland Accessibility Code with regard to a building of four or more dwelling units that:

(i) is subject to the Maryland Accessibility Code; but

(ii) is not a historic property.

(3) At least 30 days before filing a complaint under this subsection, an occupant, a dependent of an occupant, or a prospective tenant who otherwise meets the requirements for tenancy shall provide written notice to the property manager, landlord, or rental agent that:

(i) states that the occupant, dependent of an occupant, or prospective tenant who otherwise meets the requirements for tenancy needs accessibility;

(ii) identifies the location of the multifamily building that is alleged to be noncompliant; and

(iii) states that the owner of the multifamily building has 30 days from the date of the notice to make arrangements to bring the multifamily building into compliance.

(4) In an action brought under this subsection, if the court finds that a violation of the Maryland Accessibility Code has occurred, the court may:

(i) grant relief as the court considers appropriate, including injunctive relief;

(ii) award the prevailing party reasonable attorney's fees and costs;

and

(iii) award the prevailing party actual damages.

§12–203.

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

(2) "Department" means the Department of Housing and Community Development.

(3) (i) "Multifamily dwelling" means a property containing two or more dwelling units, including:

1. an apartment house;

2. a boarding house;

3. a convent;

4. a dormitory;

5. a fraternity or sorority house;

6. a hotel or motel;

7. a monastery; and

8. a vacation time–share property.

(ii) "Multifamily dwelling" does not include:

1. a condominium, as defined in § 11–101 of the Real Property Article; or

2. a cooperative housing corporation, as defined in § 5–6B–01 of the Corporations and Associations Article.

(4) "Professional inspector" means:

(i) a professional engineer licensed under Title 14 of the Business Occupations and Professions Article and experienced in the practice of structural engineering;

(ii) an architect licensed under Title 3 of the Business Occupations and Professions Article and knowledgeable in the design, construction, and inspection of buildings; or

(iii) for purposes of the inspection of a multifamily dwelling

containing more than 10 dwelling units, a qualified person with at least 5 years of experience in multifamily dwelling operations, upkeep, and maintenance.

(b) Each political subdivision shall adopt by regulation a local housing code that sets minimum property maintenance standards for housing in the subdivision.

(c) The Department shall adopt by regulation a Minimum Livability Code.

(d) (1) Except as provided in paragraph (2) of this subsection, the Minimum Livability Code applies to residential structures used for human habitation.

(2) The Minimum Livability Code does not apply to:

(i) an owner–occupied housing unit;

(ii) any housing in a political subdivision that has adopted a local housing code that substantially conforms to the Minimum Livability Code; or

(iii) any housing exempted by the Department.

(e) The Minimum Livability Code shall:

(1) set minimum property standards for housing in the State;

(2) allow for exceptions and variations between political subdivisions:

(i) to reflect geographic differences; or

(ii) if the Department determines that unique local conditions justify exceptions or variations recommended by political subdivisions; and

(3) include minimum standards for:

(i) basic equipment and facilities used for light, ventilation, heat, and sanitation; and

(ii) safe and sanitary maintenance of residential structures and premises.

(f) (1) The political subdivision in which the housing is located shall enforce the Minimum Livability Code.

(2) Unless alternative housing is provided, an individual may not be displaced by enforcement of the Minimum Livability Code.

(3) (i) This paragraph does not apply in Baltimore City.

(ii) A political subdivision shall require an inspection of each multifamily dwelling in the political subdivision in which a unit in the multifamily

dwelling has balcony railings that are primarily constructed of wood at least once every 5 years, beginning no later than 10 years after the balcony is constructed, to ensure that the balcony railings meet the requirements of the applicable local housing code or the Minimum Livability Code.

(iii) A political subdivision may:

1. conduct inspections required under subparagraph (ii) of this paragraph;

2. authorize a third party to conduct inspections required under subparagraph (ii) of this paragraph on behalf of the political subdivision; or

3. require an inspection required under subparagraph (ii) of this paragraph to be conducted and certified to the political subdivision by a professional inspector hired by the owner of the multifamily dwelling.

(iv) A certification made by a professional inspector under subparagraph (iii)3 of this paragraph shall:

1. be made in the form required by the applicable political subdivision; and

2. include:

A. a statement that the balcony railings have been inspected;

B. the name of the owner of the multifamily dwelling;

C. the address of the multifamily dwelling;

D. the name of the inspector;

E. the date the multifamily dwelling was inspected;

F. the results of the inspection; and

G. any other information required by the political subdivision.

(v) A political subdivision shall:

1. provide notice to the owner of a multifamily dwelling at least 10 days before any inspection of the dwelling conducted under subparagraph (iii)1 or 2 of this paragraph; or

2. A. notify the owner of a multifamily dwelling of the need to have a professional inspector complete an inspection under subparagraph (iii)3 of this paragraph; and

B. allow the owner of the multifamily dwelling a reasonable period of time to have the inspection completed.

(vi) A political subdivision that otherwise inspects multifamily dwelling units at least once every 5 years may include the inspection required under subparagraph (ii) of this paragraph as part of that inspection.

(4) (i) In this paragraph, "multiple–family dwelling" has the meaning stated in Article 13, § 5–1 of the Baltimore City Code.

(ii) This paragraph applies only in Baltimore City.

(iii) Baltimore City may not issue or renew a multiple–family dwelling license unless the applicant demonstrates that a professional inspector has completed an inspection of the multiple–family dwelling to ensure that each balcony railing in the multiple–family dwelling meets the requirements of the Building, Fire, and Related Codes of Baltimore City.

(iv) Beginning in October 2015, and every 5 years thereafter, at the time that Baltimore City sends a renewal notice to a holder of a multiple–family dwelling license, Baltimore City shall notify the license holder of the inspection requirement under subparagraph (iii) of this paragraph.

(5) A political subdivision may charge a property owner a fee for:

(i) an inspection made to enforce the Minimum Livability Code; and

(ii) a periodic inspection made under paragraph (3) or (4) of this subsection.

(g) (1) On application of the property owner, a political subdivision may waive the applicability of the Minimum Livability Code to a unit of rental housing if:

(i) each tenant of the unit is given adequate notice in the form and manner specified by the political subdivision;

(ii) each tenant is given an opportunity to comment on the application in writing or in person; and

(iii) the waiver would not threaten the health or safety of any tenant.

(2) A political subdivision may waive applicability of the Minimum Livability Code if the waiver is granted on the basis of the religious practices of the tenant of a unit of rental housing.

(h) The Department:

(1) shall decide questions of interpretation of the Minimum Livability

Code, including questions that relate to uniform enforcement by political subdivisions; and

(2) may authorize waivers or exemptions under the Minimum Livability Code.

(i) (1) The Department may provide matching grants and technical assistance to political subdivisions to implement the Minimum Livability Code.

(2) The matching grants shall be allocated using a formula developed by the Department to take into account population and other relevant factors.

(3) The Department may waive the requirement of a match if adequate local money is not available.

(j) (1) A property owner may not willfully violate the Minimum Livability Code.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject for each violation to imprisonment not exceeding 3 months or a fine not exceeding $500 for each day the violation exists or both.

(3) A penalty imposed under this subsection is in addition to and not a substitute for any other penalty authorized under federal, State, or local law.

§12–204.

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

(2) "ASHRAE" means the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

(3) "Guidelines" means the guidelines for recommended illumination levels in existing public buildings.

(4) "Public building" means a building owned by the State, a county, or municipal corporation or a unit of the State, a county, or municipal corporation.

(b) This section applies to each public building that is 10,000 or more square feet in area per floor.

(c) In conjunction with the Department of Natural Resources, the Department of Housing and Community Development shall develop guidelines for recommended illumination levels in existing public buildings in the State 6 months after ASHRAE 100 standards are adopted.

(d) After approval by the Joint Committee on Administrative, Executive, and Legislative Review, the guidelines shall be published in the Maryland Register and

other appropriate media to:

(1) encourage use of the guidelines; and

(2) provide standards in accordance with which owners, operators, or both of existing public buildings, including local governments, the Department of General Services, and other governmental units that manage State buildings, may target their energy conservation effort with regard to illumination.

(e) (1) In conjunction with the Department of Natural Resources, the Department of Housing and Community Development shall provide training to local jurisdictions on the application of the guidelines.

(2) The training may include a program developed by a federal agency or a contract agent.

(f) The Department of Natural Resources shall assist local jurisdictions to:

(1) determine the cost-benefit impacts of implementing the guidelines; and

(2) perform audits of specific buildings or installations to determine lighting performance characteristics and the savings possible through implementing the guidelines.

(g) (1) There is an advisory commission on energy conservation in buildings.

(2) The commission consists of 15 members appointed by the Secretary of Housing and Community Development.

(3) The members shall be broadly representative, including representatives from:

(i) State and local code enforcement agencies;

(ii) architectural and engineering professions;

(iii) public utilities;

(iv) the construction industry;

(v) legislative bodies of local government; and

(vi) the public.

(4) A member of the commission:

(i) may not receive compensation for service on the commission; but

(ii) is entitled to reimbursement for expenses under the Standard State Travel Regulations as provided in the State budget.

§12–301.

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

(b) "Department" means the Department of Housing and Community Development.

(c) (1) "First user" means a person who initially installs an industrialized building or manufactured home in the State.

(2) "First user" does not include a person who subsequently buys a building that consists wholly or partly of an industrialized building.

(d) (1) "Industrialized building" means a building assembly or system of building subassemblies manufactured in its entirety, or in substantial part, off site and transported to a site for installation or erection, with or without other specified components, as a finished building or as part of a finished building that comprises two or more industrialized building units.

(2) "Industrialized building" includes the electrical, plumbing, heating, ventilating, insulation, and other service systems of the building assembly or system of building subassemblies if the service systems are installed at the off site manufacture or assembly point.

(3) "Industrialized building" does not include:

(i) open frame construction that can be completely inspected on site;

(ii) a manufactured home; or

(iii) a building 8 body feet or less in width and 40 body feet or less in length that is:

1. used for business purposes, mobile offices, or storage; and

2. not open to the general public.

(e) "Install" means to assemble an industrialized building or manufactured home on site and to affix the industrialized building or manufactured home to land, a foundation, footings, or an existing building.

(f) "Local enforcement agency" means an agency of the governing body of a county or municipal corporation that enforces laws that govern the construction of buildings.

(g) (1) "Manufactured home" means a structure that:

(i) is transportable in one or more sections;

(ii) is 8 body feet or more in width and 30 body feet or more in length;

(iii) is built on a permanent chassis; and

(iv) is designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities.

(2) "Manufactured home" includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

(h) "Manufactured Home Construction and Safety Standards Act" means the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq.

(i) "Site" means the entire tract, subdivision, or parcel of land on which an industrialized building or manufactured home is installed.

§12–302.

The General Assembly finds that:

(1) with the acceleration in development of new materials, processes, and assemblies of building components, industrialized buildings, manufactured homes, and subassemblies, and the increased use of temporary and mobile structures, there is a need for a statewide building regulatory system;

(2) until the recent increase in demand for use of temporary and mobile structures, the present system with its essentially local building regulatory departments has done a creditable job protecting the health and safety of the public in their respective communities;

(3) this new demand calls for more in depth performance evaluations in terms of the intent of the building regulations and inspection services that usually involve going beyond the boundaries of local units of government and require the assistance of the State;

(4) local officials in the State possess great knowledge and insight in this field and are aware of the needs for modification, and their cooperation in developing, applying, and refining a satisfactory program is essential;

(5) there is a great opportunity to cooperate with other states, with organizations that have published widely used model building codes or standards of regulations, and with other similarly engaged agencies, including the National Institute of Standards and Technology;

(6) this cooperation shall be an integral element in the application and

enforcement of this statewide program; and

(7) the health and safety of the public will be protected best if the State assumes the responsibility to enforce in the State federal construction and safety standards in accordance with the Manufactured Home Construction and Safety Standards Act.

§12–303.

Notwithstanding any other provision of this subtitle, local land use requirements, building setback requirements, side and rear yard requirements, site development and property line requirements, zoning requirements and uniform fire control regulations, regardless of where the requirements, ordinances, regulations, or statutes are set forth, are reserved to local government.

§12–304.

(a) (1) The Department shall establish a schedule of fees to administer the inspection and certification program for industrialized buildings and the on-site inspection and enforcement program for manufactured homes.

(2) To the extent possible, the fees shall be based on the cost of administration of these programs.

(3) The payments of the fees shall be included in the money of the Department with receipts from contracts or grants under federal or interstate programs.

(4) Any money unexpended at the end of the fiscal year does not revert to the General Fund, but shall be kept in a special fund available to the Department to carry out this subtitle.

(b) The Department:

(1) shall enforce this subtitle and the regulations adopted under this subtitle; and

(2) may refer an apparent violation of this subtitle to the appropriate State's Attorney.

§12–305.

(a) The Department:

(1) shall adopt regulations that set standards to which industrialized buildings shall comply to protect against the hazards of industrialized buildings to safety, health, and property;

(2) may adopt regulations that govern the enforcement, inspection, and certification programs authorized by this subtitle; and

(3) with respect to industrialized buildings, shall adopt the Maryland Building Performance Standards with exceptions or modifications that, after adequate public notice and public hearing, the Department considers appropriate to meet the needs and judgments of the State.

(b) (1) If practical, the regulations that set standards for industrialized buildings shall be stated in terms of required levels of performance to facilitate the prompt approval of acceptable new building materials and methods.

(2) If generally recognized standards of performance are not available, the regulations shall provide for acceptance of materials and methods whose performance has been determined by the Department, on the basis of reliable test and evaluation data presented by the proponent, to be substantially equal in safety to the materials and methods specified when used for the purpose and in the manner recommended.

(c) (1) The Department shall have printed and keep in pamphlet form the regulations that set standards for industrialized buildings.

(2) The pamphlets shall be provided at cost to the public on request.

(d) The Department may adopt regulations that relate to issues of construction or safety of manufactured homes for which a federal standard has not been established and which are not reserved to a local government under § 12-303 of this subtitle.

§12–306.

(a) An industrialized building that is manufactured after June 30, 1977, may not be sold, offered for sale, or installed in the State unless the industrialized building:

(1) is certified by the Department for sale in the State; and

(2) bears the insignia provided by the Department.

(b) A manufactured home that is manufactured after January 1, 1973, may not be sold or offered for sale to a first user in the State unless the manufactured home:

(1) is certified by the Department for sale in the State and bears the insignia provided by the Department; or

(2) is certified and labeled under the Manufactured Home Construction and Safety Standards Act.

§12–307.

(a) (1) The Department shall determine whether each proposed

industrialized building meets the standards contained in the regulations of the Department.

(2) The determination shall include the evaluation and testing of the industrialized building and the quality control system at the factory of origin and at the building site.

(b) (1) The Department shall perform the determination required by subsection (a) of this section through its own personnel or through a designated agent.

(2) The designated agent shall be:

(i) qualified personnel of a local enforcement agency; or

(ii) a testing facility that is approved by the Department.

(3) The testing facility shall be:

(i) an architect or professional engineer whose registration is accepted by the State; or

(ii) a testing organization that is determined by the Department to be specifically qualified by reason of facilities, personnel, experience, and demonstrated reliability to investigate, test, and evaluate industrialized buildings or their component parts.

(4) In addition to evaluating and testing industrialized buildings or their component parts, the testing facility shall:

(i) list the units in compliance with the standards adopted by the Department;

(ii) provide adequate follow–up services at the point of manufacture to ensure that production units are in full compliance; and

(iii) provide for each unit an insignia in the form of a label, seal, or other evidence of compliance.

(c) A manufacturer of a building exempted from the applicability of this subtitle under § 12–301(d)(3)(iii) of this subtitle may elect to have the Department perform a determination under subsection (a) of this section for the purpose of the Department certifying and providing an insignia for the building under this subtitle.

§12–308.

(a) If the Department determines that an industrialized building meets the standards set by the regulations of the Department, the Department shall certify the industrialized building for the prescribed area.

(b) If a problem arises that is limited to a particular locality in the State, the Department if practicable shall hold a public hearing in that locality.

(c) By regulation, the Department may provide that industrialized buildings approved by another state are entitled to certification by the Department if, after public hearing, the Department determines that the standards set by law of the other state:

(1) are at least equal to the regulations adopted under this subtitle; and

(2) are enforced adequately by the other state.

§12–309.

(a) Industrialized buildings certified by the Department for sale in the State shall bear the insignia provided by the Department.

(b) An industrialized building that bears an insignia provided by the Department is acceptable in all localities of the State:

(1) to comply with the requirements of this subtitle; and

(2) to meet the requirements of safety to life, health, and property required by a law or ordinance of a local governing body of the State without further investigation or inspection by the local governing body if the industrialized building is erected or installed in accordance with the conditions of the certification.

(c) (1) An industrialized building that was manufactured on or before June 30, 1977, and is not required to bear the insignia provided by the Department:

(i) may be lawfully sold or installed; and

(ii) is subject to regulation by the local governing body of the jurisdiction where the industrialized building will be installed.

(2) If an industrialized building that is not required to bear the insignia provided by the Department is offered for sale, the seller or manufacturer shall specifically advise the prospective purchaser that the building has not been certified by the State.

§12–310.

(a) The issuance, denial, or modification of a certification:

(1) shall be made by the Department; and

(2) may be reviewed by the Department's board of review.

(b) Local enforcement agency representatives, manufacturers, and installers of industrialized buildings may seek review by the Department of the issuance or denial

of a certification.

(c) Any alteration, modification, or attempted use of an industrialized building beyond the scope of the certification results in forfeiture of the certification and insignia unless approval for the modification or use is secured from the Department in advance.

§12–311.

(a) The Department shall maintain a program of adequate inspection of industrialized buildings.

(b) (1) Each manufacturer of industrialized buildings to be sold or offered for sale to first users in the State shall agree that the Department has the right to conduct unannounced inspections at the manufacturing site to review any aspect of the manufacturer's quality control program.

(2) The cost of two unannounced inspections may be charged to the manufacturer in accordance with a fee schedule established by the Department.

(3) In addition, the total travel costs on published air fare, or equivalent rate, between Baltimore and the location of the factory, plus necessary supplemental surface transportation and reimbursement for food and lodging consistent with allowances for State employees may be charged to the manufacturer.

(c) (1) The Department may establish a program of training and accreditation of local enforcement agency personnel to:

(i) enable them to be most effective in inspection of industrialized buildings or manufactured homes; and

(ii) promote the possibility of reciprocal reliance between building personnel in this State and between this State and other states.

(2) In those jurisdictions that employ accredited local enforcement agency personnel, the function of on-site inspection of the installation or assembly of industrialized buildings is reserved to those jurisdictions with appropriate appeal procedures from their decisions.

(d) (1) Local enforcement agency representatives, manufacturers, and installers may report to the Department an industrialized building that has been damaged en route to the site so that the Department may arrange for a reinspection of the industrialized building.

(2) The Department may charge a reinspection fee to the installer of the industrialized building.

§12–312.

(a) The Department may act as necessary or desirable to carry out a State plan of enforcement under the Manufactured Home Construction and Safety Standards Act.

(b) The authority of the Department under subsection (a) of this section includes the authority to:

(1) contract with or accept grants from the Department of Housing and Urban Development, the National Conference of States on Building Codes and Standards, their successors, or other similar organizations with respect to the enforcement of manufactured home standards and perform the undertakings and conditions of the contract or grant;

(2) engage in factory inspection and quality control monitoring of manufactured home manufacturers in the State and outside the State with respect to manufactured homes to be sold in the State or, if on a reciprocal or cooperative basis, not intended for sale in the State;

(3) train and accredit local enforcement agency personnel with respect to manufactured home construction and safety standards and manufactured home installation;

(4) inspect manufactured homes in the possession of dealers or otherwise distributed in the State, to:

(i) verify that the federal certification is proper for the intended zone; and

(ii) ascertain any damage in transit that affects compliance with construction or safety standards or constitutes a safety hazard;

(5) establish procedures to ascertain, report on, and correct complaints and reports of defects from or to dealers or users of manufactured homes;

(6) conduct on-site inspection of the installation of manufactured homes, require a permit or other evidence of approval of the on-site installation, and charge a fee to cover costs although these functions may be performed by a local enforcement agency that employs accredited inspectors; and

(7) require manufactured home dealers and manufactured home park operators to allow entry and inspection of manufactured homes for purposes of this subtitle and submit reports for purposes of this subtitle.

§12–313.

(a) (1) A person may not violate this subtitle or a regulation adopted under this subtitle.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject for each violation to a fine not exceeding $1,000.

(3) This subsection does not apply to a violation of 42 U.S.C. § 5409.

(b) (1) A person may not in the State violate 42 U.S.C. § 5409 or a regulation adopted or order issued under it.

(2) A person who violates this subsection is liable to the State for a civil penalty not exceeding $1,000 for each violation.

(3) Each violation under this subsection is a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required by 42 U.S.C. § 5409 or a regulation adopted or order issued under it.

(4) A civil penalty under this subsection may not exceed $1,000,000 for any related series of violations occurring within 1 year after the date of the first violation.

(c) (1) An individual or a director, officer, or agent of a corporation may not in the State knowingly and willfully violate 42 U.S.C. § 5409 in a manner that threatens the health or safety of a purchaser of a manufactured home.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

§12–401.

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

(b) "ANSI Standard" means the American National Standards Institute Standard ANSI z 97.1 - 1984, as adopted most recently by the Department in the Maryland Building Performance Standards.

(c) "Department" means the Department of Housing and Community Development.

(d) "Fixed glazed panel immediately adjacent to an entrance or exit door" means the first fixed glazed panel that:

(1) is beside an entrance or exit door;

(2) has a glazing less than 18 inches from the finished floor or the least dimension of which is 18 inches or more; and

(3) may be mistaken as a means of egress or ingress.

(e) (1) "Hazardous location" means a place for a door, panel, enclosure, or

other element, that is glazed or to be glazed, in a residential, industrial, commercial, institutional, or public building where the use of material other than safety glazing material constitutes an unreasonable hazard.

(2) "Hazardous location" includes a place for a framed or unframed exit door, a storm door except an operating vent on a jalousie door, a fixed or moving sliding door, a shower door, a tub enclosure, a fixed glazed panel immediately adjacent to an entrance or exit door, and any other element, that is glazed or to be glazed, whether or not the glazing is transparent.

(f) (1) "Safety glazing material" means glazing material that:

(i) is constructed, treated, or combined with other materials to minimize the likelihood of cutting and piercing injuries resulting from human contact with the glazing material; and

(ii) meets the test requirements of the ANSI Standard.

(2) "Safety glazing material" includes tempered glass, laminated glass, wire glass, or rigid plastic.

§12–402.

(a) This subtitle does not apply to a person who executed a legally binding written contract before July 1, 1973, to sell, fabricate, assemble, glaze, install, consent to, or cause to be installed, glazing material other than safety glazing material in, or for use in, a hazardous location in the State.

(b) (1) This subtitle supersedes any county or municipal ordinance that relates to safety glazing, that is less stringent than those in effect under this subtitle.

(2) This subtitle does not preclude a political subdivision of the State from adopting and enforcing requirements and regulations that are more stringent than those in effect under this subtitle.

§12–403.

After notice and hearing as required under Title 10, Subtitle 1 of the State Government Article, the Department may adopt additional requirements for safety glazing material.

§12–404.

(a) After notice and hearing as required under Title 10, Subtitle 1 of the State Government Article, the Department may determine whether a location is a hazardous location.

(b) After notice and hearing, the Department may except from safety glazing

requirements a panel in a hazardous location if the panel:

(1) is less than 200 square inches; and

(2) is located so that the use of material other than safety glazing material would not constitute an unreasonable hazard.

§12–405.

(a) (1) Except as provided in subsection (c) of this section, each light of safety glazing material manufactured, imported, or sold for use in a hazardous location or installed in a hazardous location in the State shall be permanently labeled by etching, sandblasting, firing of ceramic material, hot-die stamping, or other means.

(2) The label shall be legible and visible after installation.

(b) The label shall:

(1) identify the labeler;

(2) identify whether the labeler is a manufacturer, fabricator, or installer;

(3) identify the nominal thickness and type of safety glazing material; and

(4) state that the safety glazing material meets the test requirements of the ANSI Standard.

(c) Wire glass, laminated glass, or rigid plastic that is further fabricated after manufacture need not be permanently labeled if the seller or installer of the material gives each buyer of the material a certificate that states that the wire glass, laminated glass, or rigid plastic meets the test requirements of the ANSI Standard.

(d) Safety glazing labeling may not be used on material other than safety glazing material.

§12–406.

(a) A person may not in the State knowingly sell, install, consent, or cause to be installed glazing material other than safety glazing material in, or for use in, a hazardous location.

(b) A worker who is an employee of a contractor, subcontractor, or other employer responsible for compliance with this subtitle, is not liable for a violation of this subtitle.

§12–407.

(a) A person may not violate this subtitle.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

§12–501.

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

(b) "Building" has the meaning stated in the International Building Code.

(c) "Department" means the Department of Housing and Community Development.

(d) (1) "International Building Code" means the first printing of the most recent edition of the International Building Code issued by the International Code Council.

(2) "International Building Code" does not include interim amendments or subsequent printings of the most recent edition of the International Building Code.

(e) (1) "International Energy Conservation Code" means the first printing of the most recent edition of the International Energy Conservation Code issued by the International Code Council.

(2) "International Energy Conservation Code" does not include interim amendments or subsequent printings of the most recent edition of the International Energy Conservation Code.

(f) (1) "International Green Construction Code" means the first printing of the most recent edition of the International Green Construction Code issued by the International Code Council.

(2) "International Green Construction Code" does not include interim amendments or subsequent printings of the most recent edition of the International Green Construction Code.

(g) "Local jurisdiction" means the county or municipal corporation that is responsible for implementation and enforcement of the Standards under this subtitle.

(h) "Standards" means the Maryland Building Performance Standards.

(i) "Structure" has the meaning stated in the International Building Code.

§12–502.

(a) This subtitle does not alter or abrogate the authority of:

(1) the State Board of Plumbing to adopt and enforce the State Plumbing Code under the Maryland Plumbing Act, Title 12 of the Business Occupations and

Professions Article;

(2) the State Board of Heating, Ventilation, Air–Conditioning, and Refrigeration Contractors to adopt and enforce the State Heating, Ventilation, Air–Conditioning, and Refrigeration Code under the Maryland Heating, Ventilation, Air–Conditioning, and Refrigeration Contractors Act, Title 9A of the Business Regulation Article;

(3) the Commissioner of Labor and Industry to adopt and enforce standards for elevator safety under Subtitle 8 of this title;

(4) the State Fire Prevention Commission to enforce the Electrical Code under Subtitle 6 of this title; or

(5) the Public Service Commission to enforce the Energy Code defined under the Energy Conservation Building Standards Act, Title 7, Subtitle 4 of the Public Utilities Article.

(b) This subtitle does not alter or abrogate any zoning power or related authority that a county or municipal corporation had on October 1, 1993.

(c) This subtitle does not allow or encourage the State to initiate or assume an independent role in the administration and enforcement of the Standards for a building or structure that is not owned or operated by the State.

§12–503.

(a) (1) The Department shall adopt by regulation, as the Maryland Building Performance Standards, the International Building Code, including the International Energy Conservation Code, with the modifications incorporated by the Department under subsection (b) of this section.

(2) The Department shall adopt each subsequent version of the Standards within 12 months after it is issued.

(b) (1) Before adopting each version of the Standards, the Department shall:

(i) review the International Building Code to determine whether modifications should be incorporated in the Standards;

(ii) consider changes to the International Building Code to enhance energy conservation and efficiency;

(iii) subject to the provisions of paragraph (2)(ii) of this subsection, adopt modifications to the Standards that allow any innovative approach, design, equipment, or method of construction that can be demonstrated to offer performance that is at least the equivalent to the requirements of:

1. the International Energy Conservation Code;

2. Chapter 13, "Energy Efficiency", of the International Building Code; or

3. Chapter 11, "Energy Efficiency", of the International Residential Code;

(iv) accept written comments;

(v) consider any comments received; and

(vi) hold a public hearing on each proposed modification.

(2) (i) Except as provided in subparagraph (ii) of this paragraph and § 12–510 of this subtitle, the Department may not adopt, as part of the Standards, a modification of a building code requirement that is more stringent than the requirement in the International Building Code.

(ii) The Department may adopt energy conservation requirements that are more stringent than the requirements in the International Energy Conservation Code, but may not adopt energy conservation requirements that are less stringent than the requirements in the International Energy Conservation Code.

(c) The Standards apply to each building or structure in the State for which a building permit application is received by a local jurisdiction on or after August 1, 1995.

(d) In addition to the Standards, the Department may adopt by regulation the International Green Construction Code.

§12–504.

(a) (1) A local jurisdiction may adopt local amendments to the Standards if the local amendments do not:

(i) prohibit the minimum implementation and enforcement activities set forth in § 12–505 of this subtitle;

(ii) weaken energy conservation and efficiency provisions contained in the Standards;

(iii) except as provided in paragraph (3) of this subsection, weaken the automatic fire sprinkler systems provisions for townhouses and one– and two–family dwellings contained in the Standards; or

(iv) weaken wind design and wind–borne debris provisions contained in the Standards.

(2) (i) Regardless of whether the International Green Construction

Code is adopted by the Department under § 12–503(d) of this subtitle, a local jurisdiction may adopt the International Green Construction Code.

(ii) A local jurisdiction may make local amendments to the International Green Construction Code.

(3) Paragraph (1)(iii) of this subsection does not apply to:

(i) standards governing issuance of a building permit for a property not connected to an electrical utility; or

(ii) until January 1, 2016, standards governing issuance of a building permit for a new one– or two–family dwelling constructed on:

1. a lot subject to a valid unexpired public works utility agreement that was executed before March 1, 2011; or

2. a lot served by an existing water service line from a water main to the property line that:

A. is less than a nominal 1–inch size;

B. is approved and owned by the public or private water system that owns the mains;

C. was installed before March 1, 2011; and

D. is fully operational from the public or private main to a curb stop or meter pit located at the property line.

(b) If a local jurisdiction adopts a local amendment to the Standards, the Standards as amended by the local jurisdiction apply in the local jurisdiction.

(c) If a local amendment conflicts with the Standards, the local amendment prevails in the local jurisdiction.

(d) A local jurisdiction that adopts a local amendment to the Standards shall ensure that the local amendment is adopted in accordance with applicable local law.

(e) To keep the database established under this subtitle current, a local jurisdiction that adopts a local amendment to the Standards shall provide a copy of the local amendment to the Department:

(1) at least 15 days before the effective date of the amendment; or

(2) within 5 days after the adoption of an emergency local amendment.

§12–505.

(a) (1) (i) Each local jurisdiction shall implement and enforce the most current version of the Standards and any local amendments to the Standards.

(ii) Any modification of the Standards adopted by the State after December 31, 2009, shall be implemented and enforced by a local jurisdiction no later than 6 months after the modifications are adopted by the State.

(2) At a minimum, the local jurisdiction shall ensure that implementation and enforcement of the Standards includes:

(i) review and acceptance of appropriate plans;

(ii) issuance of building permits;

(iii) inspection of the work authorized by the building permits; and

(iv) issuance of appropriate use and occupancy certificates.

(3) Each local jurisdiction shall determine the manner in which the minimum implementation and enforcement activities of this subsection are carried out.

(b) (1) Except as otherwise provided in this subsection, the county in which a building or structure is located shall implement and enforce the Standards for that building or structure in accordance with this subtitle.

(2) (i) A municipal corporation that did not adopt a building code on or before October 1, 1992, may elect to implement and enforce the Standards in accordance with this subtitle for buildings or structures located in the municipal corporation.

(ii) If a municipal corporation elects to implement and enforce the Standards under this paragraph, the county in which the municipal corporation is located is not responsible for implementation and enforcement of the Standards in the municipal corporation.

(3) A county that did not adopt a building code on or before October 1, 1992, shall implement and enforce the Standards in the county unless it elects to negotiate with a municipal corporation in the county to have the municipal corporation implement and enforce the Standards in the county.

(4) A municipal corporation that adopted a building code on or before October 1, 1992, shall implement and enforce the Standards in the municipal corporation unless it elects to negotiate with the county in which the municipal corporation is located to have the county implement and enforce the Standards in the municipal corporation.

(c) A local jurisdiction may charge fees necessary to cover the cost of implementation and enforcement of the Standards and any local amendments to the Standards.

§12–506.

(a) The Department shall maintain a central automated database in accordance with this section.

(b) (1) At a minimum, the Department shall include in the database:

(i) the Standards;

(ii) local amendments to the Standards;

(iii) the State Fire Prevention Code adopted by the State Fire Prevention Commission under Title 6 of this article;

(iv) fire prevention codes adopted by local jurisdictions;

(v) the Electrical Code required under Subtitle 6 of this title;

(vi) local amendments to the Electrical Code;

(vii) the Energy Code defined under the Energy Conservation Building Standards Act, Title 7, Subtitle 4 of the Public Utilities Article;

(viii) local code provisions that are more restrictive than the Energy Code defined under the Energy Conservation Building Standards Act;

(ix) information compiled by the Department under paragraph (2) of this subsection;

(x) the Maryland Building Rehabilitation Code;

(xi) local amendments to the Maryland Building Rehabilitation Code; and

(xii) proposed federal or State legislation of which the Department is aware and that directly affects the construction industry.

(2) The Department may compile and include in the database:

(i) any information provided by a local jurisdiction on the implementation and interpretation of the Standards by the local jurisdiction; and

(ii) interim amendments to the International Building Code including subsequent printings of the most recent edition.

(c) The Department shall:

(1) make information from the database available to a local jurisdiction, State unit, or other interested party;

(2) provide each local jurisdiction with the necessary hardware or software to enable the local jurisdiction to access the information in the database; and

(3) coordinate with local building officials, the State Fire Marshal, and local fire officials in compiling information for the database.

(d) (1) (i) Except as provided in subparagraph (ii) of this paragraph, the Department may charge a fee for information provided from the database.

(ii) The Department may not charge a fee to a State unit or local jurisdiction.

(2) The Department may not charge a fee to a local jurisdiction for the ongoing maintenance of the database.

(3) Fees collected in accordance with this subsection unexpended at the end of the fiscal year do not revert to the General Fund, but shall be kept in a special fund available to the Department to carry out this subtitle.

(e) (1) A local jurisdiction shall provide to the Department a copy of each amendment to the local jurisdiction's fire prevention code or Electrical Code within 15 days after the effective date of the amendment.

(2) A local jurisdiction shall provide to the Department a copy of each amendment to the local jurisdiction's energy code that is more restrictive than the Energy Code defined under the Energy Conservation Building Standards Act within 15 days after the effective date of the amendment.

§12–507.

(a) The Department may:

(1) develop a voluntary forum that may be used, on request of a local jurisdiction, to resolve conflicts that involve the Standards; and

(2) adopt regulations to carry out this subtitle.

(b) The Department:

(1) shall notify each local jurisdiction of each change to the International Building Code and the impact the change will have on the local amendments in that local jurisdiction;

(2) in conjunction with the Maryland Building Officials Association and

other interested organizations, shall provide training for local building officials on the Standards and certify the participation of local building officials in the training; and

(3) on request, shall provide a local jurisdiction with technical assistance to implement and enforce the Standards.

§12–508.

(a) (1) In this section, "agricultural building" means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products.

(2) "Agricultural building" does not include a place of human residence.

(b) This section applies only to Calvert County, Charles County, Dorchester County, Frederick County, Harford County, Prince George's County, St. Mary's County, Somerset County, and Talbot County.

(c) The Standards do not apply to the construction, alteration, or modification of an agricultural building for which agritourism is an intended subordinate use.

(d) An existing agricultural building used for agritourism is not considered a change of occupancy that requires a building permit if the subordinate use of agritourism:

(1) is in accordance with limitations set forth in regulations adopted by the Department;

(2) occupies only levels of the building on which a ground level exit is located; and

(3) does not require more than 50 people to occupy an individual building at any one time.

(e) An agricultural building used for agritourism:

(1) shall be structurally sound and in good repair; but

(2) need not comply with:

(i) requirements for bathrooms, sprinkler systems, and elevators set forth in the Standards; or

(ii) any other requirements of the Standards or other building codes as set forth in regulations adopted by the Department.

(f) The Department shall adopt regulations to implement this section.

§12–509.

(a) In this section, "high–performance home" means a new residential structure that meets or exceeds the current version of:

(1) the Silver rating of the International Code Council's 700 National Green Building Standards; or

(2) the Silver rating of the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) for Homes Rating System.

(b) The Department shall encourage the construction of new residential structures in the State that are high–performance homes.

§12–510.

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

(2) (i) "Hotel" means an establishment that offers sleeping accommodations for compensation.

(ii) "Hotel" does not include a bed and breakfast establishment.

(3) "Master control device" means:

(i) a control that is activated when a person enters the room through the primary room–access method; or

(ii) an occupancy sensor control that is activated by a person's presence in the room.

(b) This section applies only to the new construction of hotels.

(c) (1) Each hotel guest room shall be equipped with a master control device that automatically turns off the power to all of the lighting fixtures in the guest room no more than 30 minutes after the room has been vacated.

(2) A master control device may also control the heating, ventilation, or air conditioning default settings in hotel guest rooms 30 minutes after a room has been vacated by:

(i) increasing the set temperature by at least 3 degrees Fahrenheit when in the air conditioning mode; or

(ii) decreasing the set temperature by at least 3 degrees Fahrenheit when in the heating mode.

(d) The Department shall adopt the provisions of this section as a part of the Maryland Building Performance Standards.

§12–601.

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

(b) "Certified nongovernmental electrical inspector" means an individual certified by the State Fire Marshal to inspect electrical installations for conformity with the National Electrical Code or any adopted local electrical code or amendments.

(c) "Electrical installation" means any installed:

(1) electrical wires or conductors that transmit electric current for electric light, heat, or power purposes;

(2) cable, molding, duct, raceway, or conduit for the reception or protection of wires or conductors; or

(3) electrical machinery, apparatus, device, or fixture.

§12–602.

(a) This subtitle does not apply to:

(1) public utilities, their affiliated companies, and electrical appliances and devices used in their work;

(2) the inspection or certification of an electrical installation by a unit of a county government that is authorized to conduct electrical inspections; or

(3) an electrical installation of the State or federal government during an emergency if the electrical installation is necessary for the public welfare as a result of the emergency.

(b) (1) This subtitle does not supersede any local law or ordinance of a local jurisdiction that establishes standards or qualifications for electrical inspectors and inspections within that local jurisdiction.

(2) A certified nongovernmental electrical inspector shall obtain county approval or certification as may be required by local law or ordinance.

§12–603.

Each electrical installation in the State shall conform to:

(1) the National Electrical Code; or

(2) the electrical code and amendments adopted by the county in which the electrical installation is done.

§12–604.

(a) The State Fire Marshal shall administer and enforce this subtitle.

(b) The State Fire Marshal may:

(1) adopt regulations necessary to carry out this subtitle; and

(2) use any member of the Office of the State Fire Marshal, as necessary, to carry out and enforce this subtitle.

§12–605.

(a) Before a utility authorizes electrical current to be turned on for a premise or structure, the utility must receive a cut–in certificate from a certified nongovernmental electrical inspector or governmental unit that is qualified to issue electrical inspection certificates.

(b) Within 15 days after completion, each electrical installation shall be certified by a certified nongovernmental electrical inspector or a governmental unit that is qualified to issue electrical inspection certificates.

§12–606.

A person shall be certified by the State Fire Marshal as a nongovernmental electrical inspector before the person inspects or certifies an electrical installation.

§12–607.

(a) Except as provided in subsection (b) of this section, an applicant for a nongovernmental electrical inspector certificate shall meet the following minimum qualifications:

(1) complete an apprenticeship as an electrician;

(2) complete at least 5 years of documented progressive experience in the electrical trade; and

(3) pass a written examination administered by the State Fire Marshal.

(b) In lieu of the minimum eligibility requirements required in subsection (a)(1) and (2) of this section, the State Fire Marshal may adopt regulations that allow an applicant to substitute an electrical engineering degree or accumulated credits toward an electrical engineering degree in combination with education, training, and experience to meet the qualifications.

§12–608.

(a) An applicant for a certificate shall:

(1) submit to the State Fire Marshal an application on the form the State Fire Marshal provides;

(2) submit all documents that the State Fire Marshal requires; and

(3) pay to the State Fire Marshal an application fee of $100.

(b) The application form provided by the State Fire Marshal shall contain a statement advising the applicant that willfully making a false statement on an application is a misdemeanor, subject to a fine or imprisonment or both, as provided in § 12–616 of this subtitle.

§12–609.

(a) The State Fire Marshal shall issue a certificate to each applicant who meets the requirements of this subtitle.

(b) The certificate shall include:

(1) the full name of the certificate holder;

(2) the date of issuance; and

(3) the date on which the certificate expires.

(c) Each certificate holder shall give the State Fire Marshal written notice of change of address within 10 business days after the change.

§12–610.

While a certificate for a nongovernmental electrical inspector is in effect, it authorizes the certificate holder to inspect electrical installations for conformity with the National Electrical Code or a local code as amended.

§12–611.

(a) (1) Unless a certificate is renewed for a 3–year term as provided in this section, the certification expires on the date set by the State Fire Marshal.

(2) The State Fire Marshal may determine that certificates issued under this subtitle shall expire on a staggered basis.

(b) At least 45 days before a certificate expires, the State Fire Marshal shall mail to the certificate holder, at the last known address of the certificate holder:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current certificate expires;

(ii) that the State Fire Marshal must receive the renewal application at least 15 days before the certificate expiration date for the renewal to be issued and mailed before the certificate expires;

(iii) the amount of the renewal fee;

(iv) that an individual may not be issued a certificate under this subtitle until all outstanding obligations are satisfied with the State Fire Marshal; and

(v) that the submission of a false statement in the renewal application or the submission of altered or false documents that are otherwise required is cause for revocation of the certification.

(c) A certified nongovernmental electrical inspector may renew the certification for a 3–year term if the certificate holder:

(1) otherwise is entitled to be certified; and

(2) submits to the State Fire Marshal:

(i) a renewal application on the form the State Fire Marshal provides;

(ii) a renewal fee of $50; and

(iii) satisfactory evidence of compliance with any other requirements under this section for renewal of certification.

(d) Certificate holders who fail to renew within 90 days from the date of expiration shall be required to submit an initial application and successfully pass the written examination.

(e) The State Fire Marshal shall renew the certification of each applicant who meets the requirements of this section.

§12–612.

(a) Subject to the hearing provisions of § 12–613 of this subtitle, the State Fire Marshal may deny a certificate to an applicant, refuse to renew a certificate, reprimand a certificate holder, suspend or revoke a certificate, or impose a civil penalty not exceeding $1,000 if the applicant or certificate holder:

(1) fraudulently or deceptively obtains or attempts to obtain a certificate for the applicant or another;

(2) fraudulently or deceptively uses the certificate;

(3) engages in an unfair or deceptive trade practice, as defined in § 13–301 of the Commercial Law Article;

(4) willfully or deliberately disregards or violates a building code, electrical code, or law of the State or a local jurisdiction;

(5) while not certified, solicits to engage in or willfully engages in providing electrical inspection services;

(6) while not certified, willfully advertises as a certified nongovernmental electrical inspector;

(7) willfully makes a false statement or misrepresentation in any renewal application or in any other document that the State Fire Marshal requires to be submitted; or

(8) violates any other provision of this subtitle or any regulation adopted by the State Fire Marshal under this subtitle.

(b) In determining the appropriate penalty to be imposed under subsection (a) of this section, the State Fire Marshal shall consider:

(1) the gravity of the violation;

(2) the good faith of the violator;

(3) the number and gravity of previous violations by the same violator;

(4) the harm caused to the complainant, the public, and the electrical inspector profession;

(5) the assets of the violator; and

(6) any other factors that the State Fire Marshal considers relevant.

§12–613.

(a) Before the State Fire Marshal takes any final action under § 12–612 of this subtitle, the State Fire Marshal shall give the individual against whom the action is contemplated an opportunity for a hearing before the State Fire Marshal.

(b) The State Fire Marshal shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The hearing notice shall be sent by certified mail to the last known address of the person at least 10 business days before the hearing.

(d) The State Fire Marshal may administer oaths in connection with any proceeding under this section.

(e) The person may be represented at the hearing by counsel.

(f) If, after due notice, the person against whom the action is contemplated fails to appear for the hearing, the State Fire Marshal may hear and determine the matter.

§12–614.

Any person aggrieved by a final decision of the State Fire Marshal in a contested case, as defined in § 10–202 of the State Government Article, is entitled to appeal to the Office of Administrative Hearings and to judicial review, as provided in the Administrative Procedure Act.

§12–615.

(a) This section applies in Charles County and St. Mary's County.

(b) In a county subject to this section, a homeowner may install electrical wiring in a home that is to be used as the homeowner's residence subject to standards set by the county commissioners.

(c) (1) The county commissioners of Charles County may adopt regulations to govern the issuance of permits to homeowners under this section.

(2) The county commissioners of St. Mary's County shall adopt regulations to govern the issuance of permits to homeowners under this section.

§12–616.

(a) Except as otherwise provided in this subtitle, a person may not inspect or certify an electrical installation unless the person is certified by the State Fire Marshal.

(b) A person may not willfully make a false statement on an application submitted under this subtitle.

(c) A person who violates this subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $500 or both.

§12–701.

(a) (1) Except as provided in paragraph (2) of this subsection, each elevator and each stairway in a building with three or more levels or floors shall indicate clearly by sign or otherwise which levels or floors are most accessible to the exits of the building.

(2) This requirement does not apply to an elevator or stairway in a dwelling for the personal use of a family.

(b) The owner of a building subject to this section who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $50.

§12–702.

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

(2) "Commission" means the State Fire Prevention Commission.

(3) "NFPA 70" means the most recent edition of the National Electrical Code adopted by the Commission.

(4) "NFPA 101" means the most recent edition of the National Life Safety Code adopted by the Commission.

(b) (1) Notwithstanding any other provisions of this article, this section applies in Baltimore City.

(2) In Baltimore City, the Baltimore City Fire Department shall enforce this section.

(3) In Baltimore City, appeals concerning this section shall be made to the Baltimore City fire board.

(c) (1) This subsection applies to:

(i) a public building or structure owned by the State or a subdivision of the State; and

(ii) a hotel, apartment building, lodging house, hospital, nursing home, dormitory, or educational building with:

1. a potential evening occupancy of more than 25 individuals; and

2. at least 4 stories, excluding attics and basements.

(2) Each building or structure subject to this subsection shall be equipped with adequate emergency power and lighting in accordance with NFPA 101.

(d) The emergency electrical power supply system required by this section may be powered by generators, battery packs, or other similar devices at the discretion of the owner of the building or structure.

(e) (1) The Commission shall administer this section.

(2) The Commission shall adopt regulations to enforce this section, including regulations that require:

(i) emergency electrical systems in accordance with NFPA 101, to provide sufficient light in halls, corridors, and stairways during outages or blockages of regular services to facilitate the movement of individuals in the event of an emergency;

(ii) sufficient exit signs that are adequately lighted to guide individuals on the premises;

(iii) sufficient emergency electrical power to operate elevators, electrical facilities in hospital operating rooms, hospital X-ray equipment, and other emergency equipment that are necessary to the proper operation of medical services in hospitals and nursing homes;

(iv) adequate emergency electric lighting in accordance with NFPA 101 in each building for commercial, mercantile, industrial, storage, office, or similar purposes if the building is at least 4 stories, excluding attics and basements, and evening occupancy is more than 25 individuals; and

(v) installation and operation of emergency power and lighting in accordance with NFPA 101 and NFPA 70.

(3) (i) For purposes of paragraph (2)(iii) of this subsection, the Commission shall consult with the Secretary of Health and Mental Hygiene to evaluate the requirements to be adopted for the operation of hospitals and nursing homes.

(ii) In making this evaluation, the Secretary of Health and Mental Hygiene shall consider the size and nature of the particular hospital or nursing home operation.

(f) Except as provided in subsection (b) of this section, the State Fire Marshal shall enforce this section and the regulations adopted by the Commission so that individuals on the premises are reasonably protected in the event of an emergency.

(g) A person who violates this section is guilty of a misdemeanor and on conviction is subject to the penalties of § 6-601 of this article.

§12–703.

(a) A person may not use welded clip and seat type connections or other welded "clip-type" connectors as temporary fastening devices in construction that involves the use of structural iron or steel.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $100 for each violation.

§12–704.

(a) A person may not erect structural steel or iron beams or girders with shear composite studs, other studs, or reinforcing shear connectors, unless these devices are attached after the erection is completed of all structural members or forming or decking of a particular floor or deck level or span of a bridge or area between transverse floor beams.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $100 for each violation.

§12–801.

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

(b) "Accessibility lift mechanic" means a person who is engaged in erecting, constructing, wiring, altering, replacing, maintaining, repairing, dismantling, or servicing commercial stairway chairlifts, vertical platform lifts, or incline platform lifts.

(c) "Accessibility lift mechanic specialist" means a person who is licensed as an accessibility lift mechanic and has been certified by the Board to erect, construct, wire, alter, replace, maintain, repair, dismantle, or service private residential elevators.

(d) "Board" means the Elevator Safety Review Board.

(e) "Certificate" means a certificate of registration and inspection issued by the Commissioner to operate an elevator unit.

(f) "Cliffside elevator" means an elevator located at, on, or adjacent to the side of a cliff or a natural incline that is intended for use by individuals.

(g) "Commissioner" means the Commissioner of Labor and Industry or an authorized representative of the Commissioner of Labor and Industry.

(h) "Dumbwaiter" means a hoisting and lowering machine equipped with a car of limited capacity and size that moves in guides in a substantially vertical direction and is used exclusively for carrying material.

(i) "Elevator" means a hoisting and lowering machine equipped with a car or platform that moves in guides in a substantially vertical direction and serves two or more floors of a building or structure.

(j) "Elevator contractor" means a person who is engaged in the business of erecting, constructing, wiring, altering, replacing, maintaining, repairing, dismantling, or servicing elevator or accessibility lift units.

(k) "Elevator mechanic" means a person who is engaged in erecting, constructing, wiring, altering, replacing, maintaining, repairing, dismantling, or servicing elevator or accessibility lift units.

(l) "Elevator refinisher" means a person who is engaged in the refinishing of existing metal and wood elements in elevator cabs, including the stripping of old lacquer on wood and bronze items, staining wood to match existing finishes, cleaning, polishing, oxidizing, painting, lacquering, and the removing of scratches to maintain existing finishes.

(m) "Elevator renovator contractor" means a person who is engaged in the business of performing work:

(1) on the interior of an elevator involving the removal or installation of the nonstructural surface of the elevator's wall, ceiling, floor, rail, or handle; and

(2) that does not affect the elevator's moving operation.

(n) "Elevator renovator mechanic" means a person who performs work:

(1) on the interior of an elevator involving the removal or installation of the nonstructural surface of the elevator's wall, ceiling, floor, rail, or handle; and

(2) that does not affect the elevator's moving operation.

(o) "Elevator unit" includes a cliffside elevator, an elevator, an escalator, a dumbwaiter, and a moving walk.

(p) "Escalator" means a power driven, inclined, continuous stairway used for raising and lowering passengers.

(q) "License" includes:

(1) an accessibility lift mechanic license;

(2) an elevator contractor license;

(3) an elevator mechanic license;

(4) an elevator renovator contractor license; and

(5) an elevator renovator mechanic license.

(r) "Moving walk" means a type of passenger–carrying device on which passengers stand or walk and in which the passenger–carrying surface remains parallel to its direction of motion and is uninterrupted.

(s) "Safety Code" means the American National Standard/American Society of Mechanical Engineers Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, known as ANSI A17.1–1971, and all subsequent amendments and revisions to it, as adopted by the Commissioner.

(t) "Secretary" means the Secretary of Labor, Licensing, and Regulation.

(u) "Third–party qualified elevator inspector" means an inspector who:

(1) meets the qualifications, insurance requirements, and procedures established by the Commissioner; and

(2) is certified by a nationally recognized safety organization accredited by the National Commission for Certifying Agencies or the American National Standards Institute that ensures that:

(i) the certification requires testing and grading consistent with industry recognized criteria and any related consensus standards; and

(ii) any renewal of certification requires continuing education.

§12–804.

(a) (1) Part II of this subtitle does not apply to an elevator unit that is:

(i) except as provided in paragraph (2) of this subsection, installed in a privately owned single–family residential dwelling; or

(ii) installed in a building or structure under federal control or regulation.

(2) Part II of this subtitle applies to a cliffside elevator located on the property of a privately owned single–family residential dwelling.

(b) Sections 5–205(j), 5–207, 5–214, 5–215, and 5–216 and Title 5, Subtitle 8 of the Labor and Employment Article apply to Part II of this subtitle.

§12–805.

(a) In this section, "assisted living program" has the meaning stated in § 19–1801 of the Health – General Article.

(b) The Commissioner shall administer and enforce Part II of this subtitle.

(c) (1) The Commissioner shall adopt regulations that conform generally to the American National Standard/American Society of Mechanical Engineers Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, ANSI Code A17.1–1971, and all subsequent amendments and revisions to it.

(2) If necessary to fulfill the Commissioner's responsibilities under Part II of this subtitle, the Commissioner shall:

(i) adopt regulations that amend standards set forth in the American National Standard/American Society of Mechanical Engineers Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, ANSI Code A17.1–1971, and all subsequent amendments and revisions to it; and

(ii) adopt other regulations.

(3) The Commissioner may adopt regulations to authorize and regulate the installation and inspection of noncommercial elevator units in assisted living

programs with five or fewer beds that are licensed by the Department of Health and Mental Hygiene under § 19–1804.1 of the Health – General Article.

(4) The regulations shall be consistent with the requirements of § 12–1006 of this title.

(d) The Commissioner may assign duties and functions imposed by Part II of this subtitle to the chief elevator inspector.

(e) The cost of administering Part II of this subtitle is provided for under § 5–204 of the Labor and Employment Article.

§12–806.

(a) Except as otherwise provided in this section, each elevator unit shall be inspected, tested, and maintained in a safe operating condition in accordance with:

(1) the Safety Code; and

(2) any other regulations adopted by the Commissioner.

(b) (1) (i) Subject to subparagraph (ii) of this paragraph, an elevator unit installed before July 1, 1955, may be used without being altered or rebuilt to comply with the requirements of the Safety Code.

(ii) Each elevator shall be equipped with standard hoistway entrance protection, and each passenger elevator of more than 100 feet per minute contract speed shall be provided with car doors or gates that meet the requirements of the Safety Code.

(2) Notwithstanding any other provision of this subsection, each elevator unit installed before July 1, 1955:

(i) shall be maintained in a safe operating condition so as not to create a substantial probability of serious physical harm or death; and

(ii) is subject to inspections and tests as required.

(c) (1) For purposes of this subsection, an alteration of an existing elevator unit is any change made to it other than the repair or replacement of damaged, worn, or broken parts necessary for normal operation.

(2) Each alteration or relocation of an elevator unit installed after January 1, 1975, shall meet the requirements of the Safety Code.

(d) On written request, the Commissioner may grant exceptions from the literal requirements or allow the use of devices or methods other than those specified under the Safety Code and other regulations adopted by the Commissioner if:

(1) it is evident that the exception is necessary to prevent undue hardship;

or

(2) existing conditions prevent practical compliance and in the opinion of the Commissioner reasonable safety can be secured.

§12–807.

(a) An elevator unit may not be operated in a building, structure, or place of employment in the State unless a certificate is issued by the Commissioner.

(b) Notwithstanding subsection (a) of this section, the Commissioner shall accept certificates of inspection from a political subdivision or municipal corporation instead of the certificate required by subsection (a) of this section.

§12–808.

(a) Except as otherwise provided in this section, each elevator unit owned or to be operated shall be registered with the Commissioner at least 60 days before its planned completion and before it is placed in service.

(b) (1) The owner or lessee of each elevator unit shall register it on the form provided by the Commissioner.

(2) For each elevator unit registered, the owner or lessee shall provide:

(i) its type;

(ii) its rating load and speed;

(iii) the name of its manufacturer;

(iv) its location;

(v) the purpose for which it is used; and

(vi) any other information the Commissioner requires.

(c) Under emergency circumstances, an owner or lessee may register an elevator unit with the Commissioner with less than 60 days' notice in accordance with regulations adopted under Part II of this subtitle.

(d) After an elevator unit is placed in service and a certificate issued pursuant to § 12-811(a) of this subtitle, the owner or lessee shall reregister the elevator unit with the Commissioner 30 days prior to the expiration of the certificate.

§12–809.

(a) A State inspector shall make the following inspections:

(1) final acceptance inspection of all new elevator units prior to issuance of first certificate;

(2) investigation of accidents and complaints;

(3) follow–up inspections to confirm corrective action;

(4) final acceptance inspection of the modernization or alteration of an elevator unit;

(5) a comprehensive 5–year inspection as defined by regulation;

(6) except as provided by § 12–807(b) of this subtitle, inspections of elevator units owned by the State or a political subdivision; and

(7) quality control monitoring of inspections conducted by third–party qualified elevator inspectors.

(b) (1) A contractor, owner, or lessee shall provide the Commissioner with at least 60 days' notice of a requested inspection.

(2) If a contractor, owner, or lessee provides the Commissioner with less than 60 days' notice of a requested inspection that will be conducted by a State inspector, the Commissioner shall schedule the inspection at the convenience of the State subject to the availability of State resources.

(c) (1) For all inspections conducted by a State inspector, the contractor, owner, or lessee of an elevator unit shall pay a fee for an inspection under § 12–810(d) or § 12–812(d)(3) of this subtitle at the following rate:

(i) half day (up to 4 hours), not to exceed $250; or

(ii) full day (up to 8 hours), not to exceed $500.

(2) Each fee collected under this subsection shall be paid into the Elevator Safety Review Board Fund established under this subtitle.

(3) A contractor, owner, or lessee who notifies the Commissioner at least 24 hours in advance of a scheduled inspection that the elevator unit does not comply with the requirements of Part II of this subtitle may not be charged a fee under paragraph (1) of this subsection.

(d) (1) An owner shall hire a third–party qualified elevator inspector to conduct all periodic inspections that are required by the Safety Code.

(2) An inspection by a third–party qualified elevator inspector shall ensure that the elevator unit complies with the Safety Code and other regulations adopted by the Commissioner under Part II of this subtitle.

(3) The Commissioner shall establish qualifications, insurance requirements, and procedures based on nationally accepted standards that the Commissioner considers necessary to register third–party qualified elevator inspectors under Part II of this subtitle.

(4) Any fees collected by the Commissioner to register third–party qualified elevator inspectors shall be paid into the Elevator Safety Review Board Fund established under this subtitle.

§12–810.

(a) The Commissioner shall conduct a final acceptance inspection on completion of the installation, modification, or alteration of an elevator unit before it is placed in service.

(b) The Commissioner shall provide an inspection checklist that specifies the requirements for compliance with the Safety Code and other regulations adopted by the Commissioner.

(c) At least 15 days before a scheduled final acceptance inspection for an elevator unit being installed, modified, or altered in the State, the contractor, owner, or lessee shall submit to the Commissioner a written certification that:

(1) the elevator plans and construction documents have been reviewed by a third–party qualified elevator inspector;

(2) the third–party qualified elevator inspector has certified that the elevator unit as constructed and installed complies with this subtitle, its regulations, and the Safety Code; and

(3) the elements indicated on the inspection checklist are operational, have been tested, and are functional.

(d) If a State inspector arrives to inspect an elevator unit at the designated time and the elevator unit does not meet the criteria established in subsection (c) of this section, the inspector may cancel the inspection and charge the contractor a fee in accordance with § 12–809 of this subtitle.

§12–811.

(a) If an inspection discloses that an elevator unit complies with the Safety Code and other regulations adopted by the Commissioner, the Commissioner shall issue a certificate to the owner or lessee of the elevator unit.

(b) The certificate shall be posted conspicuously in or on the elevator unit.

(c) While a certificate is in effect, it authorizes the holder to operate the elevator unit in a building, structure, or place of employment in the State.

§12–812.

(a) A certificate is valid for the period indicated on the certificate.

(b) (1) Except as provided in paragraph (2) of this subsection, each elevator unit in the State shall have a periodic annual inspection by a State inspector as provided for in § 12–809(a)(6) of this subtitle or by a third–party qualified elevator inspector as provided for in § 12–809(d) of this subtitle.

(2) Each cliffside elevator on the property of a privately owned single–family residential dwelling shall have a periodic inspection once every 2 years by a third–party qualified inspector as provided for in § 12–809(d) of this subtitle.

(c) Before scheduling an inspection with the Commissioner or a third–party qualified elevator inspector, the contractor, owner, or lessee of an elevator unit shall:

(1) ensure that the elevator unit is operated, inspected, and repaired in accordance with Part II of this subtitle and the regulations adopted under Part II of this subtitle; and

(2) make inspection, maintenance, and repair records available to the inspector charged with inspecting the elevator unit.

(d) (1) When an inspector conducts an inspection and the elevator unit fails the inspection, the inspector shall issue an inspection checklist that specifies the corrections required.

(2) The inspection checklist shall be on a form provided by the Commissioner and shall specify the requirements for compliance with the Safety Code and other regulations adopted by the Commissioner.

(3) If a State inspector conducts a follow–up inspection to ensure compliance with the corrections specified on the inspection checklist, the contractor, owner, or lessee shall pay a fee in accordance with § 12–809 of this subtitle.

§12–813.

(a) If a State inspector cancels a final acceptance inspection under § 12–810 of this subtitle or if a follow–up inspection is required under § 12–812 of this subtitle, the contractor, owner, or lessee of the elevator unit shall:

(1) reschedule the inspection with the State inspector; and

(2) ensure that the elevator unit complies with the requirements of Part II of this subtitle, including correcting as necessary any safety hazards or violations of the Safety Code, on the designated date.

(b) A contractor, owner, or lessee shall maintain a copy of any inspection,

maintenance, and repair records at a central location in a manner consistent with regulations adopted under Part II of this subtitle.

(c) A contractor, owner, or lessee of an elevator unit shall file with the Commissioner the following records at time intervals set by regulation:

(1) records of all test reports and inspection reports as defined by regulation; and

(2) records of all incidents or serious injuries as defined by regulation.

(d) All records submitted to the Commissioner electronically shall be in a format and method defined by regulation.

§12–814.

(a) When an inspection by a State inspector discloses that an elevator unit is in unsafe condition so that its continued operation will violate the Safety Code, or any other regulation adopted by the Commissioner under Part II of this subtitle, a citation may be issued and penalties may be assessed in accordance with §§ 12–814.2 and 12–814.3 of this subtitle.

(b) (1) When an inspection by a third–party qualified elevator inspector discloses that an elevator unit is in unsafe condition so that its continued operation will violate the Safety Code, or any other regulation adopted by the Commissioner under Part II of this subtitle, the third–party qualified elevator inspector shall notify the Commissioner immediately.

(2) On notification, the Commissioner shall conduct an inspection of the unsafe condition to determine whether to issue a citation and assess penalties in accordance with §§ 12–814.2 and 12–814.3 of this subtitle.

§12–814.1.

(a) The Commissioner may prohibit use of an elevator unit after determining, based on an inspection, that:

(1) the elevator unit violates § 12-806 of this subtitle; or

(2) there is a substantial probability that death or serious physical harm could result from continued use of the elevator unit.

(b) The Commissioner shall issue a written notice prohibiting use of the elevator unit to the contractor, owner, lessee, or agent in charge of the elevator unit.

(c) A copy of the notice:

(1) shall be attached to the elevator unit; and

(2) may not be removed until a State inspector determines that the elevator unit complies with this subtitle.

(d) Use of the elevator unit is prohibited while a notice is posted on the elevator unit.

(e) A person aggrieved by the decision to prohibit use of an elevator unit may bring an action to modify or vacate the decision on the ground that it is unlawful or unreasonable.

(f) An action under this section shall be brought in the circuit court for the county where the elevator unit is located.

(g) In a proceeding under this section, a court may not stay an order of the Commissioner unless:

(1) the court gives the Commissioner notice and an opportunity for a hearing; and

(2) the aggrieved person posts security or meets any other condition that the court considers proper.

§12–814.2.

(a) Subject to subsection (k) of this section, if, after an inspection or investigation, the Commissioner determines that, within the immediately preceding 6 months, an elevator unit is in violation of the Safety Code or another regulation adopted by the Commissioner under Part II of this subtitle, the Commissioner shall issue a citation to the owner.

(b) Each citation under this section shall:

(1) be in writing;

(2) describe, with particularity, the nature of the alleged violation;

(3) reference the provision of the Safety Code or regulation that is alleged to be in violation; and

(4) set a reasonable period of time for abatement and correction of the alleged violation.

(c) An owner who is issued a citation shall post the citation or a copy of the citation conspicuously at or near the elevator unit alleged to be in violation.

(d) Within a reasonable time after issuance of a citation, the Commissioner shall send by certified mail to the owner:

(1) notice of the violation with a copy of the citation and proposed penalty;

and

(2) notice of the opportunity to request a hearing.

(e) Within 15 days after an owner receives a notice under subsection (d) of this section, the owner may submit a written request for a hearing on the citation and proposed penalty.

(f) If a hearing is not requested within 15 days, the citation, including any penalties, shall become a final order of the Commissioner.

(g) If the owner requests a hearing, the Commissioner may delegate to the Office of Administrative Hearings the authority to hold a hearing and issue proposed findings of fact, conclusions of law, and an order in accordance with Title 10, Subtitle 2 of the State Government Article.

(h) A decision of an administrative law judge issued in accordance with Title 10, Subtitle 2 of the State Government Article shall become a final order of the Commissioner unless, within 15 days after the issuance of the proposed decision:

(1) the Commissioner orders a review of the proposed decision; or

(2) an owner submits to the Commissioner a written request for a review of the proposed decision.

(i) After review of the proposed order under subsection (h) of this section, whether or not a hearing on the record is held, the Commissioner shall issue an order that, on the basis of findings of fact and conclusions of law, affirms, modifies, or vacates the proposed decision.

(j) An order of the Commissioner under subsection (i) of this section is the final administrative order.

(k) The Commissioner may establish, by regulation, procedures for the issuance of a warning notice instead of a citation for a de minimus violation that has no direct or immediate relationship to health or safety.

§12–814.3.

(a) If, after investigation, the Commissioner determines that an owner violated the Safety Code or a regulation adopted by the Commissioner under Part II of this subtitle, the Commissioner may assess and collect a civil penalty of up to $5,000 for each elevator unit in violation of the Safety Code or regulations.

(b) In determining the amount of the penalty, the Commissioner shall consider:

(1) the gravity of the violation;

(2) the owner's good faith; and

(3) the owner's history of violations under this subtitle.

(c) If, after investigation, the Commissioner determines that an owner willfully or repeatedly violated the Safety Code or a regulation adopted by the Commissioner under Part II of this subtitle, the Commissioner may assess and collect double the administrative penalties set forth in subsection (a) of this section.

(d) If, after the issuance of a final order affirming a violation of the Safety Code or a regulation adopted by the Commissioner under Part II of this subtitle, an owner fails to correct the violation within 10 days, the Commissioner may impose a civil penalty, not exceeding $1,000 for each day a violation continues, against the owner.

(e) Each civil penalty shall be paid into the General Fund of the State.

§12–815.

(a) Each passenger elevator in a permanent installation used by the public shall have a sign that reads "Warning - Elevators shall not be used in event of fire - Use marked exit stairways".

(b) The sign described in subsection (a) of this section shall be posted:

(1) at the entrance to the elevator shaft on each floor; and

(2) directly above the call button.

(c) A sign similar to the sign described in subsection (a) of this section shall be posted within the elevator car.

(d) (1) The top of each sign may not be more than 6 feet above the floor.

(2) The lettering in the word "warning" shall be at least three-eighths inch high and the rest of the lettering shall be at least one-fourth inch high.

§12–816.

(a) This subsection does not apply to:

(1) one or two family dwellings; or

(2) buildings under three stories.

(b) Each new building constructed after July 1, 1985, in which at least one elevator is planned, shall have a passenger elevator that can accommodate a horizontally carried and positioned 6 foot 8 inch rescue litter.

(c) (1) In this section, "repair" has the meaning stated in the Safety Code.

(2) For purposes of this section, repair, renovation, modification, reconstruction, change of occupancy, or addition to an existing building as defined in Subtitle 10 of this title does not constitute a new building.

§12–819.

There is an Elevator Safety Review Board in the Department of Labor, Licensing, and Regulation.

§12–820.

(a) (1) The Board consists of the following ten members:

(i) as an ex officio member, the Commissioner; and

(ii) nine members appointed by the Governor with the advice of the Secretary and with the advice and consent of the Senate.

(2) Of the nine appointed members of the Board:

(i) one shall represent a major elevator manufacturing company or its authorized representative;

(ii) one shall represent an elevator servicing company;

(iii) one shall represent the architectural design profession;

(iv) one shall represent a municipal corporation in the State;

(v) one shall represent a building owner or manager;

(vi) one shall represent labor involved in the installation, maintenance, and repair of elevators;

(vii) one shall represent the elevator interior renovation industry; and

(viii) two shall be members of the public.

(b) (1) The term of an appointed member is 3 years.

(2) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(3) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(c) (1) Except as provided in paragraph (2) of this subsection and subject to paragraph (3) of this subsection, a member shall be considered to have resigned who has been appointed to the Board by the Governor if the member did not attend at least

two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(2) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(3) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§12–821.

(a) The Governor shall appoint a chairman from among the members of the Board.

(b) The chairman shall be the deciding vote if there is a tie vote by the Board.

§12–822.

(a) (1) The Board shall meet at least once each calendar quarter, at the times and places that it determines.

(2) The Board may hold special meetings as provided in its regulations.

(b) A member of the Board:

(1) may not receive compensation as a member of the Board; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§12–822.1.

(a) On request of any person and payment of a fee set by the Board, the Board shall certify the licensing status of any person who is the subject of the request.

(b) Each certification under this section:

(1) shall include a statement of the licensing status of the person who is the subject of the request; and

(2) may include:

(i) information about the examination results and other qualifications of that person;

(ii) information about the dates of issuance and renewal of the license of that person;

(iii) information about any disciplinary action taken against that person; and

(iv) if authorized by that person, information about any complaint against that person.

(c) The Board shall collect a fee set by the Board for each certification under this section.

§12–823.

In addition to any powers set forth elsewhere, the Board may:

(1) consult with engineering authorities and organizations concerned with standard safety codes about:

(i) regulations governing the operation, maintenance, servicing, construction, alteration, installation, and inspection of elevator units; and

(ii) qualifications that are adequate, reasonable, and necessary for elevator mechanics and elevator contractors;

(2) recommend applicable legislation;

(3) adopt bylaws for the conduct of its proceedings; and

(4) adopt regulations to carry out Part III of this subtitle.

§12–824.

(a) The Board shall establish fees for the application, issuance, and renewal of licenses issued under Part III of this subtitle.

(b) The total amount of fees established under subsection (a) of this section may not exceed, for the 2–year term of the license:

(1) $100 per year for an elevator mechanic, elevator renovator mechanic, or accessibility lift mechanic; and

(2) $150 per year for an elevator contractor or elevator renovator contractor.

(c) Each fee for the application, issuance, and renewal of licenses collected by the Board shall be paid into the Elevator Safety Review Board Fund established under this subtitle.

§12–824.1.

(a) In this section, "Fund" means the Elevator Safety Review Board Fund.

(b) There is an Elevator Safety Review Board Fund.

(c) The purpose of the Fund is to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board.

(d) The Commissioner shall administer the Fund.

(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) revenue distributed to the Fund under this subtitle;

(2) money appropriated in the State budget to the Fund;

(3) investment earnings of the Fund; and

(4) any other money from any other source accepted for the benefit of the Fund.

(g) The Fund may be used only to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board.

(h) (1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be paid into the Fund.

(i) Expenditures from the Fund may be made only in accordance with the State budget.

(j) Any balance in the Fund at the end of June 30 of each fiscal year in excess of 10% of the actual expenses of operating the Elevator Safety Review Board shall revert to the General Fund of the State.

(k) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2–1220 of the State Government Article.

(l) On or before October 1, 2009, and each year thereafter, subject to § 2–1246 of the State Government Article, the Board shall report to the Senate Budget and Taxation Committee, the Senate Finance Committee, the House Appropriations Committee, and the House Economic Matters Committee on the implementation of the Fund.

§12–825.

The Board exercises its powers, duties, and functions subject to the authority of the Secretary.

§12–826.

(a) Except as otherwise provided in Part III of this subtitle, a person shall be licensed by the Board as an elevator mechanic before the person erects, constructs, wires, alters, replaces, maintains, repairs, dismantles, or services elevator units in the State.

(b) Except as otherwise provided in Part III of this subtitle, a person shall be licensed by the Board as an elevator contractor before the person engages in the business of erecting, constructing, wiring, altering, replacing, maintaining, repairing, dismantling, or servicing elevator units in the State.

(c) (1) Except as otherwise provided in Part III of this subtitle, a person shall be licensed by the Board as an elevator renovator contractor before the person engages in the business of elevator renovating.

(2) By June 1, 2004, a person who engages in the business of elevator renovating for a business incorporated before January 1, 2002, shall be licensed by the Board as an elevator renovator contractor before the person engages in the business of elevator renovating.

(d) Except as otherwise provided in Part III of this subtitle, a person shall be licensed by the Board as an elevator renovator mechanic before the person performs elevator renovator work.

(e) Except as otherwise provided in Part III of this subtitle, a person shall be licensed by the Board as an accessibility lift mechanic before the person erects, constructs, wires, alters, replaces, maintains, repairs, dismantles, or services commercial stairway chairlifts, vertical platform lifts, or incline platform lifts in the State.

(f) (1) A licensed elevator contractor is not required for removing or dismantling an elevator unit if:

(i) the elevator unit is destroyed as a result of a complete demolition of a building; or

(ii) a hoistway or wellway is demolished back to the basic support structure.

(2) (i) An individual who works as an elevator apprentice under the direct supervision of a licensed elevator mechanic or licensed elevator renovator mechanic need not obtain a license.

(ii) An individual commonly known as an elevator helper who works under the direct supervision of a licensed elevator mechanic or a licensed elevator renovator mechanic need not obtain a license.

(3) An elevator refinisher need not obtain a license.

(4) A crane mechanic performing work on elevators or lifts located on a port facility owned, leased, or operated by the Maryland Port Administration need not obtain a license.

(5) A person installing a residential stairway chairlift need not obtain a license.

(6) A person who is licensed under this subtitle as an elevator mechanic need not obtain a license to provide the services described in subsection (e) of this section.

(g) (1) The Board shall adopt regulations, including education and experience requirements, to certify accessibility lift mechanic specialists to erect, construct, wire, alter, replace, maintain, repair, dismantle, or service private residential elevators.

(2) Until the Board adopts regulations to certify accessibility lift mechanic specialists to perform work on private residential elevators, an accessibility lift mechanic may provide the services described in paragraph (1) of this subsection.

(3) A candidate actively completing the certification requirements adopted by the Board under paragraph (1) of this subsection may continue to perform that work without certification for up to 4 years after the effective date of the regulations.

§12–827.

(a) An applicant for an elevator mechanic license shall:

(1) (i) have an acceptable combination of documented experience and education credits, with at least 3 years of recent and active work experience in the elevator industry, in construction, maintenance, and service or repair, as verified by current and previous employers; and

(ii) pass a written examination administered by the Board on the Safety Code;

(2) (i) have completed at least 3 years of recent and active work experience in the elevator industry, in construction, maintenance, and service or repair, as verified by current and previous employers; and

(ii) have a certificate of completion of the mechanic examination of a nationally recognized training program for the elevator industry such as the National Elevator Industry Educational Program or its equivalent; or

(3) have a certificate of completion of an apprenticeship program for elevator mechanics that has standards substantially equivalent to those of Part III of this subtitle and is registered with the Office of Apprenticeship of the U.S. Department of Labor or a state apprenticeship council.

(b) An applicant for an elevator contractor license shall have at least 5 years of work experience in the elevator industry in construction, maintenance, service, or repair.

(c) The Board shall adopt regulations governing:

(1) the qualifications of an applicant for an elevator renovator contractor license and an applicant for an elevator renovator mechanic license; and

(2) the scope of practice of a licensed elevator renovator contractor and a licensed elevator renovator mechanic.

(d) (1) An applicant for an accessibility lift mechanic license shall:

(i) 1. have an acceptable combination of documented experience and education credits, with at least 3 years of recent and active experience in the accessibility lift industry, in construction, maintenance, and service or repair, as verified by current and previous employers; and

2. pass a written examination administered by the Board on the Safety Code;

(ii) 1. have an acceptable combination of documented experience and education credits, with at least 3 years of recent and active experience in the accessibility lift industry, in construction, maintenance, and service or repair, as verified by current and previous employers; and

2. have a certificate from an organization providing an education program for the accessibility industry, such as the Certified Accessibility Technician Program or an equivalent program; or

(iii) have a certificate of completion of an apprenticeship program for accessibility mechanics that has standards substantially equivalent to those of Part III of this subtitle and is registered with the Office of Apprenticeship of the U.S. Department of Labor or a state apprenticeship council.

(2) The Board may issue a conditional license under this subsection that is effective until January 1, 2017, to a candidate actively completing the educational requirements described in paragraph (1)(ii)2 of this subsection.

§12–828.

(a) (1) An applicant for a license shall:

(i) submit to the Board an application on the form that the Board provides;

(ii) submit to the Board any proof of eligibility that the Board requires; and

(iii) pay to the Board or designee of the Board an application fee set by the Board.

(2) The application fee is nonrefundable.

(b) Each application shall contain the following information:

(1) if the applicant is an individual, the name, residence, and business address of the applicant;

(2) if the applicant is a partnership, the name, residence, and business address of each general partner;

(3) if the applicant is a domestic corporation, the name and business address of the corporation and the name and residence address of the principal officer of the corporation;

(4) if the applicant is a corporation other than a domestic corporation, the name and address of the resident agent;

(5) the number of years the applicant has engaged in the business of installing, altering, repairing, renovating, or servicing elevators;

(6) the approximate number of individuals, if any, to be employed by an applicant that is an elevator contractor or elevator renovator contractor and, if applicable, evidence satisfactory to the Board that the employees are or will be covered by workers' compensation insurance;

(7) evidence satisfactory to the Board that the applicant is or will be covered by general liability, personal injury, and property damage insurance; and

(8) any other information that the Board requires.

§12–829.

(a) An applicant who otherwise qualifies for an elevator mechanic license is entitled to be examined as provided in this section on payment of an examination fee to the Board or designee of the Board.

(b) The Board periodically shall give examinations to applicants at the times and places that the Board determines.

(c) The Board shall give each qualified applicant notice of the time and place of

examination.

(d) The Board shall determine the fee, content, scope, and passing score for examinations given under this section.

(e) (1) The Board may use a testing service to administer the examinations required under this section.

(2) If the Board uses a testing service under this section, the testing service, subject to requirements set by the Board, may:

(i) set the times and places of the examinations;

(ii) provide notice of the times and places of examinations to the applicants; and

(iii) provide any other information that the Board may require the testing service to provide.

(f) The Board or designee of the Board shall provide to the applicant notice of the examination result of the applicant.

§12–830.

(a) Subject to the limitations of this section, the Board may waive the examination requirements of Part III of this subtitle for an individual who is licensed to perform elevator installation, alteration, repair, or service work in another state or a subdivision of another state.

(b) The Board may grant a waiver under this section only if the applicant:

(1) pays to the Board the appropriate application fee required by Part III of this subtitle; and

(2) provides adequate evidence that the applicant:

(i) meets the qualifications otherwise required by Part III of this subtitle;

(ii) holds an active license in good standing in the other state or subdivision that is equivalent to a license in this State; and

(iii) became licensed in the other state or subdivision after passing an examination that is similar to the examination for which the applicant is seeking the waiver.

(c) The Board may grant a waiver only if the state or subdivision in which the applicant is licensed waives the examination of licensees of this State to a similar extent as this State waives the examination requirements for individuals licensed in that state

or subdivision.

§12–831.

(a) If an applicant qualifies for a license under Part III of this subtitle, the Board shall send the applicant a notice that states:

(1) the applicant has qualified for a license; and

(2) on receipt of a license fee set by the Board, the Board shall issue a license to the applicant.

(b) On payment of the license fee, the Board shall issue a license to each applicant who meets the requirements of Part III of this subtitle.

§12–832.

(a) While an elevator mechanic license is in effect, it authorizes the licensee to erect, construct, wire, alter, replace, maintain, repair, dismantle, or service elevator units under the direct supervision of a licensed elevator contractor.

(b) While an elevator contractor license is in effect, it authorizes the licensee to engage in the business of erecting, constructing, wiring, altering, replacing, maintaining, repairing, dismantling, or servicing elevator units.

(c) While an elevator renovator contractor license is in effect, it authorizes the licensee to engage in the business of performing work:

(1) on the interior of an elevator involving the removal or installation of the nonstructural surface of the elevator's wall, ceiling, floor, rail, or handle; and

(2) that does not affect the elevator's moving operation.

(d) While an elevator renovator mechanic license is in effect, it authorizes the licensee to perform work:

(1) on the interior of an elevator involving the removal or installation of the nonstructural surface of the elevator's wall, ceiling, floor, rail, or handle; and

(2) that does not affect the elevator's moving operation.

(e) While an accessibility lift mechanic license is in effect, the license authorizes the licensee to erect, construct, wire, alter, replace, maintain, repair, dismantle, and service commercial stairway chairlifts, vertical platform lifts, or incline platform lifts under the direct supervision of a licensed elevator contractor.

§12–833.

(a) (1) Subject to paragraph (2) of this subsection, unless a license is renewed

for a 2-year term as provided in this section, the license expires on the second anniversary of its effective date.

(2) The Secretary may determine that licenses issued under Part III of this subtitle shall expire on a staggered basis.

(b) At least 1 month before a license expires, the Board shall mail to the licensee, at the last known address of the licensee:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current license expires;

(ii) the date by which the Board must receive the renewal application for the renewal to be issued and mailed before the license expires; and

(iii) the amount of the renewal fee.

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

(1) otherwise is entitled to be licensed;

(2) pays the renewal fee to the Board; and

(3) submits to the Board a renewal application on the form that the Board provides.

(d) The Board shall adopt regulations to:

(1) require a demonstration of continuing professional competency for a licensee as a condition of renewal of a license under this section;

(2) establish criteria for continuing education providers;

(3) provide for a temporary waiver of continuing education under specified circumstances; and

(4) set record keeping criteria for approved continuing education providers.

(e) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

§12–833.1.

(a) The Board shall reinstate the license of a person that, for any reason, has

failed to renew the license if the person:

(1) applies to the Board for reinstatement within 2 years after the license expires;

(2) meets the renewal requirements of § 12–833 of this subtitle; and

(3) pays to the Board a reinstatement fee in an amount, not exceeding $100, set by the Board.

(b) (1) If a person has failed to renew a license under § 12–833 of this subtitle for any reason and then applies to the Board for reinstatement more than 2 years after the license has expired, the Board:

(i) may require the person to reapply for a license in the same manner as an applicant applies for an original license under this subtitle; or

(ii) subject to paragraph (2) of this subsection, may reinstate the license.

(2) The Board may reinstate a license under paragraph (1)(ii) of this subsection only if the person:

(i) meets the renewal requirements of § 12–833 of this subtitle;

(ii) if required by the Board, states reasons why reinstatement should be granted; and

(iii) pays to the Board a reinstatement fee in an amount, not exceeding $100, set by the Board.

§12–834.

(a) A licensed elevator contractor shall notify the Board if there are no licensed elevator mechanics available to perform elevator work.

(b) The licensed elevator contractor may request that the Board issue temporary elevator mechanic licenses to individuals certified by the licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision.

(c) An individual certified by a licensed elevator contractor as qualified under subsection (b) of this section shall:

(1) immediately seek a temporary elevator mechanic license from the Board; and

(2) pay the fee that the Board determines.

(d) A temporary elevator mechanic license is valid for 30 days while the licensee is employed by the licensed elevator contractor that certified the licensee as qualified under subsection (b) of this section.

(e) A temporary elevator mechanic license may be renewed as long as the shortage of licensed elevator mechanics continues.

§12–835.

(a) A licensed elevator contractor shall respond as necessary to ensure public safety if:

(1) an emergency exists in the State because of disaster, act of God, or work stoppage; and

(2) the number of licensed elevator mechanics in the State is insufficient to cope with the emergency.

(b) Within 5 business days after beginning work that requires an elevator mechanic license, an individual certified by a licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision shall seek an emergency elevator mechanic license from the Board.

(c) The licensed elevator contractor shall provide proof of competency as the Board may require for an individual certified by the licensed elevator contractor under subsection (b) of this section.

(d) The Board shall issue emergency elevator mechanic licenses.

(e) An emergency elevator mechanic license entitles the licensee to the rights and privileges of an elevator mechanic license issued under Part III of this subtitle.

(f) An emergency elevator mechanic license is valid for 30 days for particular elevator units or geographical areas as the Board designates.

(g) The Board shall renew an emergency elevator mechanic license during the existence of an emergency.

(h) The Board may not charge a fee for the issuance or renewal of an emergency elevator mechanic license.

§12–836.

(a) An elevator contractor may not engage in the business of elevator installation, alteration, repair, or service work unless the work of the elevator contractor is covered by:

(1) general liability insurance in the amount of at least $1,000,000; and

(2) property damage insurance in the amount of at least $500,000.

(b) An applicant for an elevator contractor license shall submit proof of the insurance required under subsection (a) of this section to the Board with the license application.

(c) Unless a licensee meets the insurance requirements of this section, the Board may not renew the license of a licensee to whom the insurance requirements of this section apply.

(d) A licensed elevator contractor shall give the Board notice of the cancellation of insurance at least 10 days before the effective date of the cancellation.

§12–837.

(a) Subject to the hearing provisions of § 12–838 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to an applicant, refuse to renew a license, reprimand a licensee, or suspend or revoke a license, if the applicant or licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license;

(2) fails to notify the Board or the owner or lessee of an elevator or related mechanism of any condition not in compliance with Part II of this subtitle;

(3) under the laws of the United States or of any state, is convicted of:

(i) a felony; or

(ii) a misdemeanor that is directly related to the fitness and qualifications of the applicant or licensee to perform services as an elevator contractor, elevator mechanic, elevator renovator contractor, or elevator renovator mechanic;

(4) transfers the authority granted by a license to another person;

(5) installs, repairs, or maintains an elevator or assists in the installation, repair, or maintenance of an elevator in a negligent or careless manner;

(6) willfully or deliberately disregards and violates a building code, electrical code, or construction law of the State or a county or municipal corporation of the State; or

(7) violates any provision of this subtitle.

(b) (1) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this section, the Board may impose a penalty not exceeding $5,000 for each violation.

(2) To determine the amount of the penalty imposed under this subsection, the Board shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the licensee;

(iv) the assets of the licensee; and

(v) any history of previous violations by the licensee.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(c) The Board shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(3) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualifications of the applicant or licensee to perform services as an elevator contractor, elevator mechanic, elevator renovator contractor, or elevator renovator mechanic;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

§12–838.

(a) Except as otherwise provided in Title 10, Subtitle 2 of the State Government Article, before the Board takes any final action under Part III of this subtitle, the Board shall give the person against whom the action is contemplated an opportunity for a hearing before the Board.

(b) The Board shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

§12–839.

Any person aggrieved by a final decision of the Board in a contested case, as defined in § 10-202 of the State Government Article, may take an appeal as allowed

in §§ 10-222 and 10-223 of the State Government Article.

§12–840.

(a) Except as otherwise provided in Part III of this subtitle, an individual may not perform, attempt to perform, or offer to perform elevator installation, repair, or maintenance work in the State unless licensed by the Board.

(b) Except as otherwise provided in Part III of this subtitle, an individual may not assist, attempt to assist, or offer to assist in performing elevator installation, repair, or maintenance work in the State unless licensed by the Board.

(c) Except as otherwise provided in Part III of this subtitle, an elevator contractor may not employ an elevator mechanic unless the elevator mechanic is licensed by the Board.

§12–841.

(a) Except as provided in subsection (b) of this section, a person who violates Part III of this subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $100 for each day that the violation continues or both.

(b) A person who knowingly and willfully violates Part III of this subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $5,000 or both.

§12–842.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, the provisions of this title that create or relate to the Board and any regulations adopted by the Board shall terminate and be of no effect after July 1, 2019.

§12–901.

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

(b) "Authorized inspection agency" means an entity that:

(1) is accredited in accordance with the National Board of Boiler and Pressure Vessel Inspectors NB–369; or

(2) meets the qualification and definition of the National Board of Boiler and Pressure Vessel Inspectors NB–360.

(c) "Board" means the Board of Boiler Rules.

(d) "Boiler" means:

(1) a closed vessel in which water is heated, steam is generated, steam is superheated, or a combination of these functions is accomplished, under pressure or vacuum for use externally to the vessel by the direct application of heat from the combustion of fuels or from electricity or nuclear energy; or

(2) a fired unit for heating or vaporizing liquids other than water if the unit is separate from a processing system and is complete within itself.

(e) "Certificate" means a certificate issued by the Chief Boiler Inspector to operate a boiler or pressure vessel.

(f) "Certificate inspection" means an inspection, the report of which is used by the Chief Boiler Inspector to determine whether to issue a certificate.

(g) "Commissioner" means the Commissioner of Labor and Industry.

(h) "Heating boiler" means:

(1) a steam boiler that operates at pressures not exceeding 15 psig; or

(2) a hot water boiler that operates at pressures not exceeding 160 psig or temperatures not exceeding 250 degrees Fahrenheit.

(i) "High pressure, high temperature water boiler" means a water boiler that operates at pressures exceeding 160 psig or temperatures exceeding 250 degrees Fahrenheit.

(j) "Model steam boiler" means a boiler that is:

(1) individually fabricated for noncommercial use;

(2) used primarily for demonstration, exhibition, or educational purposes; and

(3) not for profit.

(k) "Power boiler" means a boiler in which steam or other vapor is generated at a pressure of more than 15 psig.

(l) (1) "Pressure vessel" means a vessel in which the pressure is obtained:

(i) from an external source; or

(ii) by the application of heat from:

1. an indirect source; or

2. a direct source other than a boiler.

(2) "Pressure vessel" does not include a pipe, piping component, or structure whose primary function is to transport fluids.

(m) "Secretary" means the Secretary of Labor, Licensing, and Regulation.

§12–902.

(a) The General Assembly finds that there have been many incidents of danger to public safety because of improper or inadequate construction, installation, maintenance, use, repair, or inspection of boilers and pressure vessels that operate in the State.

(b) The intent of this subtitle is to establish boiler and pressure vessel safety standards in the State to provide a level consistent with the needs of public safety.

§12–903.

(a) Except as otherwise provided in this subtitle, this subtitle applies to all boilers and pressure vessels.

(b) This subtitle does not apply to:

(1) a boiler or pressure vessel that is under federal control or regulation;

(2) a pressure vessel that:

(i) is used to transport or store compressed gases;

(ii) is constructed in compliance with specifications of the U.S. Department of Transportation; and

(iii) when charged with gas, is marked, maintained, and periodically requalified for use, as required by the regulations of the U.S. Department of Transportation;

(3) an air tank that is located on a vehicle that is operating under the rules of other State authorities and is used for carrying passengers or freight;

(4) an air tank that is installed on the right–of–way of a railroad and is used directly in the operation of trains;

(5) a pressure vessel that does not exceed:

(i) 5 cubic feet in volume and 250 psig pressure;

(ii) 1 1/2 cubic feet in volume and 600 psig pressure; or

(iii) an inside diameter of 6 inches with no limitation on pressure;

(6) a pressure vessel that operates at a working pressure not exceeding 15 psig;

(7) subject to subsection (c) of this section, a vessel that contains water under pressure, including a vessel that contains air, the compression of which serves only as a cushion, if neither of the following limitations is exceeded:

(i) a design pressure of 300 psig; and

(ii) a design temperature of 210 degrees Fahrenheit;

(8) a hot water supply boiler that is equipped with a safety relief valve and is directly fired with oil, gas, or electricity if none of the following limitations is exceeded:

(i) heat input of 200,000 BTU/hour;

(ii) water temperature of 210 degrees Fahrenheit; and

(iii) nominal water capacity of 120 gallons;

(9) a mechanical device of any of the following types:

(i) a pump;

(ii) a compressor;

(iii) a turbine;

(iv) a generator; or

(v) a hydraulic or pneumatic cylinder; or

(10) the water–containing part of an air–conditioning or refrigeration system condenser or evaporator:

(i) that uses halocarbon refrigerant;

(ii) that is constructed in accordance with the requirements of ANSI/ASHRAE Standard 15 (the Safety Code for Mechanical Refrigeration) in effect at the time of construction; and

(iii) if neither of the following limitations is exceeded:

1. a design pressure of 300 psig; and

2. a design temperature of 210 degrees Fahrenheit.

(c) For purposes of subsection (b)(7) of this section, water may contain additives

if the ASTM flash point of the aqueous solution at atmospheric pressure is 185 degrees Fahrenheit or higher.

§12–904.

(a) There is a Board of Boiler Rules in the Division of Labor and Industry in the Department of Labor, Licensing, and Regulation.

(b) (1) The Board consists of the following 10 members:

(i) as an ex officio member, the Commissioner; and

(ii) nine members appointed by the Governor with the advice of the Secretary and with the advice and consent of the Senate.

(2) Of the nine appointed members of the Board:

(i) one shall be a representative of owners and users of power boilers;

(ii) one shall be a representative of owners of agricultural, model, or historical steam engine equipment;

(iii) one shall be a representative of owners and users of pressure vessels;

(iv) one shall be a representative of manufacturers or assemblers of boilers or pressure vessels;

(v) one shall be a representative of an insurer authorized to insure boilers or pressure vessels;

(vi) one shall be a mechanical engineer on the faculty of a recognized engineering college in the State;

(vii) one shall be a stationary engineer;

(viii) one shall be a professional engineer with boiler or pressure vessel experience; and

(ix) one shall be a consumer member.

(c) (1) The consumer member of the Board:

(i) shall be a member of the public;

(ii) may not be a licensee or otherwise be subject to regulation by the Board;

(iii) may not be required to meet the qualifications for the professional

members of the Board; and

(iv) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board.

(2) While a member of the Board, the consumer member may not:

(i) have a financial interest in or receive compensation from a person regulated by the Board; or

(ii) grade any examination given by or for the Board.

(d) (1) The term of an appointed member is 4 years.

(2) The terms of the appointed members are staggered as required by the terms provided for members of the Board on October 1, 2003.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(e) (1) Except as provided in paragraph (2) of this subsection and subject to paragraph (3) of this subsection, a member shall be considered to have resigned who has been appointed to the Board by the Governor if the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(2) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(3) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

(f) The Board shall elect a chairman from among its members.

(g) The Commissioner may not vote.

(h) (1) The Commissioner may not receive additional compensation as a member of the Board.

(2) An appointed member of the Board:

(i) may not receive a salary as a member of the Board; but

(ii) is entitled to:

1. compensation in accordance with the State budget; and

2. reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(i) The Board shall meet with and consult the State Board of Stationary Engineers as necessary but at least one time each year.

(j) The exercise or performance of the powers, authority, duties, and functions of the Board under this subtitle is subject to the power and authority of the Secretary.

§12–905.

(a) The Board shall formulate regulations for the safe construction, use, installation, maintenance, repair, and inspection of boilers and pressure vessels in the State.

(b) The regulations formulated by the Board shall conform as nearly as possible to the requirements of:

(1) this subtitle; and

(2) the following codes as amended and interpreted:

(i) the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers;

(ii) the Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors;

(iii) the Code for Power Piping, B31.1 of the American Society of Mechanical Engineers;

(iv) the Code for Controls and Safety Devices for Automatically Fired Boilers, CSD-1 of the American Society of Mechanical Engineers;

(v) NFPA 85 Boiler and Combustion Systems Hazards Code; and

(vi) the Code for Chemical Plant and Petroleum Refinery Piping, B31.3 of the American Society of Mechanical Engineers.

(c) The regulations formulated by the Board may be adopted by the Commissioner subject to the approval of the Secretary.

(d) The Board and the Commissioner shall submit proposed amendments to regulations adopted under this subtitle to be consistent with the Maryland Building Rehabilitation Code within 90 days after any amendments to the Maryland Building Rehabilitation Code are adopted by the Department of Housing and Community Development under Subtitle 10 of this title.

§12–906.

(a) (1) Whenever the position of Chief Boiler Inspector or deputy boiler inspector becomes vacant, the Secretary of Budget and Management as soon as practicable shall conduct a competitive examination in accordance with Title 7 of the State Personnel and Pensions Article.

(2) The examination shall be the same as or equivalent to the examination given by the Board for special inspectors under § 12-907 of this subtitle.

(3) With the approval of the Secretary, the Commissioner shall appoint from the successful candidates a Chief Boiler Inspector or deputy boiler inspector.

(b) If authorized by the Commissioner, the Chief Boiler Inspector shall:

(1) take action necessary to enforce the regulations adopted under this subtitle and the laws of the State that govern the use of boilers and pressure vessels to which this subtitle applies;

(2) keep a complete record of the type, dimensions, maximum allowable pressure, age, location, and date of the last recorded inspection of each boiler and each pressure vessel to which this subtitle applies;

(3) issue, and for cause shown, suspend or revoke certificates under § 12-911 of this subtitle; and

(4) refer for prosecution each person who violates this subtitle.

(c) Each deputy boiler inspector:

(1) is responsible to the Chief Boiler Inspector; and

(2) shall perform the duties that the Chief Boiler Inspector directs.

(d) All money received by the Chief Boiler Inspector from fees shall be deposited in the General Fund.

§12–907.

(a) (1) The following entities may request the Commissioner to issue special inspector commissions:

(i) an authorized insurer that insures boilers and pressure vessels in the State; or

(ii) an authorized inspection agency.

(2) On request of an entity described in paragraph (1) of this subsection, the Commissioner may issue a special inspector commission to an individual employed

by the entity to serve as a special inspector if the entity and the individual satisfy the requirements of this section.

(b) (1) An applicant for a special inspector commission shall be employed by the entity that requests the special inspector commission.

(2) An applicant for a special inspector commission shall:

(i) hold a commission as an inspector of boilers and pressure vessels issued by the National Board of Boiler and Pressure Vessel Inspectors; or

(ii) pass the examination given by the Board under subsection (e) of this section.

(c) (1) The employer of an applicant for a special inspector commission shall:

(i) submit to the Commissioner an application on the form that the Commissioner requires; and

(ii) pay to the Commissioner a fee of $50.

(2) The application shall include:

(i) the name and qualifications of the individual who will serve as a special inspector; and

(ii) evidence that the individual satisfies the requirements of subsection (b) of this section.

(d) By regulation, the Commissioner shall establish insurance requirements that an authorized inspection agency must satisfy before a special inspector commission may be issued to an inspector employed by the authorized inspection agency.

(e) (1) The Board may give examinations to applicants for special inspector commissions as provided in this subsection.

(2) The examination:

(i) shall be in writing;

(ii) shall be limited to questions the answers to which will help to determine the fitness and competency of the individual for the intended service; and

(iii) may consist of questions prepared by the National Board of Boiler and Pressure Vessel Inspectors.

(3) (i) An applicant who fails the examination may appeal to the Board for a reexamination.

(ii) The reexamination shall be given by the Board within 90 days.

(4) The record of an applicant's examination shall be available to the applicant and the applicant's employer.

(5) The fee for an examination or reexamination is $50.

(f) The Commissioner shall issue a special inspector commission to each applicant who meets the requirements of this subtitle.

(g) An inspection by a special inspector of a boiler or pressure vessel insured or pressure vessel operated by the employer of the special inspector, or an inspection by a special inspector employed by an authorized inspection agency, exempts the owner or user of the boiler or pressure vessel from the payment to the State of inspection fees required by this subtitle for the boiler or pressure vessel.

(h) A special inspector may not receive a salary from or have any expenses paid by the State.

(i) (1) A special inspector commission expires 2 years after its effective date.

(2) Before a special inspector commission expires, the employer of the special inspector may renew the commission if the employer:

(i) pays to the Commissioner a renewal fee of $50; and

(ii) submits evidence to the Commissioner that the special inspector:

1. meets the standards imposed by this subtitle;

2. remains in the employment of the employer; and

3. has been trained on current boiler and pressure vessel technology in accordance with regulations adopted under this subtitle.

(j) Within 30 days after the termination of the employment of a special inspector, the employer shall return the special inspector commission to the Chief Boiler Inspector.

(k) (1) If an identification card of a special inspector is lost or destroyed, the Commissioner shall issue a new identification card in its place without another examination.

(2) The fee for replacement of an identification card is $50.

(l) (1) After investigation and recommendation by the Board, the Commissioner may suspend the special inspector commission for:

(i) incompetence of the special inspector;

(ii) untrustworthiness of the special inspector;

(iii) willful falsification of any matter or statement contained in the application for the special inspector commission; or

(iv) willful falsification of any matter or statement contained in a report of an inspection made by the special inspector.

(2) Within 10 days after suspending a special inspector commission, the Commissioner shall give written notice of the suspension to the special inspector and the employer of the special inspector.

(3) (i) An individual whose special inspector commission has been suspended may appeal to the Board.

(ii) At the hearing on the appeal, the individual may be present and represented by counsel.

(4) An individual whose special inspector commission has been suspended may apply for reinstatement of the commission after 90 days following the date of the suspension.

(m) (1) If the Board has reason to believe that a special inspector is no longer qualified to hold a commission, the Board shall hold a hearing.

(2) The Board shall give at least 10 days' written notice of the hearing to the special inspector and to the employer of the special inspector.

(3) At the hearing, the special inspector and the employer shall have an opportunity to be heard.

(4) If after the hearing the Board finds that the special inspector is no longer qualified to hold a commission:

(i) the Board shall recommend to the Commissioner that the special inspector commission be revoked; and

(ii) the Commissioner shall revoke the special inspector commission immediately.

§12–908.

(a) (1) A new boiler or pressure vessel may not be installed and operated in the State unless:

(i) the boiler or pressure vessel conforms to the regulations adopted under this subtitle that govern new construction and installation; or

(ii) the Board issues a special installation and operating permit for

the boiler or pressure vessel.

(2) The Board may issue a special installation and operating permit for a boiler or pressure vessel if it:

(i) is of special design or construction; and

(ii) is not inconsistent with the spirit and safety objectives of the regulations adopted under this subtitle.

(b) For existing boiler and pressure vessel installations:

(1) the maximum allowable pressure of a boiler or pressure vessel that carries the ASME Code symbol shall be determined by the applicable provisions of the ASME Code under which it was constructed and stamped; and

(2) the maximum allowable pressure of a boiler or pressure vessel that does not carry the ASME Code symbol shall be computed in accordance with the Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors.

(c) This subtitle does not prevent the use, sale, or reinstallation of an existing boiler or pressure vessel if the boiler or pressure vessel:

(1) has been made to conform to the regulations adopted under this subtitle that govern existing installations; and

(2) has been inspected and found not to be in an unsafe condition.

§12–909.

(a) The requirements of this section and §§ 12–910 and 12–911 of this subtitle do not apply to:

(1) a boiler or pressure vessel that is located on a farm and used solely for agricultural purposes;

(2) a heating boiler that is located in a private residence or an apartment house with less than six family units;

(3) a pressure vessel that:

(i) contains only water under pressure for domestic supply purposes, including a pressure vessel that contains air, the compression of which serves only as a cushion or airlift pumping system; and

(ii) is located in a private residence or an apartment house with less than six family units; or

(4) an exhibition or antique boiler or pressure vessel, including a steam or

gas engine, wheat thresher, or antique tractor, if the boiler or pressure vessel:

(i) has been inspected and issued a certificate of inspection by another state that has safety requirements equal to or greater than those of this State; and

(ii) has been brought into this State to be used in a temporary exhibit or show.

(b) The Chief Boiler Inspector or a deputy boiler inspector shall have free access, during reasonable hours, to any premises in the State:

(1) to determine whether a boiler or pressure vessel is being constructed for use or installed in the State in accordance with this subtitle;

(2) to inspect or investigate an accident or explosion that involves a boiler or pressure vessel;

(3) to make an inspection required under this subtitle; or

(4) to investigate an inspection of a special inspector.

(c) (1) In addition to the certificate inspections required under subsection (d) of this section, the Chief Boiler Inspector or a deputy boiler inspector shall:

(i) inspect or investigate accidents and explosions involving boilers and pressure vessels;

(ii) respond to and investigate complaints about the operation of boilers and pressure vessels; and

(iii) monitor the inspections of special inspectors.

(2) The Chief Boiler Inspector, a deputy boiler inspector, a special inspector, or an authorized inspection agency may:

(i) make certificate inspections of the installation of new boilers and pressure vessels; and

(ii) make certificate inspections of the repair or alteration of boilers and pressure vessels.

(3) The Chief Boiler Inspector or a deputy boiler inspector may make a certificate inspection of an antique boiler or pressure vessel or a model steam boiler.

(4) Except as provided in paragraphs (1) through (3) of this subsection, if a boiler or pressure vessel:

(i) is insured by an insurer, a special inspector employed by the

insurer or employed by an authorized inspection agency under contract with the insurer shall make the inspections required under subsection (d) of this section; or

(ii) is not insured by an insurer, the owner shall contract with the Chief Boiler Inspector, a deputy boiler inspector, a special inspector, or an authorized inspection agency to make the inspections required under subsection (d) of this section.

(5) (i) In this paragraph, "private inspector" means an individual who:

1. has a level II or level III certification from the American Society for Nondestructive Testing (ASNT); and

2. is commissioned as a special inspector by the National Board of Boiler and Pressure Vessel Inspectors.

(ii) If a boiler or pressure vessel is an exhibition or antique boiler or pressure vessel, including a steam or gas engine, wheat thresher, model steam boiler, or antique tractor, that will be used in an exhibit or show for noncommercial purposes, the inspections required under subsection (d) of this section may be made by a private inspector.

(iii) If a private inspector makes the inspections required under subsection (d) of this section, the private inspector shall file a report with the Chief Boiler Inspector on the results of the inspection.

(iv) If the report of the private inspector shows that the exhibition or antique boiler or pressure vessel complies with the requirements of subsection (d) of this section and the regulations adopted under this subtitle, the Chief Boiler Inspector shall issue a certificate to the owner or user of the exhibition or antique boiler or pressure vessel that authorizes it to be used in an exhibit or show for noncommercial purposes.

(6) If a boiler or pressure vessel is not insured by an insurer, the Commissioner may contract with an insurer or an authorized inspection agency to have a special inspector who is employed by that insurer or authorized inspection agency make the inspections required under paragraph (1) of this subsection and subsection (d) of this section or conducted under paragraph (2) or (3) of this subsection.

(d) (1) Except for boilers and pressure vessels exempt under subsection (a) of this section or § 12–903 of this subtitle, each boiler and each pressure vessel that is used or proposed to be used in the State shall be inspected, tested, and maintained in a safe operating condition in accordance with the regulations adopted by the Commissioner in conjunction with the Board.

(2) A certificate inspection required under this subsection shall be:

(i) an internal inspection if construction allows; or

(ii) an inspection that is as complete as possible.

(3) (i) Except for model steam boilers, a power boiler or a high pressure, high temperature water boiler shall:

1. receive a certificate inspection annually; and

2. be externally inspected annually while under pressure, if possible.

(ii) The Board may extend to 2 years the interval between certificate inspections of a power boiler if:

1. the power boiler has internal continuous water treatment under the general supervision of a professional engineer who has experience in the treatment of boiler water; and

2. the owner or user of the power boiler keeps available, for examination by the Chief Boiler Inspector or by a deputy boiler inspector or special inspector, accurate records that show:

A. the date, time, and reason that the power boiler is out of service; and

B. a chemical and physical analysis of samples of the boiler water taken at regular intervals of not more than 48 hours of operation that adequately show the condition of the boiler water and any elements or characteristics of the boiler water that are capable of producing corrosion or other deterioration of the power boiler or its parts.

(4) A nuclear vessel within the scope of this subtitle shall be inspected and reported in a form and with appropriate information designated by the Board.

(5) (i) Except as provided in paragraph (3) of this subsection, certificate inspections shall be conducted at time intervals set forth in regulations adopted under this subtitle and in accordance with Title 10 of the State Government Article.

(ii) The intervals shall protect public safety taking into consideration, consistent with § 12–905 of this subtitle, the design, type, age, extent of automated monitoring, fuel, and operating characteristics of the boiler or pressure vessel.

(e) If, at the discretion of the inspector, a hydrostatic test is considered necessary, the owner or user of a boiler or pressure vessel shall make the hydrostatic test.

(f) (1) Except as provided in paragraph (2) of this subsection, at least 30 days before installing a boiler or pressure vessel covered by this subtitle, the person who will perform the installation shall give the Commissioner notice of the installation in accordance with regulations adopted under this subtitle.

(2) Under emergency circumstances, the person who will perform the installation of a boiler or pressure vessel may give the Commissioner notice of the installation less than 30 days before installation in accordance with regulations adopted under this subtitle.

(3) Except for a cast–iron sectional boiler or pressure vessel, each boiler to be installed in the State shall be inspected:

(i) during construction or field assembly, as required by regulations adopted under this subtitle, by the Chief Boiler Inspector, a deputy boiler inspector, a special inspector, or an authorized inspection agency; or

(ii) if the boiler is constructed outside the State, by an inspector who holds a commission issued by the National Board of Boiler and Pressure Vessel Inspectors.

(g) (1) Within 24 hours after an accident or explosion, the owner or user of a boiler or pressure vessel shall give the Chief Boiler Inspector notice of the accident or explosion in accordance with regulations adopted under this subtitle.

(2) On notification or information, the Chief Boiler Inspector or a deputy boiler inspector shall investigate each accident or explosion that involves a boiler or pressure vessel covered by this subtitle.

(h) (1) The Board shall provide for public safety and therefore has jurisdiction over the interpretation and application of the inspection requirements provided in the regulations adopted under this subtitle.

(2) Inspection requirements of operating equipment shall:

(i) be in accordance with generally accepted practice; and

(ii) be compatible with the actual service conditions, including:

1. previous experience, based on records of performance and maintenance;

2. location, with respect to personnel hazard;

3. provision for related safe operation of controls; and

4. interrelation with other operations outside the scope of this subtitle.

(i) The owner or user of a boiler or pressure vessel required by this subtitle to be inspected by the Chief Boiler Inspector or a deputy boiler inspector shall pay directly to the Chief Boiler Inspector, on completion of the inspection, a fee in accordance with the following schedule:

(1) certificate inspection:

(i) initial certificate inspection of a boiler or pressure vessel not previously inspected in the State ..... no charge

(ii) follow–up inspection to determine compliance $50

(2) inspection of an antique or model steam boiler or pressure vessel.....$15

(3) investigation of an accident or complaint ..... no charge

(4) other inspections, such as an inspection at a fabrication or repair facility, ASME joint review, or National Board of Inspection Code Repair Review, shall be charged at the following rates, and shall include all expenses such as travel and hotel costs:

(i) half day (up to 4 hours)..... $250

(ii) full day (up to 8 hours)..... $500

§12–910.

(a) (1) Each authorized inspection agency that employs a special inspector shall file with the Chief Boiler Inspector a report on:

(i) each certificate inspection; and

(ii) any other inspection for which a report is required to be filed under regulations adopted under this subtitle.

(2) The report filed under paragraph (1) of this subsection shall:

(i) be filed within 30 days after an inspection; and

(ii) be in the form required by regulations adopted under this subtitle.

(3) For each report not filed electronically, the authorized inspection agency shall pay a $5 report filing fee.

(4) Within 24 hours after an inspection, each authorized inspection agency that employs a special inspector shall notify the Chief Boiler Inspector if an inspection reveals a hazardous condition as described in § 12–915(a)(2) of this subtitle that affects the safety of a boiler or pressure vessel.

(b) (1) Each person that operates pressure vessels covered by an owner–user inspection service that meets the requirements of this subtitle shall maintain in its files an inspection record that lists, by a Maryland number and by an abbreviated

identification description:

(i) each pressure vessel covered by this subtitle;

(ii) the date of the last inspection of the pressure vessel; and

(iii) the approximate date for the next inspection of the pressure vessel, calculated by applying the appropriate rules for inspection to all data available when the inspection record is compiled.

(2) The inspection record shall be readily available for examination by the Chief Boiler Inspector or authorized representative during business hours.

(3) (i) In addition, the person shall file annually with the Chief Boiler Inspector a statement that:

1. is signed by the professional engineer who supervised the inspections made during the period covered;

2. states the number of pressure vessels covered by this subtitle that were inspected during the year; and

3. certifies that each inspection was conducted in accordance with the inspection requirements of this subtitle.

(ii) The statement shall be accompanied by a filing fee of:

1. $5 per pressure vessel, for a statement that covers not more than 25 pressure vessels;

2. $125, for a statement that covers more than 25 but less than 101 pressure vessels;

3. $250, for a statement that covers more than 100 but less than 501 pressure vessels; or

4. $325, for a statement that covers more than 500 pressure vessels.

§12–911.

(a) If the report filed in accordance with § 12-910(a) of this subtitle shows that a boiler or pressure vessel complies with regulations adopted under this subtitle, the Chief Boiler Inspector shall issue to the owner or user of the boiler or pressure vessel a certificate that bears the date of inspection, specifies the inspection interval, and specifies the maximum pressure under which the boiler or pressure vessel may be operated.

(b) Except as provided in § 12-909(d)(3) of this subtitle, the certificate is valid

for the period that corresponds to the interval between certificate inspections as established by regulation under § 12-909 of this subtitle.

(c) If the certificate inspection interval for a boiler or pressure vessel is extended under § 12-909(d)(5) of this subtitle, the Chief Boiler Inspector shall promptly issue a certificate to the owner of the boiler or pressure vessel that bears the new expiration date.

(d) (1) The certificate shall be posted under glass in the room that contains the boiler or pressure vessel that was inspected.

(2) If the boiler or pressure vessel is not located in a building, the certificate shall be posted in a location convenient to the boiler or pressure vessel that was inspected or in any place where the certificate will be accessible to interested parties.

(e) (1) The Chief Boiler Inspector or an authorized deputy boiler inspector may suspend a certificate at any time when, in the opinion of the inspector, the boiler or pressure vessel for which the certificate was issued:

(i) cannot be operated without danger to public safety; or

(ii) is found not to comply with regulations adopted under this subtitle.

(2) The suspension of a certificate continues until:

(i) the boiler or pressure vessel is made to conform to the regulations adopted under this subtitle; and

(ii) the certificate is reinstated.

(f) If a boiler or pressure vessel for which a certificate was issued based on the report of a special inspector ceases to be insured by an authorized insurer, the certificate is invalid.

§12–912.

The owner or user of a boiler or pressure vessel shall:

(1) ensure that the boiler or pressure vessel is operated, inspected, and repaired in accordance with this subtitle and regulations adopted under this subtitle;

(2) maintain a copy of inspection, maintenance, and repair records at a central location in accordance with regulations adopted under this subtitle; and

(3) make inspection, maintenance, and repair records available to the inspector required to inspect the boiler or pressure vessel.

§12–913.

(a) An authorized insurer that provides insurance coverage for boilers or pressure vessels in the State shall:

(1) conduct the certificate inspection for each boiler and pressure vessel that the insurer insures by the date the certificate inspection is due;

(2) file with the Chief Boiler Inspector the reports required under § 12–910 of this subtitle;

(3) develop, maintain, submit, and update, as defined by regulation, a database of all boilers and pressure vessels that the insurer insures in the State and track the date when the certificate inspection for each boiler or pressure vessel is due to ensure that the certificate inspections are due and completed as required under this subtitle; and

(4) (i) develop, maintain, and make available to the Commissioner for inspection at the insurer's place of business in the State a quality assurance program in accordance with regulations adopted under this subtitle; or

(ii) submit to the Chief Boiler Inspector evidence of NB–369 accreditation by the National Board of Boiler and Pressure Vessel Inspectors.

(b) If more than one insurer provides insurance coverage for a boiler or pressure vessel or if an owner-user employs an individual with a special inspector commission, the insurers or owner-user:

(1) may agree to coordinate certificate inspections to ensure that the boiler or pressure vessel is inspected; and

(2) shall ensure that responsibility for the certificate inspection is clearly defined.

§12–914.

A person who repairs or alters a boiler or pressure vessel shall:

(1) give notice to and obtain approval from the Chief Boiler Inspector, a deputy boiler inspector, or a special inspector before beginning a repair or alteration that:

(i) affects the working pressure or safety of a boiler or pressure vessel; or

(ii) involves fusion welding;

(2) repair the boiler or pressure vessel in accordance with regulations

adopted under this subtitle; and

(3) provide reports, as required by regulations adopted under this subtitle, to the Chief Boiler Inspector and the owner of the boiler or pressure vessel.

§12–915.

(a) On inspection, the Chief Boiler Inspector or an authorized deputy boiler inspector may prohibit the use of a boiler or pressure vessel if the inspector determines that:

(1) the boiler or pressure vessel or part of it violates a standard, safety code, or regulation adopted under this subtitle; and

(2) there is substantial probability that death, serious physical harm, or serious damage to property could result from continued use of the boiler or pressure vessel.

(b) (1) To prohibit the use of a boiler or pressure vessel, the Chief Boiler Inspector or an authorized deputy boiler inspector shall give the owner or the owner's agent notice that use of the boiler or pressure vessel is prohibited.

(2) The notice shall describe, in detail:

(i) the nature of each alleged violation;

(ii) the reason for the prohibition from use;

(iii) the penalties of this subtitle; and

(iv) if appropriate, a recommendation on how to correct the violation.

(c) A copy of the notice under subsection (b) of this section:

(1) shall be attached to the boiler or pressure vessel; and

(2) may not be removed by any person except the Chief Boiler Inspector or an authorized deputy boiler inspector until the Chief Boiler Inspector or an authorized deputy boiler inspector determines that:

(i) each violation described in the notice has been corrected; and

(ii) the threat of death, serious physical harm, or serious damage to property resulting from the violation has been eliminated.

(d) Use of a boiler or pressure vessel is prohibited while a notice under subsection (b) of this section is posted on the boiler or pressure vessel.

(e) If the owner or user of a boiler or pressure vessel continues to use a boiler

or pressure vessel after notice is issued under subsection (b) of this section, the Commissioner may assess a civil penalty against the owner or user not exceeding $1,000 per day for each boiler or pressure vessel in violation.

(f) (1) An owner or user who is aggrieved by a decision of the Commissioner, the Chief Boiler Inspector, or an authorized deputy boiler inspector under this section may bring an action to modify or vacate the decision on the ground that it is unlawful.

(2) An action under this subsection may be brought in the Circuit Court for Baltimore City or in the circuit court for the county where the boiler or pressure vessel is located.

(3) In a proceeding under this subsection, a court may not stay a decision of the Commissioner, the Chief Boiler Inspector, or an authorized deputy boiler inspector unless:

(i) the court gives the Commissioner notice and an opportunity for a hearing; and

(ii) the aggrieved owner or user posts security or meets each condition that the court considers proper.

§12–916.

(a) Except as otherwise provided in § 12-915(e) of this subtitle, the Commissioner may assess a civil penalty not exceeding $5,000 for each violation against a person who:

(1) violates this subtitle;

(2) violates a regulation adopted or order issued under this subtitle; or

(3) operates in the State a boiler or pressure vessel, except a pressure vessel covered by an owner-user inspection service as provided by this subtitle, without a certificate.

(b) In assessing the appropriateness of a civil penalty under this section, the Commissioner shall give due consideration to:

(1) the nature or gravity of the violation;

(2) the person's good faith; and

(3) the person's history of previous violations.

(c) (1) A person may request a hearing before the Commissioner or the Commissioner's authorized representative to contest a proposed penalty or an alleged violation of this subtitle.

(2) The Commissioner shall adopt regulations as reasonably necessary to carry out this subsection.

§12–917.

(a) A person may not:

(1) willfully and persistently operate in the State a boiler or pressure vessel, except a pressure vessel covered by an owner-user inspection service as provided by this subtitle, without a certificate;

(2) operate in the State a boiler or pressure vessel at a pressure exceeding that specified on the certificate; or

(3) interfere with or impede the official duties of the Commissioner, an authorized representative of the Commissioner, or a member of the Board.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject for each violation to imprisonment not exceeding 5 years or a fine not exceeding $5,000 or both.

§12–918.

This subtitle may be cited as the Boiler and Pressure Vessel Safety Act.

§12–919.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, § 12–904 of this subtitle shall terminate on July 1, 2024.

§12–1001.

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

(b) "Addition" means an increase in:

(1) building area;

(2) aggregate floor area;

(3) height; or

(4) number of stories.

(c) "Change of occupancy" means a change in the purpose or level of activity in a building or structure that involves a change in application of the local building code requirements.

(d) "Construction permit application" means an application for a permit or other

governmental approval for a rehabilitation project.

(e) "Department" means the Department of Housing and Community Development.

(f) "Existing building" means a building or structure that was erected and occupied, or was issued a certificate of occupancy, at least 1 year before a construction permit application for the building or structure was made to a local jurisdiction, the Maryland-National Capital Park and Planning Commission, or the Washington Suburban Sanitary Commission.

(g) "Local jurisdiction" means:

(1) a county; or

(2) a municipal corporation in the State.

(h) "MBRC" means the Maryland Building Rehabilitation Code.

(i) "Modification" means:

(1) the reconfiguration of a space;

(2) the addition or elimination of a door or window;

(3) the reconfiguration or extension of a system; or

(4) the installation of any additional equipment.

(j) "Reconstruction" means:

(1) the reconfiguration of a space that:

(i) affects an exit or element of the egress access that is shared by more than a single occupant; or

(ii) prevents occupancy of the work area because the existing means of egress and fire protection systems, or their equivalent, are not in place or continuously maintained; or

(2) extensive modifications.

(k) "Rehabilitation project" means construction work undertaken in an existing building that includes repair, renovation, modification, reconstruction, change of occupancy, or addition.

(l) (1) "Renovation" means:

(i) the change, strengthening, or addition of load bearing elements;

or

(ii) the refinishing, replacement, bracing, strengthening, upgrading, or extensive repair of existing materials, elements, components, equipment, or fixtures.

(2) "Renovation" does not include:

(i) reconfiguration of a space; or

(ii) interior or exterior painting.

(m) "Repair" means the patching, restoration, or minor replacement of materials, elements, components, equipment, or fixtures to maintain them in good or sound condition.

§12–1002.

(a) This subtitle is effective notwithstanding any other provisions of law.

(b) This subtitle does not supersede the planning, zoning, or subdivision authority of local jurisdictions, the Maryland-National Capital Park and Planning Commission, or the Washington Suburban Sanitary Commission.

§12–1003.

(a) There is a Maryland Building Rehabilitation Code Advisory Council.

(b) The Council consists of the following 27 members:

(1) the Secretary of Housing and Community Development or the Secretary's designee;

(2) the Secretary of Labor, Licensing, and Regulation or the Secretary's designee;

(3) the State Fire Marshal or the Fire Marshal's designee;

(4) the State Historic Preservation Officer or the Officer's designee;

(5) the Secretary of Disabilities or the Secretary's designee; and

(6) the following 22 members appointed by the Governor:

(i) one representative of the State Fire Prevention Commission;

(ii) four representatives of the building trades who are directly involved or have experience in code setting or code enforcement, including plumbers, electricians, boiler operators, and heating, ventilation, air-conditioning, and refrigeration contractors;

(iii) two architects practicing in the State, a significant portion of whose practice includes rehabilitation projects;

(iv) one professional engineer;

(v) two contractors specializing in rehabilitation construction;

(vi) two representatives of county government;

(vii) two representatives of municipal government;

(viii) two building code officials serving local government;

(ix) one commercial and industrial building owner or developer;

(x) one multifamily building owner or developer;

(xi) two local fire officials; and

(xii) two members of the public.

(c) The composition of the Council shall reflect the racial, gender, and geographic diversity of the population of the State.

(d) (1) The term of an appointed member is 4 years and begins on July 1.

(2) The terms of appointed members are staggered as required by the terms provided for members of the Council on October 1, 2003.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) An appointed member may serve no more than two terms.

(e) The Governor shall designate a chairman from among the Council members.

(f) A member of the Council:

(1) may not receive compensation for service on the Council; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) (1) The Secretary of Housing and Community Development shall appoint the Director of the Council.

(2) The Director is a special appointment in the State Personnel Management System.

(h) The Council shall:

(1) advise the Department on the development and adoption of and amendments to the MBRC;

(2) provide technical advice on the interpretation of the MBRC to property owners, design professionals, contractors, and code officials and code appeal boards of local jurisdictions, the Maryland-National Capital Park and Planning Commission, and the Washington Suburban Sanitary Commission;

(3) develop the MBRC to the extent possible to avoid increased costs to local jurisdictions resulting from implementation of the MBRC; and

(4) to the extent provided in the State budget, provide training on the MBRC for code officials and other public and private construction-related professionals.

§12–1004.

(a) (1) The Department, in cooperation with the Maryland Building Rehabilitation Code Advisory Council, the Department of Labor, Licensing, and Regulation, and the State Fire Marshal, shall adopt by regulation the Maryland Building Rehabilitation Code.

(2) The MBRC shall be modeled on the nationally applicable recommended rehabilitation provisions developed by the United States Department of Housing and Urban Development and the National Association of Home Builders Research Center.

(b) The purpose of the MBRC is to encourage and facilitate the rehabilitation of existing buildings by reducing the cost of and constraints on rehabilitation that result from existing procedures and standards.

(c) Except as otherwise allowed under this subtitle and Subtitles 2, 3, 4, and 5 of this title, and notwithstanding the Local Government Article, Division II of the Land Use Article, and Division II of the Public Utilities Article and any building codes, mechanical codes, plumbing codes, fire prevention codes, and electrical codes adopted under those articles of the Code, the MBRC applies to all rehabilitation projects for which a construction permit application is received by a local jurisdiction, the Maryland–National Capital Park and Planning Commission, or the Washington Suburban Sanitary Commission after adoption of the MBRC.

§12–1005.

(a) At a minimum, the MBRC shall:

(1) maintain a level of safety consistent with existing codes;

(2) provide for multiple categories of work with multiple compliance standards;

(3) be enforceable by local officials using existing enforcement procedures;

(4) apply to the repair, renovation, modification, and reconstruction of, a change of occupancy in, and an addition to, an existing building;

(5) provide an expedited review process for proposed amendments to the MBRC submitted by a local government or an organization that represents local governments; and

(6) provide an opportunity for a person proposing a complex project that involves multiple codes to meet, before submitting a construction permit application, with the local officials, or their designees, responsible for permit approval and enforcement of construction–related laws that apply to the project.

(b) To the extent possible, the meeting provided for under subsection (a)(6) of this section shall include the officials responsible for permit approval and enforcement in any of the following areas that apply to the complex project:

(1) building code;

(2) mechanical code;

(3) plumbing code;

(4) electrical code;

(5) fire prevention code;

(6) Boiler Safety Code;

(7) energy code;

(8) elevator code; and

(9) local historic preservation ordinances.

(c) The purpose of the meeting provided for under subsection (a)(6) of this section is to anticipate and expedite the resolution of problems that a complex project may have in complying with the MBRC and any other applicable laws.

§12–1006.

Within 90 days after the adoption of the MBRC and any subsequent amendments to the MBRC:

(1) the Department of Labor, Licensing, and Regulation, the State Board

of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors, the State Board of Plumbing, the Commissioner of Labor and Industry, and the Board of Boiler Rules shall submit proposed amendments to their regulations to make the Mechanical Code, the State Plumbing Code, the Boiler Safety Code, and the Elevator Code consistent with the MBRC;

(2) the Department of State Police and the State Fire Prevention Commission shall submit proposed amendments to their regulations to make the State Fire Prevention Code consistent with the MBRC; and

(3) the Department shall submit proposed amendments to its regulations to make the Maryland Building Performance Standards, the Safety Glazing Code, the Energy Code, and the Maryland Accessibility Code consistent with the MBRC.

§12–1007.

(a) At least every 3 years, the Department, in cooperation with the Maryland Building Rehabilitation Code Advisory Council, shall review the MBRC and adopt any necessary or desirable amendments.

(b) (1) A local jurisdiction may adopt amendments to the MBRC that apply only to the local jurisdiction.

(2) A municipal corporation whose authority to adopt or amend a building code is limited, by law, by the authority of the county in which it is located, is not subject to an amendment to the MBRC adopted by the county unless the municipal corporation also adopts the amendment.

(c) To keep current the central database established under § 12-506 of this title, a local jurisdiction that amends the MBRC shall provide a copy of the amendment to the Department:

(1) at least 15 days before the effective date of the amendment; or

(2) within 5 days after the adoption of an emergency local amendment.

(d) A local jurisdiction that amends the MBRC is not eligible for any funding appropriated above the appropriation in fiscal year 2000 for:

(1) circuit rider MBRC inspectors provided under the circuit rider program in the Department;

(2) training for the local jurisdiction's code enforcement officials, as provided for in § 12-1003(h)(4) of this subtitle;

(3) a smart growth mortgage program, to be established by the Department under Title 4, Subtitles 2 and 8 of the Housing and Community Development Article;

(4) the Neighborhood Conservation Program in the Department of Transportation; and

(5) the Rural Legacy Program established under Title 5, Subtitle 9A of the Natural Resources Article.

(e) A local jurisdiction that amends the MBRC is not eligible for a priority under the Department of Transportation's transportation enhancements programs.

§12–1101.

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

(b) "Carbon monoxide alarm" means a device that:

(1) senses carbon monoxide;

(2) when sensing carbon monoxide, is capable of emitting a distinct and audible sound;

(3) is listed and carries the listing of a nationally recognized testing laboratory approved by the Office of the State Fire Marshal; and

(4) (i) is wired into an alternating current (AC) powerline with secondary battery backup; or

(ii) for a hotel or a lodging or rooming house:

1. is wired into an alternating current (AC) powerline with secondary battery backup;

2. is battery–powered, sealed, tamper resistant, and using a long–life battery that has a life of not less than 10 years; or

3. is connected to an on–site control unit that monitors the carbon monoxide alarm remotely so that a responsible party is alerted when the device activates the alarm signal and receives its primary power from a battery or the control unit.

(c) (1) "Dwelling" means a building or part of a building that provides living or sleeping facilities for one or more individuals.

(2) "Dwelling" includes a one or two family dwelling, multifamily dwelling, hotel, lodging or rooming house, or dormitory.

(d) "Hotel" has the meaning stated in § 9–201 of this article.

(e) "Install" means to attach to the wall or ceiling of a dwelling in accordance with:

(1) the National Fire Protection Association (NFPA) 720 standard for the installation of carbon monoxide warning equipment in dwelling units; and

(2) the manufacturer's recommendations.

(f) "Lodging or rooming house" has the meaning stated in § 9–201 of this article.

§12–1102.

This subtitle only applies to:

(1) a dwelling that:

(i) relies on the combustion of a fossil fuel for heat, ventilation, hot water, or clothes dryer operation; and

(ii) is a newly constructed dwelling for which a building permit is issued on or after January 1, 2008; or

(2) a hotel or a lodging or rooming house.

§12–1103.

A carbon monoxide alarm may be combined with a smoke alarm if the combined device complies with:

(1) this subtitle;

(2) Title 9 of this article; and

(3) American National Standards Institute (ANSI)/Underwriters Laboratories (UL) standards 217 and 2034 or ANSI/UL 268 and 2075.

§12–1104.

(a) Except as provided in subsection (b) of this section, there must be a carbon monoxide alarm installed in a central location outside of each sleeping area within a dwelling subject to this subtitle.

(b) For a dwelling described in § 12–1102(2) of this subtitle, on or after April 1, 2017, there must be a carbon monoxide alarm installed within a hotel or a lodging or rooming house, as follows:

(1) on the wall inside each guest room that:

(i) contains a device that emits carbon monoxide;

(ii) is adjacent to a room or area that contains a device that emits carbon monoxide;

(iii) is adjacent to an enclosed unventilated attached garage; or

(iv) is connected by ductwork to an enclosed unventilated attached garage or room or area that contains a device that emits carbon monoxide; and

(2) on a wall in each room or area that:

(i) contains a device that emits carbon monoxide;

(ii) is adjacent to a room or area that contains a device that emits carbon monoxide; or

(iii) is adjacent to an enclosed unventilated attached garage.

(c) Notwithstanding subsections (a) and (b) of this section, if there is a centralized alarm system that is capable of emitting a distinct and audible sound to warn all occupants, the owner of a dwelling may install a carbon monoxide alarm within 25 feet of any carbon monoxide–producing fixture and equipment.

§12–1105.

Except as part of routine maintenance, a person may not render a carbon monoxide alarm inoperable.

§12–1106.

This subtitle does not prevent a county or municipal corporation from enacting more stringent laws that relate to carbon monoxide alarms.

§13–101.

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

(b) "Department" means the Military Department.

(c) "Maryland Defense Force" means the military force established under Subtitle 5 of this title.

(d) "National Guard" means the Maryland Army National Guard and Maryland Air National Guard.

(e) (1) "State active duty" means military duty performed in service of the State by a unit or member of the militia under orders issued by the Governor under Article II, § 8 of the Maryland Constitution or § 13-702 of this title.

(2) Unless the Governor specifically provides otherwise, "State active duty" does not include drill periods, preparation for drill periods, annual training, or other equivalent training or duty conducted under orders issued under Title 10 or Title 32 of the United States Code.

§13–201.

(a) This title applies to all uniformed volunteer companies.

(b) A provision of this title may not be repealed or amended by any statute passed by the General Assembly unless the statute explicitly:

(1) refers to this title as the militia law, or by its other titles, as part of the general laws of the State; and

(2) repeals or amends the referenced provision.

§13–202.

(a) Except as provided in subsection (b) of this section, the militia consists of able–bodied individuals who are:

(1) citizens of the State;

(2) citizens of the United States who take an oath of allegiance to the State; or

(3) of foreign birth and who:

(i) are residents of the State; and

(ii) have declared their intention to become citizens of the State.

(b) Subject to subsection (c) of this section, an individual is exempt from subsection (a) of this section if the individual:

(1) is exempted by the laws of the United States;

(2) is exempted by the laws of the State;

(3) is a member of a regularly organized fire or police department in a county, city, village, or town;

(4) is a judge or clerk of a court of record;

(5) is a register of wills and deeds;

(6) is a sheriff;

(7) is a member of the clergy;

(8) is a practicing physician;

(9) is a superintendent, officer, or assistant of a hospital or correctional

facility;

(10) has been judged mentally incompetent;

(11) is addicted to narcotic drugs; or

(12) has been convicted of an infamous crime.

(c) An individual exempted under subsection (b)(3) through (12) of this section shall be available for military duty in case of war, insurrection, or invasion, or when the danger of war, insurrection, or invasion is imminent.

§13–203.

(a) There are two classes of State militia:

(1) the organized militia; and

(2) the unorganized militia.

(b) The organized militia of the State consists of:

(1) the National Guard;

(2) the Inactive National Guard; and

(3) the Maryland Defense Force.

(c) The unorganized militia consists of those individuals described under § 13-202 of this subtitle but who are not regularly enlisted or commissioned in the organized militia.

§13–204.

(a) The general appropriations for the militia shall be exclusively applied to the necessary and contingent expenses of the office of the Adjutant General and to the equipment, maintenance, and general efficiency of the organized militia.

(b) (1) Except as provided in this title, unless authorized by the Adjutant General, a person may not make a purchase, incur a debt or expense, or expend money for the militia.

(2) (i) The Adjutant General shall adopt rules for the receipt and expenditure of all money that comes under the control of the Adjutant General.

(ii) The Adjutant General may require bond from persons involved in the receipt and expenditure of money that the Adjutant General designates.

(c) (1) The commanding officer of an organization or detachment of the

organized militia that is on State active duty may purchase necessities that are absolutely required for the immediate use and care of the officer's command.

(2) If a commanding officer on State active duty makes a purchase under this subsection, the commanding officer shall:

(i) take a receipt of the purchase in triplicate; and

(ii) promptly submit a report of the purchase through regular channels to the Department's Finance Officer.

(3) The report shall contain:

(i) a list of the articles purchased;

(ii) the price of the articles; and

(iii) the receipts.

(d) (1) Except as provided in paragraph (3) of this subsection, the Adjutant General shall audit and pay all bills and military accounts payable by the State.

(2) The Adjutant General shall follow as nearly as possible the financial operating procedures established by the United States Department of Defense.

(3) The Comptroller shall be the auditor of all accounts for property purchased by the Adjutant General.

(4) The Treasurer shall pay an audited military account from an appropriation made by the General Assembly, on the warrant of the Adjutant General, under the direction of the Governor.

§13–205.

Subject to the provisions of this title and the regulations governing the armed forces of the United States, an individual may be enlisted in the organized militia if the individual:

(1) is a citizen of the State or has declared an intention to become a citizen of the State;

(2) is able-bodied; and

(3) has good character and temperate habits.

§13–206.

(a) An individual enlisting in the organized militia shall take and subscribe to the following oath of enlistment:

"I do hereby acknowledge to have voluntarily enlisted this ..... day of ....., 20 ....., in the (National Guard) (Maryland Defense Force) of the State of Maryland for the period of ..... year(s), under the conditions prescribed by law, unless sooner discharged by proper authority. I, ..., do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America and to the State of Maryland; that I will serve them honestly and faithfully against all their enemies whomsoever; and that I will obey the orders of the President of the United States and the Governor of Maryland and the orders of the officers appointed over me, according to law and regulations."

(b) Any officer of the organized militia may administer the oath of enlistment.

§13–207.

(a) An organization commander:

(1) may require those under the command of the organization commander to perform any military duty; and

(2) is responsible to the Governor for the general efficiency of the units of the organized militia under the command of the organization commander.

(b) A commanding officer of a unit is responsible to the officer's immediate commander for the equipment, drill, instruction, movements, and efficiency of those under the officer's command.

(c) Each officer or enlisted individual is responsible to the individual's immediate commanding officer for prompt and unhesitating obedience, proper drill, and the preservation and proper use of the property of the organization, the State, or the United States that is in the individual's possession.

(d) A unit of the organized militia shall be inspected:

(1) by an officer detailed for inspection duty, whenever the Governor considers it advisable; and

(2) by an officer of the United States Army or Air Force, as provided by federal law or regulation.

§13–208.

(a) During a time of duty, a commanding officer may arrest for the period of the time of duty an individual who:

(1) trespasses on a camp ground, parade ground, armory, or other place devoted to that duty;

(2) disrupts in any way the orderly discharge of duty by those under arms; or

(3) interrupts or prevents the passage of troops going to or returning from duty.

(b) A commanding officer may prohibit within the limits of a post, camp ground, place of encampment, parade, or drill that is under the command of the officer:

(1) the sale or use of alcoholic beverages;

(2) huckster or auction sales; and

(3) gambling.

§13–209.

(a) (1) The Adjutant General, Assistant Adjutants General, officers, warrant officers, and enlisted individuals who are full-time employees of the Department are:

(i) military personnel on State active duty; and

(ii) entitled to the same pay, including longevity pay, subsistence, per diem, and allowances, as officers, warrant officers, and enlisted individuals of like grade and length of service in the United States Army or Air Force.

(2) (i) For income tax purposes, subsistence and allowances shall be treated in the same way under State law as they are treated by the Internal Revenue Code and federal income tax regulations.

(ii) Subsistence and allowances may not be used in calculating the salary base for retirement purposes for an employee who is a member of the Employees' Retirement System of the State.

(b) An individual who holds more than one of the offices mentioned in subsection (a) of this section simultaneously shall receive only the pay, including longevity pay, subsistence, per diem, and allowances as provided under this section, for a single office.

(c) A military office for which no salary is provided in the State budget is not an office of profit.

§13–210.

(a) (1) This subsection applies to the period of time that an employee is ordered by the Governor to active military duty in the organized militia of the State for service during:

(i) a civil disorder;

(ii) a natural disaster;

(iii) a labor disorder; or

(iv) any other activity requiring support of the State militia.

(2) The Adjutant General shall secure compensation under the Maryland Workers' Compensation Act for each officer and enlisted individual of the organized militia by maintaining an insurance policy with the Chesapeake Employers' Insurance Company or with a stock corporation or mutual association authorized to transact the business of workers' compensation insurance in the State.

(3) (i) An officer, enlisted individual, or employee of the Department is not entitled to the benefits of this section if the officer, enlisted individual, or employee is injured in the course of employment and has insurance coverage through the federal government that is equal to or better than the coverage provided by this title.

(ii) If a benefit provided by the federal government is less than that provided by the Maryland Workers' Compensation Act, the State and its insurer shall furnish the additional benefit necessary to make up the difference between the benefit provided by the federal government and the similar benefit required under the Maryland Workers' Compensation Act.

(4) The insurance provided under this subsection shall only cover incidents that occur after July 1, 1979.

(b) In addition to the benefits under subsection (a) of this section, the Adjutant General shall maintain workers' compensation insurance for members of the Maryland Defense Force during training.

(c) The Adjutant General shall pay the premiums for the insurance policy required under this section from appropriations for the militia that the Governor includes in the State budget.

§13–211.

(a) (1) To promote efficiency and reward continuous service, the Governor may issue service medals of appropriate designs to officers and enlisted individuals in the organized militia who have completed 5 years or more of continuous service.

(2) The Governor shall adopt regulations to carry out this subsection.

(b) (1) The State may issue appropriate ribbon badges to represent any issued or authorized medal.

(2) An officer or enlisted individual in the organized militia may wear a ribbon badge issued under this subsection as part of the uniform.

§13–212.

A member of the organized militia, including the member's conveyance and military property, shall be allowed free passage through any toll gate and over any toll

road, bridge, or ferry if the member:

(1) is traveling to or returning from a parade, encampment, drill, or other duty that the member may be required by law to attend; and

(2) presents an order for duty or identification card.

§13–213.

(a) The Governor may adopt regulations that provide for the retirement of officers and enlisted individuals.

(b) The Governor may order a retired officer or enlisted individual to active duty.

(c) (1) There is a retired list exclusively restricted to retired officers and enlisted individuals of the organized militia.

(2) The retired list shall be divided into three groups of retired individuals:

(i) the National Guard;

(ii) the Maryland Defense Force; and

(iii) the Inactive National Guard.

§13–214.

(a) Except for the units of the organized militia and the troops of the United States, a body of persons may not associate as a military company or organization or parade in public as a military company or organization without the permission of the Governor.

(b) Except for troops acting under the authority of the President, an armed military force from another state may not enter this State for military duty without the permission of the Governor.

§13–215.

(a) (1) The Adjutant General may organize a uniformed honor guard from the National Guard or the organized militia to attend the burial service of a deceased veteran if:

(i) the commander of an accredited veterans' organization or a relative or friend of the deceased veteran requests an honor guard to attend the burial service;

(ii) a uniformed honor guard from the active armed forces or veterans' organization is not available; and

(iii) the Adjutant General determines that providing an honor guard will not harm:

1. the readiness of the National Guard in the event of a State or federal emergency; or

2. the employment of a National Guard member.

(2) If an honor guard from the active armed forces is not available, the Adjutant General may request an honor guard from a veterans' organization to attend the burial service of a deceased veteran.

(b) (1) The Adjutant General shall set reasonable compensation for honor guard members based on the availability of money in the budget.

(2) Compensation may not exceed the expenses incurred to participate in the burial service of a deceased veteran plus the greater of:

(i) 100% of 1 day's pay as determined by the current Department of Defense pay scale; and

(ii) the minimum wage required under § 3-413 of the Labor and Employment Article.

(c) The Adjutant General shall adopt regulations to carry out this section.

§13–216.

The Department may acquire by purchase or condemnation real property located in Baltimore County adjacent to the Martin State Airport that is necessary for the safe operation of the fighter squadron of the Maryland Air National Guard.

§13–217.

(a) With the prior approval of the Board of Public Works, the Department may sell armories that are superfluous to the Department's requirements.

(b) (1) The county or municipal corporation in which the armory is located has the right of first refusal to purchase the armory.

(2) If the county or municipal corporation declines to purchase the property, the Department shall sell the property at public sale for the highest cash price obtainable.

(c) The proceeds of a sale shall be placed in the Annuity Bond Fund under § 8-132 of the State Finance and Procurement Article.

§13–218.

The Military Department shall adopt regulations for exemption of a member of the organized militia from State jury service that would unreasonably interfere with the performance of the member's military duties or affect adversely the readiness of the activity, command, or unit to which the member is assigned.

§13–219.

(a) There is a Maryland Military Department Center for Military History.

(b) The Maryland Military Department Center for Military History consists of the following components:

(1) the Maryland Museum of Military History; and

(2) the Maryland Military Historical Research Center.

(c) The Maryland Military Department Center for Military History shall be a component of the Maryland Military Department, and the Adjutant General of Maryland shall designate the Executive Director of the Maryland Military Department Center for Military History.

(d) The Maryland Military Department shall provide staffing as determined available by the Adjutant General to the Maryland Museum of Military History and the Maryland Military Historical Research Center to include a director for each.

(e) The Maryland Military Historical Society, Inc., a nonprofit organization, shall:

(1) serve as an advisory body to the Maryland Military Department Center for Military History, but may not engage in direct oversight of employees of the Maryland Military Department Center for Military History or its day–to–day operations;

(2) be authorized to engage in fund–raising on behalf of the Center for Military History;

(3) be authorized to provide volunteers to support activities of the Maryland Military Department Center for Military History without pay or compensation, except that the volunteers shall be eligible for benefits under workers' compensation for injuries suffered in the course of volunteer work for the Maryland Military Department Center for Military History as if they were paid employees of the State; and

(4) be authorized to use office space within facilities of the Maryland Military Department, independent of the space allotted to the Maryland Military Department Center for Military History on a space–available basis at the discretion of

the Adjutant General.

(f) The Maryland Museum of Military History shall:

(1) collect, preserve, interpret, and present significant artifacts and artwork relating to the history of the people, places, and events that represent all components and branches of each service of the United States military and the military heritage of the State; and

(2) convey an awareness of the military service of Marylanders and how that service has helped preserve American freedoms through exhibits, educational programs, and outreach.

(g) The Maryland Military Historical Research Center shall:

(1) collect, interpret, preserve, and present documents, photographs, electronic media, and other materials containing information or imagery relating to the history of the people, places, and events that represent all components and branches of each service of the United States military and the military heritage of the State;

(2) educate the public regarding the military history of the State by providing bona fide researchers with access to collected materials and by providing historical imagery to support displays by the Maryland Museum of Military History; and

(3) advise the Adjutant General and the Maryland Military Department generally on matters relating to the heraldry, honors, lineage, and history of units of the organized militia of the State.

(h) (1) The Maryland Military Department Center for Military History may assume title to abandoned property in its possession.

(2) Property shall be considered abandoned if:

(i) it has been in the possession of the Maryland Military Department Center for Military History for 7 years or more;

(ii) there are no known owners, or a reasonable attempt has been made to contact the owner without success, or the owner has been contacted but has refused to take possession of the property;

(iii) there are no known agreements to donate or lend the property, or there is a known agreement to lend the property for a finite period but the period of the loan has been exceeded by 7 or more years, or there is an agreement to lend the property for an indefinite period but the lender has been deceased for 7 or more years, or the property was lent by an organization that has been defunct for 7 or more years; and

(iv) a notice is posted in local newspapers for at least 2 weeks stating the intent to take title to the property if it is not claimed and the owner of the property does not contact the Maryland Museum of Military History within 1 week of the final publication of the notice.

§13–301.

(a) The Adjutant General:

(1) is the head of the Department;

(2) shall be appointed by the Governor with the advice and consent of the Senate;

(3) is subordinate only to the Governor in matters relating to the Department;

(4) shall have a commissioned grade not above that of Lieutenant General; and

(5) shall be a full–time employee of the Department in State active duty status.

(b) At the time of appointment, the Adjutant General shall:

(1) have at least 2 years of commissioned field grade service in the National Guard;

(2) have attained at least the rank of colonel; and

(3) meet the requirements for federal recognition at the rank of Major General.

(c) The Adjutant General is a member of the Governor's Executive Council.

(d) If the Adjutant General is ordered into the active military service of the United States, the Governor may designate an acting Adjutant General to exercise the duties of the Adjutant General during the period the Adjutant General is on active military service.

§13–302.

(a) (1) The Adjutant General may appoint:

(i) a chief of State operations;

(ii) an executive officer;

(iii) an administrative officer;

(iv) the directors of military installations, procurement, military support to civil authorities, State personnel, finance, and veterans affairs;

(v) the site managers for military reservations; and

(vi) a grants administrator.

(2) The executive officer and directors appointed under paragraph (1) of this subsection serve at the pleasure of the Adjutant General.

(b) (1) The Adjutant General shall keep all records required to be kept and filed with the Adjutant General's office.

(2) On or before each October 15, the Adjutant General shall submit to the Governor a detailed statement of all the receipts and expenditures for military purposes during the year ending the previous September 30.

(c) (1) On request, the Adjutant General or the Adjutant General's designee shall assist the spouse of a member of the military who resides in the State or is transferred to the State in finding employment in the State.

(2) The assistance provided under paragraph (1) of this subsection may include providing:

(i) the informational form developed by the State Department of Education under § 6–201.1 of the Education Article;

(ii) information relating to health occupations in the State that permit reciprocal licensure; and

(iii) information relating to business occupations in the State that permit reciprocal licensure.

(d) (1) The Adjutant General is responsible for:

(i) each armory that the State owns; and

(ii) each building or other property purchased, occupied, or leased by or on behalf of the State military forces.

(2) If the Adjutant General rejects an application to use an armory for nonmilitary purposes, the application is subject to review and approval by the Board of Public Works, the Adjutant General, and the commanding officer of the unit occupying that armory.

(3) The Adjutant General may adopt regulations to enforce this subsection.

(e) The Adjutant General is the custodian of battle flags and war records and is

responsible for their proper care and preservation.

(f) The Adjutant General may employ employees as required.

(g) The Adjutant General shall carry out the Governor's policies concerning matters specified in this title and Title 14, Subtitles 1, 2, and 4 of this article.

(h) The seal of the Adjutant General's office shall be delivered by the Adjutant General to the Adjutant General's successor.

(i) (1) The Adjutant General may adopt rules and regulations to govern, discipline, and establish criteria for the performance of duties of the organized militia of the State, as defined in § 13–203 of this title.

(2) The rules and regulations shall, to the extent practicable, conform to the Uniform Code of Military Justice (UCMJ) and to the rules, regulations, and statutes of the Department of Defense, the Army, the Air Force, and the National Guard Bureau of the United States.

(3) When the rules and regulations have been adopted and published by the Adjutant General, they shall have the force and effect of law and constitute a lawful order.

(4) Adoption and publication of rules and regulations under paragraph (3) of this subsection are exempt from the requirements of Title 10, Subtitle 1 of the State Government Article.

§13–303.

(a) (1) The Governor shall appoint two Assistant Adjutants General for the Maryland Army National Guard and two Assistant Adjutants General for the Maryland Air National Guard.

(2) An Assistant Adjutant General serves at the pleasure of the Governor.

(3) Unless selected for a military position requiring federal recognition as a Major General, an Assistant Adjutant General shall have a commissioned grade not above that of Brigadier General.

(b) To be appointed as an Assistant Adjutant General an individual shall:

(1) have at least 1 year of commissioned field grade service in the National Guard; and

(2) have attained at least the rank of colonel.

(c) An Assistant Adjutant General shall perform the military duties that are assigned by the Governor or Adjutant General.

(d) (1) One of the Assistant Adjutants General for the Maryland Army National Guard and one of the Assistant Adjutants General for the Maryland Air National Guard shall be full–time employees of the Department in State active duty status.

(2) The other two Assistant Adjutants General shall be traditional drilling guard members.

§13–304.

The Adjutant General and the Assistant Adjutants General shall have a salary as stated in the annual budget.

§13–305.

(a) (1) The Governor shall appoint a Deputy Assistant Adjutant General for the Maryland Army National Guard.

(2) The Deputy Assistant Adjutant General serves at the pleasure of the Adjutant General.

(b) The Deputy Assistant Adjutant General for the Maryland Army National Guard shall:

(1) have a commissioned grade not above that of Brigadier General; and

(2) perform the military duties assigned by the Governor or the Adjutant General.

§13–306.

(a) Officers, warrant officers, and enlisted individuals who are full-time employees of the Department are in State active duty status.

(b) (1) The Governor may appoint a chief of staff and aides.

(2) The chief of staff and aides serve at the pleasure of the Governor.

§13–401.

(a) (1) The National Guard consists of:

(i) the units of the organized militia allocated to the State by the United States Department of Defense that are supported wholly or partly by federal funds; and

(ii) individuals transferred with the approval of the Governor to the National Guard by federal authorities to complete a reserve service obligation imposed by federal law.

(2) The inactive National Guard consists of officers and enlisted individuals commissioned in, enlisted in, or transferred to the inactive National Guard.

(3) An individual transferred to the National Guard is considered a member of the National Guard whether or not the individual executed the oath prescribed by § 13-206 of this title.

(b) The National Guard and its units shall be organized as prescribed for the United States Army or United States Air Force, subject in time of peace to general exceptions that the Secretary of the Army or the Secretary of the Air Force authorize.

(c) If the National Guard or any of its units are ordered into active military service of the United States by the President of the United States, the Governor may increase the military force and organize those units as the emergency requires.

§13–402.

(a) A member of the National Guard has the same police power, authority, and status with respect to the enforcement of the law relating to criminal matters in the military area to which the member is assigned, as a law enforcement or peace officer has in the officer's respective jurisdiction if:

(1) the Adjutant General designates the member as National Guard full-time support personnel under Title 32 of the United States Code;

(2) the Department controls or has jurisdiction over the member; and

(3) the member is acting as a National Guard member.

(b) A member of the National Guard has the immunities and defenses available to a law enforcement or peace officer in a criminal proceeding or civil suit brought because of an act performed in the course of employment and duty under this section.

§13–403.

(a) To maintain an appropriate organization and to assist in instruction and training, the President of the United States may:

(1) assign the National Guard to divisions, brigades, and other tactical units; and

(2) detail officers from the National Guard or the United States Army or Air Force to command those units.

(b) A commanding officer of a complete unit organized in the State may not be displaced under this section.

§13–404.

(a) Except as otherwise authorized by law, the National Guard:

(1) is designated as a law enforcement agency for the sole purpose of receiving property and revenues; and

(2) may receive property and revenues under 18 U.S.C. § 981(e)(2), 19 U.S.C. § 1616a(c)(1)(B)(ii), and 21 U.S.C. §§ 881(e)(1)(A) and (e)(3) from those federal units that are supported by National Guard members in the Counter Drug Program.

(b) (1) Any property or revenues received by the National Guard under this section shall be used to supplement the resources allocated to the Counter Drug Program.

(2) The use of the property and revenues shall conform to the guidelines of the United States Department of Justice, the United States Department of Defense, and the United States Department of the Treasury.

§13–405.

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

(2) "Institution" means:

(i) any campus of the University System of Maryland, any community college established under Title 16 of the Education Article, Morgan State University, or St. Mary's College;

(ii) any private institution of higher education that grants a member a tuition waiver of at least 50%;

(iii) any public postsecondary vocational–technical or trade school; or

(iv) any private postsecondary vocational–technical or trade school that grants a member a tuition waiver of at least 50%.

(3) "Member" means an individual who:

(i) is regularly enlisted in the National Guard; or

(ii) holds a commission in the National Guard as:

1. an officer in the grade of major or below; or

2. a warrant officer.

(4) (i) "Tuition" means the basic instructional charge for undergraduate, graduate, professional, vocational–technical, and trade school credit

courses and related fees at an institution.

(ii) "Tuition" does not include charges for self–supporting programs.

(b) (1) To the extent that funds are provided in the State budget, the Department may provide assistance equal to 50% of the cost of in–State tuition for any regularly scheduled undergraduate credit course, graduate credit course, professional credit course, vocational–technical course, or trade course for any active member attending an institution who is certified as eligible by the Adjutant General.

(2) Subject to paragraph (5) of this subsection, a member who receives assistance under paragraph (1) of this subsection for an undergraduate credit, vocational–technical, or trade course shall remain an active member for at least 2 years following the completion of the course.

(3) Subject to paragraph (5) of this subsection, a member who receives assistance under paragraph (1) of this subsection for a graduate or professional credit course shall remain an active member for at least 4 years following the completion of the course.

(4) Subject to paragraph (5) of this subsection, if a member receives assistance under paragraph (1) of this subsection, and is a member of a unit that has been disbanded on or after September 1, 2013, due to budgetary cuts, Base Realignment and Closure, or any other reason, the member may satisfy the requirements of paragraph (2) or paragraph (3) of this subsection by transferring to another active duty, reserve, or National Guard Unit in the State or in another state.

(5) If a member who receives assistance under paragraph (1) of this subsection is offered early separation by the military following the disbanding of the member's unit due to budget cuts, Base Realignment and Closure, or any other reason, the member is excused from the requirements of paragraph (2) or paragraph (3) of this subsection.

(c) (1) The Adjutant General may not certify a member as eligible unless the member is:

(i) enlisted and has at least 24 months remaining to serve on the current enlistment of the member; or

(ii) an officer or warrant officer and agrees in writing to serve for a minimum of 24 months.

(2) The 24–month requirement runs from the first day of classes for the semester.

(d) If a recipient of tuition assistance under this section is discharged from the National Guard for a reason designated by the Adjutant General, the assistance terminates and the member shall reimburse the Department the amount of tuition

assistance received for that semester within 30 days of discharge.

§13–406.

(a) This section:

(1) applies when the National Guard is ordered out for State active duty or training by the Governor or by the Governor's authority; and

(2) does not apply to the National Guard when ordered to duty incident to an order into the active military service of the United States.

(b) Subject to subsection (d) of this section:

(1) an officer, warrant officer, and enlisted individual shall receive the same pay, including longevity pay, subsistence, per diem, and allowances, as an officer, warrant officer, and enlisted individual of like grade and length of service in the United States Army or Air Force; and

(2) an individual ordered to active duty other than for training shall be paid a daily rate of at least 12 times the hourly federal minimum wage in effect at the time of active duty.

(c) An enlisted individual who meets the qualifications that the Governor sets in small arms practice or for proficiency in the various duties of the branch or arm to which the individual belongs shall receive the following increase in pay of the individual's grade for 1 year beginning on the first January 1 after qualification:

(1) experts – 20%;

(2) sharpshooters, gunners, drivers, and medical, first class – 15%; and

(3) marksmen, gunners, drivers, and medical, second class – 10%.

(d) On the recommendation of the Adjutant General, the Governor may reduce the rates of pay, including longevity pay and qualification pay under subsections (b) and (c) of this section.

§13–407.

A commissioned officer of the National Guard shall take the following oath of office:

"I, ..., do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of Maryland, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and of the Governor of the State of Maryland; that I take this obligation freely, without any mental reservation or

purpose of evasion, and that I will well and faithfully discharge the duties of the office of ..... in the National Guard of the United States and of the State of Maryland upon which I am about to enter, so help me God."

§13–408.

An officer of the National Guard shall take rank from the date that the officer was commissioned and in the manner the United States Department of Defense provides by regulation.

§13–409.

(a) Any individual who is ordered into active duty for the National Guard in response to the foreign terrorist attacks in the United States on September 11, 2001, shall receive a service bar in recognition of this service.

(b) The service bar shall depict the State flag and "9–11".

§13–501.

(a) (1) There is established in the State a Maryland Defense Force within the Military Department.

(2) The Governor is the commander–in–chief of the Maryland Defense Force.

(3) The Maryland Defense Force is under the operational control of the Adjutant General.

(4) There is a commanding general of the Maryland Defense Force who is appointed by the Adjutant General and serves as such at the pleasure of the Adjutant General.

(b) The Maryland Defense Force is a component of the organized militia of the State in addition to and separate from the National Guard.

(c) The Maryland Defense Force shall have the primary mission of providing competent and supplemental professional, technical, and military support to the Maryland Army National Guard, the Maryland Air National Guard, and the Maryland Emergency Management Agency. The Maryland Defense Force shall also have other duties and missions as it may be assigned from time to time by competent authority.

§13–502.

(a) (1) The Governor may adopt regulations to carry out this title governing the enlistment, organization, administration, equipment, maintenance, training, and discipline of the Maryland Defense Force.

(2) The Governor may prescribe a uniform for the Maryland Defense Force.

(b) As is practicable and desirable, regulations adopted under this section shall conform to applicable law and regulations that govern the National Guard, except those laws and regulations that apply to the National Guard when acting solely under Title 10 of the United States Code.

(c) (1) The regulations shall prohibit the Maryland Defense Force or a member of the Maryland Defense Force from accepting gifts, donations, gratuities, or anything of value from a person in exchange for specific and isolated services rendered by the Maryland Defense Force.

(2) This provision may not be interpreted otherwise to prohibit gifts, bequests, and the like from any individual or organization to the Maryland Defense Force or any foundation or the like established to support its activities.

§13–503.

(a) The Maryland Defense Force consists of:

(1) commissioned or assigned officers; and

(2) qualified individuals who volunteer to serve and are commissioned, appointed, or enlisted in the Maryland Defense Force.

(b) An individual may not be commissioned or enlisted in the Maryland Defense Force if the individual:

(1) is not a citizen of the United States;

(2) has been dismissed from or received a bad conduct discharge or a dishonorable discharge, or any discharge other than under honorable conditions, from a military or naval organization of this State or of another state, or from any of the United States armed forces or its auxiliaries, or has been convicted of an offense under the laws of the United States or of any state punishable by imprisonment for more than 1 year, no matter what punishment was actually imposed; or

(3) does not meet the qualifications for commissioning, appointment, or enlistment specified in regulations governing the Maryland Defense Force.

(c) A civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league, or other combination of persons or civil groups may not enlist in the Maryland Defense Force as an organization or unit.

(d) (1) All members of the Maryland Defense Force serve on a voluntary basis and without pay, unless under orders, approved by the Adjutant General, specifying that their service is with pay.

(2) If an order approved by the Adjutant General specifies that the service of a member of the Maryland Defense Force is with pay, the member may be compensated in accordance with § 13–406 of this title.

§13–504.

(a) An officer or warrant officer commissioned or appointed in the Maryland Defense Force shall take the oath prescribed in § 13–509 of this subtitle.

(b) An individual who enlists in the Maryland Defense Force shall take an oath substantially in the form required for enlisted personnel of the National Guard, substituting "Maryland Defense Force" where necessary in the oath.

(c) (1) Except as provided in paragraph (2) of this subsection, the enlistment period in the Maryland Defense Force is determined by the commanding officer based on the specialty of the recruit and the needs of the militia and may be renewed.

(2) In the case that a state of war exists between the United States and any other nation, or that there is a federal or State declaration of emergency presently in force in the State, all enlistments shall continue until 3 months after said state of war or emergency ends, unless the enlisted individual is discharged sooner by proper authority.

(d) The Governor may accept the resignation of an officer or grant a discharge to an enlisted individual at any time.

§13–505.

(a) The Governor may requisition any arms and equipment from the Secretary of the Army that are in the possession of and can be spared by the Department of the Army for use by the Maryland Defense Force.

(b) The Governor may allow the Maryland Defense Force to use the facilities and equipment of a State armory or other available State premises and property.

(c) A school authority may allow the Maryland Defense Force to use a school building or school grounds.

§13–506.

(a) (1) Except as provided in subsections (b) and (c) of this section, the Maryland Defense Force may not be required to serve outside the State.

(2) This section does not apply to any instance in which the Maryland Defense Force as part of the organized militia of the State is ordered into service of the United States by the President pursuant to the Constitution and laws of the United States.

(b) (1) On request of the governor of another state, the Governor of this State may order the Maryland Defense Force to serve outside the State to assist the military or other public safety forces of the requesting state.

(2) The Governor of this State may recall the Maryland Defense Force from the other state.

(c) If fresh pursuit is authorized by law of another state, any organization, unit, or detachment of the Maryland Defense Force, on the order of the commanding officer of the organization, unit, or detachment, may continue in fresh pursuit of insurrectionists, saboteurs, or enemies outside of this State into the other state until:

(1) the insurrectionists, saboteurs, or enemies are apprehended; or

(2) the military or law enforcement forces of the other state or forces of the United States have had a reasonable opportunity to pursue or apprehend the insurrectionists, saboteurs, or enemies.

(d) (1) An organization, unit, or detachment of the Maryland Defense Force shall surrender without unnecessary delay an individual apprehended in another state to the military or law enforcement force of:

(i) the state of apprehension; or

(ii) the United States.

(2) The surrender of an individual apprehended under paragraph (1) of this subsection to the military or law enforcement forces of another state is not a waiver by this State of the right to extradite or prosecute the individual for a crime committed in this State.

§13–507.

(a) A military force or an organization, unit, or detachment of a military force of another state that is in fresh pursuit of insurrectionists, saboteurs, or enemies may:

(1) continue pursuit into this State until the military or law enforcement force of this State or the forces of the United States have had a reasonable opportunity to pursue or apprehend the insurrectionists, saboteurs, or enemies; and

(2) arrest an insurrectionist, saboteur, or enemy apprehended in this State while in fresh pursuit.

(b) A military force of another state that arrests an individual in this State shall surrender without unnecessary delay the individual to the military or law enforcement force of this State or the United States to be dealt with according to law.

(c) (1) This section does not make unlawful an arrest in this State that would

otherwise be lawful.

(2) This section does not repeal any provision of the Uniform Act on Fresh Pursuit under Title 2, Subtitle 3, Part II of the Criminal Procedure Article.

§13–508.

(a) (1) This title does not authorize the Maryland Defense Force to be ordered or drafted into the military service of the United States, except by order of the President of the United States acting pursuant to the Constitution and laws of the United States.

(2) This provision may not be construed to prohibit service of the Maryland Defense Force or personnel thereof in missions in which federal military personnel are also serving or in command.

(b) An individual is not exempt from military service under the laws of the United States because the individual is enlisted, commissioned, or appointed in the Maryland Defense Force.

§13–509.

A commissioned officer of the Maryland Defense Force shall take the following oath of office:

"I, ..., do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of Maryland, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and of the Governor of the State of Maryland; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of ..... in the Maryland Defense Force upon which I am about to enter, so help me God."

§13–510.

(a) (1) The Governor shall appoint and commission each commissioned officer or appoint each warrant officer of the organized militia on recommendation of the Adjutant General.

(2) The appointments under paragraph (1) of this subsection do not require confirmation by the Senate of Maryland.

(b) (1) Each individual commissioned or appointed as an officer or warrant officer shall be:

(i) an officer, warrant officer, or enlisted individual of the National Guard;

(ii) a retired or former officer or warrant officer of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard or any auxiliary thereof;

(iii) an individual with prior enlisted service in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or any auxiliary thereof;

(iv) a graduate of the United States Military Academy, Naval Academy, Coast Guard Academy, Merchant Marine Academy, or Air Force Academy;

(v) a graduate of a school, college, university, or officers' training school who received military instruction under the supervision of an officer of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard who certified the graduate's fitness for appointment as a commissioned officer; or

(vi) an individual not otherwise identified in items (i) through (v) of this paragraph who is specially qualified for service by achievement in any professional, technical, or public service capacity or otherwise displays extraordinary qualifications for commissioning as an officer of the Maryland Defense Force.

(2) Before taking office, each member of the National Guard shall take the oath prescribed in § 13–407 of this title and each member of the Maryland Defense Force shall take the oath prescribed in § 13–509 of this subtitle.

(c) When initially appointed, a general officer or colonel of the organized militia must:

(1) be an officer in the National Guard of a grade of O–4 or higher; or

(2) have served in any component or auxiliary of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard or National Guard with the grade of O–4 or higher.

(d) When initially appointed, a lieutenant–colonel or major of the line must have had service as an officer for at least 2 years in any component or auxiliary of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard or National Guard.

(e) Subsections (c) and (d) of this section do not apply in the case of:

(1) officers promoted to the grade of major or above from within the Maryland Defense Force; or

(2) officers qualified under subsection (b)(1)(vi) of this section.

§13–601.

(a) (1) On the recommendation of the Adjutant General, the Governor may grant to an officer of the organized militia a brevet commission of the next higher grade than the regular commission held by the officer.

(2) The Governor may grant a brevet commission to an officer of the organized militia of a grade equal to the highest grade in which the officer previously served in the organized militia or in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard.

(b) A brevet commission carries only the rights or privileges that are allowed in like cases in the military service of the United States.

§13–602.

A commission of an officer of the organized militia may be vacated:

(1) on resignation;

(2) through absence without leave for 3 months;

(3) on recommendation of an efficiency board;

(4) under a sentence of a court–martial; or

(5) on conviction of a crime punishable by incarceration for 1 year or more in any state or federal court.

§13–603.

(a) A commissioned officer of the organized militia tendering a resignation shall receive an honorable discharge if:

(1) the Governor accepts the resignation;

(2) the officer is not under arrest or returned to a military court for a deficiency or delinquency;

(3) the officer is not indebted to the State; and

(4) the accounts of the officer for money or public property are correct.

(b) (1) If the Governor accepts the resignation of an officer who, at the time of the resignation, is under arrest, under charges, or returned to a military court for an offense, deficiency, or delinquency, the officer shall:

(i) cease to be an officer; and

(ii) receive a discharge in a form that the Governor directs.

(2) An officer who resigns under paragraph (1) of this subsection is not eligible to receive a commission unless the officer:

(i) reenlists; and

(ii) performs at least 100% of duty in each year of the reenlistment for 2 successive years.

§13–701.

(a) (1) If the militia of the State is ordered under the Constitution and laws of the United States into the active military service of the United States, the Governor may order out for active duty the organized militia.

(2) If the number of organized militia available is insufficient, the Governor may order out the unorganized militia.

(b) Each member of the unorganized militia who volunteers or is ordered out is subject to court-martial under this title for failure to appear at the time and place designated by the member's commanding officer.

§13–702.

(a) This section applies to the Maryland Defense Force and the National Guard.

(b) The Governor may order the militia into State active duty:

(1) in times of or on reasonable apprehension of imminent public crisis, disaster, rioting, catastrophe, insurrection, invasion, tumult, or breach of peace;

(2) when martial law is declared;

(3) to enforce the laws; or

(4) to carry on any function of the militia of the State.

(c) (1) To enforce the laws, a member of the militia in State active duty has all the authority of a peace or law enforcement officer.

(2) The authority of the member extends throughout the State during the State active duty.

(d) Whenever the militia is in State active duty, the ranking officer of the militia ordered into State active duty or that officer's subordinates on State active duty shall:

(1) cooperate with local law enforcement authorities; or

(2) if the exigencies of the case require and subject only to order from the Governor:

(i) direct and control local law enforcement authorities and the Department of State Police; and

(ii) assume all the powers vested in these subordinated law

enforcement authorities.

§13–703.

(a) An officer, warrant officer, or noncommissioned officer may warn officers and enlisted individuals for duty by:

(1) stating the substance of the order or reading the order to the individual warned;

(2) leaving a copy of the order at the last known place of residence or business of the individual;

(3) mailing a copy of the order to the last known residence or business address of the individual; or

(4) sending the substance of the order via electronic communication, including telephone, cellular phone, facsimile, or electronic mail.

(b) (1) If required by the officer issuing the order, the officer or noncommissioned officer giving warning shall make a return of warning containing the name of the individual warned and the time, place, and manner of warning.

(2) A return of warning:

(i) may be verified by the officer or noncommissioned officer's oath, which may be administered by an officer; and

(ii) if verified, at the trial of an individual returned as a delinquent is evidence of the facts stated in the return and is to be considered as if the officer or noncommissioned officer had testified to those facts before a court–martial at trial.

§13–704.

(a) The rights granted to members of the National Guard and Maryland Defense Force by this section shall be in addition to the rights granted to them by federal law, including the Servicemembers Civil Relief Act and the Uniformed Services Employment and Reemployment Rights Act.

(b) The following provisions of federal law shall be adopted as State law and applied to members of the National Guard and Maryland Defense Force:

(1) the Servicemembers Civil Relief Act applies only when members of the National Guard or Maryland Defense Force are ordered to military duty under this title or Title 10 or Title 32 of the United States Code for a period of 14 consecutive days or longer; and

(2) the Uniformed Services Employment and Reemployment Rights Act

applies when members of the National Guard or Maryland Defense Force are ordered to military duty under this title or Title 10 or Title 32 of the United States Code for any period of time.

§13–705.

(a) A member of the organized militia ordered into the active military service of the United States is relieved from duty in the organized militia during active military service of the United States.

(b) (1) A member continues to serve in the organized militia on:

(i) the termination of any emergency for which members of the organized militia have been ordered into the active military service of the United States; and

(ii) being relieved from the active military service of the United States.

(2) (i) An officer continues to serve in the organized militia as if the officer's service was uninterrupted.

(ii) An enlisted individual continues to serve in the organized militia until the dates when the individual's enlistment, entered into before the individual's order to active military service of the United States, would have expired if uninterrupted.

§13–706.

(a) An officer or employee of the State, a county, or other political subdivision of the State who is a member of the organized militia is entitled to a leave of absence from duties, without loss of pay, time, or efficiency rating:

(1) on each day engaged in field or coast defense or other training ordered or authorized under this title; or

(2) under any law of the United States while on inactive duty training, not to exceed 15 days annually.

(b) In addition to the 15–day period specified in subsection (a) of this section, a member of the organized militia who is ordered to State active duty under authority of the Governor is entitled to leave of absence without loss of pay, time, or efficiency rating while actually serving under the State active duty orders.

§13–707.

(a) A member of the organized militia ordered into State active duty by proper authority is not liable civilly or criminally for any act done while discharging a duty.

(b) (1) The court shall require a person to file security for the payment of costs that may be awarded to the defendant when the person prosecutes or begins a suit or proceeding:

(i) against an officer of the organized militia for an act done by the officer in the officer's official capacity in the discharge of a duty under this title;

(ii) against a person acting under the authority or order of an officer of the organized militia; or

(iii) by virtue of a warrant that an officer of the militia lawfully issues.

(2) In all cases, the defendant may make a general denial and give evidence.

(3) If the case is dismissed or a verdict or judgment is rendered against the plaintiff, the defendant shall recover treble costs.

§13–801.

This subtitle applies to a court-martial of the organized militia not in the service of the United States.

§13–802.

(a) There are three types of courts-martial:

(1) a general court-martial;

(2) a special court-martial; and

(3) a summary court-martial.

(b) (1) Except as provided in paragraph (2) of this subsection, a court-martial shall be consistent with a similar court provided for by the laws and regulations governing the United States Army or Air Force regarding:

(i) jurisdiction;

(ii) powers, with the exception of punishment;

(iii) procedures; and

(iv) composition.

(2) In a case of absence without leave, an offender shall be referred to a summary court officer for trial without first being referred to an investigating officer.

(c) (1) A member of a force organized under this title is in the actual service

of the State and is subject to all military laws, orders, and regulations.

(2) A violation of a military law, order, or regulation is an offense against the State and is punishable as provided in this subtitle.

(d) (1) The jurisdiction of a court-martial established under this subtitle is presumed to be correct.

(2) A person alleging lack of jurisdiction in an action or proceeding has the burden of proving lack of jurisdiction.

§13–803.

(a) (1) This subsection does not apply to a commissioned officer on duty during a war, insurrection, invasion, or public danger or on duty to aid civil authorities on account of any breach of peace, tumult, riot, resistance to power of the State, or imminent danger of any of these or any cases not otherwise covered.

(2) A commissioned officer may be tried by a court-martial for:

(i) nonattendance without excuse at any drill, parade, encampment, or other duty ordered by competent authority;

(ii) unmilitary- or unofficer-like conduct;

(iii) drunkenness on duty;

(iv) neglect of duty;

(v) disobedience of orders or an act that is contrary to this title or to the orders and regulations that govern the militia;

(vi) refusing to grant a discharge to an enlisted individual entitled to a discharge;

(vii) oppression or injury of an individual under the officer's command;

(viii) conspiracy or attempt to break, resist, or evade the laws or lawful orders given to an individual or advising an individual to conspire or attempt to break, resist, or evade a law or lawful order;

(ix) insult or disrespect to a superior officer in the line of military duty;

(x) presuming to exercise the officer's command while under arrest or suspension;

(xi) neglect or refusal as commanding officer to order out the troops under the officer's command when required by law or lawfully ordered by a superior

officer;

(xii) neglect or refusal, when lawfully ordered, to make a draft or detachment;

(xiii) receiving a fee or gratuity for a certificate;

(xiv) neglect, when detailed to drill or instruct a command, to make complaint for neglect or violation of duty, as provided by law, or for any other neglect for which a commanding officer would be liable;

(xv) refusal or neglect to obey a precept or order to call out the National Guard or militia, or refusal or neglect to obey an order arising from an order to call out the National Guard or militia, or for advising an officer or enlisted individual to refuse or neglect to obey an order to call out the National Guard or militia;

(xvi) making a false certificate, account, or muster; or

(xvii) conduct unbecoming an officer or conduct prejudicial to good order and military discipline.

(b) An enlisted individual may be tried by a court-martial for:

(1) disobedience of orders;

(2) disrespect to superior;

(3) mutiny;

(4) desertion;

(5) neglect of duty;

(6) drunkenness on duty;

(7) conduct prejudicial to good order and military discipline;

(8) an act contrary to this title or to orders and regulations that govern the militia;

(9) without proper excuse, absence from or tardiness in attending a drill, parade, encampment, or other duty ordered by competent authority;

(10) neglecting to take proper care of or willfully damaging or destroying arms, uniforms, equipment, or military property; or

(11) fraudulent enlistment.

§13–804.

The military judge or officer presiding over a court-martial may:

(1) issue a warrant to arrest and bring before the court for trial an accused individual who has received a copy of the charge and an order to appear and who fails to appear before the court-martial;

(2) issue a subpoena to attend, give testimony, or produce documents or other tangible things;

(3) enforce by attachment the attendance of witnesses and the production of documents and other tangible things; and

(4) impose a sentence for a refusal to be sworn or to answer as provided in actions before civil courts.

§13–805.

(a) (1) Any sheriff, deputy sheriff, or police officer, or a member of the organized militia appointed by the court-martial shall serve process and execute a sentence of a court-martial of the State.

(2) The individual who serves process shall make a return of service to the officer who issued service.

(b) (1) An individual may not charge a fee in advance for service of process or execution of a sentence.

(2) Costs of service of process or execution of a sentence shall be paid from funds appropriated to the Department.

(c) An individual authorized under subsection (a) of this section shall serve a summons to appear before a court-martial by:

(1) delivering a copy of the summons to the offender;

(2) reading a copy of the summons to the offender;

(3) leaving a copy of the summons at the offender's last known residence or place of business; or

(4) mailing a copy of the summons to the offender's last known residence or business address.

(d) (1) If required, the individual who serves a summons shall make a return of the summons that contains the time, manner, and place of service.

(2) The return may be verified under oath before a commissioned officer.

(3) A return verified under oath under paragraph (2) of this subsection shall be admitted into evidence at the trial of the individual summoned without the presence or testimony of the individual serving the summons.

§13–806.

A general court-martial may be convened by an order of the Governor.

§13–807.

(a) The commanding officer of a garrison, fort, post, camp or other place, brigade, regiment, detached battalion, or other detached command or a superior authority may appoint for that command a special court-martial.

(b) Except for a commissioned officer, a special court-martial may try an individual subject to military law, for any crime or offense made punishable under the military laws of the United States.

§13–808.

(a) Enlisted soldiers and noncommissioned officers of the organized militia may be subjected to summary court–martial in accordance with the procedures and penalties adopted by the Adjutant General under § 13–302 of this title.

(b) Conviction by a summary court–martial does not constitute a conviction for the purpose of any disqualification or disability imposed by law because of conviction of a crime.

§13–808.1.

All members of the organized militia may be subjected to nonjudicial punishment in accordance with the procedures and penalties adopted by the Adjutant General under § 13–302 of this title.

§13–809.

An individual has the immunity from liability described in § 5-513 of the Courts Article if the individual is:

(1) a member of a court-martial; or

(2) an officer or other individual:

(i) acting under the court's authority; or

(ii) reviewing the court's proceedings because of the approval, imposition, or execution of a sentence, the imposition or collection of a fine or penalty, or the execution of a warrant, writ, execution, process, or mandate of a court-martial.

§13–810.

The actual necessary expense of conveying a prisoner when the conveyance is authorized and directed by the Adjutant General shall be paid from funds appropriated to the Department on a warrant approved by the Adjutant General.

§13–811.

(a) No excuse is valid for absence from an assembly except:

(1) good faith absence from the place where the assembly is ordered;

(2) illness of the individual that prevents the individual's attention to ordinary pursuits;

(3) sickness in the individual's family that requires the individual's personal care and presence; or

(4) any other reason that the court finds satisfactory.

(b) No excuse is valid for absence from an annual inspection except:

(1) illness of the individual that would prevent attendance; or

(2) illness in the individual's family that requires the individual's personal care and presence.

§13–812.

(a) A general court–martial may impose one or more of the following penalties:

(1) a fine not exceeding $200;

(2) forfeiture of pay and allowances;

(3) reprimand;

(4) dismissal or dishonorable discharge from the service;

(5) reduction of noncommissioned officers to the ranks; or

(6) confinement, in lieu of a fine, not to exceed 1 day for each dollar of fine authorized.

(b) (1) Except as provided in paragraph (2) of this subsection, a special court–martial may impose the penalties listed in subsection (a) of this section.

(2) A special court–martial may not impose a fine exceeding $100.

(c) A summary court–martial may impose a sentence that includes:

(1) a fine of not more than the member's pay and allowances for four unit training assemblies;

(2) a forfeiture of up to two–thirds of the member's pay and allowances for up to four unit training assemblies;

(3) reduction in rank in the following manner:

(i) for enlisted personnel in the grade of E5 and above, to the next inferior pay grade; or

(ii) for enlisted personnel in the grade of E4 and below, to the lowest enlisted grade; or

(4) for members in the rank of E4 and below only, confinement for a period not to exceed 30 days.

(d) A sentence of dismissal from the service or dishonorable discharge imposed by a court–martial may not be executed until approved by the Governor.

§13–813.

(a) (1) After imposing a sentence of imprisonment and on approval of the findings and sentence of the court by the officer appointing the court, the individual presiding over a court-martial shall make out and sign a certificate entitling the case that includes:

(i) the name of the accused;

(ii) the date and place of trial;

(iii) the date of approval of the sentence; and

(iv) the manner, place, and term of imprisonment.

(2) The individual presiding over the court-martial shall deliver the certificate entitling the case to the sheriff of the county where the sentence is to be executed or the Commissioner of Correction.

(b) A sheriff or the Commissioner of Correction who receives a certificate under subsection (a)(2) of this section shall carry out the execution of the specified sentence in the manner provided for commitments to service of terms of imprisonment in criminal cases in courts of the State.

§13–814.

(a) On the imposition of a fine by a court-martial and on the approval of its

findings by the officer who appointed the court-martial, the fine is payable at once.

(b) (1) If an officer or enlisted individual does not pay a fine within 10 days after notification of the imposition of the fine, the fine may be collected in the name of the State in the District Court sitting in the county where the officer or enlisted individual resides in the same manner as other fines for crimes under State law.

(2) The District Court shall require that a fine imposed under this subtitle be paid along with court costs if:

(i) the court receives a certificate in writing from the proper commanding officer setting forth the findings of the court-martial and the commanding officer's approval of those findings; and

(ii) the offender is arrested and brought before the court.

(c) If an offender defaults on payment of the fine and costs ordered under subsection (b)(2) of this section, the District Court may, under §§ 7-504 and 7-505 of the Courts Article, commit the offender to the local correctional facility of the municipal corporation or county where the offender resides.

(d) (1) A fine collected under subsection (c) of this section shall be paid to the finance officer of the organization of which the offender was a member.

(2) The finance officer shall apply any fines received to the military funds of the organization.

(e) The Governor may remit as a whole or in part a fine imposed by a court-martial.

§13–901.

(a) This section does not apply to the wearing of:

(1) shoes, socks, shirts, ties, or scarfs; or

(2) trousers, overalls, overcoats, raincoats, field jackets, or headgear from which the service buttons, insignia, and other distinctive markings have been removed.

(b) Without authority under the laws of the United States or this State, a person may not wear a uniform or distinctive part of a uniform or an item similar to a uniform or a distinctive part of a uniform of:

(1) the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; or

(2) the National Guard of this State, another state, or the United States;

(3) the Maryland Defense Force; or

(4) an auxiliary of any of the military units listed in this subsection.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 60 days or a fine of not less than $100 and not exceeding $500 or both.

§13–902.

(a) This section does not apply to a member of the United States Army, Navy, Air Force, Marines, or Coast Guard, the organized militia of this State or another state, an officer of the Maryland Defense Force, or a member of associations wholly composed of soldiers honorably discharged from the armed forces of the United States.

(b) A person may not:

(1) hide, sell, dispose of, offer for sale, purchase, retain after a demand by a commissioned officer of the organized militia, or pledge any arms, uniforms, equipment, or other military property issued under this title; or

(2) wear any of the following articles or objects prescribed by law for the use of the organized militia:

(i) a uniform;

(ii) a device, strap, knot, or insignia of any design or character that is used as a designation of grade, rank, or office; or

(iii) an article or object similar to an article or object described in item (i) or (ii) of this item.

(c) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine of not less than $20 and not exceeding $50 for each offense.

(2) (i) A fine imposed under paragraph (1) of this subsection shall be paid to the Adjutant General.

(ii) The Adjutant General shall apply a fine paid under this paragraph to the use of the organized militia.

§13–903.

(a) A person may not willfully:

(1) misapply or convert to the person's own use any money or other property belonging to the organized militia; or

(2) on the lawful request of the proper officer, fail or refuse to deliver to the officer any money or other property that is in the possession of the person or for which the person is chargeable or accountable.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $500 or both.

§13–904.

(a) A person who is the owner or who is an agent of the owner of a place of amusement or recreation open to the public may not refuse admission to an officer or enlisted individual of the United States Army, Navy, Marine Corps, Coast Guard, or Air Force or the organized militia of this State or of another state because the officer or enlisted individual is in uniform.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $500 or both.

§13–905.

A member of the organized militia may not be arrested on any process not issued by a military authority while going to, remaining at, or returning from a place that the member is required to attend for military duty.

§14–101.

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

(b) "Director" means the Director of MEMA.

(c) "Emergency" means the threat or occurrence of:

(1) a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, landslide, mudslide, snowstorm, drought, fire, explosion, and any other disaster in any part of the State that requires State assistance to supplement local efforts in order to save lives and protect public health and safety; or

(2) an enemy attack, act of terrorism, or public health catastrophe.

(d) (1) "Emergency management" means the preparation for and carrying out of functions in an emergency in order to save lives and to minimize and repair injury and damage that result from emergencies beyond the capabilities of local authorities.

(2) "Emergency management" does not include the preparation for and carrying out of functions in an emergency for which military forces are primarily responsible.

(e) "Local organization for emergency management" means an organization established by a political subdivision or other local authority under § 14-109 of this subtitle.

(f) "MEMA" means the Maryland Emergency Management Agency.

(g) "Political subdivision" means a county or municipal corporation of the State.

§14–102.

(a) To ensure that the State will be adequately prepared to deal with emergencies that are beyond the capabilities of local authorities, to provide for the common defense, to protect the public peace, health, and safety, and to preserve the lives and property of the people of the State, it is necessary to:

(1) establish a Maryland Emergency Management Agency;

(2) authorize the establishment of local organizations for emergency management in the political subdivisions;

(3) confer on the Governor and on the executive heads or governing bodies of the political subdivisions the emergency powers provided in this subtitle; and

(4) provide for the rendering of mutual aid among the political subdivisions and with other states in carrying out emergency management functions.

(b) It is the policy of the State and the purpose of this subtitle to coordinate, to the maximum extent possible, all emergency management functions of the State with the comparable functions of the federal government, other states, other localities, and private agencies, so that the most effective preparation and use may be made of the resources and facilities available for dealing with any emergency.

§14–103.

(a) There is a Maryland Emergency Management Agency in the Military Department.

(b) MEMA is a unit of State government.

§14–104.

(a) The Governor shall appoint the Director of MEMA.

(b) The Director serves at the pleasure of the Governor.

(c) (1) The Director is in the executive service of the State Personnel Management System and is entitled to the salary provided in the State budget.

(2) The Director's employment is not subject to the conditions and limitations of the State Personnel and Pensions Article.

(d) (1) The Director is the executive head of MEMA.

(2) The Director is responsible to the Governor for carrying out the State emergency management program.

(3) If the Governor has formally declared the threat or occurrence of an emergency, the Director shall coordinate the activities of all organizations for emergency management operations in the State.

(4) The Director, in collaboration with other public and private agencies in the State, shall develop or cause to be developed mutual aid agreements for reciprocal emergency aid and assistance in case of emergency of an extreme nature that affects two or more political subdivisions.

(5) The Director shall maintain liaison and cooperate with emergency management agencies and organizations of other states and the federal government.

(e) The Director may employ personnel in accordance with the State budget and subject to the conditions and limitations of the State Personnel and Pensions Article.

(f) The Director may make expenditures within the appropriations in the State budget or from other money made available to the Director for purposes of emergency management as necessary to carry out this subtitle.

§14–105.

(a) There is an Emergency Management Advisory Council.

(b) The Council consists of the members that the Governor designates, including:

(1) fair and reasonable representation for local government;

(2) representation for organizations that represent volunteer firefighters and rescue squads; and

(3) representation from manufacturing, utilities, and communications industries.

(c) A member of the Council:

(1) may not receive compensation for service on the Council; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) The Council shall advise the Governor on all matters that relate to emergency management.

(e) On or before December 31, 2005, and on or before December 1 of each year thereafter, the Council shall submit a report to the Governor and, in accordance with

§ 2-1246 of the State Government Article, to the General Assembly concerning its activities and recommendations.

§14–106.

(a) (1) The Governor:

(i) has control of and is responsible for MEMA; and

(ii) is responsible for carrying out this subtitle.

(2) In the event of the threat or occurrence of an emergency, the Governor may assume direct operational control over all or part of an emergency management function created or authorized by this subtitle and Subtitles 2 and 4 of this title.

(3) The Governor may delegate the powers the Governor sees fit to an individual who is employed:

(i) in the Executive Department of State government;

(ii) as a secretary of a principal department; or

(iii) as the head of an independent State agency.

(b) In performing duties under this subtitle, the Governor:

(1) may cooperate with the federal government, other states, and private agencies in all matters that relate to the emergency management operations of this State and the United States;

(2) may issue orders, rules, and regulations necessary or desirable to:

(i) carry out this subtitle;

(ii) prepare and revise, as necessary, a comprehensive plan and program for the emergency management operations of this State;

(iii) integrate the plan and program of this State with the emergency management operations plans of the federal government and other states; and

(iv) coordinate the preparation of plans and programs for emergency management operations by the political subdivisions;

(3) may authorize the procurement of supplies and equipment, the institution of training programs including the process for licensing, certifying, or credentialing health care practitioners developed under § 18-903(c) of the Health - General Article, public information programs, and other steps to prepare for an emergency;

(4) may authorize studies and surveys of industries, resources, and facilities in the State as necessary or desirable to:

(i) ascertain the State's capabilities for emergency management operations; and

(ii) prepare plans for the emergency management of resources in accordance with the national plan for emergency preparedness;

(5) may appoint, in cooperation with local authorities, directors of local organizations for emergency management, may delegate to the directors any administrative authority vested in the Governor under this subtitle, and may provide for the subdelegation of that authority; and

(6) may delegate the Governor's authority under this subsection to an individual who is employed:

(i) in the Executive Department of State government;

(ii) as a secretary of a principal department; or

(iii) as the head of an independent State agency.

(c) (1) In addition to emergency prevention measures included in the State, local, and interjurisdictional emergency plans, the Governor shall consider, on a continuing basis, steps that could be taken to prevent or reduce the harmful consequences of potential emergencies.

(2) (i) At the direction of the Governor, and in accordance with any other authority and competence they have, State agencies shall study matters related to emergency prevention.

(ii) State agencies required to study matters related to emergency prevention include those charged with responsibilities in connection with flood plain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land-use planning, and construction standards.

§14–107.

(a) (1) If the Governor finds that an emergency has developed or is impending due to any cause, the Governor shall declare a state of emergency by executive order or proclamation.

(2) The state of emergency continues until the Governor:

(i) finds that the threat or danger has passed or the emergency has been dealt with to the extent that emergency conditions no longer exist; and

(ii) terminates the state of emergency by executive order or proclamation.

(3) A state of emergency may not continue for longer than 30 days unless the Governor renews the state of emergency.

(4) (i) The General Assembly by joint resolution may terminate a state of emergency at any time.

(ii) After the General Assembly terminates a state of emergency, the Governor shall issue an executive order or proclamation that terminates the state of emergency.

(b) (1) Each executive order or proclamation that declares or terminates a state of emergency shall indicate:

(i) the nature of the emergency;

(ii) the area threatened; and

(iii) the conditions that have brought about the state of emergency or that make possible the termination of the state of emergency.

(2) Each executive order or proclamation shall be:

(i) disseminated promptly by means calculated to publicize its contents; and

(ii) unless prevented or impeded by the circumstances of the emergency, filed promptly with:

1. MEMA;

2. the State Archives; and

3. the chief local records-keeping agency in the area to which the executive order or proclamation applies.

(c) (1) After the Governor declares a state of emergency, the Director shall coordinate the activities of the agencies of the State and of those political subdivisions included in the declaration in all actions that serve to prevent or alleviate the ill effects of the imminent or actual emergency.

(2) An executive order or proclamation that declares a state of emergency:

(i) activates the emergency response and recovery aspects of the State and local emergency plans applicable to the political subdivision or area covered by the declaration; and

(ii) is authority for:

1. the deployment and use of resources to which the State or local plans apply; and

2. the use or distribution of supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available in accordance with this subtitle or any other law that relates to emergencies.

(d) (1) After declaring a state of emergency, the Governor, if the Governor finds it necessary in order to protect the public health, welfare, or safety, may:

(i) suspend the effect of any statute or rule or regulation of an agency of the State or a political subdivision;

(ii) direct and compel the evacuation of all or part of the population from a stricken or threatened area in the State;

(iii) set evacuation routes and the modes of transportation to be used during an emergency;

(iv) direct the control of ingress to and egress from an emergency area, the movement of individuals in the area, and the occupancy of premises in the area;

(v) authorize the use of private property, in which event the owner of the property shall be compensated for its use and for any damage to the property;

(vi) provide for temporary housing; and

(vii) authorize the clearance and removal of debris and wreckage.

(2) The powers of the Governor under this subsection are in addition to any other authority vested in the Governor by law.

§14–108.

(a) After a state of emergency is declared in another state and the Governor receives a written request for assistance from the executive authority of that state, the Governor may:

(1) authorize use in the other state of personnel, equipment, supplies, or materials of this State, or of a political subdivision with the consent of the executive officer or governing body of the political subdivision; and

(2) suspend the effect of any statute or rule or regulation of an agency of the State or, after consulting with the executive officer or governing body of a political subdivision, a rule or regulation of an agency of a political subdivision, if the Governor

finds that the suspension is necessary to aid the other state with its emergency management functions.

(b) (1) The Governor shall authorize the use of resources or the suspension of the effect of any statute, rule, or regulation under subsection (a) of this section by executive order.

(2) An executive order issued under this section may not continue for longer than 30 days unless the Governor renews the executive order.

(3) Each executive order issued under this section shall indicate:

(i) the nature of the emergency in the other state; and

(ii) any circumstances that make suspension of a statute, rule, or regulation necessary to aid the other state with its emergency management functions.

(4) Each executive order shall be:

(i) disseminated promptly by means calculated to publicize its contents; and

(ii) filed promptly with:

1. MEMA;

2. the State Archives; and

3. each agency of the State or a political subdivision that is authorized by the order to use resources in the other state or responsible for the enforcement of any provisions that are suspended by the executive order.

§14–109.

(a) Each political subdivision shall:

(1) establish a local organization for emergency management in accordance with the State emergency management plan and program; and

(2) participate in federal programs for emergency management.

(b) (1) On recommendation of the mayor, executive, or governing body of the political subdivision, the Governor shall appoint a director of emergency management for each local organization for emergency management.

(2) Each director of a local organization for emergency management is directly responsible for the organization, administration, and operation of the local organization for emergency management.

(3) Each director of a local organization for emergency management is subject to the direction and control of the mayor, executive, or governing body of the political subdivision, under the general power of the Governor.

(c) (1) Subject to the budget of the political subdivision, each local organization for emergency management shall include those programs and positions recommended periodically by MEMA to meet federal and State standards.

(2) (i) In a county in which there is a local merit system or classified service for the general employees of the county, the employees and officers of the local organization for emergency management are included in and subject to all rights, duties, privileges, and responsibilities of that system or service.

(ii) Subparagraph (i) of this paragraph does not apply to the director of the local organization for emergency management.

(3) (i) If a county does not have a local merit system or classified service, the governing body of the county, or the board of estimates of Baltimore City, may include by regulation the employees and officers of the local organization for emergency management in the classified service of the State Personnel Management System.

(ii) Subparagraph (i) of this paragraph does not apply to the director of the local organization for emergency management.

(iii) 1. Except as otherwise provided by law, during the effective period of the regulation the employees and officers are subject to the rights, duties, privileges, and responsibilities of Division I of the State Personnel and Pensions Article.

2. The governing body of the county or the Mayor of Baltimore is the appointing officer under Division I of the State Personnel and Pensions Article.

(4) Paragraph (3) of this subsection does not remove from the governing body of a county or from the Mayor and City Council of Baltimore the power to establish and regulate the compensation, vacation allowance, or sick leave of all employees and officers of the local organization for emergency management in the county or Baltimore City.

(d) Each political subdivision may make appropriations in the manner provided by law to pay the expenses of its local organization for emergency management.

§14–110.

(a) (1) Each county shall:

(i) prepare an Emergency Preparedness Plan for responding to an emergency that involves hazardous materials or controlled hazardous substances, as defined in the Environment Article; and

(ii) review the Plan annually and submit any changes to the Director so that the Director may maintain current and accurate information about the Plan.

(2) Each county shall submit its Emergency Preparedness Plan to the Director on or before October 1, 1998.

(b) (1) A local organization for emergency management shall submit to the Director a radiological emergency response plan if the political subdivision in which the local organization for emergency management is located:

(i) falls within the plume or ingestion zone of a commercial nuclear reactor; or

(ii) might reasonably be expected to host evacuees from another jurisdiction in a plume or ingestion zone.

(2) The radiological emergency response plan shall provide for the evacuation of the residents of the political subdivision as a result of an emergency caused by a dangerous release of radiation.

§14–110.1.

(a) In this section, "human service facility" means a facility licensed by the State that is:

(1) a nursing home, as defined in § 19–1401 of the Health – General Article;

(2) an assisted living facility, as defined in § 19–1801 of the Health – General Article;

(3) a hospital, as defined in § 19–301 of the Health – General Article;

(4) a related institution as defined in § 19–301 of the Health – General Article;

(5) a State–operated institution for mental disease;

(6) a group home as defined in § 7–101 of the Health – General Article;

(7) an alternative living unit as defined in § 7–101 of the Health – General Article; and

(8) a State residential center as defined in § 7–101 of the Health – General Article.

(b) A human service facility shall develop an emergency plan.

(c) An emergency plan shall include procedures that will be followed before,

during, and after an emergency to address:

(1) the evacuation, transportation, or shelter–in–place of individuals served by the human service facility;

(2) the notification to families, staff, and licensing authorities regarding the action that will be taken concerning the safety and well–being of the individuals served by the human service facility;

(3) staff coverage, organization, and assignment of responsibilities; and

(4) the continuity of operations, including:

(i) procuring essential goods, equipment, and services; and

(ii) relocation to alternate facilities.

(d) (1) This subsection does not prohibit a human service facility from applying for and receiving reimbursement:

(i) under any applicable insurance policy; or

(ii) from any State or federal funds that may be available due to a declared State or federal emergency.

(2) A human service facility is solely responsible for any financial obligation arising from voluntary or mandatory activation of any aspect of the emergency plan developed by the human service facility under this section.

(e) (1) On or before November 30, 2007, a State agency that is responsible for the licensing of a human service facility shall adopt regulations governing the development of emergency plans under this section.

(2) Regulations adopted under paragraph (1) of this subsection shall be developed in consultation with representatives of:

(i) the Maryland Emergency Management Agency;

(ii) the Maryland Institute for Emergency Medical Services Systems;

(iii) local organizations for emergency management; and

(iv) human service facilities.

(f) For purposes of coordinating local emergency planning efforts, a human service facility shall provide access to the emergency plans developed under this section to local organizations for emergency management.

§14–110.2.

A public library shall be designated as providing an essential community service during an emergency as described under the Federal Emergency Management Agency Public Assistance Program provisions relating to federal disaster assistance and temporary relocation facilities.

§14–110.3.

(a) In this section, "kidney dialysis center" has the meaning stated in § 19–3B–01 of the Health – General Article.

(b) A kidney dialysis center shall have an emergency plan.

(c) An emergency plan shall include policies and procedures that will be followed before, during, and after an emergency to address:

(1) the safe management of individuals who are receiving services at the kidney dialysis center when an emergency occurs;

(2) notification of patients, families, staff, and licensing authorities regarding actions that will be taken concerning the provision of dialysis services to the individuals served by the kidney dialysis center;

(3) staff coverage, organization, and assignment of responsibilities; and

(4) the continuity of operations, including procedures to secure access to essential goods, equipment, and dialysis services.

(d) (1) This subsection does not prohibit a kidney dialysis center from applying for and receiving reimbursement:

(i) under any applicable insurance policy; or

(ii) from any State or federal funds that may be available due to a declared State or federal emergency.

(2) A kidney dialysis center is solely responsible for any financial obligation arising from voluntary or mandatory activation of any aspect of the emergency plan developed by the kidney dialysis center under this section.

(e) For purposes of coordinating local emergency planning efforts, a kidney dialysis center shall provide access to the emergency plans developed under this section to local organizations for emergency management.

§14–111.

(a) Only the principal executive officer of a political subdivision may declare a local state of emergency.

(b) (1) Except with the consent of the governing body of the political subdivision, a local state of emergency may not continue or be renewed for longer than 30 days.

(2) An order or proclamation that declares, continues, or terminates a local state of emergency shall be:

(i) given prompt and general publicity; and

(ii) filed promptly with the chief local records–keeping agency.

(c) Declaration of a local state of emergency:

(1) activates the response and recovery aspects of any applicable local state of emergency plan; and

(2) authorizes the provision of aid and assistance under the applicable plan.

§14–112.

(a) (1) Expenditures necessitated by emergencies shall first be made using money regularly appropriated to State and local agencies.

(2) If the Governor finds that regularly appropriated money is inadequate to cope with an emergency, the Board of Public Works may make contingency money available in accordance with the State budget.

(b) The State may:

(1) accept any allotment of federal money and commodities and manage and dispose of them in whatever manner may be required by federal law; and

(2) take advantage of the federal Disaster Relief Act of 1974 and any amendments or supplements to it, and any other federal law that provides grants and public assistance for the purposes of this subtitle and Subtitles 2 and 4 of this title.

(c) (1) In carrying out this subtitle, the Governor, Director, and executive officers or governing bodies of the political subdivisions shall use the services, equipment, supplies, and facilities of existing agencies and units of the State and the political subdivisions to the maximum extent practicable.

(2) The officers and personnel of the agencies and units of the State and the political subdivisions shall cooperate with and extend services and facilities to the Governor, Adjutant General, Director, and the local organizations for emergency management on request.

(3) At the direction of the Governor, the Maryland National Guard shall

use its services, equipment, supplies, and facilities in life–threatening emergencies that are beyond the capabilities of local authorities.

(d) (1) If the federal government, another state, or an agency or officer of the federal government or another state offers to this State or a political subdivision services, equipment, supplies, materials, or money by way of gift, grant, or loan for purposes of emergency management, the State acting through the Governor, or the political subdivision acting with the consent of the Governor and through its executive officer or governing body, may:

(i) accept the offer; and

(ii) authorize an officer of this State or the political subdivision to receive the services, equipment, supplies, materials, or money.

(2) If a person offers to the State or a political subdivision aid or assistance, the State or political subdivision may accept the aid and assistance in accordance with paragraph (1) of this subsection.

§14–113.

(a) Each emergency management agency established under this subtitle and its officers shall execute and enforce the orders, rules, and regulations made by the Governor under authority of this subtitle.

(b) With respect to the threat or occurrence of an enemy attack, act of terrorism, or public health catastrophe, each law enforcement officer of the State or a political subdivision and each health officer of a political subdivision shall execute and enforce the orders, rules, and regulations made by the Governor under authority of this subtitle.

§14–114.

(a) A person may not violate an order, rule, or regulation issued under the authority of this subtitle.

(b) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $1,000 or both.

(2) A person who willfully violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $5,000 or both.

§14–115.

This subtitle may be cited as the Maryland Emergency Management Agency Act.

§14–201.

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

(b) "Court" means a court of competent jurisdiction of the State, whether or not a court of record.

(c) "Person in emergency management service" means a person who, during the emergency period to which this subtitle is applicable, is a member of or works for the Maryland Emergency Management Agency or a local emergency management organization.

(d) "Person suffering injury or damage" means a person who, during the emergency period to which this subtitle is applicable:

(1) suffers serious personal injury;

(2) suffers extensive damage to property owned by the person; or

(3) has an immediate family member who:

(i) dies;

(ii) suffers serious personal injury; or

(iii) suffers extensive damage to property owned by the family member.

§14–202.

(a) The purposes of this subtitle are:

(1) to provide for, strengthen, and expedite national defense when emergency conditions threaten the peace and security of the United States and the State; and

(2) to enable the State to fulfill more successfully the requirements of national defense.

(b) To achieve these purposes, this subtitle temporarily suspends:

(1) enforcement of civil liabilities against persons in emergency management service to enable them to devote their entire energy to the emergency management needs of the State and the United States;

(2) enforcement of civil liabilities against persons suffering injury or damage to enable them to devote their entire energy to the cure or improvement of the injuries or damage suffered; and

(3) legal proceedings and transactions that may prejudice the civil rights of persons in emergency management service or persons suffering injury or damage during the emergency period to which this subtitle is applicable.

§14–203.

(a) This subtitle applies to proceedings in any court.

(b) This subtitle applies only during the effective period of an official proclamation by the Governor that declares a stated area to be within an actual or threatened emergency or disaster area.

§14–204.

(a) This subtitle shall be enforced in accordance with:

(1) the usual procedures of the court in which the proceedings are pending; or

(2) the rules adopted by the court in which the proceedings are pending.

(b) If this subtitle requires that a motion be filed in a court in which no proceeding is pending with respect to the matter, the motion may be filed in any court.

§14–205.

(a) If in accordance with this subtitle a court stays, postpones, or suspends the enforcement of an obligation or liability, the prosecution of a suit or proceeding, the entry or enforcement of an order, writ, judgment, or decree, or the performance of any other act, the court may also grant the same stay, postponement, or suspension to a surety, guarantor, endorser, or other person subject to the same obligation or liability, the performance or enforcement of which is stayed, postponed, or suspended.

(b) If in accordance with this subtitle a court vacates or sets aside all or part of a judgment or decree, the court may also vacate or set aside all or part of the judgment or decree as to a surety, guarantor, endorser, or other person liable under the contract or liability for the enforcement of which the judgment or decree was entered.

§14–206.

(a) Notwithstanding any other provision of this subtitle, if in a proceeding to enforce a civil right in a court the court finds that an interest, property, or contract was transferred or acquired with intent to delay the just enforcement of the civil right by taking advantage of this subtitle, the court shall enter an appropriate judgment or issue an appropriate order.

(b) On its own initiative or otherwise, a court may revoke, modify, or extend an interlocutory order issued by the court under this subtitle on notice to the affected

parties as the court requires.

§14–207.

(a) (1) The period during which a person is a person in emergency management service or person suffering injury or damage is not included in computing any period of limitations applicable to bringing an action by or against:

(i) the person in emergency management service;

(ii) the person suffering injury or damage; or

(iii) an heir, executor, administrator, or assign of:

1. the person in emergency management service; or

2. the person suffering injury or damage.

(2) Paragraph (1) of this subsection applies whether the cause of action accrues before the person becomes, or during the period that the person is, a person in emergency management service or person suffering injury or damage.

(b) (1) (i) If a person in emergency management service is reported missing, the person is presumed to continue to be a person in emergency management service until the person is accounted for.

(ii) If a person suffering injury or damage is reported missing, the person is presumed to continue to be a person suffering injury or damage until the person is accounted for.

(2) A period of limitations that begins or ends with the death of a person in emergency management service or person suffering injury or damage does not begin or end until the death:

(i) is in fact confirmed; or

(ii) is found by a court.

§14–208.

(a) (1) Before a court enters judgment in a proceeding in any court in which the defendant fails to appear:

(i) the plaintiff shall file in the court an affidavit that sets forth facts that show that the defendant is not a person in emergency management service or person suffering injury or damage; or

(ii) if the plaintiff is unable to file an affidavit in accordance with item (i) of this paragraph, the plaintiff shall file an affidavit that states that:

1. the defendant is a person in emergency management service or person suffering injury or damage; or

2. the plaintiff is unable to determine whether the defendant is a person in emergency management service or person suffering injury or damage.

(2) If the plaintiff does not file an affidavit in accordance with paragraph (1)(i) of this subsection, judgment may not be entered until the court:

(i) orders entry of the judgment; and

(ii) appoints an attorney to represent the defendant in accordance with paragraph (3) of this subsection.

(3) The court on motion shall appoint an attorney to represent the defendant and to protect the defendant's interests, if the defendant is a person in emergency management service or person suffering injury or damage.

(4) Unless the court finds that the defendant is not a person in emergency management service or person suffering injury or damage, the court before entering judgment may require that the plaintiff file a bond approved by the court to indemnify the defendant against any loss or damage that the defendant may suffer because of the judgment if all or part of the judgment is later set aside.

(5) The court may issue any other order or enter any judgment that the court considers necessary to protect the rights of the defendant under this subtitle.

(b) (1) If a person in emergency management service or person suffering injury or damage is party to a proceeding and does not personally appear in the proceeding or is not represented by an authorized attorney, the court may:

(i) appoint an attorney to represent the person;

(ii) require a bond to be filed like the bond required under subsection (a)(4) of this section; and

(iii) issue an order to protect the rights of the person.

(2) An attorney appointed under this subsection may not waive any right of the person for whom the attorney is appointed or bind the person by the attorney's acts.

(c) (1) Not later than 90 days after a defendant ceased to be a person in emergency management service or person suffering injury or damage, the defendant or legal representative of the defendant may file with the court that entered a judgment against the defendant in a proceeding subject to this section a motion to open the judgment against the defendant if:

(i) the judgment was entered during the period that the defendant was, or within 30 days after the defendant ceased to be, a person in emergency management service or person suffering injury or damage; and

(ii) the court finds that the defendant:

1. was prejudiced in defending against the action because the person was a person in emergency management service or person suffering injury or damage; and

2. has a meritorious or legal defense against all or part of the action in which the judgment was entered.

(2) Vacating, setting aside, or reversing a judgment because of this subtitle does not impair any right or title acquired by a bona fide purchaser for value under the judgment.

(d) (1) At any stage of a proceeding in a court in which a person in emergency management service or person suffering injury or damage is a plaintiff or defendant:

(i) on its own initiative the court may stay the proceeding; and

(ii) except as provided in paragraph (3) of this subsection, the court shall stay the proceeding on motion by the person in emergency management service, person suffering injury or damage, or another person acting on behalf of that person.

(2) A proceeding may be stayed under this subsection during the period that the plaintiff or defendant is, or within 60 days after the plaintiff or defendant ceased to be, a person in emergency management service or person suffering injury or damage.

(3) The court need not issue a stay under this subsection if the court finds that being a person in emergency management service or person suffering injury or damage did not materially affect the ability of the plaintiff to prosecute the action or the ability of the defendant to conduct a defense.

§14–209.

(a) If an action for compliance with the terms of a contract is stayed under this subtitle, a fine or penalty does not accrue because of failure to comply with the terms of the contract during the period of the stay.

(b) A court may provide relief against the enforcement of a fine or penalty for nonperformance of a contract if the court finds that:

(1) a person failed to perform an obligation and a fine or penalty for nonperformance was incurred;

(2) the fine or penalty was incurred during the period that the person was a person in emergency management service or person suffering injury or damage; and

(3) the ability of the person to pay the fine or penalty or perform the obligation was materially impaired because the person was a person in emergency management service or person suffering injury or damage.

§14–210.

(a) In a proceeding in a court against a person in emergency management service or person suffering injury or damage:

(1) on its own initiative the court may:

(i) stay the execution of a judgment or order entered against the person in emergency management service or person suffering injury or damage; and

(ii) vacate or stay an attachment or garnishment of property, money, or debts held by another person, whether before or after judgment; and

(2) subject to subsection (c) of this section, on motion of the person in emergency management service, person suffering injury or damage, or another person acting on behalf of that person, the court shall:

(i) stay the execution of a judgment or order entered against the person in emergency management service or person suffering injury or damage; and

(ii) vacate or stay an attachment or garnishment of property, money, or debts held by another person, whether before or after judgment.

(b) This section applies to a proceeding in a court before or during the period that the person is, or within 60 days after the person ceased to be, a person in emergency management service or person suffering injury or damage.

(c) The court need not vacate or stay a judgment or order entered or sought under this section if the court finds that the ability of the defendant to comply with the judgment or order entered or sought was not materially affected because the defendant was a person in emergency management service or person suffering injury or damage.

§14–211.

(a) Except as otherwise provided, a court under this subtitle may stay an action, proceeding, attachment, or execution:

(1) for all or part of the period during which a person is, and for 3 months after the person ceased to be, a person in emergency management service or person suffering injury or damage; and

(2) subject to the terms that the court considers just, including payment in installments in the amounts and at the times set by the court.

(b) Notwithstanding subsection (a) of this section, the court may allow a plaintiff to proceed against a co-defendant of a person in emergency management service or person suffering injury or damage.

§14–212.

(a) Except by order of court in a proceeding affecting the right of possession, an action for eviction or distress may not be brought against a person in emergency management service or person suffering injury or damage if:

(1) the rent for the premises does not exceed $150 per month; and

(2) the premises are occupied for dwelling purposes by the spouse, children, or other dependents of the person in emergency management service or person suffering injury or damage.

(b) (1) In a proceeding affecting the right of possession:

(i) 1. on its own initiative the court may stay the proceeding for a period not exceeding 3 months; and

2. subject to paragraph (2) of this subsection, on motion the court shall stay the proceeding for a period not exceeding 3 months; or

(ii) the court may issue any other order.

(2) The court need not stay the action if the court finds that the ability of a tenant to pay the agreed rent was not materially affected because the tenant was a person in emergency management service or person suffering injury or damage.

§14–213.

(a) (1) For nonpayment of an installment due under a contract for the purchase of real or personal property or a contract of lease or bailment with the option to purchase the property, a person or the person's assignee may not exercise a right or option under the contract to rescind or terminate the contract or resume possession of the property if:

(i) the person or the person's assignee received under the contract a deposit or installment of the purchase price of the property from another person or the assignee of that person who, after making the deposit or installment, became a person in emergency management service or person suffering injury or damage; and

(ii) the attempt to exercise the right or option under the contract occurred while the person who made the deposit or installment was a person in

emergency management service or person suffering injury or damage.

(2) Paragraph (1) of this subsection does not apply if a court allows the person or the person's assignee to exercise the right or option under the contract.

(3) This subsection does not prevent the parties to a contract or their assignees from mutually agreeing in an executed writing, after the making of the contract and during or after the period that a party to the contract is a person in emergency management service, to:

(i) modify, terminate, or cancel the contract; or

(ii) repossess or retain the property purchased or received by that party under the contract.

(b) (1) After a hearing on the action:

(i) the court may order the repayment of all or part of any prior installment or deposit as a condition of terminating the contract and resuming possession of the property;

(ii) 1. on its own initiative the court may stay the action; and

2. except as provided in § 14-215 of this subtitle, on motion by a person in emergency management service, person suffering injury or damage, or another person acting on behalf of that person, the court shall stay the action; or

(iii) the court may otherwise dispose of the case as it considers equitable to preserve the interests of the parties.

(2) The court need not stay the action if the court finds that the ability of the defendant to comply with the terms of the contract was not materially affected because the defendant was a person in emergency management service or person suffering injury or damage.

§14–214.

(a) This section applies only to an obligation that:

(1) is on real or personal property that is owned by a person when the person becomes a person in emergency management service or person suffering injury or damage;

(2) originates before the person became a person in emergency management service or person suffering injury or damage; and

(3) is secured by a mortgage, deed of trust, or other security in the nature of a mortgage.

(b) (1) In a proceeding in a court against a person in emergency management service or person suffering injury or damage to enforce an obligation subject to this section arising out of the nonpayment of a sum due under the obligation or arising out of a breach of the obligation that occurs before or during the period that the person is a person in emergency management service or person suffering injury or damage:

(i) on its own initiative the court, after hearing, may stay the proceeding or otherwise dispose of the case as it considers equitable to preserve the interests of the parties; and

(ii) except as provided in § 14-215 of this subtitle, on motion by a person in emergency management service, person suffering injury or damage, or another person acting on behalf of that person, the court shall stay the proceeding or otherwise dispose of the case as it considers equitable to preserve the interests of the parties.

(2) The court need not stay the proceeding if the court finds that the ability of the defendant to comply with the terms of the obligation was not materially affected because the defendant was a person in emergency management service or person suffering injury or damage.

(c) Except on an order of sale previously granted by a court and a return to the order made and approved by the court, a sale under a power of sale or under a judgment entered on a confession of judgment contained in an obligation subject to this section is not valid if made during the period that the person who owns the property is, or within 3 months after the person ceased to be, a person in emergency management service or person suffering injury or damage.

§14–215.

(a) Except if a court finds that 50% or more of the purchase price of a motor vehicle, tractor, or the accessories of a motor vehicle or tractor has been paid, a court may not stay a proceeding to resume possession of or to order the sale of a motor vehicle, tractor, or the accessories of a motor vehicle or tractor that is encumbered by a purchase money mortgage, conditional sales contract, or a lease or bailment with an option to purchase.

(b) Before entering an order or judgment in a proceeding to resume possession of or to order the sale of a motor vehicle, tractor, or the accessories of a motor vehicle or tractor, the court may require the plaintiff to file a bond approved by the court to indemnify the defendant, if the defendant is a person in emergency management service or person suffering injury or damage, against any loss or damage that the defendant may suffer because of the judgment or order if all or part of the judgment or order is set aside.

§14–216.

(a) This section applies to real property:

(1) on which general or special taxes or assessments fall due but are not paid during the period a person is a person in emergency management service or person suffering injury or damage; and

(2) that:

(i) is owned and occupied as a dwelling or for agricultural or business purposes by the person in emergency management service, person suffering injury or damage, or a dependent or employee of that person when the person becomes a person in emergency management service or person suffering injury or damage; and

(ii) continues to be occupied by the dependents or employees.

(b) (1) Except by order of court granted on motion by the collector of taxes or another officer whose duty is to enforce the collection of taxes or assessments, the property of a person in emergency management service or person suffering injury or damage may not be sold to enforce the collection of a tax or assessment, and a proceeding to enforce the collection of a tax or assessment may not be brought, if the person in emergency management service, person suffering injury or damage, or another person acting on behalf of that person, files with the collector of taxes or other officer an affidavit that shows that:

(i) a tax or assessment has been assessed on property subject to this section;

(ii) the tax or assessment is unpaid; and

(iii) the person's ability to pay the tax or assessment is materially affected because the person is a person in emergency management service or person suffering injury or damage.

(2) The court may stay the proceedings or sale for a period not exceeding 6 months after the person owing the tax ceased to be a person in emergency management service or person suffering injury or damage.

(c) (1) Except as provided in paragraph (2) of this subsection, if by law property subject to this section is sold or forfeited to enforce the collection of a tax or assessment on the property, a person in emergency management service or person suffering injury or damage may redeem the property or bring an action to redeem the property not later than 6 months after the person ceased to be a person in emergency management service or person suffering injury or damage.

(2) Paragraph (1) of this subsection does not shorten any period for redemption provided by State law.

(d) (1) (i) If a tax or assessment on property subject to this section is not paid when due, interest on the tax or assessment due and unpaid shall accrue at the rate of 6% per year.

(ii) No other penalty or interest may be imposed because of the nonpayment.

(2) A lien for unpaid taxes or an unpaid assessment shall include any interest that accrues under this subsection.

§14–217.

(a) (1) If a person's ability to pay income tax is materially impaired because the person is a person in emergency management service or person suffering injury or damage, the collection of income tax from that person that was due before the person became, or that falls due during the period that the person is, a person in emergency management service or person suffering injury or damage shall be deferred for a period not exceeding 6 months after the person ceased to be a person in emergency management service or person suffering injury or damage.

(2) If the collection of income taxes is deferred under this section, the running of a statute of limitations against the collection of those taxes is suspended for a period of 9 months after the person ceased to be a person in emergency management service or person suffering injury or damage.

(b) (1) Interest on the amount of tax due and unpaid does not accrue during the period that the collection of the tax is deferred under this section.

(2) A penalty for nonpayment of tax does not accrue during the period that the collection of tax is deferred under this section.

§14–218.

(a) A person may not make or use an affidavit required under § 14-208 of this subtitle if the person knows the affidavit is false.

(b) A person may not knowingly participate in an eviction or distress in a manner other than in accordance with § 14-212 of this subtitle.

(c) A person may not knowingly resume possession of property subject to § 14-213 of this subtitle in a manner other than in accordance with § 14-213(a) of this subtitle.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

§14–219.

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

(2) "Declared State disaster or emergency" means any disaster or

emergency event for which:

(i) the Governor proclaims a state of emergency;

(ii) a Presidential Declaration of a federal major disaster or emergency is issued; or

(iii) a widespread utility outage occurs.

(3) "Disaster– or emergency–related work" means repairing, renovating, installing, building, rendering services, or other business activities that relate to infrastructure that is damaged, impaired, or destroyed by the declared State disaster or emergency.

(4) "Disaster period" means a period that begins 10 days before the first day of the declared State disaster or emergency and extends for a period of 60 calendar days after the end of the declared State disaster or emergency.

(5) (i) "Infrastructure" means property and equipment owned or used by communications networks, electric generation facilities, electric and gas transmission and distribution systems, water pipelines, and related support facilities.

(ii) "Infrastructure" includes real and personal property.

(6) (i) "Out–of–state business" means a business entity that:

1. has no registrations, nexus, or tax filings in the State prior to the declared State disaster or emergency; and

2. is requested by a registered business or the State or a local government to perform disaster or emergency related work during a disaster period.

(ii) "Out–of–state business" includes a business entity that is affiliated with a registered business in the State solely through common ownership.

(7) "Out–of–state employee" means an employee who does not work in the State, except during a declared State disaster or emergency.

(8) "Registered business" means a business entity that is currently registered to do business in the State before the declared State disaster or emergency.

(b) An out–of–state business that performs disaster– or emergency–related work during a disaster period does not establish a level of presence that would require the out–of–state business or its out–of–state employees to be subject to:

(1) State or local licensing or registration requirements;

(2) State or county income taxes;

(3) unemployment insurance contributions;

(4) personal property tax; or

(5) any requirement to collect and remit the sales and use tax.

(c) (1) An out–of–state employee may not be required to pay State or county income taxes or be subject to income tax withholding requirements.

(2) An out–of–state business that employs an out–of–state employee may not be required to pay State or county income taxes or be subject to income tax withholding requirements with respect to any out–of–state employees.

(d) (1) An out–of–state business shall provide to the Comptroller a statement that the out–of–state business is in the State solely for purposes of performing disaster– or emergency–related work.

(2) The statement required under paragraph (1) of this subsection shall include for the out–of–state business:

(i) the name;

(ii) the state of domicile;

(iii) the principal address;

(iv) the federal tax identification number;

(v) the date of entry into the State; and

(vi) contact information.

(e) A registered business in the State shall provide the information required under subsection (d) of this section for any out–of–state business affiliate that enters the State to perform disaster– or emergency–related work.

§14–301.

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

(b) "Alternate care site" means an area that:

(1) (i) is not located on a health care facility's premises; or

(ii) is located on a health care facility's premises in an area not typically used to provide medical services, nursing services, or other health–related services; and

(2) is used by a licensed health care facility:

(i) to provide medical services, nursing services, or other health–related services during a declared state of emergency; and

(ii) that has access to an emergency electrical power generator.

(c) "Energy emergency" means a situation in which the health, safety, or welfare of the public is threatened by an actual or impending acute shortage in energy resources.

(d) "Health care facility" has the meaning stated in § 19–114 of the Health – General Article.

(e) "Public emergency" means:

(1) a situation in which three or more individuals are at the same time and in the same place engaged in tumultuous conduct that leads to the commission of unlawful acts that disturb the public peace or cause the unlawful destruction or damage of public or private property;

(2) a crisis, disaster, riot, or catastrophe; or

(3) an energy emergency.

§14–302.

(a) The General Assembly recognizes the Governor's broad authority in the exercise of the police power of the State to provide adequate control over persons and conditions during impending or actual public emergencies.

(b) This subtitle shall be broadly construed to carry out the purpose of this subtitle.

§14–303.

(a) During a public emergency in the State, the Governor may proclaim a state of emergency and designate the emergency area:

(1) if public safety is endangered or on reasonable apprehension of immediate danger to public safety; and

(2) on:

(i) the Governor's own initiative; or

(ii) the application of:

1. the chief executive officer or governing body of a county or municipal corporation; or

2. the Secretary of State Police.

(b) After proclaiming a state of emergency, the Governor may promulgate reasonable orders, rules, or regulations that the Governor considers necessary to protect life and property or calculated effectively to control and terminate the public emergency in the emergency area, including orders, rules, or regulations to:

(1) control traffic, including public and private transportation, in the emergency area;

(2) designate specific zones in the emergency area in which the occupancy and use of buildings and vehicles may be controlled;

(3) control the movement of individuals or vehicles into, in, or from the designated zones;

(4) control places of amusement and places of assembly;

(5) control individuals on public streets;

(6) establish curfews;

(7) control the sale, transportation, and use of alcoholic beverages;

(8) control the possession, sale, carrying, and use of firearms, other dangerous weapons, and ammunition;

(9) control the storage, use, and transportation of explosives or flammable materials or liquids considered to be dangerous to public safety, including "Molotov cocktails"; and

(10) authorize the use of alternate care sites.

(c) Before an order, rule, or regulation promulgated under subsection (b) of this section takes effect, the Governor shall give reasonable notice of the order, rule, or regulation:

(1) in a newspaper of general circulation in the emergency area;

(2) through television or radio serving the emergency area; or

(3) by circulating notices or posting signs at conspicuous places in the emergency area.

(d) An order, rule, or regulation promulgated under subsection (b) of this section:

(1) takes effect from the time and in the manner specified in the order, rule, or regulation;

(2) may be amended or rescinded, in the same manner as the original order, by the Governor at any time during the state of emergency; and

(3) terminates when the Governor declares that the state of emergency no longer exists.

§14–304.

(a) On reasonable apprehension that an energy emergency exists, the Governor may proclaim a state of emergency.

(b) Notwithstanding any other provision or limitation of State or local law, if the Governor proclaims a state of emergency under this section, in addition to any other order, rule, or regulation promulgated under this subtitle, the Governor may promulgate orders, rules, or regulations to:

(1) establish and implement programs, controls, standards, priorities, and quotas for the allocation, conservation, and consumption of energy resources;

(2) suspend and modify existing standards and requirements affecting or affected by the use of energy resources, including those that relate to air quality control, the type and composition of various energy resources, the production and distribution of energy resources, and the hours and days during which public buildings and commercial and industrial establishments are authorized or required to remain open; and

(3) establish and implement regional programs and agreements to coordinate the energy resource programs and actions of the State with those of the federal government and of other states and localities.

(c) Instead of or in addition to the penalties provided in § 14-308 of this subtitle, an order, rule, or regulation promulgated by the Governor under this section may provide for:

(1) the imposition of a civil penalty not exceeding $1,000 for each violation; and

(2) the method and conditions of collecting the civil penalty.

(d) (1) In this subsection, "Committee" means:

(i) the Joint Committee on Administrative, Executive, and Legislative Review; or

(ii) any other joint committee substituted by the General Assembly by law to carry out the responsibilities of the Joint Committee on Administrative, Executive, and Legislative Review with respect to an energy emergency.

(2) Before promulgating an order, rule, or regulation under this section, the Governor shall submit the order, rule, or regulation to the Committee for approval or rejection.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, if the Committee fails to take action on the order, rule, or regulation within 7 days after its submission, the order, rule, or regulation takes effect as promulgated by the Governor.

(ii) 1. If because of extraordinary circumstances it is not feasible to secure the prior approval of the Committee, an order, rule, or regulation takes effect immediately.

2. Within 2 days after it takes effect, the order, rule, or regulation shall be communicated to the chairman of the Committee.

3. The full Committee shall be convened within 5 days after the order, rule, or regulation is communicated to the chairman.

4. The order, rule, or regulation is subject to disapproval by the full Committee.

(4) All records of orders, rules, regulations, and Committee meetings are open to the public.

(e) This section does not authorize the establishment of oil refineries, deep water ports, offshore drilling facilities, or other similar major capital facilities.

(f) In addition to the specific emergency powers contained in this subtitle, the General Assembly recognizes and confirms the Governor's power to exercise fully the authority necessary to implement any federal mandatory energy emergency program as set forth in any federal programs, laws, orders, rules, or regulations that relate to the allocation, conservation, or consumption of energy resources.

§14–305.

(a) If the Governor proclaims that a state of emergency exists, each law enforcement agency, fire company, or rescue squad of the State, a county, or municipal corporation shall:

(1) cooperate in any manner requested by the Governor or the Governor's designated representative; and

(2) subject to subsection (b) of this section, allow the use of its equipment, facilities, and personnel if the use is required by the Governor or the Governor's designated representative.

(b) The use of equipment, facilities, and personnel under subsection (a)(2) of this section may not substantially interfere with the normal duties of a law

enforcement agency, fire company, or rescue squad located outside an area designated by the Governor as an emergency area.

(c) (1) Subject to paragraph (2) of this subsection, if the Governor proclaims that a state of emergency exists, the Department of State Police may take any action it considers necessary to assist local law enforcement agencies.

(2) Any action that the Department of State Police takes under this subsection shall be reasonably calculated effectively to control and terminate the public emergency.

(d) A law enforcement agency of a county or municipal corporation shall notify the Secretary of State Police if the local law enforcement agency receives notice of a threatened or actual disturbance that indicates the possibility of serious domestic violence.

(e) Except as provided in § 14-306 of this subtitle, each law enforcement agency, fire company, or rescue squad of the State, a county, or municipal corporation within an emergency area shall operate under the direction of the person designated by order of the Governor.

§14–306.

(a) In this section, "militia" means the organized and unorganized militia as described in § 13-203 of this article.

(b) If the Governor proclaims that a state of emergency exists, the Governor may call the militia into action.

(c) (1) The militia shall have full power and responsibility for the area designated by the Governor as an emergency area.

(2) Each law enforcement agency, law enforcement official, fire company, and rescue squad in the emergency area, including the Department of State Police, shall cooperate with the militia and operate under its direction.

(d) The chief executive officer or governing body of a county or municipal corporation may request the Governor to provide the militia to help bring under control conditions existing within the county or municipal corporation that, in the requestor's judgment, the local law enforcement agencies cannot control without additional personnel.

§14–307.

(a) In this section, "emergency" includes an emergency that results from fire, flood, riot, robbery, weather, or other cause.

(b) If an emergency exists in a political subdivision, the Governor may proclaim

a day for the general cessation of business in that political subdivision.

(c) If an emergency exists as to a banking institution, the Governor:

(1) may proclaim a day on which the banking institution may remain closed; and

(2) shall limit the proclamation to the principal banking office and branch offices of the banking institution that the emergency affects.

§14–308.

The State shall repair or replace any equipment, facilities, or property that is damaged while being used in accordance with the proclamation of a state of emergency.

§14–309.

(a) A person may not violate this subtitle or an order, rule, or regulation promulgated under this subtitle.

(b) In meeting the requirements of an order, rule, or regulation promulgated under this subtitle or in applying for a service or benefit provided by the State in the allocation or assignment of energy supplies, a person may not willfully:

(1) conceal a material fact;

(2) make a false, fictitious, or fraudulent statement or representation; or

(3) use a false writing or document that contains a false, fictitious, or fraudulent statement.

(c) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $1,000 or both.

(2) A violation of the Maryland Vehicle Law for which a penalty is provided is not subject to the penalties of this section.

§14–3A–01.

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

(b) "Catastrophic health emergency" means a situation in which extensive loss of life or serious disability is threatened imminently because of exposure to a deadly agent.

(c) "Deadly agent" means:

(1) anthrax, ebola, plague, smallpox, tularemia, or other bacterial, fungal,

rickettsial, or viral agent, biological toxin, or other biological agent capable of causing extensive loss of life or serious disability;

(2) mustard gas, nerve gas, or other chemical agent capable of causing extensive loss of life or serious disability; or

(3) radiation at levels capable of causing extensive loss of life or serious disability.

(d) "Exposure to a deadly agent" means a threat to human health caused by the release, distribution, or transmission of a deadly agent in:

(1) this State; or

(2) another jurisdiction because of movement into the State of the deadly agent or of individuals exposed to the deadly agent.

(e) "Health care provider" means:

(1) a health care facility as defined in § 19–114(d)(1) of the Health – General Article;

(2) a health care practitioner as defined in § 19–114(e) of the Health – General Article; and

(3) an individual licensed or certified as an emergency medical services provider under § 13–516 of the Education Article.

(f) "Secretary" means the Secretary of Health and Mental Hygiene.

§14–3A–02.

(a) If the Governor determines that a catastrophic health emergency exists, the Governor may issue a proclamation under this subtitle.

(b) The proclamation shall indicate:

(1) the nature of the catastrophic health emergency;

(2) the areas threatened or affected; and

(3) the conditions that:

(i) led to the catastrophic health emergency; or

(ii) made possible the termination of the emergency.

(c) (1) The Governor shall rescind a proclamation issued under this section whenever the Governor determines that the catastrophic health emergency no longer

exists.

(2) Unless renewed, the proclamation expires 30 days after issuance.

(3) The Governor may renew the proclamation for successive periods, each not to exceed 30 days, if the Governor determines that a catastrophic health emergency continues to exist.

§14–3A–03.

(a) After the Governor issues a proclamation under this subtitle, the Governor may issue the orders authorized in this section.

(b) (1) The Governor may order the Secretary or other designated official to:

(i) seize immediately anything needed to respond to the medical consequences of the catastrophic health emergency; and

(ii) work collaboratively, to the extent feasible, with health care providers to designate and gain access to a facility needed to respond to the catastrophic health emergency.

(2) The Governor may order the Secretary or other designated official to control, restrict, or regulate the use, sale, dispensing, distribution, or transportation of anything needed to respond to the medical consequences of the catastrophic health emergency by:

(i) rationing or using quotas;

(ii) creating and distributing stockpiles;

(iii) prohibiting shipments;

(iv) setting prices; or

(v) taking other appropriate actions.

(3) If medically necessary and reasonable to treat, prevent, or reduce the spread of the disease or outbreak believed to have been caused by the exposure to a deadly agent, the Governor may order the Secretary or other designated official to:

(i) require individuals to submit to medical examination or testing;

(ii) require individuals to submit to vaccination or medical treatment unless the vaccination or treatment likely will cause serious harm to the individual;

(iii) establish places of treatment, isolation, and quarantine; or

(iv) require individuals to go to and remain in places of isolation

or quarantine until the Secretary or other designated official determines that the individuals no longer pose a substantial risk of transmitting the disease or condition to the public.

(c) The Governor may order any health care provider, who does not voluntarily participate, to participate in disease surveillance, treatment, and suppression efforts or otherwise comply with the directives of the Secretary or other designated official.

(d) (1) The Governor may order the evacuation, closing, or decontamination of any facility.

(2) If necessary and reasonable to save lives or prevent exposure to a deadly agent, the Governor may order individuals to remain indoors or refrain from congregating.

§14–3A–04.

The Secretary may require an individual to go to and remain in a place of isolation or quarantine until the Secretary determines that the individual no longer poses a substantial risk of transmitting a disease or condition to the public if the individual:

(1) is a competent adult; and

(2) refuses an order under § 14-3A-03(b)(3) of this subtitle for:

(i) vaccination;

(ii) medical examination;

(iii) treatment; or

(iv) testing.

§14–3A–05.

(a) If the Secretary or other designated official requires an individual or a group of individuals to go to and remain in places of isolation or quarantine under § 14-3A-03(b)(3) of this subtitle, the Secretary shall issue a directive to the individual or group of individuals.

(b) (1) The directive shall specify:

(i) the identity of the individual or group of individuals that are subject to isolation or quarantine;

(ii) the premises that are subject to isolation or quarantine;

(iii) the date and time when the isolation or quarantine starts;

(iv) the suspected deadly agent causing the outbreak or disease, if known;

(v) the justification for the isolation or quarantine; and

(vi) the availability of a hearing to contest the directive.

(2) Except as provided in paragraph (3) of this subsection, the directive shall be:

(i) in writing; and

(ii) given to those subject to the directive before the directive takes effect.

(3) (i) If the Secretary or other designated official determines that the notice required in paragraph (2) of this subsection is impractical because of the number of individuals or geographical areas affected, the Secretary or other designated official shall ensure that the affected individuals are fully informed of the directive using the best possible means available.

(ii) If the directive applies to a group of individuals and it is impractical to provide individual written copies under paragraph (2) of this subsection, the written directive may be posted in a conspicuous place in the isolation or quarantine premises.

(c) (1) An individual or group of individuals isolated or quarantined under § 14-3A-03(b)(3) of this subtitle may request a hearing in a circuit court to contest the isolation or quarantine.

(2) A request for a hearing does not stay or enjoin an isolation or quarantine directive.

(3) A court that receives a request under this subsection shall hold a hearing within 3 days after receipt of the request.

(4) In any proceedings brought for relief under this subsection, the court may extend the time for a hearing:

(i) if the Secretary or other designated official shows that extraordinary circumstances exist that justify the extension; and

(ii) after considering the rights of the affected individual or group of individuals, the protection of the public health, the severity of the catastrophic health emergency, and the availability of any necessary witnesses and evidence.

(5) (i) The court shall grant the request for relief unless the court determines that the isolation or quarantine directive is necessary and reasonable to

prevent or reduce the spread of the disease or outbreak believed to have been caused by the exposure to a deadly agent.

(ii) The court in making its determination may consider, if feasible, the means of transmission, the degree of contagion, and, to the extent possible, the degree of public exposure to the disease.

(6) Subject to paragraph (7) of this subsection, if the court issues an order that authorizes the isolation or quarantine, the order shall:

(i) identify the isolated or quarantined individual or group of individuals by name or shared characteristics;

(ii) specify factual findings warranting isolation or quarantine; and

(iii) be in writing and given to the individual or group of individuals.

(7) If the court determines that the delivery required by paragraph (6)(iii) of this subsection is impractical because of the number of individuals or geographical area affected, the court shall ensure that the affected individuals are fully informed of the order using the best possible means available.

(d) (1) An order under subsection (c) of this section may authorize isolation or quarantine for not more than 30 days.

(2) Before the order expires, the Secretary or designated official may request the court to continue the isolation or quarantine for additional 30-day periods.

(3) The court shall base its decision on the standards provided under subsection (c)(5) of this section.

(e) If an individual cannot appear personally before the court, proceedings may be conducted:

(1) by the individual's authorized representative; and

(2) in a way that allows full participation by other individuals.

(f) (1) Subject to any emergency rules that the Court of Appeals adopts under paragraph (3) of this subsection, the court may order the consolidation of individual claims into group claims in proceedings brought under this section if:

(i) the large number of individuals involved or affected makes individual participation impractical;

(ii) questions of law or fact that are common to the individual claims or rights must be determined;

(iii) the group claims or rights to be determined are typical of the

affected individual's claims or rights; or

(iv) the entire group will be adequately represented in the consolidation.

(2) The Court of Appeals shall appoint counsel to represent individuals or a group of individuals who are not otherwise represented by counsel.

(3) The Court of Appeals shall adopt emergency rules of procedure to facilitate the efficient adjudication of proceedings brought under this section.

§14–3A–06.

A health care provider is immune from civil or criminal liability if the health care provider acts in good faith and under a catastrophic health emergency proclamation.

§14–3A–07.

The authority granted under this subtitle is in addition to, and not in derogation of, any other authority that the Governor, the Secretary, or any other public official may exercise under other law.

§14–3A–08.

(a) (1) Except as provided in subsection (b) of this section, a person may not knowingly and willfully fail to comply with an order, requirement, or directive issued under this subtitle.

(2) A person who violates paragraph (1) of this subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $5,000 or both.

(b) (1) A health care practitioner, as defined in § 19–114(e) of the Health – General Article, may not knowingly and willfully fail to comply with § 14–3A–03(c) of this subtitle.

(2) A health care practitioner who fails to comply with paragraph (1) of this subsection shall be subject to discipline under § 1–219 of the Health Occupations Article.

§14–401.

In this subtitle, "local governing body" means:

(1) a board of county commissioners;

(2) a county council; or

(3) the Mayor and City Council of Baltimore.

§14–402.

(a) The powers in this section may be exercised only during the effective period of an official proclamation by the Governor that declares all or part of the county to be in an actual or threatened emergency area.

(b) If a majority of the members of the local governing body of a county are killed or are sick, incapacitated, missing, or otherwise unavailable for a temporary or indefinite period because of a military or warlike catastrophe, the Governor may exercise the administrative and executive powers of that local governing body until the number of members of the local governing body sufficient to operate the county government are appointed and qualify.

§14–403.

(a) In this section, "executive officer" means the mayor or comparable official of the legislative body of a municipal corporation of the State.

(b) The powers in this section may be exercised only during the effective period of an official proclamation by the Governor that declares all or part of the municipal corporation to be in an actual or threatened emergency area.

(c) (1) If an executive officer is killed or is sick, incapacitated, missing, or otherwise unavailable for a temporary or indefinite period because of a military or warlike catastrophe, and the municipal corporation is unable to fill that vacancy for a temporary or indefinite period, the local governing body of the county in which the municipal corporation is located may appoint an individual to fill the vacancy for a temporary or indefinite period.

(2) If the vacancy is in a municipal corporation that is located in more than one county:

(i) the local governing body of any of the counties in which part of the municipal corporation is located may appoint an individual to fill the vacancy; or

(ii) the local governing bodies of the counties may agree to appoint an individual to fill the vacancy.

(d) To the extent possible, each appointee shall have the qualifications required for the particular office to which appointed.

(e) Each appointee may exercise the powers and prerogatives of an officer elected to the position.

(f) Each appointee shall hold office until:

(1) the executive officer originally holding the position returns to the position; or

(2) the position is filled by the regular election and qualification of a successor.

(g) Under the circumstances described in this section, the Governor may exercise the executive and administrative powers of the municipal government until the number of individuals sufficient to operate the municipal government are appointed and qualified as executive officers.

§14–404.

(a) In this section, "tax district" includes:

(1) a special tax area;

(2) a special tax district;

(3) a sanitary district; and

(4) a water district.

(b) The powers in this section may be exercised only during the effective period of an official proclamation by the Governor that declares all or part of the tax district to be in an actual or threatened emergency area.

(c) If a majority of the members of the governing body of a tax district in the State are killed or are sick, incapacitated, missing, or otherwise unavailable for a temporary or indefinite period because of a military or warlike catastrophe, and the tax district is unable to function normally for a temporary or indefinite period, the Governor may exercise the executive and administrative powers of the tax district until the number of members of the governing body of the tax district sufficient to operate the governing body are appointed and qualified in accordance with the procedures of the governing body.

§14–405.

(a) (1) If there is serious human suffering, death, personal injury, or property damage in a county because of a military or warlike catastrophe, the local governing body has the powers granted in this section.

(2) The powers in this section may be exercised only during the effective period of an official proclamation by the Governor that declares all or part of the county to be in an actual or threatened emergency area.

(b) The local governing body may borrow money or contract for materials or services on the faith and credit of the county.

(c) (1) To pay for the money borrowed or the materials or services contracted for under subsection (b) of this section, the local governing body may issue bonds, notes,

or other certificates of indebtedness on the faith and credit of the county to a person or governmental unit that lends the money or supplies the materials or services.

(2) The local governing body may set the terms, conditions, rate of interest, and provisions for repayment of the bonds, notes, or other certificates of indebtedness issued under this subsection.

(d) The local governing body may impose a special levy on taxable property in the county in an amount sufficient to:

(1) pay for the money borrowed or the materials and services contracted for under subsection (b) of this section; and

(2) make all payments of principal and interest on the bonds, notes, or other certificates of indebtedness issued under subsection (c) of this section that are outstanding.

(e) Money, materials, or services obtained under subsection (b) of this section may be secured, expended, or used in cooperation with other governmental units on a matching basis or otherwise as determined by the local governing body.

(f) Any legal restrictions or delaying procedures are waived and may be disregarded by the local governing body as to:

(1) the purchase, lease, or rental of materials and equipment;

(2) the securing and hiring of personal services;

(3) the face value of notes, bonds, or other certificates of indebtedness that may be issued and outstanding; or

(4) the rate of taxation that may be imposed.

§14–406.

(a) Each law, ordinance, resolution, or regulation of the State, a political subdivision of the State, or a unit of State or local government that relates to or concerns an actual or threatened emergency or military or warlike catastrophe may be applied during the effective period of an official proclamation by the Governor that declares all or part of the particular area to be in an actual or threatened emergency area.

(b) This section does not qualify or reduce the powers of emergency management agencies that are effective without the existence of an emergency or proclamation by the Governor.

§14–601.

WHEREAS, the Congress of the United States of America has enacted the procedure for granting its consent to emergency management and civil defense compacts by an act entitled "Federal Civil Defense Act of 1950" (Public Law 920, 81st Congress, Second Session, approved January 12, 1951); and

WHEREAS, the State of Maryland contemplates entering into emergency management and civil defense compacts with other states, possessions and territories of the United States and with the District of Columbia, substantially in the form following:

§14–602.

The contracting states solemnly agree:

(1) ARTICLE 1. Purpose.

The purpose of this compact is to provide mutual aid among the states in meeting any emergency from enemy attack or other cause (natural or otherwise) including sabotage and subversive acts and direct attacks by bombs, shellfire, and atomic, radiological, chemical, bacteriological means, and other weapons. The prompt, full and effective utilization of the resources of the respective states, including such resources as may be available from the United States government or any other source, are essential to the safety, care and welfare of the people thereof in the event of enemy action or other emergency, and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among emergency management and civil defense agencies or similar bodies of the states that are parties hereto. The directors of emergency management and civil defense of all party states shall constitute a committee to formulate plans and take all necessary steps for the implementation of this compact.

(2) ARTICLE 2. Emergency management and civil defense plans and programs.

It shall be the duty of each party state to formulate emergency management and civil defense plans and programs for application within such state. There shall be frequent consultation between the representatives of the states and with the United States government and the free exchange of information and plans, including inventories of any materials and equipment available for emergency management and civil defense. In carrying out such emergency management and civil defense plans and programs the party states shall so far as possible provide and follow uniform standards, practices and rules and regulations including:

(a) Insignia, arm bands and any other distinctive articles to designate and distinguish the different emergency management and civil defense services;

(b) Blackouts and practice blackouts, air raid drills, mobilization of

emergency management and civil defense forces and other tests and exercises;

(c) Warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith;

(d) The effective screening or extinguishing of all lights and lighting devices and appliances;

(e) Shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;

(f) All materials or equipment used or to be used for emergency management and civil defense purposes in order to assure that such materials and equipment will be easily and freely interchangeable when used in or by any other party state;

(g) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic, prior, during and subsequent to drills or attacks;

(h) The safety of public meetings or gatherings; and

(i) Mobile support units.

(3) ARTICLE 3. Resources; emergency management and civil defense forces.

Any party state requested to render mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state. Each party state shall extend to the emergency management and civil defense forces of any other party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, privileges and immunities as are extended to the emergency management and civil defense forces of such state. Emergency management and civil defense forces will continue under the command and control of their regular leaders but the organizational units will come under the operational control of the emergency management and civil defense authorities of the state receiving assistance.

(4) ARTICLE 4. Licenses and permits.

Whenever any person holds a license, certificate or other permit issued by any state evidencing the meeting of qualifications for professional, mechanical or other skills, such person may render aid involving such skill in any party state to meet an emergency or disaster and such state shall give due recognition to such license, certificate or other permit as if issued in the state in which aid is rendered.

(5) ARTICLE 5. Liability.

No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

(6) ARTICLE 6. Supplementary agreements.

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that appropriate among other states party hereto, this instrument contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or states. Such supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons, and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, equipment and supplies.

(7) ARTICLE 7. Compensation and death benefits.

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency management and civil defense forces of that state and the representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such state.

(8) ARTICLE 8. Reimbursement for loss, damage, expense, or cost.

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further that any two or more party states may enter into supplementary agreements establishing a different allocation of costs as among those states. The United States government may relieve the party state receiving aid from any liability and reimburse the party state supplying emergency management and civil defense forces for the compensation paid to and the transportation, subsistence and maintenance expenses of such forces during the time of the rendition of such aid or assistance outside the state and may also pay fair and reasonable compensation for the use or utilization of the supplies, materials, equipment or facilities so utilized or consumed.

(9) ARTICLE 9. Plans for evacuation of civil population.

Plans for the orderly evacuation and reception of the civilian population as the

result of an emergency shall be worked out from time to time between representatives of the party states and the various local emergency management and civil defense areas thereof. Such plans shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care and like items. Such expenditures shall be reimbursed by the party state of which the evacuees are residents, or by the United States government under plans approved by it. After the termination of the emergency the party state of which the evacuees are residents shall assume the responsibility for the ultimate support or repatriation of such evacuees.

(10) ARTICLE 10. Availability of compact; "state" defined.

This compact shall be available to any state, possession or territory of the United States, and the District of Columbia. The term "state" may also include any neighboring foreign country or province or state thereof.

(11) ARTICLE 11. Role of Federal Emergency Management Agency.

The committee established pursuant to Article 1 of this compact may request the Federal Emergency Management Agency of the United States government to act as an informational and coordinating body under this compact, and representatives of such agency of the United States government may attend meetings of such committee.

(12) ARTICLE 12. Compact operative on ratification.

This compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying and shall be subject to approval by Congress unless prior congressional approval has been given. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States government.

(13) ARTICLE 13. Withdrawal from compact.

This compact shall continue in force and remain binding on each party state until the legislature or the governor of such party state takes action to withdraw therefrom. Such action shall not be effective until 30 days after notice thereof has been sent by the governor of the party state desiring to withdraw to the governors of all other party states.

(14) ARTICLE 14. Construction of compact; severability.

This compact shall be construed to effectuate the purposes stated in Article 1 hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected thereby.

(15) ARTICLE 15. Additional applicability.

(a) This article shall be in effect only as among those states which have enacted it into law or in which the governors have adopted it pursuant to constitutional or statutory authority sufficient to give it the force of law as part of this compact. Nothing contained in this article or in any supplementary agreement made in implementation thereof shall be construed to abridge, impair or supersede any other provision of this compact or any obligation undertaken by a state pursuant thereto, except that if its terms so provide, a supplementary agreement in implementation of this article may modify, expand or add to any such obligation as among the parties to the supplementary agreement.

(b) In addition to the occurrences, circumstances and subject matters to which preceding articles of this compact make it applicable, this compact and the authorizations, entitlements and procedures thereof shall apply to:

(1) Searches for and rescue of persons who are lost, marooned, or otherwise in danger;

(2) Action useful in coping with disasters arising from any cause or designed to increase capability to cope with any such disasters;

(3) Incidents, or the imminence thereof, which endanger the health or safety of the public and which require the use of special equipment, trained personnel or personnel in larger numbers than are locally available in order to reduce, counteract or remove the danger;

(4) The giving and receiving of aid by subdivisions of party states;

(5) Exercises, drills or other training or practice activities designed to aid personnel to prepare for, cope with, or prevent any disaster or other emergency to which this compact applies.

(c) Except as expressly limited by this compact or a supplementary agreement in force pursuant thereto, any aid authorized by this compact or any supplementary agreement may be furnished by any agency of a party state, a subdivision of a party state, or by a joint agency of any two or more party states or of their subdivisions. Any joint agency providing aid shall be entitled to reimbursement therefor to the same extent and in the same manner as a state. The personnel of a joint agency, when rendering aid pursuant to this compact, shall have the same rights, authority and immunity as personnel of party states.

(d) Nothing in this article shall be construed to exclude from the coverage of Articles 1-14 of this compact any matter which, in the absence of this article, could reasonably be construed to be covered thereby.

§14–603.

The Governor is hereby authorized and empowered to enter into and execute, on behalf of the State of Maryland, such emergency management and civil defense compacts with other states, possessions or territories of the United States or with the District of Columbia, substantially in the form hereinbefore set forth, provided that the Board of Public Works, with the concurrence of the Director of the Maryland Emergency Management Agency, may approve alterations of the terms, provisions and conditions of the aforesaid proposed emergency management and civil defense compact so long as said alterations are in substantial compliance with the terms, provisions and conditions hereinbefore set forth and when the Governor, in the exercise of the power as aforesaid, enters into and executes an emergency management and civil defense compact on behalf of the State of Maryland, said compact is hereby approved and ratified and every paragraph, clause, provision, matter and thing in the said compact contained shall be obligatory on this State and the citizens thereof, and shall be forever faithfully and inviolably observed, and kept by the government of this State and all of its citizens according to the true intent and meaning of the said compact.

§14–604.

The Secretary of State is authorized and directed to prepare and transmit duly authenticated copies of such compacts and of this act to the governor of each state entering into such compact, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Federal Emergency Management Agency Director, the Secretary of State of the United States, and the Council of State Governments.

§14–605.

If any clause, sentence, paragraph, or section of this subtitle shall, for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or section thereof so found unconstitutional and invalid.

§14–701.

The Emergency Management Assistance Compact is entered into with all other jurisdictions which adopt the Compact in a form substantially as the Compact appears in § 14-702 of this subtitle.

§14–702.

(1) Article I. Purpose and Authorities.

This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the Governor of the affected state(s), whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

(2) Article II. General Implementation.

Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the Governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

(3) Article III. Party State Responsibilities.

(a) It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

(1) Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack.

(2) Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency.

(3) Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.

(4) Assist in warning communities adjacent to or crossing the state boundaries.

(5) Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material.

(6) Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness.

(7) Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

(b) The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this compact shall apply only to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within 30 days of the verbal request. Requests shall provide the following information:

(1) A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

(2) The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed.

(3) The specific place and time for staging of the assisting party's response and a point of contact at that location.

(c) There shall be frequent consultation between state officials who

have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

(4) Article IV. Limitations.

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state(s), whichever is longer.

(5) Article V. Licenses and Permits.

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the Governor of the requesting state may prescribe by executive order or otherwise.

(6) Article VI. Liability.

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

(7) Article VII. Supplementary Agreements.

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

(8) Article VIII. Compensation.

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

(9) Article IX. Reimbursement.

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this article.

(10) Article X. Evacuation.

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees

come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

(11) Article XI. Implementation.

(a) This compact shall become effective immediately upon its enactment into law by any two states. Thereafter, this compact shall become effective as to any other state upon its enactment by such state.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 30 days after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

(c) Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

(12) Article XII. Validity.

This compact shall be construed to effectuate the purposes stated in Article I hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected thereby.

(13) Article XIII. Additional Provisions.

Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under Section 1385 of Title 18 of the United States Code.

§14–801.

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

(b) "Authorized representative" means an employee of a local jurisdiction authorized by the senior elected official of that jurisdiction to request, offer, or provide assistance under the terms of the compact.

(c) "Compact" means the Maryland Emergency Management Assistance Compact.

(d) (1) "Emergency responder" means an individual who is sent or directed by a party jurisdiction in response to a request for assistance by another party jurisdiction.

(2) "Emergency responder" includes a:

(i) career or volunteer firefighter within this State;

(ii) career or volunteer emergency medical services provider, as defined in § 13–516 of the Education Article, within this State;

(iii) career or volunteer rescue squad member within this State;

(iv) county employee who is performing an emergency support function described in § 14–803(2)(b)(5)(ii) of this subtitle; and

(v) law enforcement officer as defined in § 3–101 of this article.

(e) "Jurisdictions" means the 23 counties within Maryland, Baltimore City, and Ocean City.

(f) "Senior elected official" means:

(1) the mayor;

(2) the county executive; or

(3) for a county that does not have a county executive, the president of the board of county commissioners or county council or other chief executive officer of the county.

§14–802.

The Maryland Emergency Management Assistance Compact is entered into with all other jurisdictions that adopt the Compact in a form substantially similar to the Compact set forth in this subtitle.

§14–803.

(1) Article 1. Purpose.

(a) (1) The purpose of this Compact is to provide for mutual assistance between the jurisdictions entering into this Compact in managing an emergency.

(2) This Compact also shall provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment or personnel simulating performance of any aspect of the giving and receiving of aid by

party jurisdictions during emergencies.

(2) Article 2. Requests for Assistance.

(b) (1) The senior elected official of each jurisdiction shall designate an authorized representative. The authorized representative of a party jurisdiction may request assistance of another party jurisdiction by contacting the authorized representative of that jurisdiction.

(2) The provisions of this Compact shall apply only to requests for assistance made by and to authorized representatives.

(3) Requests may be verbal or in writing.

(4) If verbal, the request shall be confirmed in writing at the earliest possible date, but no later than 10 calendar days following the verbal request.

(5) Written requests shall provide the following information:

(i) A description of the emergency support function for which assistance is needed;

(ii) The emergency support function shall include, but not be limited to, fire services, law enforcement, emergency medical services, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

(iii) The amount and type of personnel, equipment, materials, and supplies needed and a reasonable estimate of the length of time they will be needed; and

(iv) The specific place and time for staging of the assisting party's response and a point of contact at that location.

(6) There shall be frequent consultations between the Maryland Emergency Management Agency and appropriate representatives of the party jurisdictions with free exchange of information and plans generally relating to emergency capabilities.

(7) A senior elected official or an authorized representative will advise the Maryland Emergency Management Agency of verbal requests and provide copies of written requests.

(3) Article 3. Limitations.

(c) (1) Any jurisdiction which is a party to this Compact and which receives a request for assistance shall take such actions as are necessary to provide

requested resources.

(2) Any jurisdiction may withhold resources to the extent necessary to provide reasonable protection to its own jurisdiction.

(3) Each party jurisdiction shall afford to the emergency responders of any party jurisdiction operating within the requesting jurisdiction under the terms and conditions of this Compact, the same powers, duties, rights, and privileges as are afforded those of the jurisdiction in which they are performing emergency services.

(4) Emergency responders will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the requesting jurisdiction.

(5) Emergency responders shall have the same powers, duties, rights, and privileges as personnel of the requesting jurisdiction correspondent to performing the same function.

(6) (i) The provisions of this article shall only take effect:

1. Subsequent to a local declaration of a state of emergency by the requesting jurisdiction; or

2. Upon commencement of exercises, testing, or training for mutual aid.

(ii) The provisions of this article shall continue as long as:

1. The exercises, testing, or training for the mutual aid are in progress;

2. The state of emergency or the disaster remains in effect; or

3. Loaned resources remain in the requesting jurisdiction.

(4) Article 4. Liability.

(d) (1) Officers or emergency responders of a party jurisdiction rendering aid in another jurisdiction pursuant to this Compact shall be considered agents of the requesting jurisdiction for tort liability and immunity purposes.

(2) No party jurisdiction or its officers or emergency responders rendering aid in another jurisdiction pursuant to this Compact shall be liable on account of any act or omission in good faith on the part of responding personnel while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith.

(3) Good faith in this article shall not include willful misconduct,

gross negligence, or recklessness.

(5) Article 5. Supplementary Agreements.

(e) (1) Nothing in this Compact shall:

(i) Preclude any jurisdiction from entering into supplementary agreements with another jurisdiction; or

(ii) Affect any other agreements between jurisdictions.

(2) Supplementary agreements may include, but are not limited to:

(i) Provisions for evacuation and reception of injured and other persons; and

(ii) The exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation, and communications personnel, equipment, and supplies.

(6) Article 6. Reimbursement.

(f) (1) Each party jurisdiction shall provide for the payment of workers' compensation and death benefits to injured members of the emergency responders of its own jurisdiction.

(2) The requesting jurisdiction will reimburse the responding jurisdiction for all reasonable and necessary expenses incurred by the responding jurisdiction provided that any responding jurisdiction may:

(i) Assume in whole or in part such loss, damage, expense, or other cost;

(ii) Loan equipment or donate services to the requesting jurisdiction without charge or cost; and

(iii) Agree to any allocation of expenses between the responding and requesting jurisdiction.

(3) Any two or more jurisdictions may enter into supplemental agreements establishing a different allocation of costs among those jurisdictions.

(4) Records of expenses incurred in sufficient detail to satisfy auditing requirements shall be submitted by the responding jurisdiction as soon as possible following the termination of the assistance provided.

(7) Article 7. Implementation.

(g) (1) Party jurisdictions are encouraged to consult frequently with

each other and with the Maryland Emergency Management Agency and to exchange information and plans relating to emergency management.

(2) This Compact shall become effective immediately upon its enactment into law by local jurisdictions.

(3) Any party jurisdiction may withdraw from this Compact by enacting a repeal of the same but no such withdrawal shall take effect until 30 days after the senior elected official of the withdrawing jurisdiction has given notice in writing of such withdrawal to the senior elected officials of all party jurisdictions.

(4) Withdrawal from the Compact shall not relieve the withdrawing jurisdiction from obligations assumed under Article 4 or Article 6 of this Compact prior to the effective date of withdrawal.

(5) Authenticated copies of this Compact and of such supplementary agreements as may be entered into shall at the time of their approval be retained by each party jurisdiction and with the Maryland Emergency Management Agency.

(8) Article 8. Validity.

(h) (1) This Compact shall be construed to effectuate the purposes stated in Article 1 hereof.

(2) If any part or provision of this Compact or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Compact which can be given effect without the invalid provision or application, and for this purpose the provisions of this Compact are declared severable.

§14–8A–01.

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

(b) "Governing body" means:

(1) the county executive and county council of a charter county with a county executive;

(2) the county council of a charter county with no county executive;

(3) the board of county commissioners of a county; or

(4) the mayor and council, by whatever name known, of a municipal corporation.

(c) "National Capital Region" means the area defined under § 2674(f)(2) of Title 10 of the United States Code, including those counties with a border abutting that area

and any municipal corporations in those counties.

§14–8A–02.

The state, the governing body of a county or municipal corporation, or any other governmental agency within the National Capital Region may enter into a reciprocal agreement for the period that it considers advisable with a federal agency, the Commonwealth of Virginia, the District of Columbia, or a county or municipal corporation, within or outside the state, and establish, train, and implement plans to request or provide mutual aid through the use of its officers, employees, and agents, together with all necessary equipment, in accordance with § 7302 of the Intelligence Reform and Terrorism Prevention Act of 2004 (108 P.L. 458, 118 Stat. 3638).

§14–8A–03.

Any provision or part of a state, local, or municipal corporation statute, law, or ordinance that requires a mutual aid agreement to contain additional terms or conditions is inapplicable to an agreement authorized by and entered into under this subtitle.

§14–901.

This subtitle does not apply to:

(1) students;

(2) individuals who are preparing themselves to engage in trade or industrial pursuits;

(3) individuals who are temporarily unemployed because of differences with their employers; and

(4) individuals who are engaged or employed in a seasonal business, trade, or occupation in Baltimore City or Allegany County.

§14–902.

To carry out this subtitle, the Governor may appoint or employ assistants and use any available and appropriate agencies.

§14–903.

(a) (1) The Governor by proclamation may require that each able-bodied individual in the State between 18 and 50 years old, inclusive, who is not regularly or continuously employed or engaged in a lawful and useful business, occupation, trade, or profession immediately register for work under this subtitle.

(2) The Governor may require registration for work under paragraph (1)

of this subsection if the Governor determines that because of a state of war:

(i) it is necessary for the protection and welfare of the people of the State that those individuals work in agricultural, industrial, or other occupations carried on by the State, a county, or a private employer;

(ii) the occupations specified in item (i) of this paragraph are essential for the protection and welfare of the people of the State and the United States; and

(iii) the occupations specified in item (i) of this paragraph cannot be carried on as required for the protection and welfare of the people of this State and the United States without resort to this subtitle.

(b) Individuals who are self-supporting because of income or ownership of property and individuals who are supported by others shall be required to register under this subtitle.

(c) (1) Each individual required to register under this section shall register with the clerk of the circuit court of the county in which the individual resides.

(2) The individual shall provide to the clerk the individual's name, address, age, and any other information that the Governor requires.

(d) On request of the Governor, the clerk of the circuit court shall provide the Governor with the information obtained under subsection (c)(2) of this section.

§14–904.

(a) The Governor shall assign or cause to be assigned and, if necessary, reassign or cause to be reassigned, for a period not exceeding 6 continuous months for each individual at one time, individuals who have registered under § 14-903 of this subtitle to the occupations described in § 14-903(a) of this subtitle if the employers accept the services of these individuals.

(b) Each individual assigned to work under subsection (a) of this section shall be physically able to perform the work to which the individual is assigned.

(c) (1) In determining the duration and nature of the work to which an individual is assigned, the Governor shall consider the age, physical condition, and any other appropriate circumstances of the individual.

(2) An individual may not be required to work under this subtitle a greater number of hours per day than lawfully constitutes a day's work in the occupation to which the individual is assigned.

§14–905.

As soon as the Governor issues a proclamation under § 14-903 of this subtitle, the Governor shall prepare and publish rules and regulations to govern the assignment of individuals to work under this subtitle that:

(1) ensure that all individuals similarly situated shall be treated alike to the extent possible; and

(2) make allowances for the age, physical condition, and other appropriate circumstances of individuals assigned to work under this subtitle.

§14–906.

(a) Each individual required to work under this subtitle is entitled to compensation not less than the compensation paid to others for the same work.

(b) If an individual is assigned to work for a unit of the State, the compensation of the individual shall be paid by the unit out of the appropriation made to it by the State.

(c) If an individual is assigned to work for a county, the compensation of the individual shall be paid by the county.

(d) (1) If an individual is assigned to work for a private employer, the compensation of the individual shall be paid by the private employer.

(2) Each private employer shall execute a bond to the State in the penalty and with the surety that the Governor approves, conditioned to guarantee the payment of compensation due to individuals assigned to work for the private employer.

(3) (i) If a private employer fails to pay the compensation due to an individual under this subsection, the compensation shall be paid by the State.

(ii) If money is appropriated for the purpose specified in subparagraph (i) of this paragraph:

1. payment shall be made on the order of the executive committee of the Maryland Council of Defense with the approval of the Governor;

2. the order shall be directed to the Comptroller; and

3. the Comptroller shall draw a warrant on the Treasurer for the amount of payment as provided by law.

(4) If the State compensates an individual under this subsection, the employer's bond shall be in default and shall be put into suit by the State.

§14–907.

(a) An individual may not fail to register under this subtitle.

(b) An individual who violates subsection (a) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $50.

(c) After the Governor issues a proclamation under this subtitle, the county sheriffs, the police department of Baltimore City, and any other officer of the State, a county, or municipal corporation charged with enforcing the law shall:

(1) seek diligently the names and addresses of able-bodied individuals within their respective jurisdictions who are between 18 and 50 years old, inclusive, and not regularly or continuously employed or engaged in a lawful and useful occupation and who have failed to register under this subtitle; and

(2) obtain criminal summonses or warrants from a District Court commissioner for the arrest of individuals described in item (1) of this subsection.

(d) The District Court shall send the name of each individual convicted of failing to register and the information specified in subsection (c)(1) of this section to the clerk of the circuit court of the county in which the individual resides.

(e) The circuit court clerks shall register each individual convicted of failing to register under this subtitle and report the registration to the Governor in accordance with § 14-903 of this subtitle.

(f) The Governor shall assign each individual registered under subsection (e) of this section to work as provided in § 14-904 of this subtitle.

§14–908.

(a) An individual may not fail to do the work assigned to the individual unless the individual becomes regularly or continuously employed in a business, occupation, profession, or trade.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $500 or both.

§14–1001.

(a) In this section, "structure" means:

(1) a church, chapel, or convent;

(2) a dwelling;

(3) a building used or designed as a place to transact business or store

property;

(4) a barn, stable, or other outbuilding; or

(5) a ship, shipyard, or lumberyard.

(b) Subject to § 14-1002 of this subtitle, if a structure or personal property is stolen, damaged, or destroyed in a riot, the injured party may recover actual damages sustained in a civil action against the county or municipal corporation of the State in which the riot occurred.

§14–1002.

(a) A county or municipal corporation is not liable under § 14-1001 of this subtitle for theft, damage, or destruction that occurs in a riot unless the authorities of the county or municipal corporation:

(1) had good reason to believe that the riot was about to take place or, having taken place, had notice of the riot in time to prevent the theft, damage, or destruction; and

(2) had the ability, either by use of the county's or municipal corporation's police or with the aid of the residents of the county or municipal corporation, to prevent the theft, damage, or destruction.

(b) A person may not recover damages from a county or municipal corporation under § 14-1001 of this subtitle if it is satisfactorily proved that the authorities of the county or municipal corporation, and the residents of the county or municipal corporation when called on by the authorities, used reasonable diligence and all the powers entrusted to them to prevent or suppress the riot.

§14–1003.

An action for damages under § 14-1001 of this subtitle shall be filed within 3 years after the date it accrues.

§14–1004.

The form of any pleading in an action under § 14-1001 of this subtitle shall be governed by the Maryland Rules.

§15–101.

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

(b) "Commission" means the Public Service Commission.

(c) "Gas" means natural gas, flammable gas, or toxic or corrosive gas.

(d) (1) "Gas pipeline" means an intrastate transmission line or any portion of an interstate transmission line located within the State that:

(i) transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not downstream from a distribution center;

(ii) operates at a hoop stress of 20% or more of the specified minimum yield strength of the pipeline; or

(iii) transports gas within a storage field.

(2) "Gas pipeline" does not mean any transmission line or distribution line constructed, owned, or operated by a public service company as defined in § 1–101 of the Public Utilities Article.

(e) (1) "Gas transmission company" means a person that owns or operates a gas pipeline regulated under this title.

(2) "Gas transmission company" does not include a person that is primarily in the business of local gas distribution.

§15–102.

(a) (1) On or before December 1, 2013, the Commission shall:

(i) evaluate the process and criteria the U.S. Secretary of Transportation would use to review an application for certification or agreement with the U.S. Secretary of Transportation under 49 U.S.C. Chapter 601 with respect to interstate pipelines located within the State; and

(ii) determine whether it is in the public interest for the Commission to apply for certification or agreement with the U.S. Secretary of Transportation under 49 U.S.C. Chapter 601, to act for the U.S. Secretary of Transportation to implement 49 U.S.C. Chapter 601 with respect to interstate gas pipelines located within the State.

(2) If the Commission determines that it is in the public interest for the Commission to act for the U.S. Secretary of Transportation to implement 49 U.S.C. Chapter 601 with respect to interstate pipelines located within the State, the Commission shall, on or before January 1, 2014, apply for certification or agreement with the U.S. Secretary of Transportation.

(b) If the Commission enters into a certification or agreement with the U.S. Secretary of Transportation to act for the U.S. Secretary of Transportation to implement 49 U.S.C. Chapter 601 with respect to interstate pipelines located within the State, the Commission shall, in accordance with federal regulations:

(1) make periodic certifications and reports to the U.S. Department of

Transportation as may be required under 49 U.S.C. Chapter 601; and

(2) take any other actions necessary to carry out responsibilities under a certification or an agreement with the U.S. Secretary of Transportation under this title.

(c) The Commission may:

(1) accept grants–in–aid, cash, and reimbursements made available to the State to implement federal pipeline safety laws or other federal law; and

(2) charge an owner of an interstate gas pipeline a fee to recover the costs of the inspections of the owner's interstate gas pipelines located within the State, less any grants provided through the U.S. Department of Transportation for inspecting interstate pipelines.