

HOUSE BILL 90

E4, E1

9lr0492
CF SB 117

By: **Delegates Moon, Hornberger, Acevero, Charkoudian, Gilchrist, Hettleman, Kittleman, Korman, Lierman, Lopez, Luedtke, and Stewart**

Introduced and read first time: January 17, 2019

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Smoke Detection System Violation – Civil Offense**

3 FOR the purpose of establishing that it is a civil offense instead of a criminal offense for a
4 person to knowingly violate certain provisions requiring that certain smoke detection
5 systems be provided and maintained in certain areas within certain buildings in the
6 State; repealing certain criminal penalties; establishing a certain penalty for a
7 certain violation; establishing that a certain adjudication is not a criminal violation
8 for any purpose and does not impose any civil disability that may result from a
9 criminal conviction; authorizing a police officer to issue a citation for a certain alleged
10 violation; requiring the police officer to sign the citation; establishing the contents of
11 the citation; requiring the District Court to establish the form for the citation;
12 requiring the District Court to establish a schedule for prepayment of a certain fine;
13 requiring the law enforcement agency of the police officer who issued the citation to
14 forward to the District Court a copy of the citation and request for trial; requiring
15 the District Court to schedule the case for trial and summon the defendant to appear;
16 providing the procedural requirements for a certain trial; establishing the rights of
17 the defendant in a certain trial; authorizing the District Court to place the defendant
18 on probation in a certain manner; authorizing the District Court to suspend the fine
19 or defer the fine under certain circumstances; establishing that failure to pay the
20 fine may be treated as criminal contempt; authorizing the defendant to file certain
21 posttrial motions; establishing the authority of the State’s Attorney in prosecuting a
22 certain violation; and generally relating to smoke detection systems.

23 BY repealing and reenacting, without amendments,

24 Article – Public Safety

25 Section 9–102(a), 9–106(a), and 9–108

26 Annotated Code of Maryland

27 (2018 Replacement Volume)

28 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Public Safety
2 Section 9–109
3 Annotated Code of Maryland
4 (2018 Replacement Volume)

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

7 **Article – Public Safety**

8 9–102.

9 (a) This subtitle applies throughout the State, including Baltimore City.

10 9–106.

11 (a) Smoke alarm requirements shall be enforced by the State Fire Marshal, a
12 county or municipal fire marshal, a fire chief, the Baltimore City Fire Department, or any
13 other designated authority having jurisdiction.

14 9–108.

15 (a) If the State Fire Marshal or other designated authority with jurisdiction finds
16 the absence of operating, required smoke detectors, the State Fire Marshal or other
17 authority shall issue a smoke alarm installation order to the responsible landlord, owner,
18 or occupant.

19 (b) The responsible person shall comply with a smoke alarm installation order
20 within 5 calendar days.

21 9–109.

22 (a) A person may not knowingly violate this subtitle.

23 [(b) (1) Except as provided in paragraph (2) of this subsection, a person who
24 violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment
25 not exceeding 10 days or a fine not exceeding \$1,000 or both.

26 (2) A person who violates § 9–106.1 of this subtitle is subject to a fine not
27 exceeding \$1,000.]

28 **(B) (1) A VIOLATION OF THIS SUBTITLE IS A CIVIL OFFENSE.**

29 **(2) IF A PERSON IS FOUND TO HAVE COMMITTED A VIOLATION OF THIS**
30 **SUBTITLE, THE PERSON IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.**

1 **(3) ADJUDICATION OF A VIOLATION UNDER THIS SUBTITLE:**

2 **(I) IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE; AND**

3 **(II) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES THAT**
4 **MAY RESULT FROM A CRIMINAL CONVICTION.**

5 **(C) (1) A POLICE OFFICER MAY ISSUE A CITATION TO A PERSON WHO THE**
6 **OFFICER HAS PROBABLE CAUSE TO BELIEVE HAS COMMITTED A VIOLATION UNDER**
7 **THIS SUBTITLE.**

8 **(2) A CITATION ISSUED UNDER THIS SUBTITLE SHALL BE SIGNED BY**
9 **THE POLICE OFFICER AND SHALL CONTAIN:**

10 **(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;**

11 **(II) THE STATUTE ALLEGEDLY VIOLATED;**

12 **(III) THE DATE, LOCATION, AND TIME THAT THE VIOLATION**
13 **OCCURRED;**

14 **(IV) THE FINE THAT MAY BE IMPOSED;**

15 **(V) A NOTICE STATING THAT PREPAYMENT OF THE FINE IS**
16 **ALLOWED; AND**

17 **(VI) A NOTICE THAT STATES THAT THE DISTRICT COURT SHALL**
18 **PROMPTLY SEND THE PERSON A SUMMONS TO APPEAR FOR TRIAL.**

19 **(3) THE FORM OF THE CITATION SHALL BE UNIFORM THROUGHOUT**
20 **THE STATE AND SHALL BE PRESCRIBED BY THE DISTRICT COURT.**

21 **(D) THE CHIEF JUDGE OF THE DISTRICT COURT SHALL ESTABLISH A**
22 **SCHEDULE FOR THE PREPAYMENT OF A FINE.**

23 **(E) (1) THE LAW ENFORCEMENT AGENCY OF THE POLICE OFFICER WHO**
24 **ISSUED THE CITATION SHALL FORWARD TO THE DISTRICT COURT HAVING VENUE A**
25 **COPY OF THE CITATION AND A REQUEST FOR TRIAL.**

26 **(2) THE DISTRICT COURT SHALL PROMPTLY SCHEDULE THE CASE**
27 **FOR TRIAL AND SUMMON THE DEFENDANT TO APPEAR.**

28 **(F) IN A PROCEEDING FOR A VIOLATION UNDER THIS SUBTITLE:**

1 **(1) THE STATE HAS THE BURDEN TO PROVE THE GUILT OF THE**
2 **DEFENDANT TO THE SAME EXTENT AS IS REQUIRED BY LAW IN THE TRIAL OF A**
3 **CRIMINAL CASE;**

4 **(2) THE DISTRICT COURT SHALL APPLY THE EVIDENTIARY**
5 **STANDARDS AS PRESCRIBED BY LAW FOR THE TRIAL OF A CRIMINAL CASE;**

6 **(3) THE DISTRICT COURT SHALL ENSURE THAT THE DEFENDANT HAS**
7 **RECEIVED A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE**
8 **DEFENDANT UNDERSTANDS THOSE CHARGES;**

9 **(4) THE DEFENDANT IS ENTITLED TO:**

10 **(I) CROSS-EXAMINE EACH WITNESS WHO APPEARS AGAINST**
11 **THE DEFENDANT;**

12 **(II) PRODUCE EVIDENCE AND WITNESSES ON THE DEFENDANT'S**
13 **OWN BEHALF;**

14 **(III) TESTIFY ON THE DEFENDANT'S OWN BEHALF IF THE**
15 **DEFENDANT CHOOSES TO DO SO; AND**

16 **(IV) BE REPRESENTED BY COUNSEL OF THE DEFENDANT'S OWN**
17 **SELECTION AND AT THE DEFENDANT'S EXPENSE;**

18 **(5) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY;**

19 **(6) THE VERDICT SHALL BE:**

20 **(I) GUILTY OF A CIVIL VIOLATION; OR**

21 **(II) NOT GUILTY OF A CIVIL VIOLATION; AND**

22 **(7) BEFORE ENTERING A JUDGMENT, THE DISTRICT COURT MAY**
23 **PLACE THE DEFENDANT ON PROBATION IN THE SAME MANNER AND TO THE SAME**
24 **EXTENT AS IS PERMITTED BY LAW IN A CRIMINAL CASE.**

25 **(G) IF A DEFENDANT IS FOUND GUILTY OF A VIOLATION UNDER THIS**
26 **SUBTITLE AND A FINE IS IMPOSED, THE DISTRICT COURT MAY DIRECT THAT THE**
27 **PAYMENT OF THE FINE BE SUSPENDED OR DEFERRED UNDER CONDITIONS**
28 **DETERMINED BY THE DISTRICT COURT.**

1 **(H) A DEFENDANT’S WILLFUL FAILURE TO PAY A FINE IMPOSED UNDER THIS**
2 **SUBTITLE MAY BE TREATED AS CRIMINAL CONTEMPT PUNISHABLE AS PROVIDED BY**
3 **LAW.**

4 **(I) A DEFENDANT WHO IS FOUND GUILTY OF A VIOLATION UNDER THIS**
5 **SUBTITLE, AS PROVIDED BY LAW FOR A CRIMINAL CASE, MAY FILE:**

6 **(1) AN APPEAL;**

7 **(2) A MOTION FOR A NEW TRIAL; OR**

8 **(3) A MOTION FOR A REVISION OF A JUDGMENT.**

9 **(J) THE STATE’S ATTORNEY FOR EACH COUNTY MAY:**

10 **(1) PROSECUTE A VIOLATION UNDER THIS SUBTITLE IN THE SAME**
11 **MANNER AS A PROSECUTION OF A CRIMINAL CASE, INCLUDING ENTERING A NOLLE**
12 **PROSEQUI OR PLACING THE CASE ON VIOLATION ON A STET DOCKET; AND**

13 **(2) EXERCISE AUTHORITY IN THE SAME MANNER PRESCRIBED BY LAW**
14 **FOR A VIOLATION OF THE CRIMINAL LAWS OF THE STATE.**

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2019.