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ENACTED

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VOLUME V

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CHAPTER 489

(House Bill 1116)

AN ACT concerning

Academic Facilities Bonding Authority

FOR the purpose of approving certain projects for the acquisition, development, and improvement of certain academic facilities for the University System of Maryland; authorizing the University System of Maryland to issue bonds to finance certain projects; providing that certain bonds are not a debt or obligation of the State or any of its political subdivisions; altering the purpose of a previously authorized academic facility project for the College of Liberal Arts at Towson University; and generally relating to academic facilities bonding authority.

BY repealing and reenacting, with amendments,
Chapter 415 of the Acts of the General Assembly of 2006
Section 2(1)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(1) In accordance with Section 19-102(d) of the Education Article of the Annotated Code of Maryland, ~~each of the following projects~~ the Coppin State University New Physical Education Complex (Baltimore City) is approved as a project for an academic facility, and the University System of Maryland may issue, sell, and deliver bonds in the total principal amount of \$15,000,000 for the purposes of financing and refinancing the costs of ~~these projects;~~ this project.

~~(A) University of Maryland, College Park (Prince George's County)~~

~~(i) New Journalism Building~~

~~(B) Coppin State University (Baltimore City)~~

~~(i) New Physical Education Complex~~

(2) In accordance with Section 19-102(d) of the Education Article of the Annotated Code of Maryland, such system-wide capital facilities renewal projects for the constituent institutions and centers of the University System of Maryland as are authorized by the Board are hereby approved as projects for academic facilities, and the University System of Maryland may issue, sell, and deliver bonds in the total

principal amount of \$15,000,000 for the purposes of financing and refinancing the costs of those facilities renewal projects.

(3) The bonds issued under the authority of this Act do not create or constitute any indebtedness or obligation of the State or of any political subdivision thereof except the University System of Maryland, and the bonds shall so state on their face. The bonds do not constitute a debt or obligation contracted by the General Assembly of Maryland or pledge the faith and credit of the State within the meaning of Article III, Section 34 of the Maryland Constitution.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Chapter 415 of the Acts of 2006

SECTION 2. AND BE IT FURTHER ENACTED, That:

(1) In accordance with Section 19-102(d) of the Education Article, each of the following projects is approved as a project for an academic facility, and the University System of Maryland may issue, sell, and deliver bonds in the total principal amount of \$10,000,000 for the purposes of financing and refinancing the costs of these projects:

- (A) University of Maryland, Baltimore (Baltimore City)
 - (i) Dental School Building – Equipment
- (B) Towson University (Baltimore County)
 - (i) College of Liberal Arts – [Planning] **CONSTRUCTION**

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 490

(House Bill 269)

AN ACT concerning

Walter Sondheim Jr. Public Service Summer Internship Scholarship Program

FOR the purpose of establishing the Walter Sondheim Jr. Public Service Summer Internship Scholarship Program at the Shriver Center at the University of Maryland, Baltimore County; establishing the purpose of the Program; requiring the Shriver Center to administer the Program; establishing a process for eligible students to participate in the Program; establishing certain priorities for participation in the Program; requiring the Shriver Center to award certain scholarships of a certain amount *subject to the availability of certain funds*; limiting the number of scholarships that may be awarded in certain years; requiring the Shriver Center to adopt certain policies; providing for the funding of the Program; requiring certain reports; and generally relating to the creation of the Walter Sondheim Jr. Public Service Summer Internship Scholarship Program.

BY adding to

Article – Education

Section 18–1701 through 18–1705 to be under the new subtitle “Subtitle 17. Walter Sondheim Jr. Public Service Summer Internship Scholarship Program”

Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Education

SUBTITLE 17. WALTER SONDHEIM JR. PUBLIC SERVICE SUMMER INTERNSHIP SCHOLARSHIP PROGRAM.

18–1701.

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

(B) “ELIGIBLE STUDENT” MEANS A JUNIOR, SENIOR, OR GRADUATE STUDENT WHO ATTENDS AN INSTITUTION OF HIGHER EDUCATION IN ~~OR~~ ~~OUTSIDE~~ THE STATE.

(C) “PROGRAM” MEANS THE WALTER SONDHEIM JR. PUBLIC SERVICE SUMMER INTERNSHIP SCHOLARSHIP PROGRAM.

(D) "SHRIVER CENTER" MEANS THE SHRIVER CENTER LOCATED AT THE UNIVERSITY OF MARYLAND, BALTIMORE COUNTY.

(E) "SUMMER INTERNSHIP" MEANS A PAID OR UNPAID SUMMER INTERNSHIP IN THE STATE WITH:

(1) AN ORGANIZATION, INSTITUTION, ASSOCIATION, SOCIETY, OR CORPORATION THAT:

(I) IS EXEMPT FROM TAXATION UNDER § 501(c)(3) OR (4) OF THE INTERNAL REVENUE CODE OF 1986; AND

(II) AFFORDS THE STUDENT THE OPPORTUNITY TO PARTICIPATE IN AND SUPPORT MANAGEMENT FUNCTIONS, INCLUDING BOARD GOVERNANCE, EXECUTIVE LEADERSHIP, FINANCIAL MANAGEMENT, HUMAN RESOURCES, FUNDRAISING, OR FACILITIES MANAGEMENT; OR

(2) THE STATE OR ANY LOCAL GOVERNMENT IN THE STATE.

18-1702.

(A) THERE IS A SCHOLARSHIP PROGRAM KNOWN AS THE WALTER SONDHEIM JR. PUBLIC SERVICE SUMMER INTERNSHIP SCHOLARSHIP PROGRAM IN THE STATE.

(B) THE PURPOSE OF THE PROGRAM IS TO ASSIST COLLEGE AND GRADUATE STUDENTS TO EXPLORE PUBLIC SERVICE CAREER OPPORTUNITIES THROUGH SUMMER INTERNSHIPS.

(C) THE SHRIVER CENTER SHALL ADMINISTER THE PROGRAM.

(D) ~~(1)~~ ON OR BEFORE JANUARY 1 OF EACH YEAR, AN INSTITUTION OF HIGHER EDUCATION IN THE STATE MAY NOMINATE ELIGIBLE STUDENTS TO PARTICIPATE IN THE PROGRAM.

~~(2) AN ELIGIBLE STUDENT ATTENDING AN INSTITUTION OF HIGHER EDUCATION OUTSIDE OF THE STATE MAY APPLY DIRECTLY TO THE SHRIVER CENTER TO PARTICIPATE IN THE PROGRAM.~~

(E) PRIORITY FOR PARTICIPATION IN THE PROGRAM SHALL BE GIVEN TO AN ELIGIBLE STUDENT WHO:

(1) IS A RESIDENT OF THE STATE;

(2) HAS DEMONSTRATED AN INTEREST IN A CAREER IN PUBLIC SERVICE; AND

(3) ASSISTS IN PROVIDING:

(I) LEGAL SERVICES TO LOW INCOME RESIDENTS IN THE STATE WHO CANNOT AFFORD LEGAL SERVICES;

(II) SOCIAL WORK SERVICES TO LOW INCOME RESIDENTS IN THE STATE;

(III) NURSING SERVICES IN NURSING SHORTAGE AREAS IN THE STATE AS DEFINED IN § 18-802 OF THIS TITLE; OR

(IV) OTHER SERVICES IN THE PUBLIC OR NONPROFIT SECTORS IN WHICH THERE IS A SHORTAGE OF QUALIFIED PRACTITIONERS TO LOW-INCOME OR UNDERSERVED RESIDENTS OR AREAS OF THE STATE.

(F) (1) ~~ON~~ SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, ON OR BEFORE MAY 1 OF EACH YEAR, THE SHRIVER CENTER SHALL AWARD SCHOLARSHIPS TO ELIGIBLE STUDENTS WHO HAVE AGREED TO SERVE IN A PUBLIC SERVICE SUMMER INTERNSHIP.

(2) THE SHRIVER CENTER SHALL AWARD NO MORE THAN:

(I) 75 SCHOLARSHIPS FOR THE SUMMER OF 2008; AND

(II) 100 SCHOLARSHIPS FOR THE SUMMER OF 2009.

(3) FUNDS FOR THE SCHOLARSHIPS AWARDED UNDER THIS SUBTITLE SHALL BE AS PROVIDED IN THE STATE BUDGET.

(G) ~~THE~~ SUBJECT TO THE AVAILABILITY OF FUNDS, THE SCHOLARSHIP AWARD UNDER THE PROGRAM SHALL BE \$3,000.

(H) THE SHRIVER CENTER SHALL SERVE AS A CLEARINGHOUSE FOR PUBLIC AND NONPROFIT ENTITIES WHO WISH TO HIRE PUBLIC SERVICE SUMMER INTERNS PARTICIPATING IN THE PROGRAM.

18-1703.

(A) THE SHRIVER CENTER SHALL ADOPT POLICIES TO ESTABLISH:

(1) THE CRITERIA FOR ELIGIBILITY IN THE PROGRAM;

(2) A PROCEDURE AND SCHEDULE FOR THE PAYMENT OF THE SCHOLARSHIP AWARD PROVIDED TO AN ELIGIBLE STUDENT; AND

(3) A PROCEDURE FOR THE REPAYMENT OF THE SCHOLARSHIP AWARD IF A STUDENT DOES NOT FULFILL THE INTERNSHIP REQUIREMENTS UNDER THE PROGRAM.

(B) THE SHRIVER CENTER SHALL ADOPT ANY OTHER POLICIES NECESSARY TO IMPLEMENT THIS SUBTITLE.

18-1704.

(A) FUNDS FOR THE WALTER SONDHEIM JR. PUBLIC SERVICE SUMMER INTERNSHIP SCHOLARSHIP PROGRAM ~~SHALL~~ MAY BE PROVIDED ON AN ANNUAL BASIS IN THE STATE BUDGET.

(B) THE GOVERNOR ~~SHALL~~ MAY PROVIDE FUNDING IN THE STATE BUDGET TO THE SHRIVER CENTER TO ADMINISTER THE PROGRAM.

18-1705.

SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE SHRIVER CENTER SHALL REPORT TO THE GENERAL ASSEMBLY BY JANUARY 1 OF EACH YEAR ON THE IMPLEMENTATION OF THE PROGRAM.

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

Approved by the Governor, May 17, 2007.

CHAPTER 491

(Senate Bill 834)

AN ACT concerning

Education Delegate Howard P. Rawlings Program of Educational Excellence Awards - Educational Excellence Awards Guaranteed Access Grants - Eligibility Determination

FOR the purpose of *designating a certain financial assistance program as the Delegate Howard P. Rawlings Program of Educational Excellence Awards*; prohibiting the Office of Student Financial Assistance from taking into consideration an applicant's receipt of certain tax credits for purposes of determining eligibility for ~~an Educational Excellence Award~~ a Guaranteed Access Grant; *requiring the publishers of the Annotated Code of Maryland to correct certain terminology rendered incorrect by this Act and to describe certain corrections in a certain editor's note*; and generally relating to *the Delegate Howard P. Rawlings Program of Educational Excellence Awards and determining an applicant's eligibility for* ~~an Educational Excellence Award~~ a Guaranteed Access Grant.

BY repealing and reenacting, without amendments,
Article - Education
Section 18-301
Annotated Code of Maryland
(2006 Replacement Volume)

BY repealing and reenacting, with amendments,
Article - Education
Section ~~18-307~~ 18-303
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article - Education

18-301.

(a) There is a ***DELEGATE HOWARD P. RAWLINGS*** Program of Educational Excellence Awards in this State that are awarded under this subtitle.

(b) The Program shall consist of the following types of awards:

(1) Guaranteed Access Grants that are awarded to the neediest students to ensure that 100 percent of educational costs, as defined by regulations adopted by the Commission, are paid; and

(2) Educational Assistance Grants that are awarded to low and moderate income students to assist in paying educational costs, as defined by regulations adopted by the Commission.

~~18-307.~~

~~(a) (1) Except as provided in subsection (d) of this section, the Office shall compile and certify lists for the entire State that rank applicants by financial need.~~

~~(2) TO DETERMINE THE FINANCIAL NEED OF AN APPLICANT, THE OFFICE MAY NOT CONSIDER AN AMOUNT RECEIVED BY THE APPLICANT AS AN EARNED INCOME CREDIT UNDER § 32 OF THE INTERNAL REVENUE CODE.~~

~~(b) All funds for annual initial grants shall be awarded from the statewide list on the basis of greatest financial need.~~

~~(c) On or before May 1 of each year, the Office shall send each Senator and each Delegate a list of individuals in each legislative district to whom Educational Excellence Awards are awarded.~~

~~(d) (1) (i) If State funds are available for this purpose, institutions of higher education in the State may provide Educational Excellence Awards to students who otherwise meet the requirements for receiving an Educational Excellence Award but who apply after the March 1 deadline or have other extenuating circumstances.~~

~~(ii) Each year the Commission shall transfer at least \$2 million of the funds available under § 18-107(b) of this title for the purposes of this subsection.~~

~~(2) The Commission shall:~~

~~(i) Establish guidelines for the awarding of Educational Excellence Awards by the institutions of higher education to the students; and~~

~~(ii) Adopt regulations necessary for the implementation of this subsection.~~

~~(3) (i) The Commission shall allocate available funds to institutions of higher education based on the proportion of State residents enrolled at each institution who receive federal Pell Grants.~~

~~(ii) An institution of higher education that receives funds under this paragraph shall provide the Commission with an annual audit describing the disposition of the funds.~~

18-303.

(a) Subject to subsection [(c)] (D) of this section, each recipient of ~~an~~ A DELEGATE HOWARD P. RAWLINGS Educational Excellence Award shall:

(1) Be accepted for admission in the regular undergraduate program at an eligible institution or be enrolled in a 2-year associate degree program in which the course work is acceptable for transfer credit for an accredited baccalaureate program in an eligible institution;

(2) Be a resident of this State;

(3) Demonstrate to the Office a definite financial need; and

(4) Accept any other conditions attached to the award.

(b) Each recipient of a Guaranteed Access Grant shall:

(1) Have attained a grade point average of at least 2.5 on a 4.0 scale or its equivalent at the end of the first semester of the senior year in high school and have completed high school or, failing to do so, on the recommendation of the recipient's high school principal, provide evidence satisfactory to the Office of extenuating circumstances;

(2) Begin college within 1 year of completing high school or, failing to do so, provide evidence satisfactory to the Office of extenuating circumstances;

(3) Be under the age of 22 years at the time of receiving the first award;

(4) Have successfully completed a college preparatory program in high school;

(5) Enroll in college as a full-time student;

(6) [Have] SUBJECT TO SUBSECTION (C) OF THIS SECTION, HAVE an annual family income below a poverty index determined by the Commission; and

(7) Satisfy any additional criteria the Commission may establish.

(C) TO DETERMINE THE ANNUAL FAMILY INCOME ELIGIBILITY OF AN APPLICANT FOR A GUARANTEED ACCESS GRANT, THE OFFICE MAY NOT CONSIDER AN AMOUNT RECEIVED BY THE APPLICANT AS AN EARNED INCOME CREDIT UNDER § 32 OF THE INTERNAL REVENUE CODE.

[(c)] (D) A student in grade 9 or grade 10 who applies and qualifies for a Guaranteed Access Grant on the basis of financial need as established by the Commission shall prequalify for a Guaranteed Access Grant to be used at the time of enrollment in an institution of higher education by agreeing in writing, as a secondary and undergraduate student, to:

- (1) Satisfy the attendance policy of the applicable school;
- (2) Refrain from substance abuse;
- (3) Provide information required by the Commission or the State Board of Education;
- (4) Complete and file on a timely basis applications for federal student aid for each year that the student plans to enroll in postsecondary education;
- (5) Participate in the College Readiness Outreach Program established in § 18-303.1 of this subtitle until the student graduates from high school and matriculates at an institution of higher education; and
- (6) Satisfy any other program requirements set by the Office, the Commission, the State Board of Education, or the State Department of Education.

SECTION 2. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with the Department of Legislative Services, shall correct, with no further action required by the General Assembly, terminology under Title 18, Subtitle 3 of the Education Article referring to the Program of Educational Excellence Awards rendered incorrect by this Act. The publisher shall adequately describe any such correction in an editor's note following an affected section.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 492

(Senate Bill 130)

AN ACT concerning

Public Safety – State Aid for Police Protection Fund – Municipal Sworn Officer Allocation

FOR the purpose of increasing certain State payments to certain municipalities for certain sworn police officers employed by certain municipalities; ~~providing that certain payments begin in a certain fiscal year; requiring that, subject to a certain limitation, certain payments to municipalities be adjusted for inflation using a certain index beginning in a certain fiscal year; providing that the annual rate of change for certain payments to municipalities may not exceed a certain rate;~~ and generally relating to certain State payments to certain municipalities for certain sworn police officers employed by certain municipalities.

BY repealing and reenacting, with amendments,
Article 41 – Governor – Executive and Administrative Departments
Section 4-403(b)(8)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article 41 – Governor – Executive and Administrative Departments

4-403.

(b) Subject to subsection (d) of this section, for the fiscal year beginning July 1, 2004, and thereafter, the State shall pay to each subdivision, and to each qualifying municipality, each year in the manner and subject to the limitations and requirements hereinafter provided, an amount determined as follows:

(8) Municipal Sworn Officer Allocation.

~~(i) The~~ **FOR FISCAL YEAR 2009 AND EACH FISCAL YEAR THEREAFTER,** THE State shall pay to each qualifying municipality, in addition to the payments made under paragraphs (1) through (7) of this subsection an amount equal to ~~[\$1,800] \$2,400~~ **\$1,950** for each sworn police officer actually employed on a full-time basis by the qualifying municipality, as determined by the Secretary of State Police.

~~(ii) SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, BEGINNING IN FISCAL YEAR 2010 AND IN EACH FISCAL YEAR THEREAFTER, THE SECRETARY OF THE STATE POLICE SHALL ADJUST FOR INFLATION THE PAYMENTS TO QUALIFYING MUNICIPALITIES UNDER THIS PARAGRAPH USING THE CONSUMER PRICE INDEX – ALL URBAN CONSUMERS (CPI-U) FOR THE~~

~~CALENDAR YEAR ENDING DECEMBER 31 OF THE PRECEDING FISCAL YEAR, AS PUBLISHED BY THE U.S. DEPARTMENT OF LABOR.~~

~~(H) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE ANNUAL RATE OF CHANGE FOR THE PAYMENTS TO QUALIFYING MUNICIPALITIES UNDER THIS PARAGRAPH MAY NOT EXCEED A MAXIMUM RATE OF 5%.~~

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

Approved by the Governor, May 17, 2007.

CHAPTER 493

(House Bill 611)

AN ACT concerning

Public Safety – State Aid for Police Protection Fund – Municipal Sworn Officer Allocation

FOR the purpose of increasing certain State payments to certain municipalities for certain sworn police officers employed by certain municipalities; ~~requiring that, subject to a certain limitation, certain payments to municipalities be adjusted for inflation using a certain index beginning in a certain fiscal year; providing that the annual rate of change for certain payments to municipalities may not exceed a certain rate; providing that certain payments begin in a certain fiscal year;~~ and generally relating to certain State payments to certain municipalities for certain sworn police officers employed by certain municipalities.

BY repealing and reenacting, with amendments,
Article 41 – Governor – Executive and Administrative Departments
Section 4-403(b)(8)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article 41 – Governor – Executive and Administrative Departments

4-403.

(b) Subject to subsection (d) of this section, for the fiscal year beginning July 1, 2004, and thereafter, the State shall pay to each subdivision, and to each qualifying municipality, each year in the manner and subject to the limitations and requirements hereinafter provided, an amount determined as follows:

(8) Municipal Sworn Officer Allocation.

~~(i) The~~ **FOR FISCAL YEAR 2009 AND EACH FISCAL YEAR THEREAFTER, THE** State shall pay to each qualifying municipality, in addition to the payments made under paragraphs (1) through (7) of this subsection an amount equal to ~~[\$1,800] \$2,400~~ **\$1,950** for each sworn police officer actually employed on a full-time basis by the qualifying municipality, as determined by the Secretary of State Police.

~~(ii) SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, BEGINNING IN FISCAL YEAR 2010 AND IN EACH FISCAL YEAR THEREAFTER, THE SECRETARY OF THE STATE POLICE SHALL ADJUST FOR INFLATION THE PAYMENTS TO QUALIFYING MUNICIPALITIES UNDER THIS PARAGRAPH USING THE CONSUMER PRICE INDEX - ALL URBAN CONSUMERS (CPI-U) FOR THE CALENDAR YEAR ENDING DECEMBER 31 OF THE PRECEDING FISCAL YEAR, AS PUBLISHED BY THE U.S. DEPARTMENT OF LABOR.~~

~~(iii) NOTWITHSTANDING SUBPARAGRAPH (ii) OF THIS PARAGRAPH, THE ANNUAL RATE OF CHANGE FOR THE PAYMENTS TO QUALIFYING MUNICIPALITIES UNDER THIS PARAGRAPH MAY NOT EXCEED A MAXIMUM RATE OF 5%.~~

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

Approved by the Governor, May 17, 2007.

CHAPTER 494

(Senate Bill 413)

AN ACT concerning

Jessica's Law – Sexual Offenses – Parole Eligibility and Mandatory Minimum Sentences

FOR the purpose of providing that persons who are convicted of certain sexual offenses are not eligible for parole during certain mandatory minimum sentences; ~~prohibiting a certain person from engaging in certain sexual contact with a child who is under a certain age; establishing a certain penalty; prohibiting a court from suspending any part of a sentence for a certain sexual offense committed against a child under a certain age; requiring the State to provide a certain notification if the State intends to seek a certain sentence under certain circumstances; creating a certain exception;~~ and generally relating to sexual offenses involving children.

BY repealing and reenacting, with amendments,
 Article – Criminal Law
 Section 3–303 through ~~3–307~~ 3–306
 Annotated Code of Maryland
 (2002 Volume and 2006 Supplement)

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

Article – Criminal Law

3–303.

(a) A person may not:

(1) engage in vaginal intercourse with another by force, or the threat of force, without the consent of the other; and

(2) (i) employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;

(ii) suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;

(iii) threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping;

(iv) commit the crime while aided and abetted by another; or

(v) commit the crime in connection with a burglary in the first, second, or third degree.

(b) A person may not violate subsection (a) of this section while also violating § 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

(c) A person 18 years of age or older may not violate subsection (a) of this section involving a victim who is a child under the age of 13 years.

(d) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life.

(2) A person who violates subsection (b) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole.

(3) A person who violates this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole if the defendant was previously convicted of violating this section or § 3-305 of this subtitle.

(4) (i) Subject to subparagraph [(iii)] (IV) of this paragraph, a person 18 years of age or older who violates subsection (c) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment for not less than 25 years and not exceeding life without the possibility of parole.

(ii) A court may not suspend any part of the mandatory minimum sentence of 25 years.

[(iii)] (IV) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE MANDATORY MINIMUM SENTENCE.

[(iii)] (IV) If the State fails to comply with subsection (e) of this section, the mandatory minimum sentence shall not apply.

(e) If the State intends to seek a sentence of imprisonment for life without the possibility of parole under subsection (d)(2), (3), or (4) of this section, or imprisonment for not less than 25 years under subsection (d)(4) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

3-304.

(a) A person may not engage in vaginal intercourse with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph [(iii)] (IV) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment for not less than 5 years and not exceeding 20 years.

(ii) A court may not suspend any part of the mandatory minimum sentence of 5 years.

(iii) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE MANDATORY MINIMUM SENTENCE.

[(iii)](IV) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) If the State intends to seek a sentence of imprisonment for not less than 5 years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

3-305.

(a) A person may not:

(1) engage in a sexual act with another by force, or the threat of force, without the consent of the other; and

(2) (i) employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;

(ii) suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;

(iii) threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping;

(iv) commit the crime while aided and abetted by another; or

(v) commit the crime in connection with a burglary in the first, second, or third degree.

(b) A person may not violate subsection (a) of this section while also violating § 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

(c) A person 18 years of age or older may not violate subsection (a) of this section involving a victim who is a child under the age of 13 years.

(d) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life.

(2) A person who violates subsection (b) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole.

(3) A person who violates this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole if the defendant was previously convicted of violating this section or § 3-303 of this subtitle.

(4) (i) Subject to subparagraph [(iii)] (IV) of this paragraph, a person 18 years of age or older who violates subsection (c) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment for not less than 25 years and not exceeding life without the possibility of parole.

(ii) A court may not suspend any part of the mandatory minimum sentence of 25 years.

(III) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE MANDATORY MINIMUM SENTENCE.

~~[(iii)](IV)~~ If the State fails to comply with subsection (e) of this section, the mandatory minimum sentence shall not apply.

(e) If the State intends to seek a sentence of imprisonment for life without the possibility of parole under subsection (d)(2), (3), or (4) of this section, or imprisonment for not less than 25 years under subsection (d)(4) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

3-306.

(a) A person may not engage in a sexual act with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the sexual act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the sexual act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph ~~[(iii)] (IV)~~ of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment for not less than 5 years and not exceeding 20 years.

(ii) A court may not suspend any part of the mandatory minimum sentence of 5 years.

(III) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE MANDATORY MINIMUM SENTENCE.

~~[(iii)] (IV)~~ If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) If the State intends to seek a sentence of imprisonment for not less than 5 years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

~~3-307.~~

~~(a) A person may not:~~

~~(1) (i) engage in sexual contact with another without the consent of the other; and~~

~~(ii) 1. employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;~~

~~2. suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;~~

~~3. threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping; or~~

~~4. commit the crime while aided and abetted by another;~~

~~(2) engage in sexual contact with another if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual;~~

~~(3) engage in sexual contact with another if the victim is under the age of 14 years, and the person performing the sexual contact is at least 4 years older than the victim;~~

~~(4) engage in a sexual act with another if the victim is 14 or 15 years old, and the person performing the sexual act is at least 21 years old; or~~

~~(5) engage in vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the act is at least 21 years old.~~

~~(B) A PERSON 18 YEARS OF AGE OR OLDER MAY NOT VIOLATE SUBSECTION (A)(1) OR (2) OF THIS SECTION INVOLVING A VICTIM WHO IS A CHILD UNDER THE AGE OF 13 YEARS.~~

~~[(b)] (c) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A person who violates SUBSECTION (A) OF this section is guilty of the~~

~~felony of sexual offense in the third degree and on conviction is subject to imprisonment not exceeding 10 years.~~

~~(2) (i) SUBJECT TO SUBPARAGRAPH (iv) OF THIS PARAGRAPH, A PERSON 18 YEARS OF AGE OR OLDER WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF THE FELONY OF SEXUAL OFFENSE IN THE THIRD DEGREE AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 2 YEARS AND NOT EXCEEDING 10 YEARS.~~

~~(ii) A COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 2 YEARS.~~

~~(iii) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE MANDATORY MINIMUM SENTENCE.~~

~~(iv) IF THE STATE FAILS TO COMPLY WITH SUBSECTION (D) OF THIS SECTION, THE MANDATORY MINIMUM SENTENCE SHALL NOT APPLY.~~

~~(D) IF THE STATE INTENDS TO SEEK A SENTENCE OF IMPRISONMENT FOR NOT LESS THAN 2 YEARS UNDER SUBSECTION (C)(2) OF THIS SECTION, THE STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S INTENTION AT LEAST 30 DAYS BEFORE TRIAL.~~

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

Approved by the Governor, May 17, 2007.

CHAPTER 495

(House Bill 930)

AN ACT concerning

Jessica's Law - Sexual Offenses - Parole Eligibility and Mandatory Minimum Sentences

FOR the purpose of providing that persons who are convicted of certain sexual offenses are not eligible for parole during certain mandatory minimum sentences; ~~prohibiting a certain person from engaging in certain sexual contact with a child who is under a certain age; establishing a certain penalty; prohibiting a court~~

~~from suspending any part of a sentence for a certain sexual offense committed against a child under a certain age; requiring the State to provide a certain notification if the State intends to seek a certain sentence under certain circumstances; creating a certain exception; and generally relating to sexual offenses involving children.~~

BY repealing and reenacting, with amendments,
Article - Criminal Law
Section 3-303 through ~~3-307~~ 3-306
Annotated Code of Maryland
(2002 Volume and 2006 Supplement)

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

Article - Criminal Law

3-303.

(a) A person may not:

(1) engage in vaginal intercourse with another by force, or the threat of force, without the consent of the other; and

(2) (i) employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;

(ii) suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;

(iii) threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping;

(iv) commit the crime while aided and abetted by another; or

(v) commit the crime in connection with a burglary in the first, second, or third degree.

(b) A person may not violate subsection (a) of this section while also violating § 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

(c) A person 18 years of age or older may not violate subsection (a) of this section involving a victim who is a child under the age of 13 years.

(d) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life.

(2) A person who violates subsection (b) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole.

(3) A person who violates this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole if the defendant was previously convicted of violating this section or § 3-305 of this subtitle.

(4) (i) Subject to subparagraph [(iii)] (IV) of this paragraph, a person 18 years of age or older who violates subsection (c) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment for not less than 25 years and not exceeding life without the possibility of parole.

(ii) A court may not suspend any part of the mandatory minimum sentence of 25 years.

[(iii)] (IV) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE MANDATORY MINIMUM SENTENCE.

[(iii)] (IV) If the State fails to comply with subsection (e) of this section, the mandatory minimum sentence shall not apply.

(e) If the State intends to seek a sentence of imprisonment for life without the possibility of parole under subsection (d)(2), (3), or (4) of this section, or imprisonment for not less than 25 years under subsection (d)(4) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

3-304.

(a) A person may not engage in vaginal intercourse with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph [(iii)] (IV) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment for not less than 5 years and not exceeding 20 years.

(ii) A court may not suspend any part of the mandatory minimum sentence of 5 years.

[(iii)] (IV) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE MANDATORY MINIMUM SENTENCE.

[(iii)](IV) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) If the State intends to seek a sentence of imprisonment for not less than 5 years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

3-305.

(a) A person may not:

(1) engage in a sexual act with another by force, or the threat of force, without the consent of the other; and

(2) (i) employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;

(ii) suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;

(iii) threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping;

(iv) commit the crime while aided and abetted by another; or

(v) commit the crime in connection with a burglary in the first, second, or third degree.

(b) A person may not violate subsection (a) of this section while also violating § 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

(c) A person 18 years of age or older may not violate subsection (a) of this section involving a victim who is a child under the age of 13 years.

(d) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life.

(2) A person who violates subsection (b) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole.

(3) A person who violates this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole if the defendant was previously convicted of violating this section or § 3-303 of this subtitle.

(4) (i) Subject to subparagraph [(iii)] **(IV)** of this paragraph, a person 18 years of age or older who violates subsection (c) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment for not less than 25 years and not exceeding life without the possibility of parole.

(ii) A court may not suspend any part of the mandatory minimum sentence of 25 years.

(III) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE MANDATORY MINIMUM SENTENCE.

[(iii)]**(IV)** If the State fails to comply with subsection (e) of this section, the mandatory minimum sentence shall not apply.

(e) If the State intends to seek a sentence of imprisonment for life without the possibility of parole under subsection (d)(2), (3), or (4) of this section, or imprisonment for not less than 25 years under subsection (d)(4) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

3-306.

(a) A person may not engage in a sexual act with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the sexual act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the sexual act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph [(iii)] (IV) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment for not less than 5 years and not exceeding 20 years.

(ii) A court may not suspend any part of the mandatory minimum sentence of 5 years.

(iii) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE MANDATORY MINIMUM SENTENCE.

[(iii)] (IV) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) If the State intends to seek a sentence of imprisonment for not less than 5 years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

~~3-307.~~

~~(a) A person may not:~~

~~(1) (i) engage in sexual contact with another without the consent of the other; and~~

~~(ii) 1. employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;~~

~~2. suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;~~

~~3. threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping; or~~

~~4. commit the crime while aided and abetted by another;~~

~~(2) engage in sexual contact with another if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual;~~

~~(3) engage in sexual contact with another if the victim is under the age of 14 years, and the person performing the sexual contact is at least 4 years older than the victim;~~

~~(4) engage in a sexual act with another if the victim is 14 or 15 years old, and the person performing the sexual act is at least 21 years old; or~~

~~(5) engage in vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the act is at least 21 years old.~~

~~(B) A PERSON 18 YEARS OF AGE OR OLDER MAY NOT VIOLATE SUBSECTION (A)(1) OR (2) OF THIS SECTION INVOLVING A VICTIM WHO IS A CHILD UNDER THE AGE OF 13 YEARS.~~

~~[(b)] (c) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A person who violates SUBSECTION (A) OF this section is guilty of the felony of sexual offense in the third degree and on conviction is subject to imprisonment not exceeding 10 years.~~

~~(2) (i) SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH, A PERSON 18 YEARS OF AGE OR OLDER WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF THE FELONY OF SEXUAL OFFENSE IN THE THIRD DEGREE AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 2 YEARS AND NOT EXCEEDING 10 YEARS.~~

~~(II) A COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 2 YEARS.~~

~~(III) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE MANDATORY MINIMUM SENTENCE.~~

~~(IV) IF THE STATE FAILS TO COMPLY WITH SUBSECTION (D) OF THIS SECTION, THE MANDATORY MINIMUM SENTENCE SHALL NOT APPLY.~~

~~(D) IF THE STATE INTENDS TO SEEK A SENTENCE OF IMPRISONMENT FOR NOT LESS THAN 2 YEARS UNDER SUBSECTION (C)(2) OF THIS SECTION, THE STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S INTENTION AT LEAST 30 DAYS BEFORE TRIAL.~~

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

Approved by the Governor, May 17, 2007.

CHAPTER 496

(House Bill 713)

AN ACT concerning

Maryland Gang Prosecution Act of 2007

FOR the purpose of prohibiting a person from participating in a certain criminal gang knowing that the members of the gang engage in ~~or have engaged in~~ a certain pattern of criminal gang activity; prohibiting a person from knowingly and willfully promoting, furthering, or assisting in a directing or participating in a certain criminal offense committed for the benefit of, at the direction of, or in association with a criminal gang; prohibiting a person from committing a violation of this Act involving the commission of an offense that results in the death of the victim; establishing penalties for a violation of this Act; establishing that a sentence imposed under this Act may be separate from and consecutive to or concurrent with a sentence for a crime based on the act establishing a violation of this Act; providing that a defendant may only be charged with a violation under this Act by indictment, criminal information, or a petition alleging a delinquent act; authorizing the Attorney General, ~~with the~~

~~consent~~ at the request of a certain State's Attorney, to aid in a certain investigation and prosecution under certain circumstances; establishing that the Attorney General has all the powers and duties of a State's Attorney in certain circumstances; authorizing certain State's Attorneys or the Attorney General to join certain causes of action in certain circumstances; authorizing a certain grand jury to conduct a certain investigation; requiring the Attorney General and the Maryland State's Attorneys' Association to provide the General Assembly with a certain report; defining ~~a certain term~~ certain terms; altering a certain term; and generally relating to criminal gangs.

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 9–801

Annotated Code of Maryland

(2002 Volume and 2006 Supplement)

BY adding to

Article – Criminal Law

Section 9–804

Annotated Code of Maryland

(2002 Volume and 2006 Supplement)

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

Article – Criminal Law

9–801.

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

(b) “Coerce” means to compel or attempt to compel another by threat of harm or other adverse consequences.

(c) “Criminal gang” means a group or [any] ~~OTHER FORMAL OR INFORMAL~~ ONGOING association of three or more persons **WHOSE MEMBERS:**

(1) [that forms to] ~~INDIVIDUALLY OR~~ INDIVIDUALLY OR COLLECTIVELY engage in A PATTERN OF criminal GANG activity;

(2) **HAVE AS ONE OF THEIR PRIMARY OBJECTIVES OR ACTIVITIES THE COMMISSION OF ONE OR MORE** ~~CRIMINAL ACTIVITIES~~ UNDERLYING CRIMES, including acts by juveniles that would be UNDERLYING crimes if committed by adults[, for the purposes of pecuniary gain or to create an atmosphere of fear and

intimidation either collectively or with knowledge of the acts of the members of the group]; and

~~[(2)] (3)~~ [whose members] have [a] IN common AN identifying sign, symbol, [or] name, LEADER, OR PURPOSE.

(d) **“PATTERN OF CRIMINAL GANG ACTIVITY” MEANS THE COMMISSION OF, ATTEMPTED COMMISSION OF, CONSPIRACY TO COMMIT, OR SOLICITATION OF TWO OR MORE ~~OF THE FOLLOWING~~ UNDERLYING CRIMES OR ACTS BY A JUVENILE THAT WOULD BE ~~A~~ AN UNDERLYING CRIME IF COMMITTED BY AN ADULT, PROVIDED THE CRIMES OR ACTS WERE NOT PART OF THE SAME INCIDENT.**

~~(1) A CRIME OF VIOLENCE AS DEFINED UNDER § 14-101 OF THIS ARTICLE;~~

~~(2) A VIOLATION OF §§ 3-203, 3-210, 4-503, 5-601, 5-602, 6-103, 6-107, 6-109, 6-202, 6-203, 6-204, 7-104, 7-105, 9-302, 9-303, 9-304, 11-303, 11-304, 11-305, AND 11-306 OF THIS ARTICLE; AND~~

~~(3) A VIOLATION OF §§ 5-133, 5-134, AND 5-136 OF THE PUBLIC SAFETY ARTICLE.~~

(E) “Solicit” has the meaning stated in § 11-301 of this article.

(F) “UNDERLYING CRIME” MEANS:

(1) A CRIME OF VIOLENCE AS DEFINED UNDER § 14-101 OF THIS ARTICLE;

(2) A FELONY VIOLATION OF §§ 3-203, 3-701, 4-503, 5-602, 6-103, 6-109, 6-202, 6-203, 6-204, 7-104, 7-105, 9-302, 9-303, OR 9-305 OF § 3-203, § 3-701, § 4-503, § 5-602, § 6-103, § 6-109, § 6-202, § 6-203, § 6-204, § 7-104, § 7-105, § 9-302, § 9-303, OR § 9-305 OF THIS ARTICLE; OR

(3) A FELONY VIOLATION OF § 5-133 OF THE PUBLIC SAFETY ARTICLE.

9-804.

(A) A PERSON MAY NOT:

(1) PARTICIPATE IN A CRIMINAL GANG KNOWING THAT THE MEMBERS OF THE GANG ENGAGE IN ~~OR HAVE ENGAGED IN A~~ AN ONGOING PATTERN OF CRIMINAL GANG ACTIVITY; AND

(2) ~~WILLFULLY PROMOTE, FURTHER, OR ASSIST IN A CRIMINAL OFFENSE~~ KNOWINGLY AND WILLFULLY DIRECT OR PARTICIPATE IN THE COMMISSION OF AN UNDERLYING CRIME, OR ACT BY A JUVENILE THAT WOULD BE AN UNDERLYING CRIME IF COMMITTED BY AN ADULT, COMMITTED FOR THE BENEFIT OF, AT THE DIRECTION OF, OR IN ASSOCIATION WITH A CRIMINAL GANG.

(B) A PERSON MAY NOT COMMIT A VIOLATION OF SUBSECTION (A) OF THIS SECTION INVOLVING THE COMMISSION OF AN UNDERLYING CRIME THAT RESULTS IN THE DEATH OF A VICTIM.

~~(B)~~ (C) (1) (I) ~~A~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING ~~30~~ 10 YEARS OR A FINE NOT EXCEEDING \$100,000 OR BOTH.

(II) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS OR A FINE NOT EXCEEDING \$100,000 OR BOTH.

(2) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED ON THE ACT ESTABLISHING A VIOLATION OF THIS SECTION.

~~(C)~~ (D) A PERSON MAY ~~ONLY~~ BE CHARGED WITH A VIOLATION OF THIS SECTION ONLY BY INDICTMENT, CRIMINAL INFORMATION, OR PETITION ALLEGING A DELINQUENT ACT.

~~(D)~~ (E) (1) THE ATTORNEY GENERAL, ~~WITH THE CONSENT AT THE REQUEST OF THE STATE'S ATTORNEY FOR A COUNTY IN WHICH A VIOLATION OR AN ACT ESTABLISHING A VIOLATION OF THIS SECTION OCCURS, MAY:~~

(I) AID IN THE INVESTIGATION OF THE VIOLATION OR ACT;
AND

(II) PROSECUTE THE VIOLATION OR ACT.

(2) IN EXERCISING AUTHORITY UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ATTORNEY GENERAL HAS ALL THE POWERS AND DUTIES OF A STATE'S ATTORNEY, INCLUDING THE USE OF THE GRAND JURY IN THE COUNTY, TO PROSECUTE THE VIOLATION.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN CIRCUMSTANCES IN WHICH VIOLATIONS OF THIS SECTION ARE ALLEGED TO HAVE BEEN COMMITTED IN MORE THAN ONE COUNTY, THE RESPECTIVE STATE'S ATTORNEY OF EACH COUNTY, OR THE ATTORNEY GENERAL, MAY JOIN THE CAUSES OF ACTION IN A SINGLE COMPLAINT WITH THE CONSENT OF EACH STATE'S ATTORNEY HAVING JURISDICTION OVER AN OFFENSE SOUGHT TO BE JOINED.

~~(E)~~ (F) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND PROVIDED AT LEAST ONE CRIMINAL GANG ACTIVITY OF A CRIMINAL GANG ALLEGEDLY OCCURRED IN THE COUNTY IN WHICH A GRAND JURY IS SITTING, THE GRAND JURY MAY ISSUE SUBPOENAS, SUMMON WITNESSES, AND OTHERWISE CONDUCT AN INVESTIGATION OF THE ALLEGED CRIMINAL GANG'S ACTIVITIES AND OFFENSES IN OTHER COUNTIES.

SECTION 2. AND BE IT FURTHER ENACTED, That the Attorney General and the Maryland State's Attorneys' Association shall report to the General Assembly on or before January 1, 2008, in accordance with § 2-1246 of the State Government Article, on recommendations for additional legislation to aid in the prosecution of gang activity.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 497

(House Bill 785)

AN ACT concerning

Cigarette Fire Safety Performance Standard and Firefighter Protection Act

FOR the purpose of prohibiting the manufacture, sale, or offer for sale of cigarettes in the State unless the cigarettes have been tested in a certain manner and meet a

certain performance standard and the manufacturer has filed a certain certification with the Comptroller; establishing a certain performance standard for cigarettes; requiring that testing of cigarettes be conducted in a certain manner; requiring laboratories that conduct testing to have certain current certification and implement a certain quality control and quality assurance program; providing for an alternative test method and performance standard under certain circumstances; providing that additional testing is not required under this Act of cigarettes that are tested in a certain manner for other purposes; requiring manufacturers to retain all data from testing for a certain period of time and provide certain data to the Comptroller, State Fire Prevention Commission, or the Attorney General; providing for a civil penalty if certain data is not provided within a certain period of time; requiring that a certain subtitle be implemented in accordance with the implementation and substance of the fire safety standards of a certain state; requiring manufacturers to submit to the Comptroller a certain written certification that a cigarette has been tested and has met the performance standard; requiring recertification of cigarettes after a certain period of time; requiring manufacturers to retest certain altered cigarettes; requiring manufacturers to mark in a certain manner cigarettes that have been certified; requiring manufacturers to request approval of a proposed marking from the Comptroller; requiring manufacturers to provide certain wholesalers with copies of certifications and illustrations of certain markings; requiring wholesalers to provide certain retailers, subwholesalers, and vending machine operators with copies of certain illustrations; requiring retailers, subwholesalers, vending machine operators, and wholesalers to allow the Comptroller or designee to make certain inspections; providing that cigarettes sold or offered for sale in the State that do not comply with a certain standard are deemed contraband; authorizing the Comptroller to adopt certain regulations and establish certain fees; establishing certain civil penalties for certain violations of this Act; authorizing the Attorney General to enjoin acts in violation of this Act and to recover certain civil penalties; requiring that certain money collected from certain civil penalties be distributed to a certain fund; authorizing police officers and authorized personnel to seize and destroy certain cigarettes; requiring that certain holders of the trademark rights of certain cigarettes be provided the opportunity to inspect certain seized cigarettes prior to destruction; altering the composition of a certain fund; providing that this Act does not prohibit retailers, subwholesalers, vending machine operators, and wholesalers from selling existing inventory if certain tax stamps were affixed to the cigarettes before a certain date under certain circumstances; providing for the construction of this Act; providing that this Act preempts certain local laws, ordinances, or regulations; prohibiting local governmental units from enacting and enforcing certain ordinances, local laws, or regulations; requiring the Comptroller to monitor certain federal actions and notify the Department of Legislative Services of the adoption of a certain federal standard; defining certain terms;

providing for a delayed effective date; providing for the termination of this Act; and generally relating to fire safety standards for cigarettes.

BY adding to

Article – Business Regulation

Section 16–601 through 16–610 to be under the new subtitle “Subtitle 6. Fire Safety Performance Standard for Cigarettes” and the amended title “Title 16. Cigarettes”

Annotated Code of Maryland

(2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article – Public Safety

Section 8–102(a) and (b)

Annotated Code of Maryland

(2003 Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 8–102(d)

Annotated Code of Maryland

(2003 Volume and 2006 Supplement)

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

Article – Business Regulation

Title 16. [Cigarette Licenses] **CIGARETTES.**

SUBTITLE 6. FIRE SAFETY PERFORMANCE STANDARD FOR CIGARETTES.

16–601.

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

(B) ~~(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, “CIGARETTE”~~ “CIGARETTE” HAS THE MEANING STATED IN § 16–101 OF THIS TITLE.

~~(2) “CIGARETTE” INCLUDES A ROLL OF TOBACCO WRAPPED IN A SUBSTANCE CONTAINING TOBACCO THAT BECAUSE OF ITS APPEARANCE, THE TYPE OF TOBACCO USED IN ITS FILLER, OR ITS PACKAGING AND LABELING IS~~

~~LIKELY TO BE OFFERED TO OR PURCHASED BY A CONSUMER AS A CIGARETTE AS DEFINED IN PARAGRAPH (1) OF THIS SUBSECTION.~~

(C) "COMMISSION" MEANS THE STATE FIRE PREVENTION COMMISSION.

(D) "MANUFACTURER" MEANS:

(1) A PERSON THAT MANUFACTURES OR OTHERWISE PRODUCES, OR CAUSES TO BE MANUFACTURED OR PRODUCED, CIGARETTES INTENDED FOR SALE IN THIS STATE, INCLUDING CIGARETTES INTENDED FOR SALE IN THE UNITED STATES THROUGH AN IMPORTER;

(2) THE FIRST PURCHASER ANYWHERE THAT INTENDS TO RESELL IN THE UNITED STATES CIGARETTES THAT THE ORIGINAL MANUFACTURER OR MAKER DOES NOT INTEND FOR SALE IN THE UNITED STATES; OR

(3) A PERSON THAT IS A SUCCESSOR OF A PERSON LISTED IN ITEM (1) OR (2) OF THIS SUBSECTION.

(E) "QUALITY CONTROL AND QUALITY ASSURANCE PROGRAM" MEANS LABORATORY PROCEDURES IMPLEMENTED TO ENSURE THAT:

(1) OPERATOR BIAS, SYSTEMATIC AND NONSYSTEMATIC METHODOLOGICAL ERRORS, AND EQUIPMENT-RELATED PROBLEMS DO NOT AFFECT THE RESULTS OF THE TESTING; AND

(2) THE TESTING REPEATABILITY REMAINS WITHIN THE REQUIRED REPEATABILITY VALUE FOR ANY TEST TRIAL USED TO CERTIFY CIGARETTES UNDER THIS SUBTITLE.

(F) "REPEATABILITY" MEANS THE RANGE OF VALUES WITHIN WHICH THE REPEAT RESULTS OF CIGARETTE TEST TRIALS FROM A SINGLE LABORATORY FALL 95% OF THE TIME.

(G) "RETAILER" HAS THE MEANING STATED IN § 16-201 OF THIS TITLE.

(H) "SUBWHOLESALE" HAS THE MEANING STATED IN § 16-201 OF THIS TITLE.

(I) "VENDING MACHINE OPERATOR" HAS THE MEANING STATED IN § 16-201 OF THIS TITLE.

(J) "WHOLESALE" HAS THE MEANING STATED IN § 16-201 OF THIS TITLE.

16-602.

(A) CIGARETTES MAY NOT BE MANUFACTURED IN THIS STATE OR SOLD OR OFFERED FOR SALE TO ANY PERSON IN THIS STATE UNLESS:

(1) THE CIGARETTES HAVE BEEN TESTED IN ACCORDANCE WITH THE TEST METHOD AND MEET THE PERFORMANCE STANDARD SPECIFIED IN THIS SECTION; AND

(2) THE MANUFACTURER HAS FILED A WRITTEN CERTIFICATION WITH THE COMPTROLLER IN ACCORDANCE WITH § 16-603 OF THIS SUBTITLE.

(B) THE PERFORMANCE STANDARD FOR CIGARETTES SOLD OR OFFERED FOR SALE IN THE STATE INCLUDES ALL OF THE REQUIREMENTS IN SUBSECTION (E)(1) OF THIS SECTION.

(C) (1) TESTING OF CIGARETTES SHALL BE CONDUCTED IN ACCORDANCE WITH THE AMERICAN SOCIETY OF TESTING AND MATERIALS (ASTM) STANDARD E2187-04 "STANDARD TEST METHOD FOR MEASURING THE IGNITION STRENGTH OF CIGARETTES".

(2) THE COMPTROLLER, IN CONSULTATION WITH THE COMMISSION, MAY ADOPT A SUBSEQUENT ASTM STANDARD TEST METHOD FOR MEASURING THE IGNITION STRENGTH OF CIGARETTES ON A FINDING THAT THE SUBSEQUENT METHOD DOES NOT RESULT IN A CHANGE IN THE PERCENTAGE OF FULL-LENGTH BURNS EXHIBITED BY ANY TESTED CIGARETTE WHEN COMPARED TO THE PERCENTAGE OF FULL-LENGTH BURNS THE SAME CIGARETTE WOULD EXHIBIT WHEN TESTED IN ACCORDANCE WITH ASTM STANDARD E2187-04 AND THE PERFORMANCE STANDARD OF THIS SECTION.

(D) TESTING OF CIGARETTES SHALL BE CONDUCTED ON 10 LAYERS OF FILTER PAPER.

(E) (1) NO MORE THAN 25% OF THE CIGARETTES TESTED IN A TEST TRIAL SHALL EXHIBIT FULL-LENGTH BURNS.

(2) FORTY REPLICATE TESTS SHALL COMPRISE A COMPLETE TEST TRIAL FOR EACH CIGARETTE TESTED.

(F) THE PERFORMANCE STANDARD REQUIRED BY THIS SECTION SHALL ONLY BE APPLIED TO A COMPLETE TEST TRIAL.

(G) (1) EACH LABORATORY THAT CONDUCTS TESTS IN ACCORDANCE WITH THIS SECTION SHALL:

(I) HAVE CURRENT ACCREDITATION PURSUANT TO STANDARD ISO/IEC 17025 OF THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION, SUBSEQUENT LABORATORY STANDARDIZATION, OR ANOTHER COMPARABLE ACCREDITATION AS DETERMINED BY THE COMPTROLLER; AND

(II) IMPLEMENT A QUALITY CONTROL AND QUALITY ASSURANCE PROGRAM THAT INCLUDES A PROCEDURE TO DETERMINE THE REPEATABILITY OF THE TESTING RESULTS.

(2) THE REPEATABILITY VALUE SHALL BE NO GREATER THAN 0.19.

(H) (1) EACH CIGARETTE LISTED IN A CERTIFICATION THAT USES LOWERED PERMEABILITY BANDS IN THE CIGARETTE PAPER TO ACHIEVE COMPLIANCE WITH THE PERFORMANCE STANDARD OF THIS SECTION SHALL HAVE AT LEAST TWO NOMINALLY IDENTICAL BANDS ON THE PAPER SURROUNDING THE TOBACCO COLUMN.

(2) AT LEAST ONE COMPLETE BAND SHALL BE LOCATED AT LEAST 15 MILLIMETERS FROM THE LIGHTING END OF THE CIGARETTE.

(3) FOR A CIGARETTE ON WHICH THE BANDS ARE POSITIONED BY DESIGN, AT LEAST TWO BANDS SHALL BE LOCATED AT LEAST 15 MILLIMETERS FROM THE LIGHTING END AND 10 MILLIMETERS FROM THE FILTER END OF THE TOBACCO COLUMN.

(4) FOR AN UNFILTERED CIGARETTE, THE TWO COMPLETE BANDS SHALL BE LOCATED AT LEAST 15 MILLIMETERS FROM THE LIGHTING END AND 10 MILLIMETERS FROM THE LABELED END OF THE TOBACCO COLUMN.

(I) (1) IF THE COMPTROLLER DETERMINES THAT A CIGARETTE CANNOT BE TESTED IN ACCORDANCE WITH THE TEST METHOD REQUIRED BY THIS SECTION, THE MANUFACTURER OF THE CIGARETTE SHALL PROPOSE TO THE COMPTROLLER A TEST METHOD AND PERFORMANCE STANDARD FOR THAT CIGARETTE.

(2) THE COMPTROLLER, IN CONSULTATION WITH THE COMMISSION, MAY APPROVE A TEST METHOD AND PERFORMANCE STANDARD THAT THE COMPTROLLER DETERMINES IS EQUIVALENT TO THE REQUIREMENTS OF THIS SECTION, AND THE MANUFACTURER MAY USE THAT TEST METHOD AND PERFORMANCE STANDARD FOR CERTIFICATION OF A CIGARETTE IN ACCORDANCE WITH § 16-603 OF THIS SUBTITLE.

(3) (I) THE COMPTROLLER, IN CONSULTATION WITH THE COMMISSION, SHALL APPROVE A TEST METHOD AND PERFORMANCE STANDARD USED IN ANOTHER STATE IF THE COMPTROLLER DETERMINES THAT:

1. THE ~~STATE~~ OTHER STATE HAS ENACTED A REDUCED CIGARETTE IGNITION PROPENSITY STANDARD THAT INCLUDES A TEST METHOD AND PERFORMANCE STANDARD THAT ARE THE SAME AS THE REQUIREMENTS OF THIS SECTION; AND

2. THE OFFICIALS RESPONSIBLE FOR IMPLEMENTING THE REQUIREMENTS IN THE OTHER STATE HAVE APPROVED OF THE ALTERNATIVE TEST METHOD AND PERFORMANCE STANDARD FOR A PARTICULAR CIGARETTE UNDER A LEGAL PROVISION COMPARABLE TO THIS SECTION.

(II) A MANUFACTURER MAY USE A TEST METHOD AND PERFORMANCE STANDARD APPROVED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR CERTIFICATION IN ACCORDANCE WITH § 16-603 OF THIS SUBTITLE OF THE CIGARETTE USED IN THE APPROVED TEST METHOD.

(J) THIS SECTION DOES NOT REQUIRE ADDITIONAL TESTING FOR CIGARETTES THAT ARE TESTED IN A MANNER CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION FOR ANY OTHER PURPOSE.

(K) (1) EACH MANUFACTURER SHALL RETAIN COPIES OF THE REPORTS OF ALL TESTS CONDUCTED ON ALL CIGARETTES OFFERED FOR SALE FOR 3 YEARS.

(2) (I) ON REQUEST, THE MANUFACTURER SHALL PROVIDE THE DATA RETAINED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE COMPTROLLER, THE COMMISSION, OR THE ATTORNEY GENERAL WITHIN 60 DAYS AFTER RECEIVING THE REQUEST, FOR THE PURPOSE OF ENSURING COMPLIANCE WITH THIS SECTION.

(II) A MANUFACTURER WHO DOES NOT PROVIDE THE DATA WITHIN 60 DAYS OF A REQUEST IS SUBJECT TO A CIVIL PENALTY NOT TO EXCEED \$10,000 FOR EACH DAY AFTER THE 60TH DAY THAT THE VIOLATION CONTINUES.

(L) THIS SUBTITLE SHALL BE IMPLEMENTED IN ACCORDANCE WITH THE IMPLEMENTATION AND SUBSTANCE OF THE NEW YORK FIRE SAFETY STANDARDS FOR CIGARETTES.

16-603.

(A) (1) EACH MANUFACTURER SHALL SUBMIT TO THE COMPTROLLER WRITTEN CERTIFICATION ATTESTING THAT EACH CIGARETTE HAS BEEN TESTED IN ACCORDANCE WITH AND HAS MET THE PERFORMANCE STANDARD REQUIRED UNDER § 16-602 OF THIS SUBTITLE.

(2) A CERTIFICATION UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT LIST MORE THAN 50 CIGARETTES.

(B) THE DESCRIPTION OF EACH CIGARETTE LISTED IN THE CERTIFICATION SHALL INCLUDE:

- (1) THE BRAND OR TRADE NAME ON THE PACKAGE;
- (2) THE STYLE, SUCH AS LIGHT OR ULTRA LIGHT;
- (3) THE LENGTH IN MILLIMETERS;
- (4) THE CIRCUMFERENCE IN MILLIMETERS;
- (5) THE FLAVOR, SUCH AS MENTHOL OR CHOCOLATE, IF APPLICABLE;
- (6) WHETHER FILTERED OR NONFILTERED;
- (7) A PACKAGE DESCRIPTION, SUCH AS A SOFT PACK OR BOX;
- (8) THE MARK APPROVED IN ACCORDANCE WITH § 16-604 OF THIS SUBTITLE;
- (9) IF DIFFERENT FROM THE MANUFACTURER, THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE LABORATORY THAT CONDUCTED THE TEST; AND

(10) THE DATE OF THE TESTING.

(C) THE CERTIFICATION SHALL BE MADE AVAILABLE TO:

(1) THE ATTORNEY GENERAL AND THE COMMISSION FOR PURPOSES CONSISTENT WITH THIS SUBTITLE; AND

(2) THE COMPTROLLER FOR THE PURPOSE OF ENSURING COMPLIANCE WITH THIS SECTION.

(D) (1) EACH CIGARETTE CERTIFIED UNDER THIS SECTION SHALL BE RECERTIFIED EVERY 3 YEARS.

(2) IF A MANUFACTURER OF A CIGARETTE THAT HAS BEEN CERTIFIED UNDER THIS SECTION MAKES A CHANGE THAT IS LIKELY TO ALTER THE CIGARETTE'S COMPLIANCE WITH THE PERFORMANCE STANDARD UNDER § 16-602(E) OF THIS SUBTITLE, THAT CIGARETTE MAY NOT BE SOLD IN THIS STATE UNTIL THE MANUFACTURER, IN ACCORDANCE WITH § 16-602 OF THIS SUBTITLE, RETESTS AND MAINTAINS THE PROPER RECORDS OF THE TESTING.

16-604.

(A) CIGARETTES THAT HAVE BEEN CERTIFIED IN ACCORDANCE WITH § 16-603 OF THIS SUBTITLE SHALL BE MARKED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.

(B) THE MARKING SHALL:

(1) CONSIST OF:

(I) ANY MARKING IN USE AND APPROVED FOR SALE IN NEW YORK UNDER THE NEW YORK FIRE SAFETY STANDARDS FOR CIGARETTES; OR

(II) THE LETTERS "FSC" TO SIGNIFY FIRE STANDARDS COMPLIANT;

(2) BE IN A FONT OF AT LEAST 8 POINT TYPE; AND

(3) BE PERMANENTLY PRINTED, STAMPED, ENGRAVED, OR EMBOSSED ON THE PACKAGE AT OR NEAR THE AREA OF THE UPC CODE, IF PRESENT.

(C) A MANUFACTURER MAY PROPOSE AN ALTERNATIVE MARKING THAT:

(1) MEETS THE CRITERIA UNDER SUBSECTION (B)(2) AND (3) OF THIS SECTION; AND

(2) CONSISTS OF A VISIBLE COMBINATION OF ALPHANUMERIC OR SYMBOLIC CHARACTERS OR TEXT PERMANENTLY STAMPED, ENGRAVED, EMBOSSED, OR PRINTED:

(I) IN CONJUNCTION WITH THE UPC CODE; OR

(II) ON THE CIGARETTE PACK OR CELLOPHANE WRAP.

(D) (1) A MANUFACTURER SHALL REQUEST APPROVAL OF A PROPOSED MARKING FROM THE COMPTROLLER.

(2) (I) THE COMPTROLLER SHALL APPROVE A MARKING SPECIFIED IN SUBSECTION (B)(1) OF THIS SECTION.

(II) A MARKING IS DEEMED APPROVED IF THE COMPTROLLER FAILS TO ACT WITHIN 10 BUSINESS DAYS AFTER RECEIVING A REQUEST FOR APPROVAL.

(3) A MANUFACTURER MAY NOT USE A MODIFIED MARKING UNLESS THE MODIFICATION HAS BEEN APPROVED IN ACCORDANCE WITH THIS SECTION.

(4) A MANUFACTURER SHALL USE ONLY ONE MARKING ON ALL BRANDS THAT THE MANUFACTURER MARKETS.

(5) A MARKING OR MODIFIED MARKING APPROVED BY THE COMPTROLLER SHALL BE APPLIED UNIFORMLY ON ALL BRANDS MARKETED AND ON ALL PACKAGES, INCLUDING PACKS, CARTONS, AND CASES MARKETED BY THAT MANUFACTURER.

16-605.

(A) THE MANUFACTURER SHALL:

(1) PROVIDE A COPY OF EACH CERTIFICATION TO EACH WHOLESALER TO WHICH THE MANUFACTURER SELLS CIGARETTES; AND

(2) PROVIDE SUFFICIENT COPIES OF AN ILLUSTRATION OF THE PACKAGING MARKING APPROVED AND USED BY THE MANUFACTURER IN ACCORDANCE WITH § 16-604 OF THIS SUBTITLE FOR EACH RETAILER, SUBWHOLESALE, AND VENDING MACHINE OPERATOR THAT PURCHASES CIGARETTES FROM THE WHOLESALER.

(B) THE WHOLESALER SHALL PROVIDE A COPY OF THE ILLUSTRATION TO EACH RETAILER, SUBWHOLESALE, AND VENDING MACHINE OPERATOR TO WHICH THE WHOLESALER SELLS CIGARETTES.

(C) EACH RETAILER, SUBWHOLESALE, VENDING MACHINE OPERATOR, AND WHOLESALER SHALL ALLOW THE COMPTROLLER OR DESIGNEE OF THE COMPTROLLER TO INSPECT THE MARKINGS ON CIGARETTE PACKAGING AT ANY TIME.

16-606.

ANY CIGARETTES SOLD OR OFFERED FOR SALE IN THE STATE THAT DO NOT COMPLY WITH THE PERFORMANCE STANDARD REQUIRED BY § 16-602 OF THIS SUBTITLE ARE DEEMED TO BE CONTRABAND AND SUBJECT TO §§ 13-836, 13-837, AND 13-839 OF THE TAX - GENERAL ARTICLE.

16-607.

THE COMPTROLLER:

(1) MAY ADOPT REGULATIONS NECESSARY TO CARRY OUT AND ADMINISTER THIS SUBTITLE;

(2) IN CONSULTATION WITH THE COMMISSION, MAY ADOPT REGULATIONS FOR THE CONDUCT OF RANDOM INSPECTIONS OF RETAILERS, SUBWHOLESALE, VENDING MACHINE OPERATORS, AND WHOLESALERS TO ENSURE COMPLIANCE WITH THIS SUBTITLE; AND

(3) MAY ESTABLISH A \$250 FEE FOR EACH ~~CIGARETTE LISTED IN~~ A CERTIFICATION REQUIRED UNDER § 16-603 OF THIS SUBTITLE TO COVER THE EXPENSES OF ADMINISTERING THIS SUBTITLE.

16-608.

(A) (1) A MANUFACTURER OR OTHER PERSON THAT KNOWINGLY SELLS OR OFFERS FOR SALE CIGARETTES OTHER THAN BY RETAIL SALE IN VIOLATION OF § 16-602 OF THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY NOT

TO EXCEED **\$100** FOR EACH PACKAGE OF CIGARETTES SOLD OR OFFERED FOR SALE.

(2) UNDER THIS SUBSECTION, A TOTAL AMOUNT OF CIVIL PENALTIES IMPOSED ON A MANUFACTURER OR OTHER PERSON MAY NOT EXCEED **\$100,000** DURING ANY **30-DAY** PERIOD.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A RETAILER, SUBWHOLESALE, WHOLESALER, OR OTHER PERSON THAT KNOWINGLY SELLS CIGARETTES IN VIOLATION OF § 16-602 OF THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY NOT TO EXCEED **\$100** FOR EACH PACKAGE OF CIGARETTES SOLD.

(2) UNDER THIS SUBSECTION, A TOTAL AMOUNT OF CIVIL PENALTIES IMPOSED ON A RETAILER MAY NOT EXCEED **\$25,000** DURING ANY **30-DAY** PERIOD.

(3) UNDER THIS SUBSECTION, A TOTAL AMOUNT OF CIVIL PENALTIES IMPOSED ON A SUBWHOLESALE, WHOLESALER, OR OTHER PERSON MAY NOT EXCEED **\$100,000** DURING ANY **30-DAY** PERIOD.

(C) A MANUFACTURER THAT KNOWINGLY MAKES A FALSE CERTIFICATION UNDER § 16-603 OF THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY OF AT LEAST **\$75,000** AND NOT EXCEEDING **\$250,000** FOR EACH FALSE CERTIFICATION.

16-609.

(A) TO ENFORCE THIS SUBTITLE:

(1) THE ATTORNEY GENERAL MAY BRING AN ACTION TO ENJOIN ANY ACTS IN VIOLATION OF THIS SUBTITLE AND TO RECOVER CIVIL PENALTIES AUTHORIZED UNDER § 16-608 OF THIS SUBTITLE; OR

(2) THE ATTORNEY GENERAL OR THE COMPTROLLER MAY EXAMINE THE BOOKS, PAPERS, INVOICES, AND RECORDS OF A PERSON IN POSSESSION, CONTROL, OR OCCUPANCY OF A BUILDING, STRUCTURE, OR LAND WHERE CIGARETTES ARE PLACED, STORED, SOLD, OR OFFERED FOR SALE.

(B) MONEY COLLECTED FROM CIVIL PENALTIES RECOVERED UNDER THIS SECTION SHALL BE DISTRIBUTED TO THE SENATOR WILLIAM H. AMOSS FIRE, RESCUE, AND AMBULANCE FUND.

16-610.

(A) A POLICE OFFICER OR OTHER AUTHORIZED PERSONNEL AS DETERMINED BY REGULATIONS MAY SEIZE CIGARETTES IN THE POSSESSION OF A RETAILER, SUBWHOLESALE, VENDING MACHINE OPERATOR, OR WHOLESALE THAT HAVE NOT BEEN MARKED IN ACCORDANCE WITH § 16-604 OF THIS SUBTITLE. ~~CIGARETTES SEIZED PURSUANT TO THIS SECTION SHALL BE DESTROYED; PROVIDED, HOWEVER, THAT PRIOR TO THE DESTRUCTION OF ANY CIGARETTE SEIZED PURSUANT TO THIS SECTION, THE TRUE HOLDER OF THE TRADEMARK RIGHTS IN THE CIGARETTE BRAND SHALL BE PERMITTED TO INSPECT THE CIGARETTE~~

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, CIGARETTES SEIZED UNDER THIS SECTION SHALL BE DESTROYED.

(2) THE TRUE HOLDER OF THE TRADEMARK RIGHTS IN THE CIGARETTE BRAND SHALL BE PROVIDED THE OPPORTUNITY TO INSPECT ANY CIGARETTES SEIZED UNDER THIS SECTION BEFORE THE CIGARETTES ARE DESTROYED.

Article - Public Safety

8-102.

(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.

(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.

SECTION 2. AND BE IT FURTHER ENACTED, That the requirement that cigarettes sold in this State must be in compliance with this Act does not prohibit retailers, subwholesalers, vending machine operators, or wholesalers from selling existing cigarette inventories on or after July 1, 2008, if the retailers, subwholesalers, vending machine operators, or wholesalers can establish that:

(1) the tax stamps were affixed to the cigarettes as required by § 12-304 of the Tax – General Article before July 1, 2008; and

(2) the inventories purchased between July 1, 2007 and July 1, 2008 are in a quantity comparable to the inventories purchased between July 1, 2006 and July 1, 2007.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be construed to prohibit a person from selling or offering for sale cigarettes that have not been certified in accordance with § 16-603 of the Business Regulation Article, as enacted by this Act, if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act preempts any local law, ordinance, or regulation that conflicts with any provision of this Act or any policy of the State implemented in accordance with this Act and, notwithstanding any other provision of law, a governmental unit of this State may not enact or enforce an ordinance, local law, or regulation conflicting with or preempted by this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective until a federal reduced cigarette ignition propensity standard is adopted and become effective. If a federal reduced cigarette ignition propensity standard is adopted and becomes effective, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect. The Comptroller shall monitor federal actions regarding the establishment of fire safety standards for cigarettes and promptly forward notice of the adoption of a federal reduced cigarette ignition propensity standard to the Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401.

Approved by the Governor, May 17, 2007.

CHAPTER 498

(Senate Bill 359)

AN ACT concerning

Department of Juvenile Services – Reorganization and Regionalization

FOR the purpose of requiring the Department of Juvenile Services to serve children in the juvenile services system with certain programming that delivers services on a regional basis; ~~establishing a certain number of operational regions in the State~~; requiring each region to include at least a certain number of secure facilities used solely for certain purposes; requiring each region to include a ~~sufficient~~ certain number of committed facilities to provide certain services to certain children under certain circumstances; requiring each region to include a nonpublic facility only under certain circumstances; authorizing the Department to place a child into a certain facility if a certain determination is made; requiring the Department to submit a certain plan to the Department of Budget and Management on or before a certain date; and generally relating to juvenile services.

~~BY adding to~~

~~Article 83C – Juvenile Services
Section 2-101(c) and 2-101.5
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)~~

BY adding to

Article – Human Services
Section 9-238.1
Annotated Code of Maryland
(As enacted by Chapter 3 of the Acts of the General Assembly of 2007)

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

~~**Article 83C – Juvenile Services**~~

~~**2-101.**~~

Article – Human Services

9-238.1.

~~(c)~~ (A) **THE DEPARTMENT SHALL SERVE CHILDREN IN THE JUVENILE SERVICES SYSTEM WITH PROGRAMMING THAT:**

(1) ENSURES THE SAFETY OF THE COMMUNITY AND THE CHILDREN SERVED;

(2) HOLDS DELINQUENT CHILDREN ACCOUNTABLE TO VICTIMS AND COMMUNITIES;

(3) ASSISTS CHILDREN TO DEVELOP COMPETENCIES TO BECOME SUCCESSFUL MEMBERS OF SOCIETY;

(4) DELIVERS SERVICES ON A REGIONAL BASIS THROUGH ~~SIX~~ AT LEAST FOUR OPERATIONAL REGIONS;

(5) ENSURES THAT A COMMITTED FACILITY OWNED ~~OR OPERATED AND USED~~ BY THE DEPARTMENT SERVES NO MORE THAN 48 CHILDREN AT ONE TIME; AND

(6) USES DETENTION AND COMMITTED FACILITIES THAT ARE ~~GEOGRAPHICALLY, PHYSICALLY, AND~~ OPERATIONALLY SEPARATE FROM EACH OTHER AND THAT DO NOT SHARE COMMON ~~AREAS~~ PROGRAM SPACE, INCLUDING ~~ADMINISTRATIVE BUILDINGS, DINING HALLS, AND MEDICAL, EDUCATIONAL, HALLS AND EDUCATIONAL OR RECREATIONAL FACILITIES.~~

~~2-101.5.~~

~~(A) (1) THERE SHALL BE SIX OPERATIONAL REGIONS WITHIN THE STATE.~~

~~(2) THE SIX OPERATIONAL REGIONS WITHIN THE STATE SHALL BE:~~

~~(i) REGION 1 — BALTIMORE CITY;~~

~~(ii) REGION 2 — BALTIMORE COUNTY, CARROLL COUNTY, AND HARFORD COUNTY;~~

~~(iii) REGION 3 — ANNE ARUNDEL COUNTY, HOWARD COUNTY, AND MONTGOMERY COUNTY;~~

~~(iv) REGION 4 — CALVERT COUNTY, CHARLES COUNTY, PRINCE GEORGE'S COUNTY, AND ST. MARY'S COUNTY;~~

~~(v) REGION 5 — CAROLINE COUNTY, CECIL COUNTY, DORCHESTER COUNTY, KENT COUNTY, QUEEN ANNE'S COUNTY, TALBOT COUNTY, SOMERSET COUNTY, WICOMICO COUNTY, AND WORCESTER COUNTY; AND~~

~~(VI) REGION 6 ALLEGANY COUNTY, FREDERICK COUNTY,
GARRETT COUNTY, AND WASHINGTON COUNTY.~~

~~(3)~~ (B) A REGION SHALL:

~~(I)~~ (1) INCLUDE AT LEAST ONE SECURE FACILITY USED SOLELY FOR CHILDREN PENDING COURT DISPOSITION AND CHILDREN AWAITING PLACEMENT AFTER DISPOSITION;

~~(II)~~ (2) INCLUDE EXCEPT FOR SPECIALIZED SERVICES AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, INCLUDE A SUFFICIENT NUMBER OF COMMITTED FACILITIES ESTIMATED TO BE NECESSARY TO DIAGNOSE, CARE FOR, TRAIN, EDUCATE, AND PROPERLY REHABILITATE EVERY CHILD FROM THE REGION IN THE CUSTODY OF THE DEPARTMENT; AND

~~(III)~~ (3) INCLUDE A NONPUBLIC FACILITY ONLY IF THE DEPARTMENT DETERMINES THAT THE FACILITY:

~~1.~~ (I) HAS PROVIDED OR WILL EFFICIENTLY AND EFFECTIVELY PROVIDE ADEQUATE CARE FOR THE CHILDREN PLACED IN THE FACILITY; AND

~~2.~~ (II) HAS DEMONSTRATED OR WILL DEMONSTRATE A RECORD OF SUCCESS BASED ON STANDARDS PROMULGATED BY THE DEPARTMENT.

~~(B)~~ (C) THE DEPARTMENT MAY PLACE A CHILD INTO A COMMITTED FACILITY OUTSIDE THE CHILD'S REGION IF A DETERMINATION IS MADE BY THE DEPARTMENT THAT SPECIALIZED SERVICES FOR THE CHILD REQUIRE THE PLACEMENT IN THE BEST INTERESTS OF THE CHILD.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before November 1, 2007, the Department of Juvenile Services shall submit a revised facilities master plan to the Department of Budget and Management to reflect the reorganization of operational regions as required by this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 499

(Senate Bill 360)

AN ACT concerning

Juvenile Justice Monitoring Unit – Expansion of Jurisdiction

FOR the purpose of expanding the jurisdiction of the Juvenile Justice Monitoring Unit of the Office of the Attorney General to include the monitoring of any *residential* facility licensed by the Department of Juvenile Services; *expanding the duties of the Juvenile Justice Monitoring Unit; requiring the Juvenile Justice Monitoring Unit to make certain reports to the Executive Director of the Governor's Office for Children; defining a certain term; repealing a certain definition;* altering a certain definition; making certain stylistic changes; authorizing the Governor to transfer certain positions and funds in a certain manner; *authorizing the Attorney General to transfer a ~~certain~~ position in a certain manner; ~~making~~ providing for a delayed effective date for certain provisions of this Act; making* certain provisions of this Act subject to a certain contingency; and generally relating to the Juvenile Justice Monitoring Unit of the Office of the Attorney General.

BY repealing and reenacting, with amendments,
 Article – State Government
 Section 6–401, ~~6–404~~, and 6–406
 Annotated Code of Maryland
 (2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
 Article – State Government
 Section 6–402
 Annotated Code of Maryland
 (2004 Replacement Volume and 2006 Supplement)

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

Article – State Government

6–401.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Department” means the Department of Juvenile Services.

(c) "Disciplinary action" means any punitive action against a child that results in more security, additional obligations, or less personal freedom.

(D) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE FOR CHILDREN.

~~(d)~~ **(E)** "Facility" means:

- (1) a residential facility operated by the Department; [and]
- (2) a residential facility owned by the Department but privately operated; ~~OR~~ **AND**
- (3) A RESIDENTIAL FACILITY LICENSED BY THE DEPARTMENT.**

~~(e)~~ **(F)** (1) "Grievance" means a complaint made by a child or on behalf of a child due to a circumstance or an action considered to be unjust.

(2) "Grievance" does not include an employee grievance, disciplinary appeal, or complaint.

~~(f)~~ **(G)** "Juvenile justice monitor" means an individual employed by the Office of the Attorney General to determine whether the needs of children under the jurisdiction of the Department are being met in compliance with State law, that their rights are being upheld, and that they are not being abused.

~~(g)~~ **(H)** "Secretary" means the Secretary of Juvenile Services.

~~(h)~~ ~~"Special Secretary" means the Special Secretary for Children, Youth, and Families.~~

(i) "Unit" means the Juvenile Justice Monitoring Unit of the Office of the Attorney General.

6-402.

(a) There is a Juvenile Justice Monitoring Unit of the Office of the Attorney General.

(b) The function of the Unit is to investigate and determine whether the needs of children under the jurisdiction of the Department of Juvenile Services are being met in compliance with State law, that their rights are being upheld, and that they are not being abused.

6-404.

The Unit shall:

- (1) evaluate at each facility:
 - (i) the child advocacy grievance process;
 - (ii) the Department's monitoring process;
 - (iii) the treatment of and services to youth;
 - (iv) the physical conditions of the facility; and
 - (v) the adequacy of staffing;
- (2) review all reports of disciplinary actions, grievances, and grievance dispositions received from each facility and alterations in the status or placement of a child that result in more security, additional obligations, or less personal freedom;
- (3) receive copies of the grievances submitted to the Department;
- (4) perform unannounced site visits and on-site inspections of facilities;
- (5) receive and review all incident reports submitted to the Department from facilities;
- (6) receive reports of the findings of child protective services investigations of allegations of abuse or neglect of a child in a facility; [and]
- (7) **ENSURE THAT EACH FACILITY IS IN COMPLIANCE WITH THE REGULATIONS APPLICABLE TO RESIDENTIAL FACILITIES;**
- (8) **COLLABORATE WITH THE DEPARTMENT, THE DEPARTMENT OF HUMAN RESOURCES, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, AND THE GOVERNOR'S OFFICE FOR CHILDREN IN ALL MATTERS RELATED TO THE LICENSING AND MONITORING OF CHILDREN'S RESIDENTIAL FACILITIES; AND**
- ~~[(7)]~~ (9) have a representative available to attend meetings of the advisory boards established under Article 83C, § 2-119 of the Code.

6-406.

(a) The Unit shall report in a timely manner to the ~~Special Secretary~~ Executive Director, the Secretary, and, in accordance with § 2-1246 of [the State Government Article] **THIS ARTICLE**, the Speaker of the House of Delegates and the President of the Senate:

(1) knowledge of any problem regarding the care, supervision, and treatment of children in facilities;

(2) findings, actions, and recommendations, related to the investigations of disciplinary actions, grievances, incident reports, and alleged cases of child abuse and neglect; and

(3) all other findings and actions related to the monitoring required under this subtitle.

(b) (1) The Unit shall report quarterly to the ~~Special Secretary~~ Executive Director and the Secretary.

(2) A copy of the report shall be provided to the State Advisory Board for Juvenile Services and, in accordance with § 2-1246 of [the State Government Article] **THIS ARTICLE**, the General Assembly.

(3) The report shall include:

(i) all activities of the Unit;

(ii) actions taken by the Department resulting from the findings and recommendations of the Unit, including the Department's response; and

(iii) a summary of any violations of the standards and regulations of the Department that remained unabated for 30 days or more during the reporting period.

(c) Beginning in 2006, on or before November 30 of each year, the Unit shall report to the ~~Special Secretary~~ Executive Director, the Secretary, the advisory boards established under Article 83C, § 2-119 of the Code, the Governor, and, in accordance with § 2-1246 of [the State Government Article] **THIS ARTICLE**, the General Assembly, on all the activities of the Office and the actions taken by the Department in response to findings and recommendations of the Unit.

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall transfer 5 regular positions and \$300,000 for those positions from the Department of Juvenile Services to the Juvenile Justice Monitoring Unit of the Office of the Attorney General.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Governor may transfer two regular positions and \$120,000 for those positions from the Department of Juvenile Services to the Juvenile Justice Monitoring Unit of the Office of the Attorney General. The Attorney General may transfer one ~~regular~~ position to the Juvenile Justice Monitoring Unit of the Office of the Attorney General.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect ~~October 1, 2007~~ January 1, 2008, contingent on the transfer of positions and funds under Section 2 of this Act. If the positions and funds are not transferred in accordance with Section 2 of this Act on or before ~~October 1, 2007~~ January 1, 2008, this Act, with no further action of the General Assembly, shall be null and void and of no force and effect. The Juvenile Justice Monitoring Unit of the Office of the Attorney General, within 5 days of receiving a transfer under Section 2 of this Act, shall forward notice of the transfer to the Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect ~~June~~ October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 500

(Senate Bill 371)

AN ACT concerning

Interstate Compact for Juveniles

FOR the purpose of repealing the Interstate Compact on Juveniles; enacting the Interstate Compact for Juveniles; establishing the purpose of the Interstate Compact; defining certain terms; establishing the Interstate Commission for Juveniles; specifying membership of the Interstate Commission; providing for the appointment of a state's Compact Administrator; requiring the Interstate Commission to establish an Executive Committee; specifying the duties of the Executive Committee; establishing the rights of members of the Interstate Commission to vote; specifying certain meeting requirements for the Interstate Commission; requiring the Interstate Commission to establish certain rules concerning its official records and public hearings; authorizing the Interstate Commission to close meetings for certain reasons; specifying the powers and duties of the Interstate Commission; requiring the adoption of certain bylaws by the Interstate Commission; providing for the election of certain officers of the

Interstate Commission; providing for certain immunities from liability for certain officers and employees of the Interstate Commission; establishing a procedure for promulgating rules for the Interstate Commission; requiring the Interstate Commission to address certain subjects within a certain time period; requiring the Interstate Commission to take certain actions in regard to the interstate movement of juveniles subject to the Compact; providing a mechanism for resolving disputes among the compacting states; providing for enforcement of the provisions of the Compact; establishing a funding mechanism for the Interstate Commission; providing for the creation of a State Council for Interstate Juvenile Supervision; specifying membership of the Council; specifying the powers and duties of the State Council; providing for the effective date of the Compact; providing for a compacting state's withdrawal from the Compact; providing for a compacting state's default from the Compact; specifying certain procedures for the Interstate Commission to follow in regard to a compact state's default; specifying certain penalties the Interstate Commission may impose on a defaulting compact state; providing for the Interstate Commission's judicial enforcement of the Compact; providing for the dissolution of the Compact; providing for the severability of this Act; providing for the construction of the Compact; providing for enforcement of the Compact in the event of a conflict with other State laws; providing for the binding effect of the Compact; providing for a certain contingency; providing for the effective date of this Act; and generally relating to the Interstate Compact for Juveniles.

BY repealing

Article – Human Services

Section 9–301 through 9–310 and the subtitle “Subtitle 3. Interstate Compact on Juveniles”

Annotated Code of Maryland

(As enacted by Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007)

BY adding to

Article – Human Services

Section 9–301 through 9–314 to be under the new subtitle “Subtitle 3. Interstate Compact for Juveniles”

Annotated Code of Maryland

(As enacted by Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9–301 through 9–310, and the subtitle “Subtitle 3. Interstate Compact on Juveniles” of Article – Human Services of the Annotated Code of Maryland (as enacted by Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007) be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follow:

Article - Human Services

SUBTITLE 3. INTERSTATE COMPACT FOR JUVENILES.

9-301.

THIS SUBTITLE MAY BE CITED AS THE INTERSTATE COMPACT FOR JUVENILES.

9-302.

ARTICLE I. PURPOSE.

(A) THE COMPACTING STATES TO THIS INTERSTATE COMPACT RECOGNIZE THAT:

(1) EACH STATE IS RESPONSIBLE FOR THE PROPER SUPERVISION OR RETURN OF JUVENILES, DELINQUENTS AND STATUS OFFENDERS WHO ARE ON PROBATION OR PAROLE AND WHO HAVE ABSCONDED, ESCAPED, OR RUN AWAY FROM SUPERVISION AND CONTROL AND IN SO DOING HAVE ENDANGERED THEIR OWN SAFETY AND THE SAFETY OF OTHERS;

(2) EACH STATE IS RESPONSIBLE FOR THE SAFE RETURN OF JUVENILES WHO HAVE RUN AWAY FROM HOME AND IN DOING SO HAVE LEFT THEIR STATE OF RESIDENCE; AND

(3) CONGRESS, BY ENACTING THE CRIME CONTROL ACT, 4 U.S.C. SECTION 112 (1965), HAS AUTHORIZED AND ENCOURAGED COMPACTS FOR COOPERATIVE EFFORTS AND MUTUAL ASSISTANCE IN THE PREVENTION OF CRIME.

(B) IT IS THE PURPOSE OF THIS COMPACT, THROUGH MEANS OF JOINT AND COOPERATIVE ACTION AMONG THE COMPACTING STATES:

(1) TO ENSURE THAT THE ADJUDICATED JUVENILES AND STATUS OFFENDERS SUBJECT TO THIS COMPACT ARE PROVIDED ADEQUATE SUPERVISION AND SERVICES IN THE RECEIVING STATE AS ORDERED BY THE ADJUDICATING JUDGE OR PAROLE AUTHORITY IN THE SENDING STATE;

(2) TO ENSURE THAT THE PUBLIC SAFETY INTERESTS OF THE CITIZENS, INCLUDING THE VICTIMS OF JUVENILE OFFENDERS, IN BOTH THE SENDING AND RECEIVING STATES ARE ADEQUATELY PROTECTED;

(3) TO RETURN JUVENILES WHO HAVE RUN AWAY, ABSCONDED, OR ESCAPED FROM SUPERVISION OR CONTROL OR HAVE BEEN ACCUSED OF AN OFFENSE TO THE STATE REQUESTING THEIR RETURN;

(4) TO MAKE CONTRACTS FOR THE COOPERATIVE INSTITUTIONALIZATION IN PUBLIC FACILITIES IN MEMBER STATES FOR DELINQUENT YOUTH NEEDING SPECIAL SERVICES;

(5) TO PROVIDE FOR THE EFFECTIVE TRACKING AND SUPERVISION OF JUVENILES;

(6) TO EQUITABLY ALLOCATE THE COSTS, BENEFITS, AND OBLIGATIONS OF THE COMPACTING STATES;

(7) TO ESTABLISH PROCEDURES TO MANAGE THE MOVEMENT BETWEEN STATES OF JUVENILE OFFENDERS RELEASED TO THE COMMUNITY UNDER THE JURISDICTION OF COURTS, JUVENILE DEPARTMENTS, OR ANY OTHER CRIMINAL OR JUVENILE JUSTICE AGENCY WHICH HAS JURISDICTION OVER JUVENILE OFFENDERS;

(8) TO INSURE IMMEDIATE NOTICE TO JURISDICTIONS WHERE DEFINED OFFENDERS ARE AUTHORIZED TO TRAVEL OR TO RELOCATE ACROSS STATE LINES;

(9) TO ESTABLISH PROCEDURES TO RESOLVE PENDING CHARGES (DETAINERS) AGAINST JUVENILE OFFENDERS PRIOR TO TRANSFER OR RELEASE TO THE COMMUNITY UNDER THE TERMS OF THIS COMPACT;

(10) TO ESTABLISH A SYSTEM OF UNIFORM DATA COLLECTION ON INFORMATION PERTAINING TO JUVENILES SUBJECT TO THIS COMPACT THAT ALLOWS ACCESS BY AUTHORIZED JUVENILE JUSTICE AND CRIMINAL JUSTICE OFFICIALS, AND REGULAR REPORTING OF COMPACT ACTIVITIES TO HEADS OF STATE EXECUTIVE, JUDICIAL, AND LEGISLATIVE BRANCHES AND JUVENILE AND CRIMINAL JUSTICE ADMINISTRATORS;

(11) TO MONITOR COMPLIANCE WITH RULES GOVERNING INTERSTATE MOVEMENT OF JUVENILES AND INITIATE INTERVENTIONS TO ADDRESS AND CORRECT NONCOMPLIANCE;

(12) TO COORDINATE TRAINING AND EDUCATION REGARDING THE REGULATION OF INTERSTATE MOVEMENT OF JUVENILES FOR OFFICIALS INVOLVED IN SUCH ACTIVITY; AND

(13) TO COORDINATE THE IMPLEMENTATION AND OPERATION OF THE COMPACT WITH THE INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN, THE INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION, AND OTHER COMPACTS AFFECTING JUVENILES PARTICULARLY IN THOSE CASES WHERE CONCURRENT OR OVERLAPPING SUPERVISION ISSUES ARISE.

(C) IT IS THE POLICY OF THE COMPACTING STATES THAT THE ACTIVITIES CONDUCTED BY THE INTERSTATE COMMISSION CREATED HEREIN ARE THE FORMATION OF PUBLIC POLICIES AND ARE THEREFORE PUBLIC BUSINESS. THE COMPACTING STATES SHALL COOPERATE AND OBSERVE THEIR INDIVIDUAL AND COLLECTIVE DUTIES AND RESPONSIBILITIES FOR THE PROMPT RETURN AND ACCEPTANCE OF JUVENILES SUBJECT TO THE PROVISIONS OF THIS COMPACT. THE PROVISIONS OF THIS COMPACT SHALL BE REASONABLY AND LIBERALLY CONSTRUED TO ACCOMPLISH THE PURPOSES AND POLICIES OF THE COMPACT.

9-303.

ARTICLE II. DEFINITIONS.

(A) AS USED IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED, UNLESS THE CONTEXT CLEARLY REQUIRES A DIFFERENT CONSTRUCTION.

(B) "BYLAWS" MEANS THOSE BYLAWS ESTABLISHED BY THE INTERSTATE COMMISSION FOR ITS GOVERNANCE, OR FOR DIRECTING OR CONTROLLING ITS ACTIONS OR CONDUCT.

(C) "COMPACT ADMINISTRATOR" MEANS THE INDIVIDUAL IN EACH COMPACTING STATE APPOINTED PURSUANT TO THE TERMS OF THIS COMPACT RESPONSIBLE FOR THE ADMINISTRATION AND MANAGEMENT OF THE STATE'S SUPERVISION AND TRANSFER OF JUVENILES SUBJECT TO THE TERMS OF THIS COMPACT, THE RULES ADOPTED BY THE INTERSTATE COMMISSION, AND POLICIES ADOPTED BY THE STATE COUNCIL UNDER THIS COMPACT.

(D) "COMPACTING STATE" MEANS ANY STATE WHICH HAS ENACTED THE ENABLING LEGISLATION FOR THIS COMPACT.

(E) "COMMISSIONER" MEANS THE VOTING REPRESENTATIVE OF EACH COMPACTING STATE APPOINTED PURSUANT TO ARTICLE III OF THIS COMPACT.

(F) "COURT" MEANS ANY COURT HAVING JURISDICTION OVER DELINQUENT, NEGLECTED, OR DEPENDENT CHILDREN.

(G) "DEPUTY COMPACT ADMINISTRATOR" MEANS THE INDIVIDUAL, IF ANY, IN EACH COMPACTING STATE APPOINTED TO ACT ON BEHALF OF A COMPACT ADMINISTRATOR PURSUANT TO THE TERMS OF THIS COMPACT RESPONSIBLE FOR THE ADMINISTRATION AND MANAGEMENT OF THE STATE'S SUPERVISION AND TRANSFER OF JUVENILES SUBJECT TO THE TERMS OF THIS COMPACT, THE RULES ADOPTED BY THE INTERSTATE COMMISSION, AND POLICIES ADOPTED BY THE STATE COUNCIL UNDER THIS COMPACT.

(H) "INTERSTATE COMMISSION" MEANS THE INTERSTATE COMMISSION FOR JUVENILES CREATED BY ARTICLE III OF THIS COMPACT.

(I) (1) "JUVENILE" MEANS ANY PERSON DEFINED AS A JUVENILE IN ANY MEMBER STATE OR BY THE RULES OF THE INTERSTATE COMMISSION.

(2) "JUVENILE" INCLUDES:

(I) AN ACCUSED DELINQUENT OR PERSON CHARGED WITH AN OFFENSE THAT, IF COMMITTED BY AN ADULT, WOULD BE A CRIMINAL OFFENSE;

(II) AN ADJUDICATED DELINQUENT OR PERSON FOUND TO HAVE COMMITTED AN OFFENSE THAT, IF COMMITTED BY AN ADULT, WOULD BE A CRIMINAL OFFENSE;

(III) AN ACCUSED STATUS OFFENDER OR PERSON CHARGED WITH AN OFFENSE THAT WOULD NOT BE A CRIMINAL OFFENSE IF COMMITTED BY AN ADULT;

(IV) AN ADJUDICATED STATUS OFFENDER OR PERSON FOUND TO HAVE COMMITTED AN OFFENSE THAT WOULD NOT BE A CRIMINAL OFFENSE IF COMMITTED BY AN ADULT; OR

(V) A NONOFFENDER OR PERSON IN NEED OF SUPERVISION WHO HAS NOT BEEN ACCUSED OR ADJUDICATED A STATUS OFFENDER OR DELINQUENT.

(J) "NONCOMPACTING STATE" MEANS ANY STATE WHICH HAS NOT ENACTED THE ENABLING LEGISLATION FOR THIS COMPACT.

(K) "PROBATION OR PAROLE" MEANS ANY KIND OF SUPERVISION OR CONDITIONAL RELEASE OF JUVENILES AUTHORIZED UNDER THE LAWS OF THE COMPACTING STATES.

(L) (1) "RULE" MEANS A WRITTEN STATEMENT BY THE INTERSTATE COMMISSION PROMULGATED PURSUANT TO ARTICLE VI OF THIS COMPACT THAT:

(I) IS OF GENERAL APPLICABILITY;

(II) IMPLEMENTS, INTERPRETS, OR PRESCRIBES A POLICY OR PROVISION OF THE COMPACT, OR AN ORGANIZATIONAL, PROCEDURAL, OR PRACTICE REQUIREMENT OF THE COMMISSION; AND

(III) HAS THE FORCE AND EFFECT OF STATUTORY LAW IN A COMPACTING STATE.

(2) "RULE" INCLUDES THE AMENDMENT, REPEAL, OR SUSPENSION OF AN EXISTING RULE.

(M) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA OR ITS DESIGNEE, THE COMMONWEALTH OF PUERTO RICO, THE U.S. VIRGIN ISLANDS, GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANAS ISLANDS.

9-304.

ARTICLE III. INTERSTATE COMMISSION FOR JUVENILES.

(A) THE COMPACTING STATES HEREBY CREATE THE "INTERSTATE COMMISSION FOR JUVENILES." THE COMMISSION SHALL BE A BODY CORPORATE AND JOINT AGENCY OF THE COMPACTING STATES. THE COMMISSION SHALL HAVE ALL THE RESPONSIBILITIES, POWERS, AND DUTIES SET FORTH HEREIN, AND SUCH ADDITIONAL POWERS AS MAY BE CONFERRED

UPON IT BY SUBSEQUENT ACTION OF THE RESPECTIVE LEGISLATURES OF THE COMPACTING STATES IN ACCORDANCE WITH THE TERMS OF THIS COMPACT.

(B) (1) THE INTERSTATE COMMISSION SHALL CONSIST OF COMMISSIONERS APPOINTED BY THE APPROPRIATE APPOINTING AUTHORITY IN EACH STATE PURSUANT TO THE RULES AND REQUIREMENTS OF EACH COMPACTING STATE AND IN CONSULTATION WITH THE STATE COUNCIL FOR INTERSTATE JUVENILE SUPERVISION CREATED HEREUNDER. THE COMMISSIONER SHALL BE THE COMPACT ADMINISTRATOR, DEPUTY COMPACT ADMINISTRATOR, OR DESIGNEE FROM THAT STATE WHO SHALL SERVE ON THE INTERSTATE COMMISSION IN SUCH CAPACITY UNDER OR PURSUANT TO THE APPLICABLE LAW OF THE COMPACTING STATE.

(2) IN ADDITION TO THE COMMISSIONERS WHO ARE THE VOTING REPRESENTATIVES OF EACH STATE, THE INTERSTATE COMMISSION SHALL INCLUDE INDIVIDUALS WHO ARE NOT COMMISSIONERS, BUT WHO ARE MEMBERS OF INTERESTED ORGANIZATIONS. SUCH NONCOMMISSIONER MEMBERS MUST INCLUDE A MEMBER OF THE NATIONAL ORGANIZATIONS OF GOVERNORS, LEGISLATORS, STATE CHIEF JUSTICES, ATTORNEYS GENERAL, INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION, INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN, JUVENILE JUSTICE AND JUVENILE CORRECTIONS OFFICIALS, AND CRIME VICTIMS. ALL NONCOMMISSIONER MEMBERS OF THE INTERSTATE COMMISSION SHALL BE EX OFFICIO (NONVOTING) MEMBERS. THE INTERSTATE COMMISSION MAY PROVIDE IN ITS BYLAWS FOR SUCH ADDITIONAL EX OFFICIO (NONVOTING) MEMBERS, INCLUDING MEMBERS OF OTHER NATIONAL ORGANIZATIONS, IN SUCH NUMBERS AS SHALL BE DETERMINED BY THE COMMISSION.

(C) EACH COMPACTING STATE REPRESENTED AT ANY MEETING OF THE COMMISSION IS ENTITLED TO ONE VOTE. A MAJORITY OF THE COMPACTING STATES SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS, UNLESS A LARGER QUORUM IS REQUIRED BY THE BYLAWS OF THE INTERSTATE COMMISSION. THE COMMISSION SHALL MEET AT LEAST ONCE EACH CALENDAR YEAR. THE CHAIRPERSON MAY CALL ADDITIONAL MEETINGS AND, UPON THE REQUEST OF A SIMPLE MAJORITY OF THE COMPACTING STATES, SHALL CALL ADDITIONAL MEETINGS. PUBLIC NOTICE SHALL BE GIVEN OF ALL MEETINGS AND MEETINGS SHALL BE OPEN TO THE PUBLIC.

(D) THE INTERSTATE COMMISSION SHALL ESTABLISH AN EXECUTIVE COMMITTEE, WHICH SHALL INCLUDE COMMISSION OFFICERS, MEMBERS, AND OTHERS AS DETERMINED BY THE BYLAWS. THE EXECUTIVE COMMITTEE SHALL HAVE THE POWER TO ACT ON BEHALF OF THE INTERSTATE COMMISSION

DURING PERIODS WHEN THE INTERSTATE COMMISSION IS NOT IN SESSION, WITH THE EXCEPTION OF RULEMAKING AND/OR AMENDMENT TO THE COMPACT.

(E) THE EXECUTIVE COMMITTEE SHALL:

(1) OVERSEE THE DAY-TO-DAY ACTIVITIES OF THE ADMINISTRATION OF THE COMPACT MANAGED BY AN EXECUTIVE DIRECTOR AND INTERSTATE COMMISSION STAFF;

(2) ADMINISTER ENFORCEMENT AND COMPLIANCE WITH THE PROVISIONS OF THE COMPACT, ITS BYLAWS, AND RULES; AND

(3) PERFORM SUCH OTHER DUTIES AS DIRECTED BY THE INTERSTATE COMMISSION OR SET FORTH IN THE BYLAWS.

(F) EACH MEMBER OF THE INTERSTATE COMMISSION SHALL HAVE THE RIGHT AND POWER TO CAST A VOTE TO WHICH THAT COMPACTING STATE IS ENTITLED AND TO PARTICIPATE IN THE BUSINESS AND AFFAIRS OF THE INTERSTATE COMMISSION. A MEMBER SHALL VOTE IN PERSON AND SHALL NOT DELEGATE A VOTE TO ANOTHER COMPACTING STATE. HOWEVER, A COMMISSIONER, IN CONSULTATION WITH THE STATE COUNCIL, SHALL APPOINT ANOTHER AUTHORIZED REPRESENTATIVE, IN THE ABSENCE OF THE COMMISSIONER FROM THAT STATE, TO CAST A VOTE ON BEHALF OF THE COMPACTING STATE AT A SPECIFIED MEETING. THE BYLAWS MAY PROVIDE FOR MEMBERS' PARTICIPATION IN MEETINGS BY TELEPHONE OR OTHER MEANS OF TELECOMMUNICATION OR ELECTRONIC COMMUNICATION.

(G) THE INTERSTATE COMMISSION'S BYLAWS SHALL ESTABLISH CONDITIONS AND PROCEDURES UNDER WHICH THE INTERSTATE COMMISSION SHALL MAKE ITS INFORMATION AND OFFICIAL RECORDS AVAILABLE TO THE PUBLIC FOR INSPECTION OR COPYING. THE INTERSTATE COMMISSION MAY EXEMPT FROM DISCLOSURE ANY INFORMATION OR OFFICIAL RECORDS TO THE EXTENT THEY WOULD ADVERSELY AFFECT PERSONAL PRIVACY RIGHTS OR PROPRIETARY INTERESTS.

(H) PUBLIC NOTICE SHALL BE GIVEN OF ALL MEETINGS AND ALL MEETINGS SHALL BE OPEN TO THE PUBLIC, EXCEPT AS SET FORTH IN THE RULES OR AS OTHERWISE PROVIDED IN THE COMPACT. THE INTERSTATE COMMISSION AND ANY OF ITS COMMITTEES MAY CLOSE A MEETING TO THE PUBLIC WHERE IT DETERMINES BY TWO-THIRDS VOTE THAT AN OPEN MEETING WOULD BE LIKELY TO:

(1) RELATE SOLELY TO THE INTERSTATE COMMISSION'S INTERNAL PERSONNEL PRACTICES AND PROCEDURES;

(2) DISCLOSE MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY STATUTE;

(3) DISCLOSE TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION WHICH IS PRIVILEGED OR CONFIDENTIAL;

(4) INVOLVE ACCUSING ANY PERSON OF A CRIME, OR FORMALLY CENSURING ANY PERSON;

(5) DISCLOSE INFORMATION OF A PERSONAL NATURE WHEN DISCLOSURE WOULD CONSTITUTE A CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY;

(6) DISCLOSE INVESTIGATIVE RECORDS COMPILED FOR LAW ENFORCEMENT PURPOSES;

(7) DISCLOSE INFORMATION CONTAINED IN OR RELATED TO EXAMINATION, OPERATING, OR CONDITION REPORTS PREPARED BY, OR ON BEHALF OF OR FOR THE USE OF, THE INTERSTATE COMMISSION WITH RESPECT TO A REGULATED PERSON OR ENTITY FOR THE PURPOSE OF REGULATION OR SUPERVISION OF SUCH PERSON OR ENTITY;

(8) DISCLOSE INFORMATION, THE PREMATURE DISCLOSURE OF WHICH WOULD SIGNIFICANTLY ENDANGER THE STABILITY OF A REGULATED PERSON OR ENTITY; OR

(9) SPECIFICALLY RELATE TO THE INTERSTATE COMMISSION'S ISSUANCE OF A SUBPOENA, OR ITS PARTICIPATION IN A CIVIL ACTION OR OTHER LEGAL PROCEEDING.

(i) FOR EVERY MEETING CLOSED PURSUANT TO THIS PROVISION, THE INTERSTATE COMMISSION'S LEGAL COUNSEL SHALL PUBLICLY CERTIFY THAT, IN THE LEGAL COUNSEL'S OPINION, THE MEETING MAY BE CLOSED TO THE PUBLIC, AND SHALL REFERENCE EACH RELEVANT EXEMPTIVE PROVISION. THE INTERSTATE COMMISSION SHALL KEEP MINUTES WHICH SHALL FULLY AND CLEARLY DESCRIBE ALL MATTERS DISCUSSED IN ANY MEETING AND SHALL PROVIDE A FULL AND ACCURATE SUMMARY OF ANY ACTIONS TAKEN, AND THE REASONS THEREFORE, INCLUDING A DESCRIPTION OF EACH OF THE VIEWS EXPRESSED ON ANY ITEM AND THE RECORD OF ANY ROLL CALL VOTE

(REFLECTED IN THE VOTE OF EACH MEMBER ON THE QUESTION). ALL DOCUMENTS CONSIDERED IN CONNECTION WITH ANY ACTION SHALL BE IDENTIFIED IN SUCH MINUTES.

(J) THE INTERSTATE COMMISSION SHALL COLLECT STANDARDIZED DATA CONCERNING THE INTERSTATE MOVEMENT OF JUVENILES AS DIRECTED THROUGH ITS RULES WHICH SHALL SPECIFY THE DATA TO BE COLLECTED, THE MEANS OF COLLECTION AND DATA EXCHANGE, AND REPORTING REQUIREMENTS. SUCH METHODS OF DATA COLLECTION, EXCHANGE, AND REPORTING SHALL INsofar AS IS REASONABLY POSSIBLE CONFORM TO UP-TO-DATE TECHNOLOGY AND COORDINATE ITS INFORMATION FUNCTIONS WITH THE APPROPRIATE REPOSITORY OF RECORDS.

9-305.

ARTICLE IV. POWERS AND DUTIES OF THE INTERSTATE COMMISSION.

(A) THE INTERSTATE COMMISSION SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

(1) TO PROVIDE FOR DISPUTE RESOLUTION AMONG COMPACTING STATES;

(2) TO PROMULGATE RULES WHICH SHALL HAVE THE FORCE AND EFFECT OF STATUTORY LAW AND SHALL BE BINDING IN THE COMPACTING STATES TO THE EXTENT AND IN THE MANNER PROVIDED IN THIS COMPACT;

(3) TO OVERSEE, SUPERVISE, AND COORDINATE THE INTERSTATE MOVEMENT OF JUVENILES SUBJECT TO THE TERMS OF THIS COMPACT AND ANY BYLAWS ADOPTED AND RULES PROMULGATED BY THE INTERSTATE COMMISSION;

(4) TO ENFORCE COMPLIANCE WITH THE COMPACT PROVISIONS, THE RULES PROMULGATED BY THE INTERSTATE COMMISSION, AND THE BYLAWS, USING ALL NECESSARY AND PROPER MEANS, INCLUDING BUT NOT LIMITED TO, THE USE OF JUDICIAL PROCESS;

(5) TO ESTABLISH AND MAINTAIN OFFICES WHICH SHALL BE LOCATED WITHIN ONE OR MORE OF THE COMPACTING STATES;

(6) TO PURCHASE AND MAINTAIN INSURANCE AND BONDS;

(7) TO BORROW, ACCEPT, HIRE, OR CONTRACT FOR SERVICES OF PERSONNEL;

(8) TO ESTABLISH AND APPOINT COMMITTEES AND HIRE STAFF WHICH IT DEEMS NECESSARY FOR THE CARRYING OUT OF ITS FUNCTIONS INCLUDING, BUT NOT LIMITED TO, AN EXECUTIVE COMMITTEE AS REQUIRED BY ARTICLE III WHICH SHALL HAVE THE POWER TO ACT ON BEHALF OF THE INTERSTATE COMMISSION IN CARRYING OUT ITS POWERS AND DUTIES HEREUNDER;

(9) TO ELECT OR APPOINT SUCH OFFICERS, ATTORNEYS, EMPLOYEES, AGENTS, OR CONSULTANTS, AND TO FIX THEIR COMPENSATION, DEFINE THEIR DUTIES, AND DETERMINE THEIR QUALIFICATIONS; AND TO ESTABLISH THE INTERSTATE COMMISSION'S PERSONNEL POLICIES AND PROGRAMS RELATING TO, AMONG OTHER THINGS, CONFLICTS OF INTEREST, RATES OF COMPENSATION, AND QUALIFICATIONS OF PERSONNEL;

(10) TO ACCEPT ANY AND ALL DONATIONS AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS, AND SERVICES, AND TO RECEIVE, UTILIZE, AND DISPOSE OF THE SAME;

(11) TO LEASE, PURCHASE, ACCEPT CONTRIBUTIONS OR DONATIONS OF, OR OTHERWISE TO OWN, HOLD, IMPROVE, OR USE ANY PROPERTY, REAL, PERSONAL, OR MIXED;

(12) TO SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, ABANDON, OR OTHERWISE DISPOSE OF ANY PROPERTY, REAL, PERSONAL, OR MIXED;

(13) TO ESTABLISH A BUDGET AND MAKE EXPENDITURES AND LEVY DUES AS PROVIDED IN ARTICLE VIII OF THIS COMPACT;

(14) TO SUE AND BE SUED;

(15) TO ADOPT A SEAL AND BYLAWS GOVERNING THE MANAGEMENT AND OPERATION OF THE INTERSTATE COMMISSION;

(16) TO PERFORM SUCH FUNCTIONS AS MAY BE NECESSARY OR APPROPRIATE TO ACHIEVE THE PURPOSES OF THIS COMPACT;

(17) TO REPORT ANNUALLY TO THE LEGISLATURES, GOVERNORS, JUDICIARY, AND STATE COUNCILS OF THE COMPACTING STATES CONCERNING

THE ACTIVITIES OF THE INTERSTATE COMMISSION DURING THE PRECEDING YEAR. SUCH REPORTS SHALL ALSO INCLUDE ANY RECOMMENDATIONS THAT MAY HAVE BEEN ADOPTED BY THE INTERSTATE COMMISSION;

(18) TO COORDINATE EDUCATION, TRAINING, AND PUBLIC AWARENESS REGARDING THE INTERSTATE MOVEMENT OF JUVENILES FOR OFFICIALS INVOLVED IN SUCH ACTIVITY; AND

(19) TO ESTABLISH UNIFORM STANDARDS OF THE REPORTING, COLLECTING, AND EXCHANGING OF DATA.

(B) THE INTERSTATE COMMISSION SHALL MAINTAIN ITS CORPORATE BOOKS AND RECORDS IN ACCORDANCE WITH THE BYLAWS.

9-306.

ARTICLE V. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.

(A) THE INTERSTATE COMMISSION SHALL, BY A MAJORITY OF THE MEMBERS PRESENT AND VOTING, WITHIN 12 MONTHS AFTER THE FIRST INTERSTATE COMMISSION MEETING, ADOPT BYLAWS TO GOVERN ITS CONDUCT AS MAY BE NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES OF THE COMPACT, INCLUDING, BUT NOT LIMITED TO:

(1) ESTABLISHING THE FISCAL YEAR OF THE INTERSTATE COMMISSION;

(2) ESTABLISHING AN EXECUTIVE COMMITTEE AND SUCH OTHER COMMITTEES AS MAY BE NECESSARY;

(3) PROVIDING FOR THE ESTABLISHMENT OF COMMITTEES GOVERNING ANY GENERAL OR SPECIFIC DELEGATION OF ANY AUTHORITY OR FUNCTION OF THE INTERSTATE COMMISSION;

(4) PROVIDING REASONABLE PROCEDURES FOR CALLING AND CONDUCTING MEETINGS OF THE INTERSTATE COMMISSION, AND ENSURING REASONABLE NOTICE OF EACH SUCH MEETING;

(5) ESTABLISHING THE TITLES AND RESPONSIBILITIES OF THE OFFICERS OF THE INTERSTATE COMMISSION;

(6) PROVIDING A MECHANISM FOR CONCLUDING THE OPERATIONS OF THE INTERSTATE COMMISSION AND THE RETURN OF ANY SURPLUS FUNDS THAT MAY EXIST UPON THE TERMINATION OF THE COMPACT AFTER THE PAYMENT AND/OR RESERVING OF ALL OF ITS DEBTS AND OBLIGATIONS;

(7) PROVIDING "START-UP" RULES FOR INITIAL ADMINISTRATION OF THE COMPACT; AND

(8) ESTABLISHING STANDARDS AND PROCEDURES FOR COMPLIANCE AND TECHNICAL ASSISTANCE IN CARRYING OUT THE COMPACT.

(B) (1) THE INTERSTATE COMMISSION SHALL, BY A MAJORITY OF THE MEMBERS, ELECT ANNUALLY FROM AMONG ITS MEMBERS A CHAIRPERSON AND A VICE CHAIRPERSON, EACH OF WHOM SHALL HAVE SUCH AUTHORITY AND DUTIES AS MAY BE SPECIFIED IN THE BYLAWS. THE CHAIRPERSON OR, IN THE CHAIRPERSON'S ABSENCE OR DISABILITY, THE VICE CHAIRPERSON SHALL PRESIDE AT ALL MEETINGS OF THE INTERSTATE COMMISSION.

(2) THE OFFICERS SO ELECTED SHALL SERVE WITHOUT COMPENSATION OR REMUNERATION FROM THE INTERSTATE COMMISSION; PROVIDED THAT, SUBJECT TO THE AVAILABILITY OF BUDGETED FUNDS, THE OFFICERS SHALL BE REIMBURSED FOR ANY ORDINARY AND NECESSARY COSTS AND EXPENSES INCURRED BY THEM IN THE PERFORMANCE OF THEIR DUTIES AND RESPONSIBILITIES AS OFFICERS OF THE INTERSTATE COMMISSION.

(3) THE INTERSTATE COMMISSION SHALL, THROUGH ITS EXECUTIVE COMMITTEE, APPOINT OR RETAIN AN EXECUTIVE DIRECTOR FOR SUCH PERIOD, UPON SUCH TERMS AND CONDITIONS AND FOR SUCH COMPENSATION AS THE INTERSTATE COMMISSION MAY DEEM APPROPRIATE. THE EXECUTIVE DIRECTOR SHALL SERVE AS SECRETARY TO THE INTERSTATE COMMISSION, BUT SHALL NOT BE A MEMBER AND SHALL HIRE AND SUPERVISE SUCH OTHER STAFF AS MAY BE AUTHORIZED BY THE INTERSTATE COMMISSION.

(C) (1) THE INTERSTATE COMMISSION'S EXECUTIVE DIRECTOR AND EMPLOYEES SHALL BE IMMUNE FROM SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR OFFICIAL CAPACITY, FOR ANY CLAIM FOR DAMAGE TO OR LOSS OF PROPERTY OR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED OR ARISING OUT OF OR RELATING TO ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED, OR THAT SUCH PERSON HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES; PROVIDED, THAT

ANY SUCH PERSON SHALL NOT BE PROTECTED FROM SUIT OR LIABILITY FOR ANY DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT OF ANY SUCH PERSON.

(2) THE LIABILITY OF ANY COMMISSIONER, OR THE EMPLOYEE OR AGENT OF A COMMISSIONER, ACTING WITHIN THE SCOPE OF SUCH PERSON'S EMPLOYMENT OR DUTIES FOR ACTS, ERRORS, OR OMISSIONS OCCURRING WITHIN SUCH PERSON'S STATE MAY NOT EXCEED THE LIMITS OF LIABILITY SET FORTH UNDER THE CONSTITUTION AND LAWS OF THAT STATE FOR STATE OFFICIALS, EMPLOYEES, AND AGENTS. NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO PROTECT ANY SUCH PERSON FROM SUIT OR LIABILITY FOR ANY DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT OF ANY SUCH PERSON.

(3) THE INTERSTATE COMMISSION SHALL DEFEND THE EXECUTIVE DIRECTOR OR THE EMPLOYEES OR REPRESENTATIVES OF THE INTERSTATE COMMISSION AND, SUBJECT TO THE APPROVAL OF THE ATTORNEY GENERAL OF THE STATE REPRESENTED BY ANY COMMISSIONER OF A COMPACTING STATE, SHALL DEFEND SUCH COMMISSIONER OR THE COMMISSIONER'S REPRESENTATIVES OR EMPLOYEES IN ANY CIVIL ACTION SEEKING TO IMPOSE LIABILITY ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT THE DEFENDANT HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES; PROVIDED, THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT ON THE PART OF SUCH PERSON.

(4) THE INTERSTATE COMMISSION SHALL INDEMNIFY AND HOLD THE COMMISSIONER OF A COMPACTING STATE, OR THE COMMISSIONER'S REPRESENTATIVES OR EMPLOYEES, OR THE INTERSTATE COMMISSION'S REPRESENTATIVES OR EMPLOYEES, HARMLESS IN THE AMOUNT OF ANY SETTLEMENT OR JUDGMENT OBTAINED AGAINST SUCH PERSONS ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT SUCH PERSONS HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES; PROVIDED, THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT ON THE PART OF SUCH PERSONS.

9-307.

ARTICLE VI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION.

(A) THE INTERSTATE COMMISSION SHALL PROMULGATE AND PUBLISH RULES IN ORDER TO EFFECTIVELY AND EFFICIENTLY ACHIEVE THE PURPOSES OF THE COMPACT.

(B) RULEMAKING SHALL OCCUR PURSUANT TO THE CRITERIA SET FORTH IN THIS ARTICLE AND THE BYLAWS AND RULES ADOPTED PURSUANT THERETO. SUCH RULEMAKING SHALL SUBSTANTIALLY CONFORM TO THE PRINCIPLES OF THE "MODEL STATE ADMINISTRATIVE PROCEDURES ACT," 1981 ACT, UNIFORM LAWS ANNOTATED, VOL. 15, P.1 (2000), OR SUCH OTHER ADMINISTRATIVE PROCEDURES ACT, AS THE INTERSTATE COMMISSION DEEMS APPROPRIATE CONSISTENT WITH DUE PROCESS REQUIREMENTS UNDER THE U.S. CONSTITUTION AS NOW OR HEREAFTER INTERPRETED BY THE U.S. SUPREME COURT. ALL RULES AND AMENDMENTS SHALL BECOME BINDING AS OF THE DATE SPECIFIED, AS PUBLISHED WITH THE FINAL VERSION OF THE RULE AS APPROVED BY THE COMMISSION.

(C) WHEN PROMULGATING A RULE, THE INTERSTATE COMMISSION SHALL, AT A MINIMUM:

(1) PUBLISH THE PROPOSED RULE'S ENTIRE TEXT STATING THE REASON FOR THAT PROPOSED RULE;

(2) ALLOW AND INVITE PERSONS TO SUBMIT WRITTEN DATA, FACTS, OPINIONS, AND ARGUMENTS, WHICH INFORMATION SHALL BE ADDED TO THE RECORD, AND BE MADE PUBLICLY AVAILABLE;

(3) PROVIDE AN OPPORTUNITY FOR AN INFORMAL HEARING IF PETITIONED BY 10 OR MORE PERSONS; AND

(4) PROMULGATE A FINAL RULE AND ITS EFFECTIVE DATE, IF APPROPRIATE, BASED ON INPUT FROM STATE OR LOCAL OFFICIALS OR INTERESTED PARTIES.

(D) NOT LATER THAN 60 DAYS AFTER A RULE IS PROMULGATED, ANY INTERESTED PERSON MAY FILE A PETITION IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR IN THE FEDERAL DISTRICT COURT WHERE THE INTERSTATE COMMISSION'S PRINCIPAL OFFICE IS LOCATED FOR JUDICIAL REVIEW OF SUCH RULE. IF THE COURT FINDS THAT THE INTERSTATE

COMMISSION'S ACTION IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE, (AS DEFINED IN THE MODEL STATE ADMINISTRATIVE PROCEDURES ACT) IN THE RULEMAKING RECORD, THE COURT SHALL HOLD THE RULE UNLAWFUL AND SET IT ASIDE.

(E) IF A MAJORITY OF THE LEGISLATURES OF THE COMPACTING STATES REJECTS A RULE, THOSE STATES MAY, BY ENACTMENT OF A STATUTE OR RESOLUTION IN THE SAME MANNER USED TO ADOPT THE COMPACT, CAUSE THAT SUCH RULE SHALL HAVE NO FURTHER FORCE AND EFFECT IN ANY COMPACTING STATE.

(F) THE EXISTING RULES GOVERNING THE OPERATION OF THE INTERSTATE COMPACT ON JUVENILES SUPERSEDED BY THIS ACT SHALL BE NULL AND VOID 12 MONTHS AFTER THE FIRST MEETING OF THE INTERSTATE COMMISSION CREATED HEREUNDER.

(G) UPON DETERMINATION BY THE INTERSTATE COMMISSION THAT AN EMERGENCY EXISTS, IT MAY PROMULGATE AN EMERGENCY RULE WHICH SHALL BECOME EFFECTIVE IMMEDIATELY UPON ADOPTION, PROVIDED THAT THE USUAL RULEMAKING PROCEDURES PROVIDED HEREUNDER SHALL BE RETROACTIVELY APPLIED TO SAID RULE AS SOON AS REASONABLY POSSIBLE, BUT NO LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF THE EMERGENCY RULE.

9-308.

**ARTICLE VII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY
THE INTERSTATE COMMISSION.**

(A) (1) THE INTERSTATE COMMISSION SHALL OVERSEE THE ADMINISTRATION AND OPERATIONS OF THE INTERSTATE MOVEMENT OF JUVENILES SUBJECT TO THIS COMPACT IN THE COMPACTING STATES AND SHALL MONITOR SUCH ACTIVITIES BEING ADMINISTERED IN NONCOMPACTING STATES WHICH MAY SIGNIFICANTLY AFFECT COMPACTING STATES.

(2) THE COURTS AND EXECUTIVE AGENCIES IN EACH COMPACTING STATE SHALL ENFORCE THIS COMPACT AND SHALL TAKE ALL ACTIONS NECESSARY AND APPROPRIATE TO EFFECTUATE THE COMPACT'S PURPOSES AND INTENT. THE PROVISIONS OF THIS COMPACT AND THE RULES PROMULGATED HEREUNDER SHALL BE RECEIVED BY ALL THE JUDGES, PUBLIC OFFICERS, COMMISSIONS, AND DEPARTMENTS OF THE STATE GOVERNMENT AS EVIDENCE OF THE AUTHORIZED STATUTE AND ADMINISTRATIVE RULES. ALL

COURTS SHALL TAKE JUDICIAL NOTICE OF THE COMPACT AND THE RULES. IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING IN A COMPACTING STATE PERTAINING TO THE SUBJECT MATTER OF THIS COMPACT WHICH MAY AFFECT THE POWERS, RESPONSIBILITIES, OR ACTIONS OF THE INTERSTATE COMMISSION, THE INTERSTATE COMMISSION SHALL BE ENTITLED TO RECEIVE ALL SERVICE OF PROCESS IN ANY SUCH PROCEEDING, AND SHALL HAVE STANDING TO INTERVENE IN THE PROCEEDING FOR ALL PURPOSES.

(B) (1) THE COMPACTING STATES SHALL REPORT TO THE INTERSTATE COMMISSION ON ALL ISSUES AND ACTIVITIES NECESSARY FOR THE ADMINISTRATION OF THE COMPACT AS WELL AS ISSUES AND ACTIVITIES PERTAINING TO COMPLIANCE WITH THE PROVISIONS OF THE COMPACT AND ITS BYLAWS AND RULES.

(2) THE INTERSTATE COMMISSION SHALL ATTEMPT, UPON THE REQUEST OF A COMPACTING STATE, TO RESOLVE ANY DISPUTES OR OTHER ISSUES WHICH ARE SUBJECT TO THE COMPACT AND WHICH MAY ARISE AMONG COMPACTING STATES AND BETWEEN COMPACTING AND NONCOMPACTING STATES.

(3) THE COMMISSION SHALL PROMULGATE A RULE PROVIDING FOR BOTH MEDIATION AND BINDING DISPUTE RESOLUTION FOR DISPUTES AMONG THE COMPACTING STATES.

(C) THE INTERSTATE COMMISSION, IN THE REASONABLE EXERCISE OF ITS DISCRETION, SHALL ENFORCE THE PROVISIONS AND RULES OF THIS COMPACT USING ANY OR ALL MEANS SET FORTH IN ARTICLE XI OF THIS COMPACT.

9-309.

ARTICLE VIII. FINANCE.

(A) THE INTERSTATE COMMISSION SHALL PAY OR PROVIDE FOR THE PAYMENT OF THE REASONABLE EXPENSES OF ITS ESTABLISHMENT, ORGANIZATION, AND ONGOING ACTIVITIES.

(B) THE INTERSTATE COMMISSION SHALL LEVY ON AND COLLECT AN ANNUAL ASSESSMENT FROM EACH COMPACTING STATE TO COVER THE COST OF THE INTERNAL OPERATIONS AND ACTIVITIES OF THE INTERSTATE COMMISSION AND ITS STAFF WHICH MUST BE IN A TOTAL AMOUNT SUFFICIENT TO COVER THE INTERSTATE COMMISSION'S ANNUAL BUDGET AS APPROVED EACH YEAR. THE

AGGREGATE ANNUAL ASSESSMENT AMOUNT SHALL BE ALLOCATED BASED UPON A FORMULA TO BE DETERMINED BY THE INTERSTATE COMMISSION, TAKING INTO CONSIDERATION THE POPULATION OF EACH COMPACTING STATE AND THE VOLUME OF INTERSTATE MOVEMENT OF JUVENILES IN EACH COMPACTING STATE AND SHALL PROMULGATE A RULE BINDING UPON ALL COMPACTING STATES WHICH GOVERNS SAID ASSESSMENT.

(C) THE INTERSTATE COMMISSION SHALL NOT INCUR ANY OBLIGATIONS OF ANY KIND PRIOR TO SECURING THE FUNDS ADEQUATE TO MEET THE SAME; NOR SHALL THE INTERSTATE COMMISSION PLEDGE THE CREDIT OF ANY OF THE COMPACTING STATES, EXCEPT BY AND WITH THE AUTHORITY OF THE COMPACTING STATE.

(D) THE INTERSTATE COMMISSION SHALL KEEP ACCURATE ACCOUNTS OF ALL RECEIPTS AND DISBURSEMENTS. THE RECEIPTS AND DISBURSEMENTS OF THE INTERSTATE COMMISSION SHALL BE SUBJECT TO THE AUDIT AND ACCOUNTING PROCEDURES ESTABLISHED UNDER ITS BYLAWS. HOWEVER, ALL RECEIPTS AND DISBURSEMENTS OF FUNDS HANDLED BY THE INTERSTATE COMMISSION SHALL BE AUDITED YEARLY BY A CERTIFIED OR LICENSED PUBLIC ACCOUNTANT AND THE REPORT OF THE AUDIT SHALL BE INCLUDED IN AND BECOME PART OF THE ANNUAL REPORT OF THE INTERSTATE COMMISSION.

9-310.

ARTICLE IX. THE STATE COUNCIL.

(A) EACH MEMBER STATE SHALL CREATE A STATE COUNCIL FOR INTERSTATE JUVENILE SUPERVISION. WHILE EACH STATE MAY DETERMINE THE MEMBERSHIP OF ITS OWN STATE COUNCIL, ITS MEMBERSHIP MUST INCLUDE AT LEAST ONE REPRESENTATIVE FROM THE LEGISLATIVE, JUDICIAL, AND EXECUTIVE BRANCHES OF GOVERNMENT, VICTIMS' GROUPS, AND THE COMPACT ADMINISTRATOR, DEPUTY COMPACT ADMINISTRATOR, OR DESIGNEE.

(B) EACH COMPACTING STATE RETAINS THE RIGHT TO DETERMINE THE QUALIFICATIONS OF THE COMPACT ADMINISTRATOR OR DEPUTY COMPACT ADMINISTRATOR.

(C) EACH STATE COUNCIL SHALL ADVISE AND MAY EXERCISE OVERSIGHT AND ADVOCACY CONCERNING THAT STATE'S PARTICIPATION IN INTERSTATE COMMISSION ACTIVITIES AND OTHER DUTIES AS MAY BE DETERMINED BY THAT STATE, INCLUDING BUT NOT LIMITED TO, DEVELOPMENT

OF POLICY CONCERNING OPERATIONS AND PROCEDURES OF THE COMPACT WITHIN THAT STATE.

9-311.

ARTICLE X. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT.

(A) ANY STATE IS ELIGIBLE TO BECOME A COMPACTING STATE.

(B) THE COMPACT SHALL BECOME EFFECTIVE AND BINDING UPON LEGISLATIVE ENACTMENT OF THE COMPACT INTO LAW BY NO LESS THAN 35 OF THE STATES. THE INITIAL EFFECTIVE DATE SHALL BE THE LATER OF JULY 1, 2004, OR UPON ENACTMENT INTO LAW BY THE 35TH JURISDICTION. THEREAFTER IT SHALL BECOME EFFECTIVE AND BINDING AS TO ANY OTHER COMPACTING STATE UPON ENACTMENT OF THE COMPACT INTO LAW BY THAT STATE. THE GOVERNORS OF NONMEMBER STATES OR THEIR DESIGNEES SHALL BE INVITED TO PARTICIPATE IN THE ACTIVITIES OF THE INTERSTATE COMMISSION ON A NONVOTING BASIS PRIOR TO ADOPTION OF THE COMPACT BY ALL STATES AND TERRITORIES OF THE UNITED STATES.

(C) THE INTERSTATE COMMISSION MAY PROPOSE AMENDMENTS TO THE COMPACT FOR ENACTMENT BY THE COMPACTING STATES. NO AMENDMENT SHALL BECOME EFFECTIVE AND BINDING UPON THE INTERSTATE COMMISSION AND THE COMPACTING STATES UNLESS AND UNTIL IT IS ENACTED INTO LAW BY UNANIMOUS CONSENT OF THE COMPACTING STATES.

9-312.

ARTICLE XI. WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT.

(A) (1) ONCE EFFECTIVE, THE COMPACT SHALL CONTINUE IN FORCE AND REMAIN BINDING UPON EACH AND EVERY COMPACTING STATE; PROVIDED THAT A COMPACTING STATE MAY WITHDRAW FROM THE COMPACT BY SPECIFICALLY REPEALING THE STATUTE WHICH ENACTED THE COMPACT INTO LAW.

(2) THE EFFECTIVE DATE OF WITHDRAWAL IS THE EFFECTIVE DATE OF THE REPEAL.

(3) THE WITHDRAWING STATE SHALL IMMEDIATELY NOTIFY THE CHAIRPERSON OF THE INTERSTATE COMMISSION IN WRITING UPON THE

INTRODUCTION OF LEGISLATION REPEALING THIS COMPACT IN THE WITHDRAWING STATE. THE INTERSTATE COMMISSION SHALL NOTIFY THE OTHER COMPACTING STATES OF THE WITHDRAWING STATE'S INTENT TO WITHDRAW WITHIN 60 DAYS OF ITS RECEIPT THEREOF.

(4) THE WITHDRAWING STATE IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS, AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF WITHDRAWAL, INCLUDING ANY OBLIGATIONS, THE PERFORMANCE OF WHICH EXTEND BEYOND THE EFFECTIVE DATE OF WITHDRAWAL.

(5) REINSTATEMENT FOLLOWING WITHDRAWAL OF ANY COMPACTING STATE SHALL OCCUR UPON THE WITHDRAWING STATE REENACTING THE COMPACT OR UPON SUCH LATER DATE AS DETERMINED BY THE INTERSTATE COMMISSION.

(B) (1) IF THE INTERSTATE COMMISSION DETERMINES THAT ANY COMPACTING STATE HAS AT ANY TIME DEFAULTED IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS OR RESPONSIBILITIES UNDER THIS COMPACT, OR THE BYLAWS OR DULY PROMULGATED RULES, THE INTERSTATE COMMISSION MAY IMPOSE ANY OR ALL OF THE FOLLOWING PENALTIES:

(I) REMEDIAL TRAINING AND TECHNICAL ASSISTANCE AS DIRECTED BY THE INTERSTATE COMMISSION;

(II) ALTERNATIVE DISPUTE RESOLUTION;

(III) FINES, FEES, AND COSTS IN SUCH AMOUNTS AS ARE DEEMED TO BE REASONABLE AS FIXED BY THE INTERSTATE COMMISSION; OR

(IV) SUSPENSION OR TERMINATION OF MEMBERSHIP IN THE COMPACT.

(2) (I) SUSPENSION SHALL BE IMPOSED ONLY AFTER ALL OTHER REASONABLE MEANS OF SECURING COMPLIANCE UNDER THE BYLAWS AND RULES HAVE BEEN EXHAUSTED AND THE INTERSTATE COMMISSION HAS DETERMINED THE OFFENDING STATE IS IN DEFAULT.

(II) IMMEDIATE NOTICE OF SUSPENSION SHALL BE GIVEN BY THE INTERSTATE COMMISSION TO THE GOVERNOR, THE CHIEF JUSTICE OR THE CHIEF JUDICIAL OFFICER OF THE STATE, THE MAJORITY AND MINORITY

LEADERS OF THE DEFAULTING STATE'S LEGISLATURE, AND THE STATE COUNCIL.

(3) THE GROUNDS FOR DEFAULT INCLUDE, BUT ARE NOT LIMITED TO, FAILURE OF A COMPACTING STATE TO PERFORM SUCH OBLIGATIONS OR RESPONSIBILITIES IMPOSED UPON IT BY THIS COMPACT, THE BYLAWS, OR DULY PROMULGATED RULES AND ANY OTHER GROUNDS DESIGNATED IN COMMISSION BYLAWS AND RULES.

(4) THE INTERSTATE COMMISSION SHALL IMMEDIATELY NOTIFY THE DEFAULTING STATE IN WRITING OF THE PENALTY IMPOSED BY THE INTERSTATE COMMISSION AND OF THE DEFAULT PENDING A CURE OF THE DEFAULT. THE COMMISSION SHALL STIPULATE THE CONDITIONS AND THE TIME PERIOD WITHIN WHICH THE DEFAULTING STATE MUST CURE ITS DEFAULT. IF THE DEFAULTING STATE FAILS TO CURE THE DEFAULT WITHIN THE TIME PERIOD SPECIFIED BY THE COMMISSION, THE DEFAULTING STATE SHALL BE TERMINATED FROM THE COMPACT UPON AN AFFIRMATIVE VOTE OF A MAJORITY OF THE COMPACTING STATES AND ALL RIGHTS, PRIVILEGES, AND BENEFITS CONFERRED BY THIS COMPACT SHALL BE TERMINATED FROM THE EFFECTIVE DATE OF TERMINATION. WITHIN 60 DAYS OF THE EFFECTIVE DATE OF TERMINATION OF A DEFAULTING STATE, THE COMMISSION SHALL NOTIFY THE GOVERNOR, THE CHIEF JUSTICE OR CHIEF JUDICIAL OFFICER, THE MAJORITY AND MINORITY LEADERS OF THE DEFAULTING STATE'S LEGISLATURE, AND THE STATE COUNCIL OF SUCH TERMINATION.

(5) THE DEFAULTING STATE IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS, AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF TERMINATION INCLUDING ANY OBLIGATIONS, THE PERFORMANCE OF WHICH EXTENDS BEYOND THE EFFECTIVE DATE OF TERMINATION.

(6) THE INTERSTATE COMMISSION SHALL NOT BEAR ANY COSTS RELATING TO THE DEFAULTING STATE UNLESS OTHERWISE MUTUALLY AGREED UPON IN WRITING BETWEEN THE INTERSTATE COMMISSION AND THE DEFAULTING STATE.

(7) REINSTATEMENT FOLLOWING TERMINATION OF ANY COMPACTING STATE REQUIRES BOTH A REENACTMENT OF THE COMPACT BY THE DEFAULTING STATE AND THE APPROVAL OF THE INTERSTATE COMMISSION PURSUANT TO THE RULES.

(C) THE INTERSTATE COMMISSION MAY, BY MAJORITY VOTE OF THE MEMBERS, INITIATE LEGAL ACTION IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR, AT THE DISCRETION OF THE INTERSTATE COMMISSION, IN THE FEDERAL DISTRICT WHERE THE INTERSTATE COMMISSION HAS ITS OFFICES, TO ENFORCE COMPLIANCE WITH THE PROVISIONS OF THE COMPACT, ITS DULY PROMULGATED RULES AND BYLAWS, AGAINST ANY COMPACTING STATE IN DEFAULT. IN THE EVENT JUDICIAL ENFORCEMENT IS NECESSARY, THE PREVAILING PARTY SHALL BE AWARDED ALL COSTS OF SUCH LITIGATION INCLUDING REASONABLE ATTORNEYS' FEES.

(D) (1) THE COMPACT DISSOLVES EFFECTIVE UPON THE DATE OF THE WITHDRAWAL OR DEFAULT OF THE COMPACTING STATE, WHICH REDUCES MEMBERSHIP IN THE COMPACT TO ONE COMPACTING STATE.

(2) UPON DISSOLUTION OF THIS COMPACT, THE COMPACT BECOMES NULL AND VOID AND SHALL BE OF NO FURTHER FORCE OR EFFECT, AND THE BUSINESS AND AFFAIRS OF THE INTERSTATE COMMISSION SHALL BE CONCLUDED AND ANY SURPLUS FUNDS SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE BYLAWS.

9-313.

ARTICLE XII. SEVERABILITY AND CONSTRUCTION.

(A) THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE, AND IF ANY PHRASE, CLAUSE, SENTENCE, OR PROVISION IS DEEMED UNENFORCEABLE, THE REMAINING PROVISIONS OF THE COMPACT SHALL BE ENFORCEABLE.

(B) THE PROVISIONS OF THIS COMPACT SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE ITS PURPOSES.

9-314.

ARTICLE XIII. BINDING EFFECT OF COMPACT AND OTHER LAWS.

(A) (1) NOTHING IN THIS SUBTITLE PREVENTS THE ENFORCEMENT OF ANY OTHER LAW OF A COMPACTING STATE THAT IS NOT INCONSISTENT WITH THIS COMPACT.

(2) ALL COMPACTING STATES' LAWS OTHER THAN STATE CONSTITUTIONS AND OTHER INTERSTATE COMPACTS CONFLICTING WITH THIS COMPACT ARE SUPERSEDED TO THE EXTENT OF THE CONFLICT.

(B) (1) ALL LAWFUL ACTIONS OF THE INTERSTATE COMMISSION, INCLUDING ALL RULES AND BYLAWS PROMULGATED BY THE INTERSTATE COMMISSION, ARE BINDING UPON THE COMPACTING STATES.

(2) ALL AGREEMENTS BETWEEN THE INTERSTATE COMMISSION AND THE COMPACTING STATES ARE BINDING IN ACCORDANCE WITH THEIR TERMS.

(3) UPON THE REQUEST OF A PARTY TO A CONFLICT OVER MEANING OR INTERPRETATION OF INTERSTATE COMMISSION ACTIONS, AND UPON A MAJORITY VOTE OF THE COMPACTING STATES, THE INTERSTATE COMMISSION MAY ISSUE ADVISORY OPINIONS REGARDING SUCH MEANING OR INTERPRETATION.

(4) IN THE EVENT ANY PROVISION OF THIS COMPACT EXCEEDS THE CONSTITUTIONAL LIMITS IMPOSED ON THE LEGISLATURE OF ANY COMPACTING STATE, THE OBLIGATIONS, DUTIES, POWERS, OR JURISDICTION SOUGHT TO BE CONFERRED BY SUCH PROVISION UPON THE INTERSTATE COMMISSION SHALL BE INEFFECTIVE AND SUCH OBLIGATIONS, DUTIES, POWERS, OR JURISDICTION SHALL REMAIN IN THE COMPACTING STATE AND SHALL BE EXERCISED BY THE AGENCY THEREOF TO WHICH SUCH OBLIGATIONS, DUTIES, POWERS, OR JURISDICTION ARE DELEGATED BY LAW IN EFFECT AT THE TIME THIS COMPACT BECOMES EFFECTIVE.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not take effect until the later of July 1, 2008, or upon enactment of a similar Act by no less than 35 of the states; that no less than 35 states are requested to concur in this Act of the General Assembly of Maryland by the passage of a similar Act; that the Department of Legislative Services shall notify the appropriate officials of the passage of this Act; and that upon concurrence in this Act by no less than 35 states and approval by the United States Congress, the Governor of the State of Maryland shall issue a proclamation declaring this Act valid and effective and shall forward a copy of the proclamation to the Director of the Department of Legislative Services.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of this Act, this Act shall take effect July 1, 2008.

Approved by the Governor, May 17, 2007.

CHAPTER 501

(Senate Bill 91)

AN ACT concerning

Clean Indoor Air Act of 2007

FOR the purpose of prohibiting a person from smoking tobacco products *in certain places* except under certain circumstances; authorizing certain counties to regulate smoking under certain circumstances; repealing certain provisions of law concerning tobacco smoking in retail stores; declaring the intent of the General Assembly; stating the purpose of certain provisions of this Act; prohibiting a person from smoking in indoor areas open to the public, *beginning on a certain date*, except under certain circumstances; requiring the posting of certain signs; requiring the Department of Health and Mental Hygiene to adopt certain regulations; requiring the Department of Health and Mental Hygiene to report to the General Assembly regarding certain provisions of this Act; *requiring that certain moneys be placed in a certain fund; authorizing the Secretary of Health and Mental Hygiene and the Commissioner of Labor and Industry to waive certain penalties under certain circumstances before a certain date; providing that a certain waiver terminates on a certain date; establishing a certain affirmative defense; providing that an employer who discharges or discriminates against an employee for certain reasons is deemed in violation of certain provisions of law; prohibiting an employee from making certain groundless or malicious complaints or from taking certain actions in bad faith; authorizing the Secretary of Health and Mental Hygiene and the Commissioner of Labor and Industry to bring certain actions against certain persons under certain circumstances;* establishing certain penalties for certain violations of this Act; prohibiting smoking in certain places of employment; requiring the Department of Labor, Licensing, and Regulation to adopt certain regulations; requiring the Department of Labor, Licensing, and Regulation to report to the General Assembly regarding the enforcement efforts and the effect of the efforts by the Department of Labor, Licensing, and Regulation; establishing certain penalties for certain violations in certain places of employment; ~~authorizing the health officer of a county~~ *Secretary of Health and Mental Hygiene health officer of a county* to grant a certain waiver under certain circumstances; ~~authorizing the health officer of a county to impose certain conditions on a certain waiver; requiring a health officer of a county to develop certain criteria;~~ defining certain terms; ~~declaring that nothing in this Act shall~~ *providing that certain provisions of law may not* be construed to preempt a certain entity from enacting and enforcing certain measures; making a stylistic change; ~~providing for a delayed effective date;~~ and generally relating to the prohibition of smoking in indoor areas open to the public and indoor places of employment.

~~BY repealing and reenacting, without amendments,
Article 2B—Alcoholic Beverages
Section 1-102(a)(4)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)~~

BY repealing and reenacting, with amendments,
Article 25 – County Commissioners
Section 3(jj) and 236B
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing
Article – Business Regulation
Section 2-105(d)
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 24-205
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing
Article – Health – General
Section 24-501 through 24-505, inclusive, and the subtitle “Subtitle 5. Tobacco
Smoking in Retail Stores”
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY adding to
Article – Health – General
Section 24-501 through ~~24-509~~ ~~24-510~~ 24-511, inclusive, to be under the new
subtitle “Subtitle 5. Clean Indoor Air Act”
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing
Article – Labor and Employment
Section 2-106(c) and 5-314(c)
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
 Article – Labor and Employment
 Section 5–101(a), (c), (d), and (g)
 Annotated Code of Maryland
 (1999 Replacement Volume and 2006 Supplement)

BY adding to
 Article – Labor and Employment
 Section 5–608
 Annotated Code of Maryland
 (1999 Replacement Volume and 2006 Supplement)

BY renumbering
 Article – Labor and Employment
 Section 2–106(d) and (e), respectively
 to be Section 2–106(c) and (d), respectively
 Annotated Code of Maryland
 (1999 Replacement Volume and 2006 Supplement)

*BY repealing and reenacting, with amendments,
 Article – State Finance and Procurement
 Section 7–317(b)
 Annotated Code of Maryland
 (2006 Replacement Volume and 2006 Supplement)*

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

Article 2B – Alcoholic Beverages

~~1–102.~~

~~(a) (4) (i) “Club” means an association or corporation which is organized and operated exclusively for educational, social, fraternal, patriotic, political or athletic purposes and not for profit.~~

~~(ii) In Allegany County the Board of Alcoholic Beverages License Commissioners shall be the judges of whether such an establishment is operated in good faith within the meaning of this subsection.~~

Article 25 – County Commissioners

3.

(jj) The County Commissioners of Frederick County may **ADOPT REGULATIONS OR ENACT LAWS THAT ARE AT LEAST AS STRINGENT AS THE PROVISIONS OF TITLE 24, SUBTITLE 5 OF THE HEALTH – GENERAL ARTICLE TO** regulate the smoking of tobacco products [by designating smoking and no smoking areas] in public buildings owned, controlled, or financed by the State of Maryland in Frederick County.

236B.

The County Commissioners for Washington County may enact ordinances [regulating] **THAT ARE AT LEAST AS STRINGENT AS THE PROVISIONS OF TITLE 24, SUBTITLE 5 OF THE HEALTH – GENERAL ARTICLE TO REGULATE** smoking in county offices and county office buildings. [Any ordinance enacted shall assure and provide for employees and the public to smoke in designated smoking places.]

Article – Business Regulation

2–105.

[(d) (1) (i) Notwithstanding any regulations adopted by the Secretary under this section, the smoking of tobacco products is permitted in any of the following locations unless restricted as authorized under paragraph (3) of this subsection:

- 1. any portion of a private residence which is not open to the public for business purposes;
- 2. any establishment that:
 - A. is not a restaurant or hotel as defined in Article 2B, § 1–102 of the Code;
 - B. possesses an alcoholic beverages license issued under Article 2B of the Code that allows consumption of alcoholic beverages on the premises of the establishment; and
 - C. is generally recognized as a bar or tavern;
- 3. a bar in a hotel or motel;
- 4. a club as defined in Article 2B, § 1–102 of the Code that possesses an alcoholic beverages license issued under Article 2B of the Code and that allows consumption of alcoholic beverages on the premises of the club;
- 5. in the case of a restaurant as defined in Article 2B, § 1–102 of the Code:

A. if the restaurant does not possess an alcoholic beverages license issued under Article 2B of the Code, a separate enclosed room not to exceed 40% of the total area of the restaurant; or

B. if the restaurant possesses an alcoholic beverages license issued under Article 2B of the Code, a bar or bar area, a separate enclosed room not exceeding 40% of the restaurant, or a combination of a bar or bar area and a separate enclosed room not exceeding 40% of the total area of the restaurant including the bar or bar area;

6. up to 40% of the sleeping rooms in a hotel or motel;

7. a separate enclosed room of an establishment other than an establishment specified in items 1 through 6 of this subparagraph that possesses an alcoholic beverages license issued under Article 2B of the Code that allows consumption of alcoholic beverages on the premises of the establishment; or

8. up to 40% of the premises of a fraternal, religious, patriotic, or charitable organization or corporation or fire company or rescue squad that is subject to the authority of the Secretary during an event that the organization or corporation holds on its own property and which is open to the public.

(ii) A separate enclosed room in which smoking is permitted under subparagraph (i) of this paragraph is not required to have a specially modified ventilation system for the room.

(2) For the purposes of paragraph (1)(i)5B of this subsection, “bar or bar area” means an area within a restaurant that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is incidental to the consumption of the alcoholic beverages, and the immediately adjacent seating area.

(3) Notwithstanding the provisions of this subsection, a proprietor of an establishment described in paragraph (1) of this subsection may restrict or prohibit smoking on the premises of the establishment.]

Article - Health - General

24-205.

(a) In this section, “smoking” means the act of smoking or carrying a burning:

(1) Cigar;

- (2) Cigarette;
- (3) Pipe; or
- (4) Other tobacco product of any kind.

(b) Every director of a nursing home, health clinic, or physician's office shall make and carry out a plan that adequately protects the health of nonsmoking patients by regulating the smoking of tobacco products on the premises.

(c) (1) An individual may not smoke in any area of a hospital.

(2) The hospital director shall provide for the posting and placement of conspicuous signs that clearly indicate that smoking is not permitted in the hospital.

(d) (1) **[This] NOTWITHSTANDING THE PROVISIONS OF § 24-504 OF THIS TITLE, THIS** section does not apply to patients who are:

(i) In a facility for the treatment of mental disorders as defined in § 10-101(e) of this article;

(ii) In a facility where the average patient stay is more than 30 days; or

(iii) In an acute care hospital and the attending physician authorizes smoking, in writing, as part of the care for the patient.

(2) Smoking permitted under this section shall be in designated areas that are considered safe and provide nonsmoking patients, family members, and employees protection from tobacco smoke.

(3) Smoking may not be permitted where nonsmoking patients sleep.

[Subtitle 5. Tobacco Smoking in Retail Stores.]

[24-501.

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

(b) "Public area" means a room or a portion of a room or other area to which the public has ready access.

(c) “Retail store” means any establishment employing 20 or more full-time persons whose primary purpose is to sell to consumers any goods, wares, food for consumption off the premises, or merchandise.

(d) “Smoking” means the act of smoking or carrying a burning:

- (1) Cigar;
- (2) Cigarette;
- (3) Pipe; or
- (4) Other tobacco product of any kind.

(e) “Supervisor” means the person who controls, governs, or directs the activities in a retail store.]

[24-502.

(a) The provisions of this subtitle do not apply to:

- (1) A restaurant;
- (2) A restaurant area of a retail store;
- (3) A tobacconist;
- (4) A lavatory or restroom in a retail store; or
- (5) A work area of a retail store:
 - (i) To which the public does not have access; and
 - (ii) That can be physically isolated by a room with doors closed.

(b) Except as provided in this subtitle, an individual or employee may not smoke in the public area of a retail store in this State.]

[24-503.

(a) A supervisor shall provide for the posting and placement of conspicuous signs that clearly indicate that smoking is not permitted in the public area of a retail store.

(b) A supervisor violates this subtitle if the supervisor fails to comply with the provision of subsection (a) of this section.

(c) A supervisor does not violate this section if:

(1) The supervisor complies with the provision of subsection (a) of this section; and

(2) The public or employees persist in or continue their smoking in a public area.]

[24-504.

(a) The Secretary shall adopt rules and regulations to enforce the provisions of this subtitle.

(b) A person who violates § 24-503(a) of this subtitle is subject to a civil penalty of \$25.]

[24-505.

(a) Except as provided in subsection (b) of this section, this subtitle does not prohibit any county or municipal corporation of the State from enacting an ordinance, resolution, law, or rule that is more stringent than the provisions of this subtitle.

(b) Charles County and St. Mary's County may not enact an ordinance, resolution, law, or rule that is more stringent than the provisions of this subtitle.]

SUBTITLE 5. CLEAN INDOOR AIR ACT.

24-501.

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

(B) "EMPLOYEE" HAS THE MEANING STATED IN § 5-101 OF THE LABOR AND EMPLOYMENT ARTICLE.

(C) "EMPLOYER" HAS THE MEANING STATED IN § 5-101 OF THE LABOR AND EMPLOYMENT ARTICLE.

(D) "ENVIRONMENTAL TOBACCO SMOKE" MEANS THE COMPLEX MIXTURE FORMED FROM THE ESCAPING SMOKE OF A BURNING TOBACCO PRODUCT OR SMOKE EXHALED BY THE SMOKER.

(E) “INDOOR AREA OPEN TO THE PUBLIC” MEANS ~~AN~~:

(1) AN INDOOR AREA OR A PORTION OF AN INDOOR AREA ACCESSIBLE TO THE PUBLIC BY EITHER INVITATION OR PERMISSION; OR

(2) AN INDOOR AREA OF ANY ESTABLISHMENT LICENSED OR PERMITTED UNDER ARTICLE 2B OF THE CODE FOR THE SALE OR POSSESSION OF ALCOHOLIC BEVERAGES.

(F) “PLACE OF EMPLOYMENT” HAS THE MEANING STATED IN § 5-101 OF THE LABOR AND EMPLOYMENT ARTICLE.

(G) “SMOKING” MEANS THE BURNING OF A LIGHTED CIGARETTE, CIGAR, PIPE, OR ANY OTHER MATTER OR SUBSTANCE THAT CONTAINS TOBACCO.

24-502.

IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE STATE PROTECT THE PUBLIC AND EMPLOYEES FROM INVOLUNTARY EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE IN INDOOR AREAS OPEN TO THE PUBLIC, INDOOR PLACES OF EMPLOYMENT, AND CERTAIN DESIGNATED PRIVATE AREAS.

24-503.

THE PURPOSE OF THIS SUBTITLE IS TO PRESERVE AND IMPROVE THE HEALTH, COMFORT, AND ENVIRONMENT OF THE PEOPLE OF THE STATE BY LIMITING EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE.

24-504.

EXCEPT AS PROVIDED IN § 24-505 OF THIS SUBTITLE, BEGINNING ON FEBRUARY 1, 2008, A PERSON MAY NOT SMOKE IN:

(1) AN INDOOR AREA OPEN TO THE PUBLIC;

(2) AN INDOOR PLACE IN WHICH MEETINGS ARE OPEN TO THE PUBLIC IN ACCORDANCE WITH TITLE 10, SUBTITLE 5 OF THE STATE GOVERNMENT ARTICLE;

(3) A GOVERNMENT-OWNED OR GOVERNMENT-OPERATED MEANS OF MASS TRANSPORTATION INCLUDING BUSES, VANS, TRAINS, TAXICABS, AND LIMOUSINES; OR

- (4) AN INDOOR PLACE OF EMPLOYMENT.

24-505.

THIS SUBTITLE DOES NOT APPLY TO:

(1) PRIVATE HOMES, RESIDENCES, ~~AND AUTOMOBILES,~~
INCLUDING RESIDENCES USED AS A BUSINESS OR PLACE OF EMPLOYMENT,
UNLESS BEING USED ~~FOR CHILD CARE, DAY CARE,~~ BY A PERSON WHO IS
LICENSED OR REGISTERED UNDER SUBTITLE 5 OF THE FAMILY LAW ARTICLE TO
PROVIDE DAY CARE OR CHILD CARE, AND PRIVATE VEHICLES, UNLESS BEING
USED FOR THE PUBLIC TRANSPORTATION OF CHILDREN, OR AS PART OF
HEALTH CARE OR DAY CARE TRANSPORTATION;

(2) A HOTEL OR MOTEL ROOM RENTED TO ONE OR MORE GUESTS
AS LONG AS THE TOTAL PERCENT OF HOTEL OR MOTEL ROOMS BEING SO USED
DOES NOT EXCEED 25%; ~~OR~~

(3) A RETAIL TOBACCO ~~SHOP THAT DERIVES ITS PRIMARY~~
~~REVENUE FROM THE SALE OF TOBACCO PRODUCTS AND TOBACCO RELATED~~
~~PRODUCTS AND ACCESSORIES AND DERIVES ONLY INCIDENTAL REVENUE FROM~~
~~THE SALE OF NONTOBACCO RELATED PRODUCTS BUSINESS THAT IS A SOLE~~
~~PROPRIETORSHIP, LIMITED LIABILITY COMPANY, CORPORATION, PARTNERSHIP,~~
~~OR OTHER ENTERPRISE, IN WHICH:~~

(I) THE PRIMARY ACTIVITY IS THE RETAIL SALE OF
TOBACCO PRODUCTS AND ACCESSORIES; AND

(II) THE SALE OF OTHER PRODUCTS IS INCIDENTAL;

(4) ANY FACILITY OF A MANUFACTURER, IMPORTER,
WHOLESALE, OR DISTRIBUTOR OF TOBACCO PRODUCTS OR OF ANY TOBACCO
LEAF DEALER OR PROCESSOR IN WHICH EMPLOYEES OF THE MANUFACTURER,
IMPORTER, WHOLESALE, DISTRIBUTOR, OR PROCESSOR WORK OR
CONGREGATE; OR

(5) A RESEARCH OR EDUCATIONAL LABORATORY FOR THE
PURPOSE OF CONDUCTING SCIENTIFIC RESEARCH INTO THE HEALTH EFFECTS
OF TOBACCO SMOKE ~~SHOP THAT;~~

~~(I) DERIVES AT LEAST 70% OF ITS REVENUES, MEASURED BY AVERAGE DAILY RECEIPTS, FROM THE SALE OF NONCIGARETTE TOBACCO PRODUCTS; AND~~

~~(II) HAS A VENTILATION SYSTEM THAT PREVENTS SMOKE FROM INFILTRATING INTO ANY AREA WHERE SMOKING IS PROHIBITED UNDER THIS SUBTITLE. BUSINESS THAT IS A SOLE PROPRIETORSHIP, LIMITED LIABILITY COMPANY, CORPORATION, PARTNERSHIP, OR OTHER ENTERPRISE, IN WHICH:~~

~~(I) THE PRIMARY ACTIVITY IS THE RETAIL SALE OF TOBACCO PRODUCTS AND ACCESSORIES; AND~~

~~(II) THE SALE OF OTHER PRODUCTS IS INCIDENTAL; OR~~

~~(4) A CLUB AS DEFINED IN ARTICLE 2B, § 1-102(A)(4) OF THE CODE.~~

24-506.

(A) SIGNS THAT STATE "SMOKING PERMITTED IN THIS ROOM" SHALL BE PROMINENTLY POSTED AND PROPERLY MAINTAINED WHERE SMOKING IS ALLOWED UNDER § 24-505(2) OF THIS SUBTITLE.

(B) THE SIGNS SHALL BE POSTED AND MAINTAINED BY THE OWNER, OPERATOR, MANAGER, OR OTHER PERSON HAVING CONTROL OF THE AREA.

(C) THE LETTERS ON THE SIGNS SHALL BE AT LEAST 1 INCH IN HEIGHT.

24-507.

(A) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT PROHIBIT ENVIRONMENTAL TOBACCO SMOKE IN INDOOR AREAS OPEN TO THE PUBLIC.

(B) ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE DEPARTMENT SHALL REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON:

(1) THE ENFORCEMENT EFFORTS OF THE DEPARTMENT TO ELIMINATE ENVIRONMENTAL TOBACCO SMOKE IN INDOOR AREAS OPEN TO THE PUBLIC DURING THE PRIOR YEAR; AND

(2) THE RESULTS OF THESE ENFORCEMENT EFFORTS.

24-508.

~~(A) UPON THE REQUEST OF A RESTAURANT, COFFEE SHOP, TEA ROOM, OR SIMILAR ESTABLISHMENT, OR AN ESTABLISHMENT THAT IS GENERALLY RECOGNIZED AS A BAR OR TAVERN, THE HEALTH OFFICER OF A COUNTY MAY GRANT A WAIVER FROM THE PROVISIONS OF THIS SUBTITLE IF:~~

~~(1) COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE CAUSES UNDUE FINANCIAL HARDSHIP; OR~~

~~(2) OTHER FACTORS EXIST THAT RENDER COMPLIANCE WITH THIS SUBTITLE UNREASONABLE.~~

~~(B) THE HEALTH OFFICER OF A COUNTY MAY IMPOSE CONDITIONS OR RESTRICTIONS ON A WAIVER GRANTED UNDER SUBSECTION (A) OF THIS SECTION TO:~~

~~(1) MINIMIZE THE ADVERSE EFFECTS OF THE WAIVER ON INDIVIDUALS INVOLUNTARILY EXPOSED TO SECONDHAND SMOKE; AND~~

~~(2) ENSURE THAT THE WAIVER IS CONSISTENT WITH THE PURPOSES OF THIS SUBTITLE.~~

~~(C) THE HEALTH OFFICER OF A COUNTY SHALL DEVELOP CRITERIA FOR GRANTING A WAIVER UNDER SUBSECTION (A) OF THIS SECTION.~~

24-509.

~~(A) A PERSON OR EMPLOYER WHO VIOLATES A PROVISION OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE SHALL BE CONSIDERED IN VIOLATION OF THIS SUBTITLE AND SHALL BE SUBJECT TO A CIVIL PENALTY OF \$100 FOR THE FIRST VIOLATION AND AT LEAST \$250 FOR EACH SUBSEQUENT VIOLATION.~~

~~(A) SUBJECT TO SUBSECTION (C) OF THIS SECTION AND EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A PERSON WHO VIOLATES A PROVISION OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER § 24-507(A) OF THIS SUBTITLE:~~

~~(1) FOR A FIRST VIOLATION, SHALL BE ISSUED A WRITTEN REPRIMAND BY THE SECRETARY OR THE SECRETARY'S DESIGNEE;~~

(2) FOR A SECOND VIOLATION, IS SUBJECT TO A CIVIL PENALTY OF \$100; AND

(3) FOR EACH SUBSEQUENT VIOLATION, IS SUBJECT TO A CIVIL PENALTY NOT LESS THAN \$250.

(B) THE SECRETARY MAY WAIVE A PENALTY ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION, GIVING CONSIDERATION TO FACTORS THAT INCLUDE:

(1) THE SERIOUSNESS OF THE VIOLATION; AND

(2) ANY DEMONSTRATED GOOD FAITH MEASURES TO COMPLY WITH THE PROVISIONS OF THIS SUBTITLE.

(C) (1) THIS SUBSECTION DOES NOT APPLY TO AN ALLEGED VIOLATION OF SUBSECTION (D) OF THIS SECTION.

(2) IT IS AN AFFIRMATIVE DEFENSE TO A COMPLAINT BROUGHT AGAINST A PERSON FOR A VIOLATION OF A PROVISION OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE THAT THE PERSON OR AN EMPLOYEE OF THE PERSON:

(I) POSTED A "NO SMOKING" SIGN AS REQUIRED UNDER § 24-506 OF THIS SUBTITLE;

(II) REMOVED ALL ASHTRAYS AND OTHER SMOKING PARAPHERNALIA FROM ALL AREAS WHERE SMOKING IS PROHIBITED; AND

(III) IF THE VIOLATION OCCURRED IN A BAR, TAVERN, OR RESTAURANT:

1. REFUSED TO SEAT OR SERVE ANY INDIVIDUAL WHO WAS SMOKING IN A PROHIBITED AREA; AND

2. IF THE INDIVIDUAL CONTINUED TO SMOKE AFTER AN INITIAL WARNING, ASKED THE INDIVIDUAL TO LEAVE THE ESTABLISHMENT.

~~(B)~~ (D) AN EMPLOYER WHO DISCHARGES OR DISCRIMINATES AGAINST AN EMPLOYEE BECAUSE THAT EMPLOYEE HAS MADE A COMPLAINT, HAS GIVEN INFORMATION TO THE DEPARTMENT IN ACCORDANCE WITH THIS SUBTITLE, HAS CAUSED TO BE INSTITUTED OR IS ABOUT TO CAUSE TO BE INSTITUTED A PROCEEDING UNDER THIS SUBTITLE, OR HAS TESTIFIED OR IS

ABOUT TO TESTIFY IN A PROCEEDING UNDER THIS SUBTITLE, SHALL BE DEEMED IN VIOLATION OF THIS SUBTITLE AND SHALL BE SUBJECT TO A CIVIL PENALTY OF AT LEAST \$2,000 BUT NOT MORE THAN \$10,000 FOR EACH VIOLATION.

(E) (1) AN EMPLOYEE MAY NOT:

(I) MAKE A GROUNDLESS OR MALICIOUS COMPLAINT UNDER THIS SUBTITLE TO THE SECRETARY OR AN AUTHORIZED REPRESENTATIVE OF THE SECRETARY;

(II) IN BAD FAITH, BRING AN ACTION UNDER THIS SUBTITLE;
OR

(III) IN BAD FAITH, TESTIFY IN AN ACTION UNDER THIS SUBTITLE OR A PROCEEDING THAT RELATES TO THE SUBJECT OF THIS SUBTITLE.

(2) THE SECRETARY MAY BRING AN ACTION FOR INJUNCTIVE RELIEF AND DAMAGES AGAINST A PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION.

(F) A PENALTY COLLECTED BY THE SECRETARY UNDER THIS SECTION SHALL BE PAID TO THE CIGARETTE RESTITUTION FUND ESTABLISHED UNDER § 7-317 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

24-509.

(A) ~~THE SECRETARY, IN CONSULTATION WITH THE COMPTROLLER,~~ WITHIN 90 DAYS FROM THE RECEIPT OF AN APPLICATION FOR A WAIVER AND THE DATE THAT ALL CONDITIONS FOR THE APPLICATION FOR A WAIVER REQUIRED IN THE REGULATIONS ADOPTED BY THE SECRETARY HAVE BEEN SATISFIED, THE HEALTH OFFICER OF A COUNTY MAY GRANT A WAIVER FROM THE APPLICATION OF A SPECIFIC PROVISION OF THIS SUBTITLE, IF PRIOR TO THE GRANTING OF THE WAIVER, THE APPLICANT FOR A WAIVER ESTABLISHES IN WRITING:

(1) COMPLIANCE WITH A SPECIFIC PROVISION OF THIS SUBTITLE WOULD CAUSE UNDUE FINANCIAL HARDSHIP; OR

(2) THE EXISTENCE OF OTHER FACTORS THAT WOULD RENDER COMPLIANCE UNREASONABLE.

(B) THE SECRETARY MAY IMPOSE CONDITIONS OR RESTRICTIONS ON A WAIVER GRANTED UNDER SUBSECTION (A) OF THIS SECTION TO:

(1) MINIMIZE THE ADVERSE EFFECTS OF THE WAIVER ON INDIVIDUALS INVOLUNTARILY EXPOSED TO SECONDHAND SMOKE; AND

(2) ENSURE THAT THE WAIVER IS CONSISTENT WITH THE PURPOSES OF THIS SUBTITLE.

(C) THE SECRETARY SHALL ADOPT REGULATIONS NECESSARY TO IMPLEMENT THIS SECTION.

(D) (1) A WAIVER MAY NOT BE GRANTED UNDER SUBSECTION (A) OF THIS SECTION ON OR AFTER JANUARY 31, 2011.

(2) A WAIVER GRANTED UNDER SUBSECTION (A) OF THIS SECTION TERMINATES ON JANUARY 31, 2011.

~~24-509.~~ 24-510.

NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED TO PREEMPT A COUNTY OR MUNICIPAL GOVERNMENT FROM ENACTING AND ENFORCING MORE STRINGENT MEASURES TO REDUCE INVOLUNTARY EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE.

24-511.

THIS SUBTITLE MAY BE CITED AS THE CLEAN INDOOR AIR ACT.

Article - Labor and Employment

2-106.

[(c) (1) (i) Notwithstanding any regulations adopted by the Commissioner under this section, the smoking of tobacco products is permitted in any of the following locations unless restricted as authorized under paragraph (3) of this subsection:

1. any portion of a private residence which is not open to the public for business purposes;

2. any establishment that:

- A. is not a restaurant or hotel as defined in Article 2B, § 1-102 of the Code;
 - B. possesses an alcoholic beverages license issued under Article 2B of the Code that allows consumption of alcoholic beverages on the premises of the establishment; and
 - C. is generally recognized as a bar or tavern;
- 3. a bar in a hotel or motel;
 - 4. a club as defined in Article 2B, § 1-102 of the Code that possesses an alcoholic beverages license issued under Article 2B of the Code and that allows consumption of alcoholic beverages on the premises of the club;
 - 5. in the case of a restaurant as defined in Article 2B, § 1-102 of the Code:
 - A. if the restaurant does not possess an alcoholic beverages license issued under Article 2B of the Code, a separate enclosed room not to exceed 40% of the total area of the restaurant; or
 - B. if the restaurant possesses an alcoholic beverages license issued under Article 2B of the Code, a bar or bar area, a separate enclosed room not exceeding 40% of the restaurant, or a combination of a bar or bar area and a separate enclosed room not exceeding 40% of the total area of the restaurant including the bar or bar area;
 - 6. up to 40% of the sleeping rooms in a hotel or motel;
 - 7. a separate enclosed room of an establishment other than an establishment specified in items 1 through 6 of this subparagraph that possesses an alcoholic beverages license issued under Article 2B of the Code that allows consumption of alcoholic beverages on the premises of the establishment; or
 - 8. up to 40% of the premises of a fraternal, religious, patriotic, or charitable organization or corporation or fire company or rescue squad that is subject to the authority of the Secretary during an event that the organization or corporation holds on its own property and which is open to the public.
- (ii) A separate enclosed room in which smoking is permitted under subparagraph (i) of this paragraph is not required to have a specially modified ventilation system for the room.

(2) For the purposes of paragraph (1)(i)5B of this subsection, “bar or bar area” means an area within a restaurant that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is incidental to the consumption of the alcoholic beverages, and the immediately adjacent seating area.

(3) Notwithstanding the provisions of this subsection, a proprietor of an establishment described in paragraph (1) of this subsection may restrict or prohibit smoking on the premises of the establishment.]

5–101.

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

(c) (1) “Employee” means, except as provided in § 5–401 of this title, an individual whom an employer employs, for a wage or other compensation, in the business of the employer.

(2) “Employee” includes:

(i) an individual whom a governmental unit employs;

(ii) an individual who is licensed as a taxicab driver and leases or rents a taxicab from a person who operates or owns a taxicab business in Baltimore City;

(iii) an individual who is employed for part–time or temporary help by a governmental unit or person who engages in a business that directly employs individuals to provide part–time or temporary help to another governmental unit or person; and

(iv) an individual who performs work for a governmental unit or person to whom the individual is provided by another governmental unit or person who engages in a business that directly employs individuals to provide part–time or temporary help.

(d) (1) “Employer” means:

(i) except as provided in § 5–401 of this title, a person who is engaged in commerce, industry, trade, or other business in the State and employs at least 1 employee in that business; or

(ii) a public body.

(2) “Employer” includes:

(i) a person who operates or owns a taxicab business in Baltimore City and leases or rents a taxicab to a licensed taxicab driver, to provide services to the public;

(ii) a governmental unit or person who engages in a business that directly employs individuals to provide part-time or temporary help to another governmental unit or person; and

(iii) a governmental unit or person who contracts directly with another governmental unit or person who engages in a business that directly employs individuals to provide part-time or temporary help to another governmental unit or person.

(g) "Place of employment" means a place in or about which an employee is allowed to work.

5-314.

[(c) (1) (i) Notwithstanding any regulations adopted by the Commissioner under this section, the smoking of tobacco products is permitted in any of the following locations unless restricted as authorized under paragraph (3) of this subsection:

1. any portion of a private residence which is not open to the public for business purposes;

2. any establishment that:

A. is not a restaurant or hotel as defined in Article 2B, § 1-102 of the Code;

B. possesses an alcoholic beverages license issued under Article 2B of the Code that allows consumption of alcoholic beverages on the premises of the establishment; and

C. is generally recognized as a bar or tavern;

3. a bar in a hotel or motel;

4. a club as defined in Article 2B, § 1-102 of the Code that possesses an alcoholic beverages license issued under Article 2B of the Code and that allows consumption of alcoholic beverages on the premises of the club;

5. in the case of a restaurant as defined in Article 2B, § 1-102 of the Code:

A. if the restaurant does not possess an alcoholic beverages license issued under Article 2B of the Code, a separate enclosed room not to exceed 40% of the total area of the restaurant; or

B. if the restaurant possesses an alcoholic beverages license issued under Article 2B of the Code, a bar or bar area, a separate enclosed room not exceeding 40% of the restaurant, or a combination of a bar or bar area and a separate enclosed room not exceeding 40% of the total area of the restaurant including the bar or bar area;

6. up to 40% of the sleeping rooms in a hotel or motel;

7. a separate enclosed room of an establishment other than an establishment specified in items 1 through 6 of this subparagraph that possesses an alcoholic beverages license issued under Article 2B of the Code that allows consumption of alcoholic beverages on the premises of the establishment; or

8. up to 40% of the premises of a fraternal, religious, patriotic, or charitable organization or corporation or fire company or rescue squad that is subject to the authority of the Secretary during an event that the organization or corporation holds on its own property and which is open to the public.

(ii) A separate enclosed room in which smoking is permitted under subparagraph (i) of this paragraph is not required to have a specially modified ventilation system for the room.

(2) For the purposes of paragraph (1)(i)5B of this subsection, “bar or bar area” means an area within a restaurant that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is incidental to the consumption of the alcoholic beverages, and the immediately adjacent seating area.

(3) Notwithstanding the provisions of this subsection, a proprietor of an establishment described in paragraph (1) of this subsection may restrict or prohibit smoking on the premises of the establishment.]

5-608.

(A) EXCEPT AS PROVIDED IN § 24-505 OF THE HEALTH – GENERAL ARTICLE, AN INDIVIDUAL MAY NOT SMOKE IN AN INDOOR PLACE OF EMPLOYMENT.

(B) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT PROHIBIT ENVIRONMENTAL TOBACCO SMOKE, AS DEFINED IN § 24-501 OF THE HEALTH - GENERAL ARTICLE, IN INDOOR PLACES OF EMPLOYMENT NOT NORMALLY OPEN TO THE GENERAL PUBLIC.

(2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PERSON WHO VIOLATES A REGULATION ADOPTED UNDER THIS SUBTITLE:

(I) FOR A FIRST VIOLATION, SHALL BE ISSUED A WRITTEN REPRIMAND BY THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE;

(II) FOR A SECOND VIOLATION, IS SUBJECT TO A CIVIL PENALTY OF \$100; AND

(III) FOR EACH SUBSEQUENT VIOLATION, IS SUBJECT TO A CIVIL PENALTY NOT LESS THAN \$250.

(C) THE COMMISSIONER MAY WAIVE A PENALTY ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION, GIVING CONSIDERATION TO FACTORS THAT INCLUDE:

(1) THE SERIOUSNESS OF THE VIOLATION; AND

(2) ANY DEMONSTRATED GOOD FAITH MEASURES TO COMPLY WITH THE PROVISIONS OF THIS SUBTITLE.

(D) A PENALTY COLLECTED BY THE COMMISSIONER UNDER THIS SECTION SHALL BE PAID TO THE CIGARETTE RESTITUTION FUND ESTABLISHED UNDER § 7-317 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

~~(E)~~ (E) ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE DEPARTMENT SHALL REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON:

(1) THE ENFORCEMENT EFFORTS OF THE DEPARTMENT TO ELIMINATE ENVIRONMENTAL TOBACCO SMOKE, AS DEFINED IN § 24-501 OF THE HEALTH - GENERAL ARTICLE, IN INDOOR PLACES OF EMPLOYMENT DURING THE PRIOR YEAR; AND

(2) THE RESULTS OF THESE ENFORCEMENT EFFORTS.

~~(F)~~ (F) AN EMPLOYER WHO DISCHARGES OR DISCRIMINATES AGAINST AN EMPLOYEE BECAUSE THAT EMPLOYEE HAS MADE A COMPLAINT

UNDER THIS SECTION, HAS GIVEN INFORMATION TO THE DEPARTMENT IN ACCORDANCE WITH THIS SECTION, HAS CAUSED TO BE INSTITUTED OR IS ABOUT TO CAUSE TO BE INSTITUTED A PROCEEDING UNDER THIS SECTION, OR HAS TESTIFIED OR IS ABOUT TO TESTIFY IN A PROCEEDING, SHALL BE DEEMED IN VIOLATION OF THIS SECTION AND SHALL BE SUBJECT TO A CIVIL PENALTY OF AT LEAST \$2,000 BUT NOT MORE THAN \$10,000 FOR EACH VIOLATION.

(G) (1) AN EMPLOYEE MAY NOT:

(I) MAKE A GROUNDLESS OR MALICIOUS COMPLAINT TO THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER;

(II) IN BAD FAITH, BRING AN ACTION UNDER THIS SUBTITLE;
OR

(III) IN BAD FAITH, TESTIFY IN AN ACTION UNDER THIS SUBTITLE OR A PROCEEDING THAT RELATES TO THE SUBJECT OF THIS SUBTITLE.

(2) THE COMMISSIONER MAY BRING AN ACTION FOR INJUNCTIVE RELIEF AND DAMAGES AGAINST A PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION.

Article - State Finance and Procurement

7-317.

(b) (1) The Fund is a continuing, nonlapsing fund that is not subject to § 7-302 of this subtitle.

(2) There shall be credited to the Fund all revenues consisting of funds received by the State from any source resulting, directly or indirectly, from any judgment against or settlement with tobacco product manufacturers, tobacco research associations, or any other person in the tobacco industry relating to litigation, administrative proceedings, or any other claims made or prosecuted by the State to recover damages for violations of State law.

(3) THERE SHALL BE CREDITED TO THE FUND ALL MONEYS COLLECTED UNDER § 24-508 OF THE HEALTH - GENERAL ARTICLE OR § 5-608 OF THE LABOR AND EMPLOYMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 2-106(d) and (e), respectively, of Article - Labor and Employment of the Annotated Code of Maryland be renumbered to be Section(s) 2-106(c) and (d), respectively.

~~SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act shall be construed to preempt a county or municipal government from enacting and enforcing more stringent measures to reduce involuntary exposure to environmental tobacco smoke.~~

SECTION ~~4~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2007~~ January 1, 2008 ~~October 1, 2007~~.

Approved by the Governor, May 17, 2007.

CHAPTER 502

(House Bill 359)

AN ACT concerning

Clean Indoor Air Act of 2007

FOR the purpose of prohibiting a person from smoking tobacco products in certain places except under certain circumstances; authorizing certain counties to regulate smoking under certain circumstances; repealing certain provisions of law concerning tobacco smoking in retail stores; declaring the intent of the General Assembly; stating the purpose of certain provisions of this Act; prohibiting a person from smoking in indoor areas open to the public, beginning on a certain date, except under certain circumstances; requiring the posting of certain signs; requiring the Department of Health and Mental Hygiene to adopt certain regulations; requiring the Department of Health and Mental Hygiene to report to the General Assembly regarding certain provisions of this Act; requiring that certain moneys be placed in a certain fund; authorizing the Secretary of Health and Mental Hygiene and the Commissioner of Labor and Industry to waive certain penalties under certain circumstances before a certain date; providing that a certain waiver terminates on a certain date; establishing a certain affirmative defense; providing that an employer who discharges or discriminates against an employee for certain reasons is deemed in violation of certain provisions of law; prohibiting an employee from making certain groundless or malicious complaints or from taking certain actions in bad faith; authorizing the Secretary of Health and Mental Hygiene and the Commissioner of Labor and Industry to bring certain actions against certain persons under

certain circumstances; establishing certain penalties for certain violations of this Act; prohibiting smoking in certain places of employment; requiring the Department of Labor, Licensing, and Regulation to adopt certain regulations; requiring the Department of Labor, Licensing, and Regulation to report to the General Assembly regarding the enforcement efforts and the effect of the efforts by the Department of Labor, Licensing, and Regulation; establishing certain penalties for certain violations in certain places of employment; authorizing the Secretary of Health and Mental Hygiene health officer of a county to grant a certain waiver under certain circumstances; defining certain terms; ~~declaring that nothing in this Act shall~~ providing that certain provisions of law may not be construed to preempt a certain entity from enacting and enforcing certain measures; making a stylistic change; ~~providing for a delayed effective date~~; and generally relating to the prohibition of smoking in indoor areas open to the public and indoor places of employment.

BY repealing and reenacting, with amendments,
 Article 25 – County Commissioners
 Section 3(jj) and 236B
 Annotated Code of Maryland
 (2005 Replacement Volume and 2006 Supplement)

BY repealing
 Article – Business Regulation
 Section 2–105(d)
 Annotated Code of Maryland
 (2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
 Article – Health – General
 Section 24–205
 Annotated Code of Maryland
 (2005 Replacement Volume and 2006 Supplement)

BY repealing
 Article – Health – General
 Section 24–501 through 24–505, inclusive, and the subtitle “Subtitle 5. Tobacco Smoking in Retail Stores”
 Annotated Code of Maryland
 (2005 Replacement Volume and 2006 Supplement)

BY adding to
 Article – Health – General
 Section 24–501 through ~~24–509~~ ~~24–510~~ 24–511, inclusive, to be under the new subtitle “Subtitle 5. Clean Indoor Air Act”
 Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY repealing

Article – Labor and Employment
Section 2–106(c) and 5–314(c)
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article – Labor and Employment
Section 5–101(a), (c), (d), and (g)
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

BY adding to

Article – Labor and Employment
Section 5–608
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

BY renumbering

Article – Labor and Employment
Section 2–106(d) and (e), respectively
to be Section 2–106(c) and (d), respectively
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement
Section 7–317(b)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article 25 – County Commissioners

3.

(jj) The County Commissioners of Frederick County may **ADOPT REGULATIONS OR ENACT LAWS THAT ARE AT LEAST AS STRINGENT AS THE PROVISIONS OF TITLE 24, SUBTITLE 5 OF THE HEALTH – GENERAL ARTICLE** TO regulate the smoking of tobacco products [by designating smoking and no smoking

areas] in public buildings owned, controlled, or financed by the State of Maryland in Frederick County.

236B.

The County Commissioners for Washington County may enact ordinances [regulating] **THAT ARE AT LEAST AS STRINGENT AS THE PROVISIONS OF TITLE 24, SUBTITLE 5 OF THE HEALTH – GENERAL ARTICLE TO REGULATE** smoking in county offices and county office buildings. [Any ordinance enacted shall assure and provide for employees and the public to smoke in designated smoking places.]

Article – Business Regulation

2–105.

[(d) (1) (i) Notwithstanding any regulations adopted by the Secretary under this section, the smoking of tobacco products is permitted in any of the following locations unless restricted as authorized under paragraph (3) of this subsection:

1. any portion of a private residence which is not open to the public for business purposes;
2. any establishment that:
 - A. is not a restaurant or hotel as defined in Article 2B, § 1–102 of the Code;
 - B. possesses an alcoholic beverages license issued under Article 2B of the Code that allows consumption of alcoholic beverages on the premises of the establishment; and
 - C. is generally recognized as a bar or tavern;
3. a bar in a hotel or motel;
4. a club as defined in Article 2B, § 1–102 of the Code that possesses an alcoholic beverages license issued under Article 2B of the Code and that allows consumption of alcoholic beverages on the premises of the club;
5. in the case of a restaurant as defined in Article 2B, § 1–102 of the Code:
 - A. if the restaurant does not possess an alcoholic beverages license issued under Article 2B of the Code, a separate enclosed room not to exceed 40% of the total area of the restaurant; or

B. if the restaurant possesses an alcoholic beverages license issued under Article 2B of the Code, a bar or bar area, a separate enclosed room not exceeding 40% of the restaurant, or a combination of a bar or bar area and a separate enclosed room not exceeding 40% of the total area of the restaurant including the bar or bar area;

6. up to 40% of the sleeping rooms in a hotel or motel;

7. a separate enclosed room of an establishment other than an establishment specified in items 1 through 6 of this subparagraph that possesses an alcoholic beverages license issued under Article 2B of the Code that allows consumption of alcoholic beverages on the premises of the establishment; or

8. up to 40% of the premises of a fraternal, religious, patriotic, or charitable organization or corporation or fire company or rescue squad that is subject to the authority of the Secretary during an event that the organization or corporation holds on its own property and which is open to the public.

(ii) A separate enclosed room in which smoking is permitted under subparagraph (i) of this paragraph is not required to have a specially modified ventilation system for the room.

(2) For the purposes of paragraph (1)(i)5B of this subsection, "bar or bar area" means an area within a restaurant that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is incidental to the consumption of the alcoholic beverages, and the immediately adjacent seating area.

(3) Notwithstanding the provisions of this subsection, a proprietor of an establishment described in paragraph (1) of this subsection may restrict or prohibit smoking on the premises of the establishment.]

Article - Health - General

24-205.

(a) In this section, "smoking" means the act of smoking or carrying a burning:

(1) Cigar;

(2) Cigarette;

(3) Pipe; or

(4) Other tobacco product of any kind.

(b) Every director of a nursing home, health clinic, or physician's office shall make and carry out a plan that adequately protects the health of nonsmoking patients by regulating the smoking of tobacco products on the premises.

(c) (1) An individual may not smoke in any area of a hospital.

(2) The hospital director shall provide for the posting and placement of conspicuous signs that clearly indicate that smoking is not permitted in the hospital.

(d) (1) **[This] NOTWITHSTANDING THE PROVISIONS OF § 24-504 OF THIS TITLE, THIS** section does not apply to patients who are:

(i) In a facility for the treatment of mental disorders as defined in § 10-101(e) of this article;

(ii) In a facility where the average patient stay is more than 30 days; or

(iii) In an acute care hospital and the attending physician authorizes smoking, in writing, as part of the care for the patient.

(2) Smoking permitted under this section shall be in designated areas that are considered safe and provide nonsmoking patients, family members, and employees protection from tobacco smoke.

(3) Smoking may not be permitted where nonsmoking patients sleep.

[Subtitle 5. Tobacco Smoking in Retail Stores.]

[24-501.

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

(b) "Public area" means a room or a portion of a room or other area to which the public has ready access.

(c) "Retail store" means any establishment employing 20 or more full-time persons whose primary purpose is to sell to consumers any goods, wares, food for consumption off the premises, or merchandise.

(d) "Smoking" means the act of smoking or carrying a burning:

- (1) Cigar;
- (2) Cigarette;
- (3) Pipe; or
- (4) Other tobacco product of any kind.

(e) "Supervisor" means the person who controls, governs, or directs the activities in a retail store.]

[24-502.

(a) The provisions of this subtitle do not apply to:

- (1) A restaurant;
- (2) A restaurant area of a retail store;
- (3) A tobacconist;
- (4) A lavatory or restroom in a retail store; or
- (5) A work area of a retail store:
 - (i) To which the public does not have access; and
 - (ii) That can be physically isolated by a room with doors closed.

(b) Except as provided in this subtitle, an individual or employee may not smoke in the public area of a retail store in this State.]

[24-503.

(a) A supervisor shall provide for the posting and placement of conspicuous signs that clearly indicate that smoking is not permitted in the public area of a retail store.

(b) A supervisor violates this subtitle if the supervisor fails to comply with the provision of subsection (a) of this section.

(c) A supervisor does not violate this section if:

(1) The supervisor complies with the provision of subsection (a) of this section; and

(2) The public or employees persist in or continue their smoking in a public area.]

[24-504.

(a) The Secretary shall adopt rules and regulations to enforce the provisions of this subtitle.

(b) A person who violates § 24-503(a) of this subtitle is subject to a civil penalty of \$25.]

[24-505.

(a) Except as provided in subsection (b) of this section, this subtitle does not prohibit any county or municipal corporation of the State from enacting an ordinance, resolution, law, or rule that is more stringent than the provisions of this subtitle.

(b) Charles County and St. Mary's County may not enact an ordinance, resolution, law, or rule that is more stringent than the provisions of this subtitle.]

SUBTITLE 5. CLEAN INDOOR AIR ACT.

24-501.

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

(B) "EMPLOYEE" HAS THE MEANING STATED IN § 5-101 OF THE LABOR AND EMPLOYMENT ARTICLE.

(C) "EMPLOYER" HAS THE MEANING STATED IN § 5-101 OF THE LABOR AND EMPLOYMENT ARTICLE.

(D) "ENVIRONMENTAL TOBACCO SMOKE" MEANS THE COMPLEX MIXTURE FORMED FROM THE ESCAPING SMOKE OF A BURNING TOBACCO PRODUCT OR SMOKE EXHALED BY THE SMOKER.

(E) "INDOOR AREA OPEN TO THE PUBLIC" MEANS ~~AN~~:

(1) AN INDOOR AREA OR A PORTION OF AN INDOOR AREA ACCESSIBLE TO THE PUBLIC BY EITHER INVITATION OR PERMISSION; OR

(2) AN INDOOR AREA OF ANY ESTABLISHMENT LICENSED OR PERMITTED UNDER ARTICLE 2B OF THE CODE FOR THE SALE OR POSSESSION OF ALCOHOLIC BEVERAGES.

(F) "PLACE OF EMPLOYMENT" HAS THE MEANING STATED IN § 5-101 OF THE LABOR AND EMPLOYMENT ARTICLE.

(G) "SMOKING" MEANS THE BURNING OF A LIGHTED CIGARETTE, CIGAR, PIPE, OR ANY OTHER MATTER OR SUBSTANCE THAT CONTAINS TOBACCO.

24-502.

IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE STATE PROTECT THE PUBLIC AND EMPLOYEES FROM INVOLUNTARY EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE IN INDOOR AREAS OPEN TO THE PUBLIC, INDOOR PLACES OF EMPLOYMENT, AND CERTAIN DESIGNATED PRIVATE AREAS.

24-503.

THE PURPOSE OF THIS SUBTITLE IS TO PRESERVE AND IMPROVE THE HEALTH, COMFORT, AND ENVIRONMENT OF THE PEOPLE OF THE STATE BY LIMITING EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE.

24-504.

EXCEPT AS PROVIDED IN § 24-505 OF THIS SUBTITLE, BEGINNING ON FEBRUARY 1, 2008, A PERSON MAY NOT SMOKE IN:

(1) AN INDOOR AREA OPEN TO THE PUBLIC;

(2) AN INDOOR PLACE IN WHICH MEETINGS ARE OPEN TO THE PUBLIC IN ACCORDANCE WITH TITLE 10, SUBTITLE 5 OF THE STATE GOVERNMENT ARTICLE;

(3) A GOVERNMENT-OWNED OR GOVERNMENT-OPERATED MEANS OF MASS TRANSPORTATION INCLUDING BUSES, VANS, TRAINS, TAXICABS, AND LIMOUSINES; OR

(4) AN INDOOR PLACE OF EMPLOYMENT.

24-505.

THIS SUBTITLE DOES NOT APPLY TO:

(1) PRIVATE HOMES, RESIDENCES, INCLUDING RESIDENCES USED AS A BUSINESS OR PLACE OF EMPLOYMENT, ~~AND AUTOMOBILES,~~ UNLESS BEING USED ~~FOR CHILD CARE, DAY CARE,~~ BY A PERSON WHO IS LICENSED OR REGISTERED UNDER SUBTITLE 5 OF THE FAMILY LAW ARTICLE TO PROVIDE DAY CARE OR CHILD CARE, AND PRIVATE VEHICLES, UNLESS BEING USED FOR THE PUBLIC TRANSPORTATION OF CHILDREN, OR AS PART OF HEALTH CARE OR DAY CARE TRANSPORTATION;

(2) A HOTEL OR MOTEL ROOM RENTED TO ONE OR MORE GUESTS AS LONG AS THE TOTAL PERCENT OF HOTEL OR MOTEL ROOMS BEING SO USED DOES NOT EXCEED 25%; ~~OR~~

(3) A RETAIL TOBACCO SHOP ~~THAT:~~

~~(I) DERIVES AT LEAST 75% OF ITS REVENUES, MEASURED BY AVERAGE DAILY RECEIPTS, FROM THE SALE OF NONCIGARETTE TOBACCO PRODUCTS;~~

~~(II) HAS A VENTILATION SYSTEM THAT PREVENTS SMOKE FROM INFILTRATING INTO ANY AREA WHERE SMOKING IS PROHIBITED UNDER THIS SUBTITLE; AND~~

~~(III) PROHIBITS THE ENTRY OF MINORS AT ALL TIMES DERIVES ITS PRIMARY REVENUE FROM THE SALE OF TOBACCO PRODUCTS AND TOBACCO RELATED PRODUCTS AND ACCESSORIES AND DERIVES ONLY INCIDENTAL REVENUE FROM THE SALE OF NONTOBACCO RELATED PRODUCTS BUSINESS THAT IS A SOLE PROPRIETORSHIP, LIMITED LIABILITY COMPANY, CORPORATION, PARTNERSHIP, OR OTHER ENTERPRISE, IN WHICH:~~

~~(I) THE PRIMARY ACTIVITY IS THE RETAIL SALE OF TOBACCO PRODUCTS AND ACCESSORIES; AND~~

~~(II) THE SALE OF OTHER PRODUCTS IS INCIDENTAL;~~

(4) ANY FACILITY OF A MANUFACTURER, IMPORTER, WHOLESALER, OR DISTRIBUTOR OF TOBACCO PRODUCTS OR OF ANY TOBACCO LEAF DEALER OR PROCESSOR IN WHICH EMPLOYEES OF THE MANUFACTURER, IMPORTER, WHOLESALER, DISTRIBUTOR, OR PROCESSOR WORK OR CONGREGATE; OR

(5) A RESEARCH OR EDUCATIONAL LABORATORY FOR THE PURPOSE OF CONDUCTING SCIENTIFIC RESEARCH INTO THE HEALTH EFFECTS OF TOBACCO SMOKE.

24-506.

(A) SIGNS THAT STATE "SMOKING PERMITTED IN THIS ROOM" SHALL BE PROMINENTLY POSTED AND PROPERLY MAINTAINED WHERE SMOKING IS ALLOWED UNDER § 24-505(2) OF THIS SUBTITLE.

(B) THE SIGNS SHALL BE POSTED AND MAINTAINED BY THE OWNER, OPERATOR, MANAGER, OR OTHER PERSON HAVING CONTROL OF THE AREA.

(C) THE LETTERS ON THE SIGNS SHALL BE AT LEAST 1 INCH IN HEIGHT.

24-507.

(A) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT PROHIBIT ENVIRONMENTAL TOBACCO SMOKE IN INDOOR AREAS OPEN TO THE PUBLIC.

(B) ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE DEPARTMENT SHALL REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON:

(1) THE ENFORCEMENT EFFORTS OF THE DEPARTMENT TO ELIMINATE ENVIRONMENTAL TOBACCO SMOKE IN INDOOR AREAS OPEN TO THE PUBLIC DURING THE PRIOR YEAR; AND

(2) THE RESULTS OF THESE ENFORCEMENT EFFORTS.

24-508.

~~(A) A PERSON OR EMPLOYER WHO VIOLATES A PROVISION OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE SHALL BE CONSIDERED IN VIOLATION OF THIS SUBTITLE AND SHALL BE SUBJECT TO A CIVIL PENALTY OF \$100 FOR THE FIRST VIOLATION AND AT LEAST \$250 FOR EACH SUBSEQUENT VIOLATION.~~

(A) SUBJECT TO SUBSECTION (C) OF THIS SECTION AND EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A PERSON WHO VIOLATES A PROVISION OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER § 24-507(A) OF THIS SUBTITLE:

(1) FOR A FIRST VIOLATION, SHALL BE ISSUED A WRITTEN REPRIMAND BY THE SECRETARY OR THE SECRETARY'S DESIGNEE;

(2) FOR A SECOND VIOLATION, IS SUBJECT TO A CIVIL PENALTY OF \$100; AND

(3) FOR EACH SUBSEQUENT VIOLATION, IS SUBJECT TO A CIVIL PENALTY NOT LESS THAN \$250.

(B) THE SECRETARY MAY WAIVE A PENALTY ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION, GIVING CONSIDERATION TO FACTORS THAT INCLUDE:

(1) THE SERIOUSNESS OF THE VIOLATION; AND

(2) ANY DEMONSTRATED GOOD FAITH MEASURES TO COMPLY WITH THE PROVISIONS OF THIS SUBTITLE.

(C) (1) THIS SUBSECTION DOES NOT APPLY TO AN ALLEGED VIOLATION OF SUBSECTION (D) OF THIS SECTION.

(2) IT IS AN AFFIRMATIVE DEFENSE TO A COMPLAINT BROUGHT AGAINST A PERSON FOR A VIOLATION OF A PROVISION OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE THAT THE PERSON OR AN EMPLOYEE OF THE PERSON:

(I) POSTED A "NO SMOKING" SIGN AS REQUIRED UNDER § 24-506 OF THIS SUBTITLE;

(II) REMOVED ALL ASHTRAYS AND OTHER SMOKING PARAPHERNALIA FROM ALL AREAS WHERE SMOKING IS PROHIBITED; AND

(III) IF THE VIOLATION OCCURRED IN A BAR, TAVERN, OR RESTAURANT:

1. REFUSED TO SEAT OR SERVE ANY INDIVIDUAL WHO WAS SMOKING IN A PROHIBITED AREA; AND

2. IF THE INDIVIDUAL CONTINUED TO SMOKE AFTER AN INITIAL WARNING, ASKED THE INDIVIDUAL TO LEAVE THE ESTABLISHMENT.

~~(B)~~ (D) AN EMPLOYER WHO DISCHARGES OR DISCRIMINATES AGAINST AN EMPLOYEE BECAUSE THAT EMPLOYEE HAS MADE A COMPLAINT,

HAS GIVEN INFORMATION TO THE DEPARTMENT IN ACCORDANCE WITH THIS SUBTITLE, HAS CAUSED TO BE INSTITUTED OR IS ABOUT TO CAUSE TO BE INSTITUTED A PROCEEDING UNDER THIS SUBTITLE, OR HAS TESTIFIED OR IS ABOUT TO TESTIFY IN A PROCEEDING UNDER THIS SUBTITLE, SHALL BE DEEMED IN VIOLATION OF THIS SUBTITLE AND SHALL BE SUBJECT TO A CIVIL PENALTY OF AT LEAST \$2,000 BUT NOT MORE THAN \$10,000 FOR EACH VIOLATION.

(E) (1) AN EMPLOYEE MAY NOT:

(i) MAKE A GROUNDLESS OR MALICIOUS COMPLAINT UNDER THIS SUBTITLE TO THE SECRETARY OR AN AUTHORIZED REPRESENTATIVE OF THE SECRETARY;

(ii) IN BAD FAITH, BRING AN ACTION UNDER THIS SUBTITLE; OR

(iii) IN BAD FAITH, TESTIFY IN AN ACTION UNDER THIS SUBTITLE OR A PROCEEDING THAT RELATES TO THE SUBJECT OF THIS SUBTITLE.

(2) THE SECRETARY MAY BRING AN ACTION FOR INJUNCTIVE RELIEF AND DAMAGES AGAINST A PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION.

(F) A PENALTY COLLECTED BY THE SECRETARY UNDER THIS SECTION SHALL BE PAID TO THE CIGARETTE RESTITUTION FUND ESTABLISHED UNDER § 7-317 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

24-509.

(A) ~~THE SECRETARY, IN CONSULTATION WITH THE COMPTROLLER,~~ WITHIN 90 DAYS FROM THE RECEIPT OF AN APPLICATION FOR A WAIVER AND THE DATE THAT ALL CONDITIONS FOR THE APPLICATION FOR A WAIVER REQUIRED IN THE REGULATIONS ADOPTED BY THE SECRETARY HAVE BEEN SATISFIED, THE HEALTH OFFICER OF A COUNTY MAY GRANT A WAIVER FROM THE APPLICATION OF A SPECIFIC PROVISION OF THIS SUBTITLE, IF PRIOR TO THE GRANTING OF THE WAIVER, THE APPLICANT FOR A WAIVER ESTABLISHES IN WRITING:

(1) COMPLIANCE WITH A SPECIFIC PROVISION OF THIS SUBTITLE WOULD CAUSE UNDUE FINANCIAL HARDSHIP; OR

(2) THE EXISTENCE OF OTHER FACTORS THAT WOULD RENDER COMPLIANCE UNREASONABLE.

(B) THE SECRETARY MAY IMPOSE CONDITIONS OR RESTRICTIONS ON A WAIVER GRANTED UNDER SUBSECTION (A) OF THIS SECTION TO:

(1) MINIMIZE THE ADVERSE EFFECTS OF THE WAIVER ON INDIVIDUALS INVOLUNTARILY EXPOSED TO SECONDHAND SMOKE; AND

(2) ENSURE THAT THE WAIVER IS CONSISTENT WITH THE PURPOSES OF THIS SUBTITLE.

(C) THE SECRETARY SHALL ADOPT REGULATIONS NECESSARY TO IMPLEMENT THIS SECTION.

(D) (1) A WAIVER MAY NOT BE GRANTED UNDER SUBSECTION (A) OF THIS SECTION ON OR AFTER JANUARY 31, 2011.

(2) A WAIVER GRANTED UNDER SUBSECTION (A) OF THIS SECTION TERMINATES ON JANUARY 31, 2011.

~~24-509.~~ 24-510.

NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED TO PREEMPT A COUNTY OR MUNICIPAL GOVERNMENT FROM ENACTING AND ENFORCING MORE STRINGENT MEASURES TO REDUCE INVOLUNTARY EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE.

24-511.

THIS SUBTITLE MAY BE CITED AS THE CLEAN INDOOR AIR ACT.

Article - Labor and Employment

2-106.

[(c) (1) (i) Notwithstanding any regulations adopted by the Commissioner under this section, the smoking of tobacco products is permitted in any of the following locations unless restricted as authorized under paragraph (3) of this subsection:

1. any portion of a private residence which is not open to the public for business purposes;

2. any establishment that:
 - A. is not a restaurant or hotel as defined in Article 2B, § 1-102 of the Code;
 - B. possesses an alcoholic beverages license issued under Article 2B of the Code that allows consumption of alcoholic beverages on the premises of the establishment; and
 - C. is generally recognized as a bar or tavern;
3. a bar in a hotel or motel;
4. a club as defined in Article 2B, § 1-102 of the Code that possesses an alcoholic beverages license issued under Article 2B of the Code and that allows consumption of alcoholic beverages on the premises of the club;
5. in the case of a restaurant as defined in Article 2B, § 1-102 of the Code:
 - A. if the restaurant does not possess an alcoholic beverages license issued under Article 2B of the Code, a separate enclosed room not to exceed 40% of the total area of the restaurant; or
 - B. if the restaurant possesses an alcoholic beverages license issued under Article 2B of the Code, a bar or bar area, a separate enclosed room not exceeding 40% of the restaurant, or a combination of a bar or bar area and a separate enclosed room not exceeding 40% of the total area of the restaurant including the bar or bar area;
6. up to 40% of the sleeping rooms in a hotel or motel;
7. a separate enclosed room of an establishment other than an establishment specified in items 1 through 6 of this subparagraph that possesses an alcoholic beverages license issued under Article 2B of the Code that allows consumption of alcoholic beverages on the premises of the establishment; or
8. up to 40% of the premises of a fraternal, religious, patriotic, or charitable organization or corporation or fire company or rescue squad that is subject to the authority of the Secretary during an event that the organization or corporation holds on its own property and which is open to the public.
 - (ii) A separate enclosed room in which smoking is permitted under subparagraph (i) of this paragraph is not required to have a specially modified ventilation system for the room.

(2) For the purposes of paragraph (1)(i)5B of this subsection, “bar or bar area” means an area within a restaurant that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is incidental to the consumption of the alcoholic beverages, and the immediately adjacent seating area.

(3) Notwithstanding the provisions of this subsection, a proprietor of an establishment described in paragraph (1) of this subsection may restrict or prohibit smoking on the premises of the establishment.]

5-101.

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

(c) (1) “Employee” means, except as provided in § 5-401 of this title, an individual whom an employer employs, for a wage or other compensation, in the business of the employer.

(2) “Employee” includes:

(i) an individual whom a governmental unit employs;

(ii) an individual who is licensed as a taxicab driver and leases or rents a taxicab from a person who operates or owns a taxicab business in Baltimore City;

(iii) an individual who is employed for part-time or temporary help by a governmental unit or person who engages in a business that directly employs individuals to provide part-time or temporary help to another governmental unit or person; and

(iv) an individual who performs work for a governmental unit or person to whom the individual is provided by another governmental unit or person who engages in a business that directly employs individuals to provide part-time or temporary help.

(d) (1) “Employer” means:

(i) except as provided in § 5-401 of this title, a person who is engaged in commerce, industry, trade, or other business in the State and employs at least 1 employee in that business; or

(ii) a public body.

(2) "Employer" includes:

(i) a person who operates or owns a taxicab business in Baltimore City and leases or rents a taxicab to a licensed taxicab driver, to provide services to the public;

(ii) a governmental unit or person who engages in a business that directly employs individuals to provide part-time or temporary help to another governmental unit or person; and

(iii) a governmental unit or person who contracts directly with another governmental unit or person who engages in a business that directly employs individuals to provide part-time or temporary help to another governmental unit or person.

(g) "Place of employment" means a place in or about which an employee is allowed to work.

5-314.

[(c) (1) (i) Notwithstanding any regulations adopted by the Commissioner under this section, the smoking of tobacco products is permitted in any of the following locations unless restricted as authorized under paragraph (3) of this subsection:

1. any portion of a private residence which is not open to the public for business purposes;

2. any establishment that:

A. is not a restaurant or hotel as defined in Article 2B, § 1-102 of the Code;

B. possesses an alcoholic beverages license issued under Article 2B of the Code that allows consumption of alcoholic beverages on the premises of the establishment; and

C. is generally recognized as a bar or tavern;

3. a bar in a hotel or motel;

4. a club as defined in Article 2B, § 1-102 of the Code that possesses an alcoholic beverages license issued under Article 2B of the Code and that allows consumption of alcoholic beverages on the premises of the club;

5. in the case of a restaurant as defined in Article 2B, § 1-102 of the Code:

A. if the restaurant does not possess an alcoholic beverages license issued under Article 2B of the Code, a separate enclosed room not to exceed 40% of the total area of the restaurant; or

B. if the restaurant possesses an alcoholic beverages license issued under Article 2B of the Code, a bar or bar area, a separate enclosed room not exceeding 40% of the restaurant, or a combination of a bar or bar area and a separate enclosed room not exceeding 40% of the total area of the restaurant including the bar or bar area;

6. up to 40% of the sleeping rooms in a hotel or motel;

7. a separate enclosed room of an establishment other than an establishment specified in items 1 through 6 of this subparagraph that possesses an alcoholic beverages license issued under Article 2B of the Code that allows consumption of alcoholic beverages on the premises of the establishment; or

8. up to 40% of the premises of a fraternal, religious, patriotic, or charitable organization or corporation or fire company or rescue squad that is subject to the authority of the Secretary during an event that the organization or corporation holds on its own property and which is open to the public.

(ii) A separate enclosed room in which smoking is permitted under subparagraph (i) of this paragraph is not required to have a specially modified ventilation system for the room.

(2) For the purposes of paragraph (1)(i)5B of this subsection, "bar or bar area" means an area within a restaurant that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is incidental to the consumption of the alcoholic beverages, and the immediately adjacent seating area.

(3) Notwithstanding the provisions of this subsection, a proprietor of an establishment described in paragraph (1) of this subsection may restrict or prohibit smoking on the premises of the establishment.]

5-608.

(A) EXCEPT AS PROVIDED IN § 24-505 OF THE HEALTH - GENERAL ARTICLE, AN INDIVIDUAL MAY NOT SMOKE IN AN INDOOR PLACE OF EMPLOYMENT.

(B) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT PROHIBIT ENVIRONMENTAL TOBACCO SMOKE, AS DEFINED IN § 24-501 OF THE HEALTH - GENERAL ARTICLE, IN INDOOR PLACES OF EMPLOYMENT NOT NORMALLY OPEN TO THE GENERAL PUBLIC.

(2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PERSON WHO VIOLATES A REGULATION ADOPTED UNDER THIS SUBTITLE:

(I) FOR A FIRST VIOLATION, SHALL BE ISSUED A WRITTEN REPRIMAND BY THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE;

(II) FOR A SECOND VIOLATION, IS SUBJECT TO A CIVIL PENALTY OF \$100; AND

(III) FOR EACH SUBSEQUENT VIOLATION, IS SUBJECT TO A CIVIL PENALTY NOT LESS THAN \$250.

(C) THE COMMISSIONER MAY WAIVE A PENALTY ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION, GIVING CONSIDERATION TO FACTORS THAT INCLUDE:

(1) THE SERIOUSNESS OF THE VIOLATION; AND

(2) ANY DEMONSTRATED GOOD FAITH MEASURES TO COMPLY WITH THE PROVISIONS OF THIS SUBTITLE.

(D) A PENALTY COLLECTED BY THE COMMISSIONER UNDER THIS SECTION SHALL BE PAID TO THE CIGARETTE RESTITUTION FUND ESTABLISHED UNDER § 7-317 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

~~(E)~~ (E) ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE DEPARTMENT SHALL REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON:

(1) THE ENFORCEMENT EFFORTS OF THE DEPARTMENT TO ELIMINATE ENVIRONMENTAL TOBACCO SMOKE, AS DEFINED IN § 24-501 OF THE HEALTH - GENERAL ARTICLE, IN INDOOR PLACES OF EMPLOYMENT DURING THE PRIOR YEAR; AND

(2) THE RESULTS OF THESE ENFORCEMENT EFFORTS.

~~(F)~~ (F) AN EMPLOYER WHO DISCHARGES OR DISCRIMINATES AGAINST AN EMPLOYEE BECAUSE THAT EMPLOYEE HAS MADE A COMPLAINT

UNDER THIS SECTION, HAS GIVEN INFORMATION TO THE DEPARTMENT IN ACCORDANCE WITH THIS SECTION, HAS CAUSED TO BE INSTITUTED OR IS ABOUT TO CAUSE TO BE INSTITUTED A PROCEEDING UNDER THIS SECTION, OR HAS TESTIFIED OR IS ABOUT TO TESTIFY IN A PROCEEDING, SHALL BE DEEMED IN VIOLATION OF THIS SECTION AND SHALL BE SUBJECT TO A CIVIL PENALTY OF AT LEAST \$2,000 BUT NOT MORE THAN \$10,000 FOR EACH VIOLATION.

(g) (1) AN EMPLOYEE MAY NOT:

(i) MAKE A GROUNDLESS OR MALICIOUS COMPLAINT TO THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER;

(ii) IN BAD FAITH, BRING AN ACTION UNDER THIS SUBTITLE; OR

(iii) IN BAD FAITH, TESTIFY IN AN ACTION UNDER THIS SUBTITLE OR A PROCEEDING THAT RELATES TO THE SUBJECT OF THIS SUBTITLE.

(2) THE COMMISSIONER MAY BRING AN ACTION FOR INJUNCTIVE RELIEF AND DAMAGES AGAINST A PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION.

Article - State Finance and Procurement

7-317.

(b) (1) The Fund is a continuing, nonlapsing fund that is not subject to § 7-302 of this subtitle.

(2) There shall be credited to the Fund all revenues consisting of funds received by the State from any source resulting, directly or indirectly, from any judgment against or settlement with tobacco product manufacturers, tobacco research associations, or any other person in the tobacco industry relating to litigation, administrative proceedings, or any other claims made or prosecuted by the State to recover damages for violations of State law.

(3) THERE SHALL BE CREDITED TO THE FUND ALL MONEYS COLLECTED UNDER § 24-508 OF THE HEALTH - GENERAL ARTICLE OR § 5-608 OF THE LABOR AND EMPLOYMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 2-106(d) and (e), respectively, of Article - Labor and Employment of the Annotated Code of Maryland be renumbered to be Section(s) 2-106(c) and (d), respectively.

~~SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act shall be construed to preempt a county or municipal government from enacting and enforcing more stringent measures to reduce involuntary exposure to environmental tobacco smoke.~~

SECTION ~~4~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2007~~ January 1, 2008 ~~October 1, 2007~~.

Approved by the Governor, May 17, 2007.

CHAPTER 503

(Senate Bill 101)

AN ACT concerning

Nursing Facilities - Quality Assessment - Medicaid Reimbursement

FOR the purpose of authorizing the Department of Health and Mental Hygiene to impose a quality assessment on certain nursing facilities; providing that a certain continuing care operation is not subject to a certain quality assessment; providing for the terms of the assessment; requiring a certain assessment to be paid to the State Comptroller at a certain time; providing that the payment of the assessment by the nursing facility shall be based on a certain ~~net receipts~~ amount per non-Medicare day of service; ~~requiring the Department to use~~ providing for the distribution of the amounts collected to a special fund, to be used only to fund reimbursements to nursing facilities under the Medicaid program; providing that the quality assessment funds allocated for Medicaid reimbursement of nursing facilities are to be in addition to and not to supplant funds already appropriated for this purpose; ~~requiring the Department to develop certain accountability measures on which the distribution of certain revenues may be based;~~ requiring the Department to adopt certain regulations; ~~defining a certain term;~~ requiring the Department to seek certain approval for excluding a ~~continuing care facility from the definition of nursing facility~~ nursing home bed in a certain continuing care retirement community; authorizing the Department to modify certain elements that determine the quality assessment under certain circumstances; making this Act subject to a certain contingency; providing for the termination of this Act; requiring the

Department to submit a certain report to the General Assembly under certain circumstances; *expressing the intent of the General Assembly that the Department develop certain accountability measures to be used to distribute certain revenues*; and generally relating to a quality assessment on nursing facilities.

BY repealing and reenacting, without amendments,

Article – Human Services

Section 10–401(d) and (m)

Annotated Code of Maryland

(As enacted by Chapter ~~== (S.B.6)~~ 3 of the Acts of the General Assembly of 2007)

BY repealing and reenacting, with amendments,

Article – Human Services

Section 10–402(b)(1)

Annotated Code of Maryland

(As enacted by Chapter ~~== (S.B.6)~~ 3 of the Acts of the General Assembly of 2007)

BY repealing and reenacting, without amendments,

Article – Health – General

Section 19–301(l) and (o)

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY adding to

Article – Health – General

Section 19–310.1

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

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

Article – Human Services

10–401.

(d) “Continuing care” means:

- (1) continuing care in a retirement community; or
- (2) continuing care at home.

(m) "Facility" means a physical plant in which continuing care in a retirement community is provided in accordance with this subtitle.

10-402.

(b) (1) A continuing care operation that is subject to the provisions of this subtitle is not subject to:

(i) the Maryland Health Maintenance Organization Act under Title 19, Subtitle 7 of the Health – General Article;

(ii) except for § 15-603 of the Insurance Article, the Insurance Article;

(iii) Title 8 of the Real Property Article; [or]

(iv) any county or municipal landlord-tenant law; OR

(v) § 19-310.1 OF THE HEALTH – GENERAL ARTICLE.

Article – Health – General

19-301.

(l) "Nursing facility" means a related institution that provides nursing care for 2 or more unrelated individuals.

(o) (1) "Related institution" means an organized institution, environment, or home that:

(i) Maintains conditions or facilities and equipment to provide domiciliary, personal, or nursing care for 2 or more unrelated individuals who are dependent on the administrator, operator, or proprietor for nursing care or the subsistence of daily living in a safe, sanitary, and healthful environment; and

(ii) Admits or retains the individuals for overnight care.

(2) "Related institution" does not include a nursing facility or visiting nurse service that is conducted only by or for adherents of a bona fide church or religious organization, in accordance with tenets and practices that include reliance on treatment by spiritual means alone for healing.

19-310.1.

(A) (1) ~~IN THIS SECTION, EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, "NURSING FACILITY" HAS THE MEANING STATED IN § 19-301 OF THIS SUBTITLE.~~

(2) ~~"NURSING FACILITY" DOES NOT INCLUDE A FACILITY THAT PROVIDES CONTINUING CARE AS DEFINED IN § 10-401 OF THE HUMAN SERVICES ARTICLE~~ THIS SECTION APPLIES TO A NURSING FACILITY, AS DEFINED IN § 19-301 OF THIS SUBTITLE, THAT:

(I) HAS 45 OR MORE BEDS; AND

(II) OPERATES IN THE STATE.

(2) THIS SECTION DOES NOT APPLY TO A NURSING HOME BED IN A CONTINUING CARE RETIREMENT COMMUNITY THAT HAS OBTAINED A CERTIFICATE OF REGISTRATION TO PROVIDE CONTINUING CARE UNDER TITLE 10, SUBTITLE 4 OF THE HUMAN SERVICES ARTICLE.

(B) (1) THE DEPARTMENT MAY IMPOSE A QUALITY ASSESSMENT ON EACH FREESTANDING NURSING FACILITY OPERATING IN THE STATE WITH 45 OR MORE BEDS SUBJECT TO THIS SECTION.

(2) THE AMOUNT ASSESSED PER NURSING FACILITY IN THE AGGREGATE ON ALL NURSING FACILITIES MAY NOT EXCEED 2% OF THE NET OPERATING REVENUE FOR ALL NURSING FACILITIES OPERATING IN THE STATE SUBJECT TO THIS SECTION FOR THE PREVIOUS 3 MONTH PERIOD FISCAL QUARTER.

(3) THE AGGREGATE ANNUAL ASSESSMENT MAY NOT EXCEED THE AMOUNT NECESSARY TO FULLY FUND THE NURSING FACILITY PAYMENT SYSTEM TAKING INTO CONSIDERATION ANY OTHER REVENUE SOURCE OR COST SAVINGS THE DEPARTMENT DETERMINES COULD BE USED TO REDUCE FUNDING SHORTFALLS.

(4) THE ASSESSMENT AUTHORIZED BY THIS SECTION SHALL BE PAID BY EACH NURSING FACILITY IN ACCORDANCE WITH THIS SECTION.

(C) (1) ~~ON OR BEFORE THE 15TH DAY OF EACH QUARTER OF THE STATE FISCAL YEAR, EACH NURSING FACILITY SHALL PAY TO THE STATE COMPTROLLER AN AMOUNT DETERMINED BY THE DEPARTMENT BASED ON THE REVENUE EARNED BY THE NURSING FACILITY FOR THE PREVIOUS QUARTER EXCLUDING REVENUE FROM THE MEDICARE PROGRAM.~~

~~(2) THE PAYMENT OF THE ASSESSMENT BY THE NURSING FACILITY SHALL BE BASED ON NET RECEIPTS, NOT INCLUDING MEDICARE, FOR THE PREVIOUS 3 MONTH PERIOD FOR WHICH THE NURSING FACILITY HAS BEEN PAID THE FULLY FUNDED MEDICAID REIMBURSEMENT RATE.~~

(c) (1) ON OR BEFORE THE 60TH DAY AFTER EACH QUARTER OF THE STATE FISCAL YEAR, EACH NURSING FACILITY SUBJECT TO THIS SECTION SHALL PAY TO THE COMPTROLLER AN AMOUNT DETERMINED BY THE DEPARTMENT BASED ON AN AMOUNT PER NON-MEDICARE DAY OF SERVICE FOR THE PREVIOUS FISCAL QUARTER.

(2) THE ASSESSMENT SHALL BE BASED ON AN AMOUNT PER PATIENT DAY, NOT INCLUDING MEDICARE DAYS, NECESSARY TO FULLY FUND THE NURSING FACILITY PAYMENT SYSTEM AS PROVIDED UNDER SUBSECTION (B)(3) OF THIS SECTION.

(d) (1) ALL AMOUNTS COLLECTED BY THE STATE COMPTROLLER UNDER THIS SECTION SHALL BE *DISTRIBUTED TO A SPECIAL FUND, TO BE USED BY THE DEPARTMENT ONLY* TO FUND REIMBURSEMENTS TO NURSING FACILITIES UNDER THE MEDICAID PROGRAM.

(2) THE FUNDS ALLOCATED BY THE DEPARTMENT AS REIMBURSEMENTS TO NURSING FACILITIES UNDER THIS SECTION SHALL BE IN ADDITION TO AND MAY NOT SUPPLANT FUNDS ALREADY APPROPRIATED FOR THIS PURPOSE.

~~(3) (i) 1. IN CONSULTATION WITH REPRESENTATIVES OF NURSING FACILITIES AND OTHER STAKEHOLDERS, THE DEPARTMENT SHALL DEVELOP ACCOUNTABILITY MEASURES THAT INDICATE QUALITY OF CARE OR A COMMITMENT TO QUALITY OF CARE, TO BE USED FOR DISTRIBUTION OF A PORTION OF THE REVENUES FROM THE ASSESSMENT UNDER THIS SECTION TO NURSING FACILITIES SUBJECT TO THIS SUBSECTION.~~

~~2. THE ACCOUNTABILITY MEASURES DEVELOPED UNDER THIS PARAGRAPH SHALL BE OBJECTIVE AND MEASURABLE, AND, WHEN CONSIDERED IN COMBINATION WITH EACH OTHER, SHALL HAVE A CORRELATION TO RESIDENTS' QUALITY OF LIFE AND CARE.~~

~~(ii) BEGINNING JULY 1, 2008, SUBJECT TO RESTRICTIONS UNDER FEDERAL LAW, UP TO 75% OF THE REVENUES FROM THE ASSESSMENT UNDER THIS SECTION MAY BE DISTRIBUTED TO NURSING FACILITIES SUBJECT~~

~~TO THIS SUBSECTION BASED ON THE ACCOUNTABILITY MEASURES DEVELOPED UNDER THIS PARAGRAPH.~~

~~(H) THE DISTRIBUTION OF REVENUES AS PROVIDED IN THIS PARAGRAPH SHALL BE USED AS AN INCENTIVE FOR NURSING FACILITIES TO PROVIDE QUALITY CARE AND MAY NOT BE USED TO DIRECTLY OR INDIRECTLY HOLD HARMLESS ANY NURSING FACILITY.~~

(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

(F) ON OR BEFORE MARCH 1, 2008, AND EACH YEAR THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE IMPLEMENTATION OF THIS SECTION, INCLUDING:

(1) THE PERCENTAGE AND AMOUNT OF THE ASSESSMENT CHARGED TO EACH NURSING FACILITY SUBJECT TO THIS SECTION;

(2) THE NUMBER OF NURSING FACILITIES SUBJECT TO THIS SECTION WITH A NET LOSS; AND

(3) A COMPARISON OF THE TOTAL AMOUNT PROVIDED IN THE MEDICAID BUDGET FOR NURSING HOME REIMBURSEMENT IN THE CURRENT FISCAL YEAR TO THE AMOUNT PROPOSED FOR THE UPCOMING FISCAL YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene;

(1) shall seek approval from the Centers for Medicare and Medicaid Services of a waiver under § 1903 of the federal Social Security Act that would allow the State to receive tax revenue (within specified limitations) without a reduction in federal financial participation, specifically by excluding a ~~continuing care facility from the definition of "nursing facility" under § 19-310.1 of the Health - General Article as enacted by this Act~~ nursing home bed in a continuing care retirement community under § 19-310.1(a)(2) of the Health - General Article, as enacted by Section 1 of this Act; and

(2) may modify the minimum licensed bed capacity of a nursing facility subject to the imposition of a quality assessment under § 19-310.1 of the Health - General Article, as enacted by Section 1 of this Act, or other elements that determine the quality assessment, as required by the Centers for Medicare and Medicaid Services as a condition for the approval of the waiver applied for under item (1) of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect on the ~~date that~~ first day of the State fiscal quarter during which the Centers for Medicare and Medicaid Services approves a waiver applied for in accordance with Section 2 of this Act. The Department of Health and Mental Hygiene shall, within 5 working days of the date of the approval of the State's waiver application, notify the Department of Legislative Services in writing at 90 State Circle, Annapolis, Maryland 21401. If the waiver is denied, the Department of Health and Mental Hygiene shall, within 5 working days of the date of the denial of the State's waiver application, notify the Department of Legislative Services in writing at 90 State Circle, Annapolis, Maryland 21401. If the waiver is denied, this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The assessment on nursing facilities authorized by this Act shall terminate if:

(1) the assessment is not permissible under § 1903(w) of the Social Security Act; or

(2) the nursing home payment system is replaced with a system that is not cost-based and the Department is unable to obtain the enhanced federal match since the nursing facility assessment as an allowable cost would not be applicable.

(b) If the assessment is terminated in accordance with subsection (a) of this section, the Department of Health and Mental Hygiene shall, within 5 working days of the date of termination, notify the Department of Legislative Services in writing at 90 State Circle, Annapolis, Maryland 21401.

(c) If the assessment is terminated in accordance with subsection (a) of this section, this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(a) Beginning July 1, 2008, a portion of the revenues from the quality assessment shall be distributed to nursing facilities subject to this Act based on accountability measures that indicate quality of care or a commitment to quality of care. The accountability measures should be objective, measurable, and when considered in combination with each other, deemed to have a correlation to residents' quality of life and care. The Department of Health and Mental Hygiene shall develop accountability measures in consultation with representatives of the nursing facilities and other stakeholders.

(b) Up to 25% of the revenues generated by the quality assessment shall be distributed as provided in this section, to the extent federal law allows. Further, the distribution of revenues as provided in this section shall be used as an incentive for nursing facilities to provide quality care, and may not be used to directly or indirectly hold harmless any nursing facility.

SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 and subject to Section 4 of this Act, this Act shall take effect July 1, 2007. It shall remain effective for a period of 5 years and, at the end of June 30, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 504

(Senate Bill 105)

AN ACT concerning

**Statewide Advisory Commission on ~~Immunization~~ Immunizations -
Universal Vaccine Purchasing System Duties and Sunset Extension**

FOR the purpose of expanding certain duties of the Statewide Advisory Commission on Immunizations; including a representative from a health insurance carrier on the Commission; extending the termination date of the Commission; requiring the Commission to make certain recommendations in a certain annual report by a certain date; providing for the termination of a certain provision of this Act; and generally relating to the Statewide Advisory Commission on Immunizations.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 18–214
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Chapter 337 of the Acts of the General Assembly of 2002, as amended by
Chapter 200 of the Acts of the General Assembly of 2005
Section 2

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

Article - Health - General

18-214.

(a) In this section, "vaccine" means a product intended to elicit, in humans, active or passive immunity against an infectious agent or product of an infectious agent.

(b) There is a Statewide Advisory Commission on Immunizations.

(c) The Commission consists of at least the following members:

(1) One physician member of the Medical and Chirurgical Faculty Public Health Council;

(2) The chairperson of the Maryland Childhood Immunization Partnership;

(3) Two physician members of the Maryland Chapter of the American Academy of Pediatrics with experience in private practice and infectious diseases;

(4) One physician member of the Maryland Academy of Family Physicians;

(5) One physician member of the American College of Physicians – Internal Medicine Society of Maryland;

(6) The executive director of the Maryland Partnership for Prevention;

(7) One local health officer;

(8) One representative from the Department's Vaccines for Children Program;

(9) One representative of the Maryland school system with knowledge of the immunizations required of children entering schools;

(10) The Maryland State Epidemiologist;

(11) One representative from a public health consumer advocacy group;

~~and~~

(12) One nurse practitioner; AND

(13) ONE REPRESENTATIVE FROM A HEALTH INSURANCE CARRIER.

(d) The Secretary of the Department of Health and Mental Hygiene shall appoint the membership of the Commission, based on the recommendation of the appropriate medical society or agency.

(e) The physician member of the Medical and Chirurgical Faculty Public Health Council shall:

(1) Chair the Commission;

(2) Establish subcommittees to facilitate the work of the Commission;
and

(3) Appoint subcommittee chairs from among the Commission members.

(f) A member of the Commission may not receive compensation but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) The Department of Health and Mental Hygiene shall provide the staffing for the Commission.

(h) The Commission shall:

(1) Determine where community vaccine shortages exist and which vaccines are in short supply;

(2) Develop a recommendation for a plan to effectuate the equitable distribution of vaccines; and

(3) Study and make recommendations about other related issues as determined by the Commission, including but not limited to:

(i) Immunizations required of children entering schools in times of vaccine shortage;

(ii) All available options for the purchasing of vaccines, **INCLUDING THE DEVELOPMENT OF A UNIVERSAL VACCINE PURCHASING**

SYSTEM, OR A SIMILAR PROGRAM TO INCREASE ACCESS TO NECESSARY VACCINES, FOR THE STATE;

(III) AN UPDATE ON THE STATUS OF THE USE OF THIMEROSAL IN VACCINES, INCLUDING THE AVAILABILITY AND AFFORDABILITY OF THIMEROSAL-FREE VACCINES, AND ANY OTHER ISSUE RELATED TO THE USE OF THIMEROSAL IN VACCINES THAT IS IDENTIFIED BY THE COMMISSION;

~~(iii)~~ **(IV)** Elimination of any vaccine distribution disparities;

~~(iv)~~ **(V)** A public education campaign in the event of a vaccine shortage;

~~(v)~~ **(VI)** The availability and affordability of adult and childhood vaccines; and

~~(vi)~~ **(VII)** Strategies to increase immunizations among those adults and children recommended to receive immunizations, including catch-up immunizations.

(i) On or before December 15 of each year, the Commission shall submit a report on its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee.

Chapter 337 of the Acts of 2002, as amended by Chapter 200 of the Acts of 2005

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2002. It shall remain effective for a period of [6] 8 years and, at the end of May 31, [2008,] 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The report of the Statewide Advisory Commission on Immunizations that is due on December 15, 2007, shall contain recommendations on whether the State should consider implementing a Universal Vaccine Purchasing System or take other appropriate action to increase access to necessary vaccines.

(b) In developing its recommendations, the Commission shall:

(1) consult with all interested stakeholders;

(2) review the structure, cost, scope, success, and implementation issues of similar programs in other states;

(3) consider any existing State or federal programs or funds, or any other source of funds, that may be available to mitigate the cost and administrative burden of any proposed new program; ~~and~~

(4) provide a range of policy, structure, cost, and scope options to be considered in any proposed new program;

(5) consider the feasibility and advisability of requiring the Department of Health and Mental Hygiene to reimburse for vaccine administration on a per-antigen basis as an alternative to reimbursing on a per-dosage basis; and

(6) (i) consider all available options for requiring carriers to reimburse providers adequately for the full cost of immunizations including acquisition and overhead costs; and

(ii) consider the feasibility of publicizing a list of wholesale vendors and the prices charged by each vendor for vaccines.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. Section 2 of this Act shall remain effective for a period of 1 year and 6 months and, at the end of December 31, 2008, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 505

(Senate Bill 107)

AN ACT concerning

Task Force on Health Care Access and Reimbursement

FOR the purpose of establishing the Task Force on Health Care Access and Reimbursement; providing for the membership of the Task Force; authorizing the Task Force to consult with certain individuals and entities in performing the duties of the Task Force; requiring the Secretary of Health and Mental

Hygiene to chair the Task Force and establish certain subcommittees; providing for the duties of the Task Force; requiring the Task Force to make certain recommendations; requiring the Department of Health and Mental Hygiene to provide staff support to the Task Force; requiring the Task Force to make certain reports to the Governor and General Assembly on or before certain dates; providing that members of the Task Force are entitled to a certain reimbursement; providing for the termination of this Act; and generally relating to the Task Force on Health Care Access and Reimbursement.

BY adding to

Article – Health – General
Section 19–710.3
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

Preamble

WHEREAS, Maryland has a national reputation as a leader in health care; and

WHEREAS, It has always been a high priority of State government to implement policies to encourage affordable and quality health care for all Marylanders; and

WHEREAS, Maryland's commitment to affordable quality health care is now threatened by growing numbers of uninsured and underinsured citizens and by shortages of physicians and other health care providers; and

WHEREAS, Some data suggests that Maryland ranks nationally in the lowest 25th percentile for reimbursement payments to doctors and health care providers; and

WHEREAS, Other data suggests that Maryland is a high expense state for most medical practices expenses; and

WHEREAS, There has been a significant increase in uncompensated and undercompensated care provided by physicians and other health care providers; and

WHEREAS, Providing physicians and other health care providers with reasonable and fair reimbursement compared with other states would be a catalyst for preventing the present decline in health care in Maryland; and

WHEREAS, It is important to have a State-sanctioned study of physician and health care provider reimbursement to avoid antitrust issues; and

WHEREAS, A study focused on provider reimbursement trends in Maryland will coordinate with the collaborative work currently underway by a number of health

care providers, regulators, and academic institution stakeholders to analyze the trends in the supply and future demand for health care providers; and

WHEREAS, These efforts will enable public policy makers to understand the complete Maryland environment and develop the comprehensive solutions needed to ensure that the citizens of Maryland have adequate access to quality health care services; now, therefore,

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

Article - Health - General

19-710.3.

(A) THERE IS A TASK FORCE ON HEALTH CARE ACCESS AND REIMBURSEMENT.

(B) THE TASK FORCE CONSISTS OF THE FOLLOWING MEMBERS:

(1) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(2) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(3) THE SECRETARY OF HEALTH AND MENTAL HYGIENE;

(4) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE;

(5) THE INSURANCE COMMISSIONER, OR THE INSURANCE COMMISSIONER'S DESIGNEE; ~~AND~~

(6) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE SECRETARY'S DESIGNEE; AND

~~(6)~~ (7) SIX INDIVIDUALS APPOINTED BY THE GOVERNOR.

(C) IN PERFORMING ITS DUTIES, THE TASK FORCE MAY CONSULT WITH INDIVIDUALS AND ENTITIES THAT THE SECRETARY OF HEALTH AND MENTAL HYGIENE DEEMS APPROPRIATE.

(D) (1) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL:

(I) CHAIR THE TASK FORCE;

(II) ESTABLISH SUBCOMMITTEES AND APPOINT SUBCOMMITTEE CHAIRS AS NECESSARY TO FACILITATE THE WORK OF THE TASK FORCE; AND

(III) PROVIDE STAFF SUPPORT FOR THE TASK FORCE FROM THE DEPARTMENT.

(2) TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO THE TASK FORCE SHALL REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF ~~THIS~~ THE STATE.

(3) IN PERFORMING ~~IF~~ ITS DUTIES, THE TASK FORCE SHALL INVITE ALL INTERESTED GROUPS, INCLUDING PHYSICIAN GROUPS, HEALTH CARE PROVIDER SPECIALTY GROUPS, EMPLOYERS, AND HEALTH INSURANCE CARRIERS, TO PRESENT TESTIMONY OR OTHER INFORMATION TO THE TASK FORCE CONCERNING:

(I) THE ISSUES TO BE STUDIED BY THE TASK FORCE;

(II) DATA ON THE REIMBURSEMENTS PAID TO PHYSICIANS AND OTHER HEALTH CARE PROVIDERS BY HEALTH INSURANCE CARRIERS;

(III) TRENDS RELATING TO REIMBURSEMENT RATES AND TOTAL PAYMENTS ~~PAID~~ TO PHYSICIANS AND OTHER HEALTH CARE PROVIDERS BY HEALTH INSURANCE CARRIERS ~~AND HEALTH BENEFIT PLANS~~; AND

(IV) DATA AND TRENDS IN PHYSICIAN AND OTHER HEALTH CARE PROVIDER WORKFORCE SUPPLY AND FUTURE DEMAND.

(E) THE TASK FORCE SHALL EXAMINE:

(1) REIMBURSEMENT RATES AND TOTAL PAYMENTS ~~PAID~~ TO ~~MARYLAND~~ PHYSICIANS AND OTHER HEALTH CARE PROVIDERS BY SPECIALTY AND GEOGRAPHIC AREA AND TRENDS IN SUCH REIMBURSEMENT RATES AND TOTAL PAYMENTS, INCLUDING A COMPARISON OF REIMBURSEMENT RATES, TOTAL PAYMENTS, AND TRENDS IN OTHER STATES;

(2) THE IMPACT OF CHANGES IN REIMBURSEMENTS ON ACCESS TO HEALTH CARE AND ON HEALTH CARE DISPARITIES, VOLUME OF SERVICES, AND QUALITY OF CARE;

(3) THE EFFECT OF COMPETITION ON PAYMENTS TO PHYSICIANS AND OTHER HEALTH CARE PROVIDERS;

(4) THE TRENDS FOR PHYSICIAN AND OTHER HEALTH CARE PROVIDER SHORTAGES BY SPECIALTY AND GEOGRAPHIC AREA AND ANY IMPACT ON HEALTH CARE ACCESS AND QUALITY CAUSED BY SUCH SHORTAGES, INCLUDING ~~EMERGENCY DEPARTMENT~~ EMERGENCY DEPARTMENT OVERCROWDING;

(5) THE AMOUNT OF UNCOMPENSATED CARE BEING PROVIDED BY PHYSICIANS AND OTHER HEALTH CARE PROVIDERS AND THE TRENDS IN UNCOMPENSATED CARE IN MARYLAND AND IN OTHER STATES;

(6) THE EXTENT TO WHICH CURRENT REIMBURSEMENT METHODS RECOGNIZE AND REWARD HIGHER QUALITY OF CARE; ~~AND~~

(7) METHODS USED BY LARGE PURCHASERS OF HEALTH CARE TO EVALUATE ADEQUACY AND COST OF PROVIDER NETWORKS ; AND

(8) (I) THE PRACTICE BY CERTAIN HEALTH INSURANCE CARRIERS OF REQUIRING HEALTH CARE PROVIDERS WHO JOIN A PROVIDER NETWORK OF A CARRIER TO ALSO SERVE ON A PROVIDER NETWORK OF A DIFFERENT CARRIER; AND

(II) THE EFFECT OF THE PRACTICE DESCRIBED IN ITEM (I) OF THIS ITEM ON HEALTH CARE PROVIDER PAYMENTS AND WILLINGNESS TO SERVE ON PROVIDER NETWORKS OF HEALTH INSURANCE CARRIERS.

(F) THE TASK FORCE SHALL DEVELOP RECOMMENDATIONS REGARDING:

(1) SPECIFIC OPTIONS THAT ARE AVAILABLE, GIVEN LIMITATIONS OF THE FEDERAL ERISA LAW, TO CHANGE PHYSICIAN AND OTHER HEALTH CARE PROVIDER REIMBURSEMENTS, IF NEEDED;

(2) THE SUFFICIENCY OF PRESENT STATUTORY FORMULAS FOR THE REIMBURSEMENT OF NONCONTRACTING PHYSICIANS AND OTHER HEALTH CARE PROVIDERS BY HEALTH MAINTENANCE ORGANIZATIONS;

(3) WHETHER THE MARYLAND INSURANCE ADMINISTRATION AND THE ATTORNEY GENERAL CURRENTLY HAVE SUFFICIENT AUTHORITY TO REGULATE RATE SETTING AND MARKET-RELATED PRACTICES ~~BY INSURANCE~~

~~COMPANIES~~ OF HEALTH INSURANCE CARRIERS THAT MAY HAVE THE EFFECT OF UNREASONABLY REDUCING REIMBURSEMENTS;

(4) WHETHER THERE IS A NEED TO ENHANCE THE ABILITY OF PHYSICIANS AND OTHER HEALTH CARE PROVIDERS TO NEGOTIATE REIMBURSEMENT RATES WITH ~~PRIVATE HEALTH PLANS~~ HEALTH INSURANCE CARRIERS, WITHOUT UNDULY IMPAIRING THE ABILITY OF THE ~~PLANS~~ CARRIERS TO APPROPRIATELY MANAGE THEIR ~~PHYSICIAN~~ PROVIDER NETWORKS;

(5) WHETHER THERE IS A NEED TO ESTABLISH A RATE-SETTING SYSTEM FOR PHYSICIANS AND OTHER HEALTH CARE PROVIDERS SIMILAR TO THE SYSTEM ESTABLISHED TO SET HOSPITAL RATES IN MARYLAND; ~~AND~~

(6) THE ADVISABILITY OF THE USE OF PAYMENT METHODS LINKED TO QUALITY OF CARE OR OUTCOMES; AND

(7) THE NEED TO PROHIBIT A HEALTH INSURANCE CARRIER FROM REQUIRING HEALTH CARE PROVIDERS WHO JOIN A PROVIDER NETWORK OF THE CARRIER TO ALSO SERVE ON A PROVIDER NETWORK OF A DIFFERENT CARRIER.

(G) (1) THE TASK FORCE SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY, ON OR BEFORE DECEMBER 31, 2007.

(2) IF THE TASK FORCE DETERMINES IT WILL NOT COMPLETE ITS WORK BY DECEMBER 31, 2007, THE TASK FORCE SHALL, IN THE SAME MANNER AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION:

(I) SUBMIT AN INTERIM REPORT OF ITS FINDINGS AND RECOMMENDATIONS ON OR BEFORE DECEMBER 1, 2007; AND

(II) SUBMIT A FINAL REPORT OF ITS FINDINGS AND RECOMMENDATIONS ON OR BEFORE ~~JULY 1,~~ JUNE 30, 2008.

(3) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, THE TASK FORCE SHALL SUBMIT ITS FINDINGS AND RECOMMENDATIONS RELATING TO SUBSECTION (F)(7) OF THIS SECTION ON OR BEFORE DECEMBER 31, 2007.

(H) A MEMBER OF THE TASK FORCE MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE TASK FORCE BUT IS ENTITLED TO REIMBURSEMENT FOR

EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period of 1 year and, at the end of ~~July 1~~ June 30, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 506

(Senate Bill 700)

AN ACT concerning

The Baby Boomer Initiative Act

FOR the purpose of establishing a Baby Boomer Initiative Council; establishing the membership of the Council; requiring the Governor to appoint the chair to the Council; establishing the duties of the Council; requiring the Council to make certain recommendations; providing for the staffing of the Council; requiring the Council to provide certain reports to the Governor and General Assembly on or before certain dates; providing for the termination of this Act; defining certain terms; and generally relating to the baby boomer population.

BY adding to

Article – Health – General

Section 24–1501 through 24–1505 to be under the new subtitle “Subtitle 15.

Baby Boomer Initiative Council”

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

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

Article – Health – General

SUBTITLE 15. BABY BOOMER INITIATIVE COUNCIL.

24–1501.

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

(B) "BABY BOOMER" MEANS AN INDIVIDUAL BORN DURING THE YEARS 1946 THROUGH 1964.

(C) "COUNCIL" MEANS THE BABY BOOMER INITIATIVE COUNCIL.

24-1502.

THERE IS A BABY BOOMER INITIATIVE COUNCIL.

24-1503.

THE COUNCIL CONSISTS OF THE FOLLOWING MEMBERS:

- (1) ONE REPRESENTATIVE OF THE DEPARTMENT OF AGING;
- (2) ONE REPRESENTATIVE OF THE STATE DEPARTMENT OF EDUCATION;
- (3) ONE REPRESENTATIVE OF THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT;
- (4) ONE REPRESENTATIVE OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;
- (5) ~~ONE REPRESENTATIVE~~ THE DEAN OF THE UNIVERSITY OF MARYLAND; MARYLAND'S COLLEGE OF HEALTH AND HUMAN PERFORMANCE, OR THE DEAN'S DESIGNEE;
- (6) ONE REPRESENTATIVE OF THE BUSINESS COMMUNITY, APPOINTED BY THE GOVERNOR;
- (7) ONE REPRESENTATIVE OF UNITED SENIORS OF MARYLAND;
- (8) ONE REPRESENTATIVE OF AARP MARYLAND; AND
- ~~(9) ONE REPRESENTATIVE OF JOHNS HOPKINS INSTITUTIONS;~~
- (9) THE DIRECTOR OF THE JOHNS HOPKINS UNIVERSITY CENTER ON AGING AND HEALTH, OR THE DIRECTOR'S DESIGNEE.

AND

- ~~(6) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:~~
- ~~(I) ONE REPRESENTATIVE OF THE BUSINESS COMMUNITY;~~
- ~~(II) ONE REPRESENTATIVE OF THE EDUCATION COMMUNITY; AND~~
- ~~(III) ONE REPRESENTATIVE OF THE AGING COMMUNITY.~~

24-1504.

- (A) THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE COUNCIL.
- (B) THE COUNCIL SHALL:
- (1) DEVELOP A MODEL WITH RECOMMENDATIONS FOR ADDRESSING THE NEEDS OF THE BABY BOOMER POPULATION;
- (2) MAKE RECOMMENDATIONS REGARDING PUBLIC POLICY INITIATIVES FOR UTILIZING THE BABY BOOMER POPULATION AS A SOURCE OF SOCIAL CAPITAL AND AS A WAY TO ADDRESS COMMUNITY NEEDS;
- (3) MAKE RECOMMENDATIONS TO THE DEPARTMENT OF AGING FOR:
- (I) A MARKETING OUTREACH EFFORT TO BUSINESSES; AND
- (II) OUTREACH TO NONPROFIT ORGANIZATIONS, THE STATE DEPARTMENT OF EDUCATION, AND OTHER STATE AGENCIES;
- (4) MAKE RECOMMENDATIONS FOR ELIGIBLE CIVIC ENGAGEMENT AND MULTIGENERATIONAL ACTIVITIES SUCH AS EARLY CHILDHOOD EDUCATION AND AFTER-SCHOOL PROGRAMS, RESPITE SERVICES FOR OLDER ADULTS AND CAREGIVERS, AND TRANSITIONS FOR THE BABY BOOMER POPULATION TO ENGAGE IN PURPOSEFUL WORK FOLLOWING THEIR EXIT FROM CAREER-TRACK WORK; AND
- (5) STUDY AND DOCUMENT HEALTH AND SOCIAL BENEFITS DERIVED FROM:
- (I) THE ACTIVE ENGAGEMENT OF THE BABY BOOMER POPULATION; AND

(II) INTERGENERATIONAL ACTIVITY, LIFE-LONG LEARNING, AND CIVIC ENGAGEMENT FOR THE GENERAL COMMUNITY.

~~(C) THE UNIVERSITY OF MARYLAND REPRESENTATIVE TO THE COUNCIL SHALL INITIATE A STUDY TO BETTER UNDERSTAND AND DOCUMENT:~~

(C) THE REPRESENTATIVES ON THE COUNCIL FROM THE UNIVERSITY OF MARYLAND AND JOHNS HOPKINS INSTITUTIONS JOINTLY SHALL INITIATE A STUDY TO BETTER UNDERSTAND AND DOCUMENT:

(1) THE ECONOMIC IMPACT OF OLDER WORKERS' ROLES IN THE ECONOMY; AND

(2) THE SOCIAL IMPACT OF OLDER WORKERS' ROLES IN THE COMMUNITY.

(D) THE UNIVERSITY OF MARYLAND'S COLLEGE OF HEALTH AND HUMAN PERFORMANCE, IN COOPERATION WITH JOHNS HOPKINS INSTITUTIONS, SHALL PROVIDE STAFF FOR THE COUNCIL.

24-1505.

ON OR BEFORE DECEMBER 31, 2008, AND ANNUALLY THEREAFTER, THE COUNCIL SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. It shall remain effective for a period of 4 years and 3 months and, at the end of December 31, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 507

(House Bill 599)

AN ACT concerning

The Baby Boomer Initiative Act

FOR the purpose of establishing a Baby Boomer Initiative Council; establishing the membership of the Council; requiring the Governor to appoint the chair to the Council; establishing the duties of the Council; requiring the Council to make certain recommendations; providing for the staffing of the Council; requiring the Council to provide certain reports to the Governor and General Assembly on or before certain dates; providing for the termination of this Act; defining certain terms; and generally relating to the baby boomer population.

BY adding to

Article – Health – General

Section 24–1501 through 24–1505 to be under the new subtitle “Subtitle 15.
Baby Boomer Initiative Council”

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

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

Article – Health – General

SUBTITLE 15. BABY BOOMER INITIATIVE COUNCIL.

24–1501.

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

(B) “BABY BOOMER” MEANS AN INDIVIDUAL BORN DURING THE YEARS 1946 THROUGH 1964.

(C) “COUNCIL” MEANS THE BABY BOOMER INITIATIVE COUNCIL.

24–1502.

THERE IS A BABY BOOMER INITIATIVE COUNCIL.

24–1503.

THE COUNCIL CONSISTS OF THE FOLLOWING MEMBERS:

(1) ONE REPRESENTATIVE OF THE DEPARTMENT OF AGING;

(2) ONE REPRESENTATIVE OF THE STATE DEPARTMENT OF EDUCATION;

(3) ONE REPRESENTATIVE OF THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT;

(4) ONE REPRESENTATIVE OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;

(5) ~~ONE REPRESENTATIVE~~ THE DEAN OF THE UNIVERSITY OF MARYLAND; MARYLAND'S COLLEGE OF HEALTH AND HUMAN PERFORMANCE, OR THE DEAN'S DESIGNEE;

(6) ONE REPRESENTATIVE OF THE BUSINESS COMMUNITY, APPOINTED BY THE GOVERNOR;

(7) ONE REPRESENTATIVE OF UNITED SENIORS OF MARYLAND;

(8) ONE REPRESENTATIVE OF AARP MARYLAND; AND

~~(9) ONE REPRESENTATIVE OF JOHNS HOPKINS INSTITUTIONS.~~

(9) THE DIRECTOR OF THE JOHNS HOPKINS UNIVERSITY CENTER ON AGING AND HEALTH, OR THE DIRECTOR'S DESIGNEE.

AND

~~(6) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:~~

~~(i) ONE REPRESENTATIVE OF THE BUSINESS COMMUNITY;~~

~~(ii) ONE REPRESENTATIVE OF THE EDUCATION COMMUNITY; AND~~

~~(iii) ONE REPRESENTATIVE OF THE AGING COMMUNITY.~~

24-1504.

(A) THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE COUNCIL.

(B) THE COUNCIL SHALL:

(1) DEVELOP A MODEL WITH RECOMMENDATIONS FOR ADDRESSING THE NEEDS OF THE BABY BOOMER POPULATION;

(2) MAKE RECOMMENDATIONS REGARDING PUBLIC POLICY INITIATIVES FOR UTILIZING THE BABY BOOMER POPULATION AS A SOURCE OF SOCIAL CAPITAL AND AS A WAY TO ADDRESS COMMUNITY NEEDS;

(3) MAKE RECOMMENDATIONS TO THE DEPARTMENT OF AGING FOR:

(I) A MARKETING OUTREACH EFFORT TO BUSINESSES; AND

(II) OUTREACH TO NONPROFIT ORGANIZATIONS, THE STATE DEPARTMENT OF EDUCATION, AND OTHER STATE AGENCIES;

(4) MAKE RECOMMENDATIONS FOR ELIGIBLE CIVIC ENGAGEMENT AND MULTIGENERATIONAL ACTIVITIES SUCH AS EARLY CHILDHOOD EDUCATION AND AFTER-SCHOOL PROGRAMS, RESPITE SERVICES FOR OLDER ADULTS AND CAREGIVERS, AND TRANSITIONS FOR THE BABY BOOMER POPULATION TO ENGAGE IN PURPOSEFUL WORK FOLLOWING THEIR EXIT FROM CAREER-TRACK WORK; AND

(5) STUDY AND DOCUMENT HEALTH AND SOCIAL BENEFITS DERIVED FROM:

(I) THE ACTIVE ENGAGEMENT OF THE BABY BOOMER POPULATION; AND

(II) INTERGENERATIONAL ACTIVITY, LIFE-LONG LEARNING, AND CIVIC ENGAGEMENT FOR THE GENERAL COMMUNITY.

~~(C) THE UNIVERSITY OF MARYLAND REPRESENTATIVE TO THE COUNCIL SHALL INITIATE A STUDY TO BETTER UNDERSTAND AND DOCUMENT:~~

(C) THE REPRESENTATIVES ON THE COUNCIL FROM THE UNIVERSITY OF MARYLAND AND JOHNS HOPKINS INSTITUTIONS JOINTLY SHALL INITIATE A STUDY TO BETTER UNDERSTAND AND DOCUMENT:

(1) THE ECONOMIC IMPACT OF OLDER WORKERS' ROLES IN THE ECONOMY; AND

(2) THE SOCIAL IMPACT OF OLDER WORKERS' ROLES IN THE COMMUNITY.

(D) THE UNIVERSITY OF MARYLAND'S COLLEGE OF HEALTH AND HUMAN PERFORMANCE, IN COOPERATION WITH JOHNS HOPKINS INSTITUTIONS, SHALL PROVIDE STAFF FOR THE COUNCIL.

24-1505.

ON OR BEFORE DECEMBER 31, 2008, AND ANNUALLY THEREAFTER, THE COUNCIL SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. It shall remain effective for a period of 4 years and 3 months and, at the end of December 31, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 508

(Senate Bill 824)

AN ACT concerning

Senior Prescription Drug Assistance Program – Modifications and Sunset Extension

FOR the purpose of prohibiting the subsidy required under the Senior Prescription Drug Assistance Program from exceeding a certain amount in certain fiscal years; authorizing the Program to limit payments of certain subsidies under certain circumstances; extending the termination date of a certain program until a certain date; altering certain references to a certain obsolete program to clarify that the program being extended under this Act and that is funded by a certain carrier is the Senior Prescription Drug Assistance Program; making certain conforming changes; and generally relating to the Senior Prescription Drug Assistance Program.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 14-106(e) and 14-512

Annotated Code of Maryland

(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
 Article – Insurance
 Section 14–511
 Annotated Code of Maryland
 (2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
 Chapter 153 of the Acts of the General Assembly of 2002, as amended by
 Chapter 282 of the Acts of the General Assembly of 2005 and Chapter 345
 of the Acts of the General Assembly of 2006
 Section 13

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

Article – Insurance

14–106.

(e) The subsidy required under the Senior Prescription Drug Assistance Program may not exceed:

(1) for the period of January 1, 2006 through June 30, 2006, \$8,000,000;

(2) [for fiscal year 2007, \$14,000,000;

(3)] for fiscal [year] YEARS 2008 THROUGH 2010, \$14,000,000; and

[(4)] (3) for any year, the value of the nonprofit health service plan's premium tax exemption under § 6–101(b) of this article.

14–511.

- (a) There is a Senior Prescription Drug Assistance Program.
- (b) The purpose of the Program is to provide Medicare Part D beneficiaries, who meet Program eligibility requirements, with a State subsidy.
- (c) The Board shall contract with a third party to administer the Program.
- (d) The Administrator of the Program shall:

- (1) submit a detailed financial accounting of the Program to the Board as often as the Board requires;
- (2) collect and submit to the Board data regarding the utilization patterns and costs for Program enrollees; and
- (3) develop and implement a marketing plan targeted at eligible individuals throughout the State.

14-512.

(a) The Program shall:

(1) provide a prescription drug benefit subsidy, as determined by the Board, that may pay all or some of the deductibles, coinsurance payments, premiums, and copayments under the federal Medicare Part D Pharmaceutical Assistance Program for enrollees of the Program; and

(2) provide the subsidy to the maximum number of individuals eligible for enrollment in the Program, subject to the moneys available in the segregated account under § 14-504 of this subtitle.

(B) THE PROGRAM MAY LIMIT PAYMENT OF ANY SUBSIDY BY PAYING THE SUBSIDY ONLY ON BEHALF OF ELIGIBLE INDIVIDUALS ENROLLED IN A MEDICARE PART D PRESCRIPTION DRUG PLAN OR MEDICARE ADVANTAGE PLAN THAT COORDINATES WITH THE PROGRAM IN ACCORDANCE WITH FEDERAL REQUIREMENTS.

[(b)] (C) The Program may annually provide an additional subsidy, up to the full amount of the Medicare Part D Prescription Drug Plan premium, for individuals who qualify for a partial federal low-income subsidy.

[(c)] (D) The Program shall maintain a waiting list of individuals who meet the eligibility requirements for the Program but who are not served by the Program due to funding limitations.

[(d)] (E) The Board shall determine annually:

- (1) the number of individuals to be enrolled in the Program;
- (2) the amount of subsidy to be provided under subsection (a) of this section; and
- (3) the amount of any additional subsidy provided under subsection ~~(b)~~ (C) of this section.

[(e)] (F) On or before January 1 of each year, the Board, in accordance with § 2-1246 of the State Government Article, shall report to the General Assembly on:

- (1) the number of individuals on the waiting list for the Program; and
- (2) to the extent that the Board is able to collect the information:
 - (i) the number of enrollees with out-of-pocket prescription drug costs that exceed \$2,250, broken down for each fiscal quarter; and
 - (ii) the total annual out-of-pocket prescription drug costs for enrollees.

Chapter 153 of the Acts of 2002, as amended by Chapter 282 of the Acts of 2005 and Chapter 345 of the Acts of 2006

SECTION 13. AND BE IT FURTHER ENACTED, That:

(1) No later than June 1, 2003, the Secretary of Health and Mental Hygiene and the carrier that is required to offer the Short-Term Prescription Drug Subsidy Plan under Title 15, Subtitle 6 of the Health – General Article shall transfer all Plan records, data, and other information necessary to operate and administer the Senior Prescription Drug Program established under this Act to the Board of the Maryland Health Insurance Plan.

(2) Each individual enrolled in the Short-Term Prescription Drug Subsidy Plan, established under Title 15, Subtitle 6 of the Health – General Article, on June 30, 2003 shall, at the option of the enrollee and subject to the payment of all necessary premiums and copayments, be automatically enrolled in the Senior Prescription Drug Program established under this Act.

(3) It is the intent of the General Assembly that the transition of enrollees from the Short-Term Prescription Drug Subsidy Plan to the Senior Prescription Drug Program be accomplished without interruption of benefits for enrollees.

(4) ~~Benefits~~ **SUBSIDIES** shall be offered to enrollees through the Senior Prescription Drug **ASSISTANCE** Program established under Title 14, Subtitle 5, Part II of the Insurance Article beginning ~~July 1, 2003~~ **JANUARY 1, 2006**. At the end of December 31, [2007] **2009**, the Senior Prescription Drug **ASSISTANCE** Program established under Title 14, Subtitle 5, Part II, as amended, shall be abrogated and of no further force and effect.

(5) Beginning April 1, 2003, the carrier required to offer the Short-Term Prescription Drug Subsidy Plan under Title 15, Subtitle 6 of the Health - General Article and the Senior Prescription Drug ASSISTANCE Program under Title 14, Subtitle 5 of the Insurance Article shall subsidize the Plan and beginning ~~July 1, 2003~~ JANUARY 1, 2006, the Program, using the value of the carrier's premium tax exemption.

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

Approved by the Governor, May 17, 2007.

CHAPTER 509

(House Bill 1370)

AN ACT concerning

~~Maryland Health Insurance Plan~~ **Senior Prescription Drug Assistance Program - Modifications and Sunset Extension**

FOR the purpose of ~~requiring an individual to be enrolled in a certain prescription drug plan or Medicare Advantage Plan as a condition of eligibility for the Senior Prescription Drug Assistance Program; altering a certain definition~~ prohibiting the subsidy required under the Senior Prescription Drug Assistance Program from exceeding a certain amount in certain fiscal years; authorizing the Program to limit payments of certain subsidies under certain circumstances; extending the termination date of the Program; altering certain references to a certain obsolete program to clarify that the program being extended under this Act and that is funded by a certain carrier is the Senior Prescription Drug Assistance Program; making certain ~~clarifying~~ conforming changes; and generally relating to the Senior Prescription Drug Assistance Program.

BY repealing and reenacting, with amendments,
Article - Insurance
Section ~~14-510~~ 14-106(e) and 14-512
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article - Insurance
Section 14-511

Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
 Chapter 153 of the Acts of the General Assembly of 2002, as amended by
 Chapter 282 of the Acts of the General Assembly of 2005 and Chapter 345
 of the Acts of the General Assembly of 2006
 Section 13

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

Article - Insurance

~~14-510.~~

~~(a) In Part II of this subtitle the following words have the meanings indicated.~~

~~(b) "Eligible individual" means an individual who:~~

~~(1) is a resident of Maryland;~~

~~(2) (i) is a Medicare beneficiary enrolled in the Medicare Part D Voluntary Prescription Drug Benefit Program or a Medicare Advantage Plan that provides Part D coverage; AND~~

~~(ii) IS ENROLLED IN A PART D PRESCRIPTION DRUG PLAN OR MEDICARE ADVANTAGE PLAN THAT PARTICIPATES IN THE SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM IN ACCORDANCE WITH FEDERAL REQUIREMENTS;~~

~~(3) is not enrolled in a health benefit plan, other than a Medicare Part D prescription drug plan or a Medicare Advantage Plan, that provides prescription drug benefits at the time that the individual applies for enrollment in the Program;~~

~~(4) has an annual household income at or below 300% of the federal poverty guidelines;~~

~~(5) is not eligible for a full federal low income subsidy under 42 C.F.R. § 423.772; and~~

~~(6) pays the premium, and copayments or coinsurance, for the Program.~~

~~(c) "Enrollee" means an individual enrolled in the Program.~~

~~(d) "Program" means the Senior Prescription Drug Assistance Program established under Part II of this subtitle.~~

14-106.

(e) The subsidy required under the Senior Prescription Drug Assistance Program may not exceed:

(1) for the period of January 1, 2006 through June 30, 2006, \$8,000,000;

(2) [for fiscal year 2007, \$14,000,000;

(3)] for fiscal [year] YEARS 2008 THROUGH 2010, \$14,000,000; and

[(4)] (3) for any year, the value of the nonprofit health service plan's premium tax exemption under § 6-101(b) of this article.

14-511.

(a) There is a Senior Prescription Drug Assistance Program.

(b) The purpose of the Program is to provide Medicare Part D beneficiaries, who meet Program eligibility requirements, with a State subsidy.

(c) The Board shall contract with a third party to administer the Program.

(d) The Administrator of the Program shall:

(1) submit a detailed financial accounting of the Program to the Board as often as the Board requires;

(2) collect and submit to the Board data regarding the utilization patterns and costs for Program enrollees; and

(3) develop and implement a marketing plan targeted at eligible individuals throughout the State.

14-512.

(a) The Program shall:

(1) provide a prescription drug benefit subsidy, as determined by the Board, that may pay all or some of the deductibles, coinsurance payments, premiums, and copayments under the federal Medicare Part D Pharmaceutical Assistance Program for enrollees of the Program; and

(2) provide the subsidy to the maximum number of individuals eligible for enrollment in the Program, subject to the moneys available in the segregated account under § 14-504 of this subtitle.

(B) THE PROGRAM MAY LIMIT PAYMENT OF ANY SUBSIDY BY PAYING THE SUBSIDY ONLY ON BEHALF OF ELIGIBLE INDIVIDUALS ENROLLED IN A MEDICARE PART D PRESCRIPTION DRUG PLAN OR MEDICARE ADVANTAGE PLAN THAT COORDINATES WITH THE PROGRAM IN ACCORDANCE WITH FEDERAL REQUIREMENTS.

[(b)] (C) The Program may annually provide an additional subsidy, up to the full amount of the Medicare Part D Prescription Drug Plan premium, for individuals who qualify for a partial federal low-income subsidy.

[(c)] (D) The Program shall maintain a waiting list of individuals who meet the eligibility requirements for the Program but who are not served by the Program due to funding limitations.

[(d)] (E) The Board shall determine annually:

- (1) the number of individuals to be enrolled in the Program;
- (2) the amount of subsidy to be provided under subsection (a) of this section; and
- (3) the amount of any additional subsidy provided under subsection [(b)] (C) of this section.

[(e)] (F) On or before January 1 of each year, the Board, in accordance with § 2-1246 of the State Government Article, shall report to the General Assembly on:

- (1) the number of individuals on the waiting list for the Program; and
- (2) to the extent that the Board is able to collect the information:
 - (i) the number of enrollees with out-of-pocket prescription drug costs that exceed \$2,250, broken down for each fiscal quarter; and
 - (ii) the total annual out-of-pocket prescription drug costs for enrollees.

Chapter 153 of the Acts of 2002, as amended by Chapter 282 of the Acts of 2005 and Chapter 345 of the Acts of 2006

SECTION 13. AND BE IT FURTHER ENACTED, That:

(1) No later than June 1, 2003, the Secretary of Health and Mental Hygiene and the carrier that is required to offer the Short-Term Prescription Drug Subsidy Plan under Title 15, Subtitle 6 of the Health – General Article shall transfer all Plan records, data, and other information necessary to operate and administer the Senior Prescription Drug Program established under this Act to the Board of the Maryland Health Insurance Plan.

(2) Each individual enrolled in the Short-Term Prescription Drug Subsidy Plan, established under Title 15, Subtitle 6 of the Health – General Article, on June 30, 2003 shall, at the option of the enrollee and subject to the payment of all necessary premiums and copayments, be automatically enrolled in the Senior Prescription Drug Program established under this Act.

(3) It is the intent of the General Assembly that the transition of enrollees from the Short-Term Prescription Drug Subsidy Plan to the Senior Prescription Drug Program be accomplished without interruption of benefits for enrollees.

(4) [Benefits] **SUBSIDIES** shall be offered to enrollees through the Senior Prescription Drug **ASSISTANCE** Program established under Title 14, Subtitle 5, Part II of the Insurance Article beginning [July 1, 2003] **JANUARY 1, 2006**. At the end of December 31, [2007] **2009**, the Senior Prescription Drug **ASSISTANCE** Program established under Title 14, Subtitle 5, Part II, as amended, shall be abrogated and of no further force and effect.

(5) Beginning April 1, 2003, the carrier required to offer the Short-Term Prescription Drug Subsidy Plan under Title 15, Subtitle 6 of the Health – General Article and the Senior Prescription Drug **ASSISTANCE** Program under Title 14, Subtitle 5 of the Insurance Article shall subsidize the Plan and beginning ~~July 1, 2003~~, **JANUARY 1, 2006**, the Program, using the value of the carrier's premium tax exemption.

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

Approved by the Governor, May 17, 2007.

CHAPTER 510

(Senate Bill 861)

AN ACT concerning

Task Force – Urban Senior Care Communities in Baltimore City

FOR the purpose of establishing a Task Force to Study the Feasibility of Developing Urban Senior Care Communities in Baltimore City; specifying the membership of the Task Force; specifying the duties of the Task Force; providing for the staffing of the Task Force; providing that members of the Task Force may receive reimbursement for certain expenses; requiring the Task Force to issue a certain report by a certain date to the Senate Finance Committee and the House Health and Government Operations Committee; providing for the termination of this Act; and generally relating to a Task Force on urban senior care communities.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Study the Feasibility of Developing Urban Senior Care Communities in Baltimore City.

(b) The Task Force consists of the following ~~seven~~ nine members:

(1) ~~three members appointed by~~ the Secretary of Health and Mental Hygiene, or the Secretary's designee;

(2) ~~three members appointed by~~ the Secretary of Housing and Community Development, or the Secretary's designee; ~~and~~

(3) ~~one member appointed by the Senator from the 40th legislative district~~ the Secretary of Aging, or the Secretary's designee;

(4) the Secretary of Planning, or the Secretary's designee; and

(5) five consumer members appointed by the chair of the Task Force.

(c) The chair of the Task Force shall be ~~elected by the members of the Task Force~~ the Secretary of Housing and Community Development or the Secretary's designee.

(d) The Department of ~~Legislative Services~~ Housing and Community Development shall provide the staff for the Task Force.

(e) A member of the Task Force may not receive compensation for serving on the Task Force, but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The responsibilities of the Task Force include:

(1) studying the feasibility of developing senior care facilities in ~~an~~ urban setting Baltimore City;

(2) investigating the use of tax credits to provide incentives for the private sector to develop senior care facilities; and

(3) investigating the use of Medicaid or Medicare funding for health care services needed by seniors at senior care facilities.

(g) The Task Force shall submit a final report of the findings and recommendations to the Senate Finance Committee and the House Health and Government Operations Committee on or before December 31, 2007.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period of one year and, at the end of June 30, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 511

(Senate Bill 611)

AN ACT concerning

Statewide Empowerment Zones for Seniors Commission

FOR the purpose of establishing the Statewide Empowerment Zones for Seniors Commission; providing for the membership of the Commission; authorizing the Commission to consult with certain individuals and entities; authorizing the Secretary of Aging to perform certain duties; requiring the Commission to make certain recommendations; providing for the requirements for a qualifying

comprehensive empowerment zone for seniors plan; requiring the Department of Aging to staff the Commission; requiring the Commission to submit certain reports to the Governor and General Assembly on or before certain dates; providing that a member of the Commission may receive a certain reimbursement; ~~providing for a certain annual appropriation to the Commission~~; providing for the termination of this Act; and generally relating to the Statewide Empowerment Zones for Seniors Commission.

BY adding to

Article – Human Services

Section 10-801 through ~~10-807~~ 10-806 to be under the new subtitle “Subtitle 8. Statewide Empowerment Zones for Seniors Commission”

Annotated Code of Maryland

(As enacted by Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007)

Preamble

WHEREAS, In the first two decades of the 21st century, the population of Marylanders over age 60 is expected to rise by 74%, to nearly 1.4 million, according to U.S. Census Bureau estimates; and

WHEREAS, Older adults overwhelmingly report that they want to grow old in their homes and communities, rather than in institutional settings; and

WHEREAS, Many older adults move to institutional facilities unwillingly and prematurely because they lack the resources to continue to live at home; and

WHEREAS, Providing home and community-based services that enable older adults to age in place has shown to be the most cost-effective model for aging; and

WHEREAS, Maryland is home to several examples of a new aging-in-place model called Naturally Occurring Retirement Communities (NORC) Supportive Services Programs, which combine public, nonprofit, and private sector entities to provide a comprehensive array of housing, social, medical, and transportation services to help seniors age in place; and

WHEREAS, The AARP Public Policy Institute has defined a Livable Community for Seniors as one that has affordable and appropriate housing, supportive community features and services, and adequate mobility options, that when combined facilitate personal independence and the engagement of residents in civic and social life; and

WHEREAS, Developing a new aging-in-place model that combines the individual service focus of NORCs with the comprehensive neighborhood scope of

Livable Communities will capitalize on the invaluable contributions of older Marylanders, while at the same time ensure that State resources are focused in those areas where they will have the greatest impact; now, therefore,

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

Article - Human Services

SUBTITLE 8. STATEWIDE EMPOWERMENT ZONES FOR SENIORS COMMISSION.

10-801.

THERE IS A STATEWIDE EMPOWERMENT ZONES FOR SENIORS COMMISSION.

10-802.

(A) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(3) THE SECRETARY OF AGING, OR THE SECRETARY'S DESIGNEE;

(4) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;

(5) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(6) THE SECRETARY OF TRANSPORTATION, OR THE SECRETARY'S DESIGNEE;

(7) THE SECRETARY OF PLANNING, OR THE SECRETARY'S DESIGNEE;

~~(7)~~ (8) ONE REPRESENTATIVE FROM LOCAL GOVERNMENT;

~~(8)~~ (9) ONE REPRESENTATIVE FROM THE MARYLAND ASSOCIATION OF AREA AGENCIES ON AGING;

~~(9)~~ (10) TWO REPRESENTATIVES FROM PROVIDERS OF SENIOR SERVICES;

~~(10)~~ (11) TWO REPRESENTATIVES FROM SENIOR ADVOCACY ORGANIZATIONS;

~~(11)~~ (12) ONE REPRESENTATIVE FROM A NEIGHBORHOOD OR COMMUNITY ORGANIZATION;

~~(12)~~ (13) ONE REPRESENTATIVE FROM A TRADE ASSOCIATION WHOSE MEMBERS PROVIDE SERVICES TO SENIORS;

~~(13)~~ (14) ONE CONSUMER MEMBER AT LEAST 60 YEARS OLD; AND

~~(14)~~ (15) ONE REPRESENTATIVE FROM AN ACADEMIC INSTITUTION WHO HAS EXPERTISE IN AGING STUDIES OR A RELATED FIELD.

(B) IN PERFORMING ITS DUTIES, THE COMMISSION MAY CONSULT WITH INDIVIDUALS AND ENTITIES THAT THE SECRETARY DEEMS APPROPRIATE.

10-803.

(A) THE SECRETARY OF AGING SHALL:

(1) CHAIR THE COMMISSION;

(2) APPOINT THE NONDESIGNATED MEMBERSHIP OF THE COMMISSION; AND

(3) ESTABLISH SUBCOMMITTEES AND APPOINT SUBCOMMITTEE CHAIRS AS NECESSARY TO FACILITATE THE WORK OF THE COMMISSION.

(B) TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO THE COMMISSION SHALL REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THIS STATE.

10-804.

(A) THE COMMISSION SHALL RECOMMEND A PLAN TO DEVELOP AN EMPOWERMENT ZONES FOR SENIORS PROGRAM IN THE STATE THAT DIRECTS FINANCIAL AND REGULATORY INCENTIVES TO LOCAL COMMUNITIES THAT DEVELOP A QUALIFYING COMPREHENSIVE EMPOWERMENT ZONE FOR SENIORS

PLAN THAT IS DESIGNED TO ENHANCE AGING-IN-PLACE SERVICES AND FACILITATE THE PERSONAL INDEPENDENCE AND CIVIC AND SOCIAL ENGAGEMENT OF SENIORS IN THE COMMUNITY.

(B) A QUALIFYING COMPREHENSIVE EMPOWERMENT ZONE FOR SENIORS PLAN SHALL:

(1) BE DEVELOPED AND IMPLEMENTED JOINTLY BY STAKEHOLDERS IN A COMMUNITY, INCLUDING STATE AND LOCAL GOVERNMENTS, SENIOR HOUSING OWNERS OR MANAGERS, HEALTH PROVIDERS, NONPROFIT ELDERLY SERVICES PROVIDERS, LOCAL BUSINESSES, AND INDIVIDUAL SENIORS;

(2) INCLUDE AFFORDABLE, ACCESSIBLE, AND APPROPRIATE HOUSING;

(3) INCLUDE SUPPORTIVE COMMUNITY FEATURES AND SERVICES;

(4) PROVIDE ADEQUATE MOBILITY OPTIONS;

(5) INCLUDE EVIDENCE-BASED PREVENTION STRATEGIES TO REDUCE THE INCIDENCE OF DISEASE AND INJURY AND TO HELP INDIVIDUALS WITH FUNCTIONAL DISABILITY OR CHRONIC ILLNESSES TO MANAGE THEIR CONDITIONS; AND

(6) PROMOTE SUCCESSFUL AGING BY FACILITATING PERSONAL INDEPENDENCE AND ENGAGING RESIDENTS IN CIVIC AND SOCIAL LIFE.

(C) THE COMMISSION SHALL RECOMMEND STATE INCENTIVES TO PROVIDE TO A COMMUNITY THAT SUBMITS A QUALIFYING COMPREHENSIVE EMPOWERMENT ZONES FOR SENIORS PLAN, INCLUDING REGULATORY AND FUNDING OPTIONS.

10-805.

(A) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT TO THE COMMISSION.

(B) A MEMBER OF THE COMMISSION MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION, BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

10-806.

THE COMMISSION SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY IN AN INTERIM REPORT ON OR BEFORE JANUARY 1, 2008, AND IN A FINAL REPORT ON OR BEFORE JANUARY 1, 2009.

~~10-807.~~

~~**SUBJECT TO THE AVAILABILITY OF FUNDING, FOR EACH FISCAL YEAR FOR WHICH APPROPRIATIONS ARE MADE AT LEAST \$50,000 SHALL BE USED TO FUND THE STATEWIDE EMPOWERMENT ZONES FOR SENIORS COMMISSION.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~June~~ October 1, 2007. It shall remain effective for a period of 2 years and, at the end of ~~May 31~~ September 30, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 512

(House Bill 605)

AN ACT concerning

Statewide Empowerment Zones for Seniors Commission

FOR the purpose of establishing the Statewide Empowerment Zones for Seniors Commission; providing for the membership of the Commission; authorizing the Commission to consult with certain individuals and entities; authorizing the Secretary of Aging to perform certain duties; requiring the Commission to make certain recommendations; providing for the requirements for a qualifying comprehensive empowerment zone for seniors plan; requiring the Department of Aging to staff the Commission; requiring the Commission to submit certain reports to the Governor and General Assembly on or before certain dates; providing that a member of the Commission may receive a certain reimbursement; ~~providing for a certain annual appropriation to the Commission;~~ providing for the termination of this Act; and generally relating to the Statewide Empowerment Zones for Seniors Commission.

BY adding to

Article – Human Services

Section 10-801 through ~~10-807~~ 10-806 to be under the new subtitle “Subtitle 8. Statewide Empowerment Zones for Seniors Commission”

Annotated Code of Maryland

(As enacted by Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007)

Preamble

WHEREAS, In the first two decades of the 21st century, the population of Marylanders over age 60 is expected to rise by 74%, to nearly 1.4 million, according to U.S. Census Bureau estimates; and

WHEREAS, Older adults overwhelmingly report that they want to grow old in their homes and communities, rather than in institutional settings; and

WHEREAS, Many older adults move to institutional facilities unwillingly and prematurely because they lack the resources to continue to live at home; and

WHEREAS, Providing home and community-based services that enable older adults to age in place has shown to be the most cost-effective model for aging; and

WHEREAS, Maryland is home to several examples of a new aging-in-place model called Naturally Occurring Retirement Communities (NORC) Supportive Services Programs, which combine public, nonprofit, and private sector entities to provide a comprehensive array of housing, social, medical, and transportation services to help seniors age in place; and

WHEREAS, The AARP Public Policy Institute has defined a Livable Community for Seniors as one that has affordable and appropriate housing, supportive community features and services, and adequate mobility options, that when combined facilitate personal independence and the engagement of residents in civic and social life; and

WHEREAS, Developing a new aging-in-place model that combines the individual service focus of NORCs with the comprehensive neighborhood scope of Livable Communities will capitalize on the invaluable contributions of older Marylanders, while at the same time ensure that State resources are focused in those areas where they will have the greatest impact; now, therefore,

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

Article – Human Services

SUBTITLE 8. STATEWIDE EMPOWERMENT ZONES FOR SENIORS COMMISSION.

10-801.

THERE IS A STATEWIDE EMPOWERMENT ZONES FOR SENIORS COMMISSION.

10-802.

(A) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(3) THE SECRETARY OF AGING, OR THE SECRETARY'S DESIGNEE;

(4) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;

(5) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(6) THE SECRETARY OF TRANSPORTATION, OR THE SECRETARY'S DESIGNEE;

(7) THE SECRETARY OF PLANNING OR THE SECRETARY'S DESIGNEE;

~~(7)~~ (8) ONE REPRESENTATIVE FROM LOCAL GOVERNMENT;

~~(8)~~ (9) ONE REPRESENTATIVE FROM THE MARYLAND ASSOCIATION OF AREA AGENCIES ON AGING;

~~(9)~~ (10) TWO REPRESENTATIVES FROM PROVIDERS OF SENIOR SERVICES;

~~(10)~~ (11) TWO REPRESENTATIVES FROM SENIOR ADVOCACY ORGANIZATIONS;

~~(11)~~ (12) ONE REPRESENTATIVE FROM A NEIGHBORHOOD OR COMMUNITY ORGANIZATION;

~~(12)~~ (13) ONE REPRESENTATIVE FROM A TRADE ASSOCIATION WHOSE MEMBERS PROVIDE SERVICES TO SENIORS;

~~(13)~~ (14) ONE CONSUMER MEMBER AT LEAST 60 YEARS OLD; AND

~~(14)~~ (15) ONE REPRESENTATIVE FROM AN ACADEMIC INSTITUTION WHO HAS EXPERTISE IN AGING STUDIES OR A RELATED FIELD.

(B) IN PERFORMING ITS DUTIES, THE COMMISSION MAY CONSULT WITH INDIVIDUALS AND ENTITIES THAT THE SECRETARY DEEMS APPROPRIATE.

10-803.

(A) THE SECRETARY OF AGING SHALL:

(1) CHAIR THE COMMISSION;

(2) APPOINT THE NONDESIGNATED MEMBERSHIP OF THE COMMISSION; AND

(3) ESTABLISH SUBCOMMITTEES AND APPOINT SUBCOMMITTEE CHAIRS AS NECESSARY TO FACILITATE THE WORK OF THE COMMISSION.

(B) TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO THE COMMISSION SHALL REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THIS STATE.

10-804.

(A) THE COMMISSION SHALL RECOMMEND A PLAN TO DEVELOP AN EMPOWERMENT ZONES FOR SENIORS PROGRAM IN THE STATE THAT DIRECTS FINANCIAL AND REGULATORY INCENTIVES TO LOCAL COMMUNITIES THAT DEVELOP A QUALIFYING COMPREHENSIVE EMPOWERMENT ZONE FOR SENIORS PLAN THAT IS DESIGNED TO ENHANCE AGING-IN-PLACE SERVICES AND FACILITATE THE PERSONAL INDEPENDENCE AND CIVIC AND SOCIAL ENGAGEMENT OF SENIORS IN THE COMMUNITY.

(B) A QUALIFYING COMPREHENSIVE EMPOWERMENT ZONE FOR SENIORS PLAN SHALL:

(1) BE DEVELOPED AND IMPLEMENTED JOINTLY BY STAKEHOLDERS IN A COMMUNITY, INCLUDING STATE AND LOCAL GOVERNMENTS, SENIOR HOUSING OWNERS OR MANAGERS, HEALTH PROVIDERS, NONPROFIT ELDERLY SERVICES PROVIDERS, LOCAL BUSINESSES, AND INDIVIDUAL SENIORS;

(2) INCLUDE AFFORDABLE, ACCESSIBLE, AND APPROPRIATE HOUSING;

(3) INCLUDE SUPPORTIVE COMMUNITY FEATURES AND SERVICES;

(4) PROVIDE ADEQUATE MOBILITY OPTIONS;

(5) INCLUDE EVIDENCE-BASED PREVENTION STRATEGIES TO REDUCE THE INCIDENCE OF DISEASE AND INJURY AND TO HELP INDIVIDUALS WITH FUNCTIONAL DISABILITY OR CHRONIC ILLNESSES TO MANAGE THEIR CONDITIONS; AND

(6) PROMOTE SUCCESSFUL AGING BY FACILITATING PERSONAL INDEPENDENCE AND ENGAGING RESIDENTS IN CIVIC AND SOCIAL LIFE.

(C) THE COMMISSION SHALL RECOMMEND STATE INCENTIVES TO PROVIDE TO A COMMUNITY THAT SUBMITS A QUALIFYING COMPREHENSIVE EMPOWERMENT ZONES FOR SENIORS PLAN, INCLUDING REGULATORY AND FUNDING OPTIONS.

10-805.

(A) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT TO THE COMMISSION.

(B) A MEMBER OF THE COMMISSION MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION, BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

10-806.

THE COMMISSION SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY IN AN INTERIM REPORT ON OR BEFORE JANUARY 1, 2008, AND IN A FINAL REPORT ON OR BEFORE JANUARY 1, 2009.

~~10-807.~~

~~SUBJECT TO THE AVAILABILITY OF FUNDING, FOR EACH FISCAL YEAR FOR WHICH APPROPRIATIONS ARE MADE AT LEAST \$50,000 SHALL BE USED TO FUND THE STATEWIDE EMPOWERMENT ZONES FOR SENIORS COMMISSION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~June~~ October 1, 2007. It shall remain effective for a period of 2 years and, at the end of ~~May 31~~ September 30, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 513

(Senate Bill 1)

AN ACT concerning

Elective Franchise - Early Voting and Polling Places

FOR the purpose of authorizing the General Assembly to provide by suitable enactment a process to allow voters to vote at certain polling places in certain locations and on certain days prior to certain election dates; providing that the provisions of certain Acts of the General Assembly may not take effect; repealing certain provisions of law; making stylistic changes; and submitting this amendment to the qualified voters of the State of Maryland for their adoption or rejection.

BY proposing an amendment to the Maryland Constitution
Article I - Elective Franchise
Section 1 and 3

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, (Three-fifths of all the members elected to each of the two Houses concurring), That it be proposed that the Maryland Constitution read as follows:

Article I - Elective Franchise

1.

All elections shall be by ballot. [Every] EXCEPT AS PROVIDED IN SECTION 3 OF THIS ARTICLE, EVERY citizen of the United States, of the age of 18 years or upwards, who is a resident of the State as of the time for the closing of registration next preceding the election, shall be entitled to vote in the ward or election district in which [he] THE CITIZEN resides at all elections to be held in this State. A person once entitled to vote in any election district, shall be entitled to vote there until [he] THE PERSON shall have acquired a residence in another election district or ward in this State.

3.

(A) The General Assembly [of Maryland] shall have THE power to provide by suitable enactment for voting by qualified voters of the State of Maryland who are absent at the time of any election in which they are entitled to vote [and], for voting by other qualified voters who are unable to vote personally, **OR FOR VOTING BY QUALIFIED VOTERS WHO MIGHT OTHERWISE CHOOSE TO VOTE BY ABSENTEE BALLOT**, and for the manner in which and the time and place at which such [absent] voters may vote, and for the canvass and return of their votes.

(B) **THE GENERAL ASSEMBLY SHALL HAVE THE POWER TO PROVIDE BY SUITABLE ENACTMENT A PROCESS TO ALLOW QUALIFIED VOTERS TO VOTE AT POLLING PLACES IN OR OUTSIDE THEIR ELECTION DISTRICTS OR ~~WARDS, AND~~ ~~ON~~ WARDS OR, DURING THE TWO WEEKS IMMEDIATELY PRECEDING AN ELECTION, ON NO MORE THAN 10 OTHER DAYS PRIOR TO THE DATES SPECIFIED IN THIS CONSTITUTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of Chapter 5 and Chapter 61 of the Acts of the General Assembly of 2006, as they relate to voting on days before the dates specified in the Maryland Constitution, which were struck down by the Maryland Court of Appeals (Lamone v. Capozzi, per curiam order issued August 2006), may not take effect even if this Act becomes effective.

SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 10-301.1 and 10-302(b)(2) of Article – Election Law of the Annotated Code of Maryland be repealed.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That the General Assembly determines that the amendment to the Maryland Constitution proposed by this Act affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the Maryland Constitution concerning local approval of constitutional amendments do not apply.

SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That the foregoing section proposed as an amendment to the Maryland Constitution shall be submitted to the legal and qualified voters of this State at the next general election to be held in

November, 2008 for their adoption or rejection pursuant to Article XIV of the Maryland Constitution. At that general election, the vote on this proposed amendment to the Constitution shall be by ballot, and upon each ballot there shall be printed the words "For the Constitutional Amendment" and "Against the Constitutional Amendment," as now provided by law. Immediately after the election, all returns shall be made to the Governor of the vote for and against the proposed amendment, as directed by Article XIV of the Maryland Constitution, and further proceedings had in accordance with Article XIV.

Approved by the Governor and became Chapter, subject to referendum, May 17, 2007.

CHAPTER 514

(Senate Bill 23)

AN ACT concerning

**Procurement - Small Business Reserve Program - ~~Sunset Extension~~
~~Modifications~~ Sunset Extension**

FOR the purpose of ~~altering certain reporting requirements relating to procurements involving small businesses under the Small Business Reserve Program;~~ continuing until a certain date the provisions of the State Procurement Law relating to ~~procurements from small businesses under~~ the Small Business Reserve Program; and generally relating to the Small Business Reserve Program.

BY repealing and reenacting, without amendments,
Article - State Finance and Procurement
Section 14-501 through 14-505
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Chapter 75 of the Acts of the General Assembly of 2004
Section 2

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

Article - State Finance and Procurement

14-501.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Designated procurement unit” means:
 - (1) the State Treasurer;
 - (2) the Department of Budget and Management;
 - (3) the Department of Business and Economic Development;
 - (4) the Department of the Environment;
 - (5) the Department of General Services;
 - (6) the Department of Health and Mental Hygiene;
 - (7) the Department of Housing and Community Development;
 - (8) the Department of Human Resources;
 - (9) the Department of Juvenile Services;
 - (10) the Department of Labor, Licensing, and Regulation;
 - (11) the Department of Natural Resources;
 - (12) the State Department of Education;
 - (13) the Department of State Police;
 - (14) the Department of Public Safety and Correctional Services;
 - (15) the Department of Transportation;
 - (16) the University System of Maryland;
 - (17) the Maryland Port Commission;
 - (18) the State Retirement Agency;
 - (19) the Maryland Insurance Administration;
 - (20) the Maryland Stadium Authority;

(21) the State Lottery Agency; and

(22) the Morgan State University.

(c) "Small business" means:

(1) a certified minority business enterprise, as defined in § 14-301 of this title, that meets the criteria specified under paragraph (2) of this subsection; or

(2) a business, other than a broker, that meets the following criteria:

(i) the business is independently owned and operated;

(ii) the business is not a subsidiary of another business;

(iii) the business is not dominant in its field of operation;

(iv) the wholesale operations of the business did not employ more than 50 persons, and the gross sales of the business did not exceed an average of \$2,000,000 in its most recently completed 3 fiscal years;

(v) the retail operations of the business did not employ more than 25 persons, and the gross sales of the business did not exceed an average of \$2,000,000 in its most recently completed 3 fiscal years;

(vi) the manufacturing operations of the business did not employ more than 100 persons, and the gross sales of the business did not exceed an average of \$2,000,000 in its most recently completed 3 fiscal years;

(vii) the service operations of the business did not employ more than 100 persons, and the gross sales of the business did not exceed an average of \$2,000,000 in its most recently completed 3 fiscal years; and

(viii) the construction operations of the business did not employ more than 50 persons, and the gross sales of the business did not exceed an average of \$7,000,000 in its most recently completed 3 fiscal years.

(d) "Small business reserve" means those procurements that are limited to responses from small businesses under § 14-502(b) of this subtitle.

14-502.

(a) Except as provided in subsection (d) of this section, this subtitle applies to all procurements by a designated procurement unit.

(b) This subsection does not apply to procurements subject to Subtitle 1 of this title.

(c) A designated procurement unit shall structure its procurement procedures to achieve a minimum of 10 percent of the unit's total dollar value of goods, supplies, services, maintenance, construction, construction-related services, architectural service, and engineering service contracts to be made directly to small businesses.

(d) The total dollar value of procurements by a designated procurement unit does not include the value of contracts to which this section does not apply because of a conflict with federal law.

14-503.

(a) The Department of General Services shall adopt regulations to establish procedures for compiling and maintaining a comprehensive bidder's list of qualified small businesses that shall be posted on the Department's website.

(b) Each designated procurement unit shall ensure compliance with the regulations set forth in subsection (a) of this section.

14-504.

(a) Any procurement by a designated procurement unit of goods, supplies, services, maintenance, construction, construction-related services, architectural services, and engineering services shall be eligible for designation for the small business reserve.

(b) A solicitation for procurement that has been designated for a small business reserve shall be published in the same manner as required for an invitation for bids as set forth in § 13-103(c) of this article.

(c) The procurement officer of a designated procurement unit shall award a procurement contract designated for a small business reserve to the small business that submits a responsive bid that:

- (1) is the lowest bid price;
- (2) if the invitation for bids so provides, is the lowest evaluated bid price; or
- (3) is the bid or proposal most favorable to the State within the small business reserve.

14-505.

(a) Within 90 days after the end of each fiscal year, each designated procurement unit shall submit a report on the operation and effectiveness of the Small Business Reserve Program that complies with subsection (d)(2) of this section to the Board of Public Works.

(b) Within 60 days after receipt of all reports required under subsection (a) of this section, the Board of Public Works shall compile the information and report on the operation and effectiveness of the entire Small Business Reserve Program to the Legislative Policy Committee, subject to § 2-1246 of the State Government Article.

(c) Within 60 days after the enactment of the budget bill by the General Assembly, each designated procurement unit shall submit a report to the Governor's Office of Minority Affairs that complies with the reporting requirements set forth in COMAR 21.11.01.06.

(d) (1) Within 90 days after the end of each fiscal year, each unit shall submit a report to the Governor's Office of Minority Affairs that complies with the requirements of paragraph (2) of this subsection.

(2) For the preceding fiscal year, the report shall:

(i) state, ~~BY INDUSTRY SECTOR AS IDENTIFIED UNDER § 14-501(C)(2)(IV) THROUGH (VIII) OF THIS SUBTITLE,~~ the total number and the dollar value of payments the unit made to small businesses under designated small business reserve contracts;

(ii) state, ~~BY INDUSTRY SECTOR AS IDENTIFIED UNDER § 14-501(C)(2)(IV) THROUGH (VIII) OF THIS SUBTITLE,~~ the total number and the dollar value of payments the unit made to small businesses under nondesignated small business reserve contracts, including purchase card procurements;

(iii) state, ~~BY INDUSTRY SECTOR AS IDENTIFIED UNDER § 14-501(C)(2)(IV) THROUGH (VIII) OF THIS SUBTITLE,~~ the total dollar value of payments the unit made under procurement contracts; ~~and~~ and

~~(IV) ANALYZE AND DETERMINE WHETHER CURRENT ELIGIBILITY STANDARDS ARE APPROPRIATE OR INSUFFICIENT AND A BARRIER TO THE UNIT'S ABILITY TO MEET THE 10% GOAL UNDER § 14-502 OF THIS SUBTITLE; AND~~

~~(iv)~~ ~~(v)~~ (iv) contain other such information as required by the Governor's Office of Minority Affairs.

(e) On or before December 31 of each year, the Governor's Office of Minority Affairs shall submit to the Board of Public Works and, subject to § 2-1246 of the State Government Article, to the Legislative Policy Committee a report summarizing the information the office receives under subsection (b) of this section.

Chapter 75 of the Acts of 2004

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2004. It shall remain effective for a period of [3 years] **6 YEARS** and, at the end of [September 30, 2007] **SEPTEMBER 30, 2010**, with no further action required by the General Assembly, this Act, and any regulations adopted under the provisions of this Act, shall be abrogated and of no further force and effect.

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

Approved by the Governor, May 17, 2007.

CHAPTER 515

(Senate Bill 39)

AN ACT concerning

Maryland Port Administration - ~~Transfer to Department of Business and Economic Development~~ Strategic Plan and Membership

FOR the purpose of ~~transferring the Maryland Port Administration from the Department of Transportation to the Department of Business and Economic Development; establishing the Maryland Port Administration Fund as a special, nonlapsing fund; specifying the contents, purpose, and permitted use of the Fund; providing that for each fiscal year, certain amounts of the Transportation Trust Fund shall be transferred and credited to a certain fund; altering the composition of the Maryland Port Commission; repealing certain powers of the Chairman of the Commission; specifying that all employees of the Administration are in the State Personnel Management System; providing for the transfer of certain employees in the Department of Transportation Human Resources Management System to the State Personnel Management System; providing that certain employees of the Maryland Port Administration of the Department of Transportation who are transferred under this Act to the Department of Business and Economic Development be transferred without any~~

~~diminution of their rights, benefits, or employment status; requiring the publishers of the Annotated Code of Maryland, subject to the approval of the Department of Legislative Services, to propose certain corrections to the Code necessitated by this Act; making certain conforming and stylistic changes; requiring the Maryland Economic Development Commission to incorporate the Maryland Port Administration strategic plan when developing a strategic plan for economic development; increasing the membership of the Maryland Port Commission to include the Secretary of Business and Economic Development as a nonvoting ex officio member; clarifying language; and generally relating to the Maryland Port Administration.~~

BY repealing and reenacting, without amendments,

Article 83A – Department of Business and Economic Development
Section 1-201 and 1-202(a) and (b)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article 83A – Department of Business and Economic Development
Section 1-202(c)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article – Transportation
Section 6-201(a) and (b)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Transportation
Section 6-201(c) and (f)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

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

Article 83A – Department of Business and Economic Development

1-201.

There is a Maryland Economic Development Commission in the Department of Business and Economic Development.

1-202.

(a) The Commission shall have the general purpose of establishing economic development policy in the State and overseeing the Department's efforts to attract, retain, and support the creation of businesses and jobs.

(b) The Commission shall:

(1) Develop and update a strategic plan for economic development in the State;

(2) Recommend to the Governor program and spending priorities necessary to implement the strategic plan;

(3) Approve Department regulations pertaining to financing programs prior to their adoption;

(4) Review the allocation of financing incentives;

(5) Participate in marketing the State and encouraging new businesses to locate in Maryland;

(6) Raise private sector contributions and funds to supplement economic development programs and financial incentives to business;

(7) Carry out any other economic development activities at the request of the Governor; and

(8) Exercise those powers granted to the Commission by this title or any other provision of law.

(c) In developing a strategic plan for economic development, the Commission shall [seek]:

(1) SEEK ideas and advice from each region of the State; AND

(2) INCORPORATE THE MARYLAND PORT ADMINISTRATION STRATEGIC PLAN DEVELOPED FOR THE HELEN DELICH BENTLEY PORT OF BALTIMORE.

Article - Transportation

6-201.

(a) There is a Maryland Port Commission.

(b) The Commission shall:

(1) Establish policies directed toward improving the competitive position of the ports of Maryland within the international port industry;

(2) Adopt regulations for the operation of the Administration in a competitive manner within the port industry;

(3) Exercise those powers granted to the Commission and to the Maryland Port Administration by this title or by any other provision of law;

(4) Unless otherwise directed by the Secretary, serve as the board of directors of any private operating company created under this title; and

(5) In carrying out the provisions of this subtitle, seek information and advice from port labor and management groups.

(c) (1) The Commission shall consist of 7 VOTING members, 6 of whom shall be appointed by the Governor with the advice and consent of the Senate and the 7th shall be the Secretary of Transportation who shall be the Chairman of the Commission.

(2) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT SHALL SERVE AS A NONVOTING EX OFFICIO COMMISSION MEMBER.

(f) The Commission shall meet at a time and place designated by the Chairman of the Commission. The Commission shall meet as often as its duties require, but not less than quarterly. Attendance by 4 VOTING members shall constitute a quorum.

~~BY transferring~~

~~Article — Transportation~~

~~Section 6-101 through 6-411 and 6-601 and 6-602, respectively, and the title “Title 6. Ports”~~

~~Annotated Code of Maryland~~

~~(2001 Replacement Volume and 2006 Supplement)~~

to be

~~Article 83A — Department of Business and Economic Development~~

~~Section 7-101 through 7-502, respectively, and the title “Title 7. Ports”~~

~~Annotated Code of Maryland~~

~~(2003 Replacement Volume and 2006 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article 83A—Department of Business and Economic Development
Section 7-201, 7-201.1, and 7-201.2
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)
(As enacted by Section 1 of this Act)~~

~~BY adding to~~

~~Article 83A—Department of Business and Economic Development
Section 7-201.3
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article—State Finance and Procurement
Section 2-107(c)(2)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article—State Government
Section 2-10A-07(f) and 12-401
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article—Transportation
Section 1-101(i), 2-102(c), 2-103(b), (f), and (g), 2-107(a), and 3-101(h)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)~~

~~BY repealing~~

~~Article—Transportation
Section 2-110
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article—Transportation
Section 3-216(a) and (b)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)~~

~~BY adding to~~

~~Article—Transportation
Section 3-216(f)(3)~~

~~Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)~~

~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 6-101 through 6-411 and 6-601 and 6-602, respectively, and the title "Title 6. Ports" of Article Transportation of the Annotated Code of Maryland be transferred to be Section(s) 7-101 through 7-502, respectively, and the title "Title 7. Ports" of Article 83A Department of Business and Economic Development of the Annotated Code of Maryland.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article 83A Department of Business and Economic Development~~

~~7-201.~~

- ~~(a) There is a Maryland Port Commission.~~
- ~~(b) The Commission shall:
 - ~~(1) Establish policies directed toward improving the competitive position of the ports of Maryland within the international port industry;~~
 - ~~(2) Adopt regulations for the operation of the Administration in a competitive manner within the port industry;~~
 - ~~(3) Exercise those powers granted to the Commission and to the Maryland Port Administration by this title or by any other provision of law;~~
 - ~~(4) Unless otherwise directed by the Secretary, serve as the board of directors of any private operating company created under this title; and~~
 - ~~(5) In carrying out the provisions of this subtitle, seek information and advice from port labor and management groups.~~~~
- ~~(c) The Commission shall consist of 7 members, 6 of whom shall be appointed by the Governor with the advice and consent of the Senate and the 7th shall be the Secretary [of Transportation] who shall be the Chairman of the Commission.~~
- ~~(d) (1) Subject to the provisions of paragraph (3) of this subsection, the Governor may not appoint to the Commission:
 - ~~(i) An officer or employee of the State;~~~~

~~(ii) A representative of any entity whose principal activities are ports-related;~~

~~(iii) A person employed by any entity whose principal activities are ports-related; or~~

~~(iv) A member of the General Assembly.~~

~~(2) The Governor shall take into consideration geographic representation when appointing the 6 members of the Commission.~~

~~(3) Notwithstanding paragraph (1) of this subsection, a member of the Maryland Transportation Authority or any other State board, commission, or authority may be appointed a member of the Maryland Port Commission. Any person so appointed who is compensated by the State is not entitled to any compensation or other emolument, except expenses incurred in connection with attendance at hearings, meetings, field trips, and working sessions, for any services rendered as a Commissioner.~~

~~(e) (1) Each appointed member serves for a term of 3 years and until a successor is appointed and qualifies. The terms of appointed members shall be staggered as required by the original appointments to the Commission, 2 of which shall be for 3 years, 2 of which shall be for 2 years, and 2 of which shall be for 1 year.~~

~~(2) A member appointed to fill a vacancy in an unexpired term serves only for the remainder of that term or until a replacement is appointed.~~

~~(f) The Commission shall meet at a time and place designated by the Chairman of the Commission. The Commission shall meet as often as its duties require, but not less than quarterly. Attendance by 4 members shall constitute a quorum.~~

~~(g) Except as provided under subsection (d)(3) of this section, members of the Commission appointed by the Governor are entitled to the compensation and expenses provided for in the State budget. Members of the Commission are subject to the provisions of § 8-501 of the State Government Article.~~

~~7-201.1.~~

~~(a) [All actions of the Commission which, in the judgment of the Chairman, impact upon the Transportation Trust Fund are subject to the approval of the Chairman.~~

~~(b)] The Chairman of the Commission shall:~~

~~(1) Subject to the approval of the Governor, appoint the Executive Director of the Administration in accordance with § 15-501 of the State Government Article; and~~

~~(2) Approve the Administration's budget before its submission to the General Assembly as part of the Governor's proposed budget.~~

~~[(c)] (B) The Chairman of the Commission may:~~

~~(1) Remove the Executive Director of the Administration; and~~

~~(2) While acting as Secretary of the Department, provide the Commission and the Administration with the personnel of the Department that the Secretary considers necessary to carry out the provisions of this title.~~

~~7-201.2.~~

~~(a) (1) Subject to approval of the Administration's budget by the General Assembly [as provided in § 3-216 of this article] and subject to State fiscal procedures, including those governing budgeting, accounting, and auditing, the Commission may adopt regulations establishing procedures for the approval and control of Administration expenditures.~~

~~(2) The Commission shall present regulations proposed under this subsection to the Board of Public Works for approval.~~

~~(b) The Commission may adopt any other regulations necessary to carry out the provisions of this title.~~

~~(c) (1) Subject to § 2-1246 of the State Government Article, the Commission shall report by January 15 of each year to the General Assembly on the activities of the [Port] Commission during the previous year.~~

~~(2) The report shall include a review of the port's competitive position during the previous year and any recommendations of the Commission for future changes in legislation, capital funding, or operational flexibility for consideration by the General Assembly.~~

~~(3) The report shall also include any substantive changes in its regulations for procurement and personnel.~~

~~7-201.3.~~

~~(A) IN THIS SECTION, "FUND" MEANS THE MARYLAND PORT ADMINISTRATION FUND.~~

- ~~(B) THERE IS A MARYLAND PORT ADMINISTRATION FUND.~~
- ~~(C) THE PURPOSE OF THE FUND IS TO PAY ALL ADMINISTRATIVE, OPERATIONAL, AND CAPITAL COSTS AND EXPENSES INCURRED BY THE ADMINISTRATION THAT RELATE TO THE IMPLEMENTATION OF THIS TITLE.~~
- ~~(D) THE CHAIRMAN OF THE COMMISSION 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 TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.~~
- ~~(F) THE FUND CONSISTS OF:~~
- ~~(1) ALL FEES, CHARGES, RENTALS, OR OTHER REVENUES PAID TO OR COLLECTED OR RECEIVED BY THE ADMINISTRATION UNDER THIS TITLE;~~
- ~~(2) FUNDS TRANSFERRED AND CREDITED TO THE FUND UNDER § 3-216(F)(3) OF THE TRANSPORTATION ARTICLE;~~
- ~~(3) INCOME FROM THE INVESTMENTS THAT THE TREASURER MAKES FOR THE FUND;~~
- ~~(4) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;~~
- ~~AND~~
- ~~(5) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.~~
- ~~(G) THE FUND MAY BE USED ONLY FOR THE PURPOSE STATED IN SUBSECTION (C) OF THIS SECTION.~~
- ~~(H) (1) THE 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.~~

~~Article State Finance and Procurement~~

~~2-107.~~

~~(e) (2) The regulations adopted by the Comptroller under paragraph (1) of this subsection shall specify:~~

~~(i) that the data required for the Maryland Port Administration [of the Department of Transportation] shall be the data included in the port tariff;~~

~~(ii) that the Maryland Aviation Administration and the Maryland Port Administration shall disclose aggregate information on fees and costs, provided that such disclosure does not include information that is proprietary in nature; and~~

~~(iii) that any other department, agency, or governmental unit which collects fees or user charges that may contain privileged or proprietary information may aggregate or standardize the information submitted as needed to preserve the sensitive nature of the information.~~

~~Article State Government~~

~~2-10A-07.~~

~~(f) The Secretary of the Department of Labor, Licensing, and Regulation, the Secretary of the Department of [Transportation] BUSINESS AND ECONOMIC DEVELOPMENT, and the Executive Director of the Maryland Port Administration shall:~~

~~(1) cooperate fully with the Committee; and~~

~~(2) keep the Committee fully informed as to issues affecting the Port of Baltimore.~~

~~12-401.~~

~~In this subtitle, "State personnel" means:~~

~~(1) a regular employee of the State whose compensation:~~

~~(i) is provided by a State appropriation; or~~

- (ii) ~~is paid wholly or partly from State funds;~~
- (2) ~~an employee who is under the jurisdiction of the Department of Budget and Management;~~
- (3) ~~an officer, warrant officer, or enlisted member of the organized militia;~~
- (4) ~~an employee of the Maryland Port Administration, as described in [§ 6-204(n) of the Transportation Article] ARTICLE 83A, § 7-204(N) OF THE CODE;~~
- (5) ~~a member or employee of a board of trustees for a community college;~~
- (6) ~~except in Montgomery County, an employee of a county health department;~~
- (7) ~~a member or employee of the Baltimore City Board of School Commissioners or of a county board of education;~~
- (8) ~~a member of the Board of Visitors of the Maryland School for the Deaf;~~
- (9) ~~a member or employee of a board of supervisors for a soil conservation district;~~
- (10) ~~a person who, as a volunteer, is providing a service to or for the State;~~
- (11) ~~a person who, for or under contract with a unit of the State or a local government, performs an emergency service during a state of emergency under Title 14 of the Public Safety Article;~~
- (12) ~~any other individual who, with or without compensation, holds a position that requires the exercise of discretion and of a part of the sovereignty of the State;~~
- (13) ~~any other State officer or State employee; and~~
- (14) ~~a Montgomery County employee who administers a State program under Article 88A, § 13A(b) of the Code.~~

~~Article — Transportation~~

- (i) ~~“Modal administration” means any of the following:~~
 - ~~(1) The State Aviation Administration;~~
 - ~~(2) [The Maryland Port Administration;~~
 - ~~(3)] The Maryland Transit Administration;~~
 - ~~[(4)] (3) The State Highway Administration; or~~
 - ~~[(5)] (4) The Motor Vehicle Administration.~~

~~2-102.~~

- ~~(e) (1) With the approval of the Governor, the Secretary shall appoint a deputy secretary who has the duties provided by law or delegated by the Secretary.~~
- ~~(2) The deputy secretary is the acting secretary during periods when the Secretary is absent or disabled.~~
- ~~(3) The deputy secretary serves at the pleasure of the Secretary and is entitled to the salary provided in the State budget.~~
- ~~(4) The deputy secretary shall serve as acting chairman of the Maryland Transportation Authority[,] AND acting chairman of the Maryland Aviation Commission[, and acting chairman of the Maryland Port Commission] during periods when the Secretary is absent or disabled.~~

~~2-103.~~

- ~~(b) Except with respect to the Maryland Transportation Authority, [the Maryland Port Commission and the Maryland Port Administration,] the Secretary:~~
 - ~~(1) May adopt rules and regulations for the Department and any of its units to carry out those provisions of this article that are subject to the jurisdiction of the Department; and~~
 - ~~(2) Shall review and may approve, disapprove, or revise the rules and regulations of each unit in the Department.~~
- ~~(f) (1) Except as provided in paragraph (2) of this subsection, the Secretary may transfer, assign, and reassign any staff, power, or duty from any unit in the Department to his office or to another unit in the Department. If a transfer,~~

~~assignment, or reassignment occurs, the appropriation for the respective staff, power, or duty also shall be transferred.~~

~~(2) This subsection does not apply to:~~

~~(i) The powers or duties of the State Roads Commission that are set forth in Article III, § 40B of the State Constitution; or~~

~~(ii) The powers or duties that are vested by law in:~~

- ~~1. The Board of Airport Zoning Appeals;~~
- ~~2. The Transportation Professional Services Selection Board;~~
- ~~3. The Maryland Transportation Authority; OR~~
- ~~4. The Board of Review of the Department]; or~~
- ~~5. The Maryland Port Commission and Maryland Port Administration].~~

~~(g) (1) Except as provided in paragraph (2) of this subsection, the Secretary may exercise or perform any power or duty that any unit in the Department may exercise or perform.~~

~~(2) This subsection does not apply to:~~

~~(i) The powers or duties that are set forth in Article III, § 40B of the State Constitution; or~~

~~(ii) The powers or duties that do not require by law the approval or action of the Secretary and are vested by law in:~~

- ~~1. The Board of Airport Zoning Appeals;~~
- ~~2. The Transportation Professional Services Selection Board;~~
- ~~3. The Maryland Transportation Authority; OR~~
- ~~4. The Board of Review of the Department]; or~~
- ~~5. The Maryland Port Commission and Maryland Port Administration].~~

~~2-107.~~

- ~~(a) The following units are in the Department:~~
 - ~~(1) Maryland Aviation Administration;~~
 - ~~(2) [Maryland Port Administration;~~
 - ~~(3)] Maryland Transit Administration;~~
 - ~~[(4)] (3) State Highway Administration;~~
 - ~~[(5)] (4) Motor Vehicle Administration;~~
 - ~~[(6)] (5) Board of Airport Zoning Appeals;~~
 - ~~[(7)] (6) State Roads Commission;~~
 - ~~[(8)] (7) Transportation Professional Services Selection Board; and~~
 - ~~[(9)] (8) Maryland Transportation Commission.~~

~~[2-110.~~

~~The Department may enter into contracts for the provision of waterborne marine fire protection and related waterborne emergency services to port facilities, as defined in § 6-101 of this article, and to vessels that are in any of the navigable waters of this State within the territorial jurisdiction of the Maryland Port Administration.]~~

~~3-101.~~

~~(h) "Port facility" has the meaning stated in [§ 6-101] ARTICLE 83A, § 7-101 of [this article] THE CODE.~~

~~3-216.~~

- ~~(a) There is a Transportation Trust Fund for the Department.~~
- ~~(b) Except as otherwise expressly provided by statute, there shall be credited to the Transportation Trust Fund for the account of the Department all taxes, fees, charges, and revenues collected or received by or paid, appropriated, or credited to the account of the Department or any of its units in the exercise of their rights, powers, duties, or obligations, including the cash proceeds of the sale of consolidated~~

~~transportation bonds, notes, or other evidences of obligation issued by the Department, any General Fund appropriations, and the proceeds of any State loan or federal grant made for transportation purposes.~~

~~(f) (3) (i) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR EACH FISCAL YEAR, OF THE FUNDS IN THE TRANSPORTATION TRUST FUND THAT HAVE NOT BEEN PLEDGED OR OTHERWISE COMMITTED TO THE PAYMENT OF OR AS SECURITY FOR THE PAYMENT OF ANY BONDS OR DEBT ISSUED OR INCURRED UNDER THIS ARTICLE, THERE SHALL BE TRANSFERRED AND CREDITED TO THE MARYLAND PORT ADMINISTRATION FUND ESTABLISHED UNDER ARTICLE 83A, § 7-201.3 OF THE CODE, ON OR BEFORE JUNE 30 OF THAT FISCAL YEAR, AN AMOUNT EQUAL TO 5% OF THE REVENUE CREDITED FOR THAT FISCAL YEAR UNDER SUBSECTION (b) OF THIS SECTION.~~

~~(ii) THE AMOUNTS TRANSFERRED AND CREDITED TO THE MARYLAND PORT ADMINISTRATION FUND UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH FOR ANY FISCAL YEAR SHALL BE AVAILABLE FOR APPROPRIATION TO THE MARYLAND PORT ADMINISTRATION IN THAT FISCAL YEAR.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That the functions and activities of the Maryland Port Administration are transferred from the Department of Transportation to the Department of Business and Economic Development.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That:~~

~~(a) All employees of the Maryland Port Administration shall be in the State Personnel Management System.~~

~~(b) Any employee transferred under this Act who was in the Department of Transportation Human Resources Management System before the effective date of this Act shall be transferred, without further examination or qualification, to a comparable position in the State Personnel Management System, as determined by the Secretary of the Department of Business and Economic Development.~~

~~(c) An employee transferred to the State Personnel Management System in accordance with this section may not, solely as a result of the transfer, lose any compensation, accumulated leave, leave accrual rates, seniority, or any other rights, benefits, or privileges.~~

~~SECTION 5. AND BE IT FURTHER ENACTED, That all persons who are classified employees of the Maryland Port Administration of the Department of Transportation before July 1, 2007, and who are transferred to the Department of Business and Economic Development as part of the transfer of the Maryland Port~~

~~Administration under this Act shall be transferred without any diminution of their rights, benefits, or employment status, including merit system and retirement status, if any.~~

~~SECTION 6. AND BE IT FURTHER ENACTED, That, except as otherwise provided in this Act, nothing in this Act shall be construed to affect the funding, employees, or property of the Maryland Port Administration.~~

~~SECTION 7. AND BE IT FURTHER ENACTED, That, except as otherwise provided in this Act, nothing in this Act affects the term of office of an appointed member of any board, commission, committee, or council. A person who is a member of such a unit before the effective date of this Act shall remain a member for the balance of the term to which the person was appointed, unless the person before the end of the term dies, resigns, or is removed in accordance with law.~~

~~SECTION 8. AND BE IT FURTHER ENACTED, That all property, including real or personal property, records, fixtures, appropriations, credits, assets, liabilities, obligations, rights, and privileges held by the Maryland Port Administration of the Department of Transportation shall be transferred to the Department of Business and Economic Development on the effective date of this Act.~~

~~SECTION 9. AND BE IT FURTHER ENACTED, That, except as otherwise provided by law, all existing laws, rules and regulations, proposed rules and regulations, standards and guidelines, policies, orders and other directives, forms, plans, memberships, contracts, property, investigations, administrative and judicial responsibilities, rights to sue and be sued, and all other duties and responsibilities associated with the functions of the Maryland Port Administration of the Department of Transportation shall continue in effect under the Department of Business and Economic Development, until completed, withdrawn, canceled, modified, or otherwise changed in accordance with law.~~

~~SECTION 10. AND BE IT FURTHER ENACTED, That all contracts, agreements, grants, or other obligations entered into by the Maryland Port Administration of the Department of Transportation before July 1, 2007, are hereby declared to be valid, legal, and binding obligations of the Department of Business and Economic Development, enforceable in accordance with their terms.~~

~~SECTION 11. AND BE IT FURTHER ENACTED, That the publishers of the Annotated Code of Maryland, subject to the approval of the Department of Legislative Services, shall propose the correction of any agency names and titles throughout the Annotated Code that are rendered incorrect by this Act and any necessary corrections shall be ratified or validated in the Annual Corrective Bill of 2008.~~

~~SECTION 12. AND BE IT FURTHER ENACTED, That all appropriations including State and federal funds, held by the Maryland Port Administration shall be~~

~~transferred to the Department of Business and Economic Development on the effective date of this Act.~~

SECTION ~~13.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 516

(Senate Bill 50)

AN ACT concerning

Governor's Appointments Office and Appointing Authorities - Duties

FOR the purpose of prohibiting the Governor's Appointments Office from ~~superseding or interfering with any function~~ directing or overruling certain decisions of certain appointing authorities in the Executive Branch of State government ~~and, the Secretary of the Department of Budget and Management with respect to the Secretary's functions regarding the State's personnel systems as assigned by law; prohibiting the Governor from delegating to the Appointments Office or any other unit, officer, official, or employee in the Office of the Governor or the Executive Branch any function or duty with respect to the hiring and termination of at will and special appointments in the principal departments of the Executive Branch and other units in the Executive Branch; providing a certain exception,~~ or a unit of the Department of Budget and Management; providing that appointing authorities in the Executive Branch of State government have certain exclusive powers and duties, ~~including the power to appoint, transfer, reassign, discipline, and terminate employees under their jurisdiction;~~ prohibiting an appointing authority from delegating final decisions on the termination of an employee; defining certain terms; and generally relating to gubernatorial appointments and appointing authorities in the Executive Branch of State government.

BY adding to

Article – State Government

Section 8-3A-01 to be under the new subtitle “Subtitle 3A. Appointments in State Government”

Annotated Code of Maryland

(2004 Replacement Volume and 2006 Supplement)

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

Article - State Government

SUBTITLE 3A. APPOINTMENTS IN STATE GOVERNMENT.

8-3A-01.

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

(2) ~~“APPOINTING AUTHORITY” MEANS AN INDIVIDUAL OR UNIT WITHIN A PRINCIPAL DEPARTMENT OR AN INDIVIDUAL IN ANY OTHER UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT THAT HAS THE POWER TO MAKE APPOINTMENTS AND TERMINATE EMPLOYMENT~~ HAS THE MEANING STATED IN § 1-101(B) OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(3) ~~“OFFICE” MEANS THE APPOINTMENTS OFFICE IN THE OFFICE OF THE GOVERNOR OR ANY OTHER UNIT, OFFICER, OFFICIAL, OR EMPLOYEE IN THE OFFICE OF THE GOVERNOR OR THE EXECUTIVE BRANCH~~ THAT PERFORMS THE FUNCTION OF RECOMMENDING TO THE GOVERNOR THE APPOINTMENT OR NOMINATION OF AN INDIVIDUAL TO SERVE AS A MEMBER OF A STATE OR LOCAL BOARD, COMMISSION, COUNCIL, COMMITTEE, AUTHORITY, TASK FORCE, OR OTHER ENTITY THAT BY LAW REQUIRES THE MEMBERSHIP TO BE APPOINTED IN WHOLE OR IN PART BY THE GOVERNOR, WHETHER OR NOT THE APPOINTMENT OR NOMINATION IS WITH THE ADVICE AND CONSENT OF THE SENATE OR HOUSE OF DELEGATES.

~~(B) THE OFFICE MAY NOT DIRECT OR OVERRULE AN APPOINTING AUTHORITY, THE SECRETARY OF BUDGET AND MANAGEMENT, OR ANY UNIT OF THE DEPARTMENT OF BUDGET AND MANAGEMENT, ON ANY DECISION TO APPOINT, PROMOTE, TRANSFER, REASSIGN, DISCIPLINE, OR TERMINATE AN EMPLOYEE UNDER THE JURISDICTION OF THE APPOINTING AUTHORITY.~~

~~(B) (1) THE OFFICE MAY NOT SUPERSEDE OR INTERFERE WITH ANY FUNCTION ASSIGNED BY LAW TO:~~

~~(i) AN APPOINTING AUTHORITY IN EACH PRINCIPAL DEPARTMENT OR IN ANY OTHER UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT; OR~~

~~(H) THE SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT OR ANY UNIT OF THE DEPARTMENT OF BUDGET AND MANAGEMENT UNDER THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE.~~

~~(2) THE OFFICE, DIRECTLY OR INDIRECTLY, MAY NOT OVERRULE, IGNORE, OR OTHERWISE BE INVOLVED WITH ANY DECISIONS MADE BY:~~

~~(I) AN APPOINTING AUTHORITY IN EACH PRINCIPAL DEPARTMENT OR IN ANY OTHER UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT; OR~~

~~(H) THE SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT REGARDING ANY FUNCTION ASSIGNED BY LAW TO THE SECRETARY OF THAT DEPARTMENT UNDER THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE.~~

~~(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE GOVERNOR MAY NOT DELEGATE TO THE OFFICE OR ANY OTHER OFFICE, UNIT, OR INDIVIDUAL IN THE OFFICE OF THE GOVERNOR OR THE EXECUTIVE BRANCH OF STATE GOVERNMENT ANY AUTHORITY OR DUTY REGARDING THE TERMINATION OF ANY EMPLOYEE, INCLUDING MANAGEMENT SERVICE AND SPECIAL APPOINTMENTS EMPLOYEES, WHO ARE IN THE PRINCIPAL DEPARTMENTS OR IN ANY OTHER UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT.~~

~~(2) THE GOVERNOR MAY DELEGATE TO AN INDIVIDUAL IN THE OFFICE OF THE GOVERNOR OR THE EXECUTIVE BRANCH OF STATE GOVERNMENT ANY AUTHORITY OR DUTY REGARDING THE TERMINATION OF AT WILL EMPLOYEES, INCLUDING SPECIAL APPOINTMENTS, WHO ARE:~~

~~(I) IN THE EXECUTIVE PAY PLAN;~~

~~(II) DIRECTLY APPOINTED BY THE GOVERNOR BY AN APPOINTMENT THAT IS NOT PROVIDED FOR BY THE MARYLAND CONSTITUTION;~~

~~(III) APPOINTED BY OR WHO ARE ON THE STAFF OF THE GOVERNOR OR LIEUTENANT GOVERNOR; OR~~

~~(IV) EMPLOYEES ASSIGNED TO THE GOVERNMENT HOUSE OR THE OFFICE OF THE GOVERNOR.~~

~~(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN APPOINTING AUTHORITY EXCLUSIVELY HAS THE POWERS SET FORTH IN SUBSECTION (E) OF THIS SECTION.~~

~~(E)~~ (C) ONLY AN APPOINTING AUTHORITY MAY:

~~(1) APPOINT, PROMOTE, TRANSFER, REASSIGN, DISCIPLINE, AND TERMINATE EMPLOYEES UNDER THE JURISDICTION OF THE APPOINTING AUTHORITY; AND~~

~~(2)~~ DELEGATE IN WRITING THE AUTHORITY TO ACT ON THE APPOINTING AUTHORITY'S BEHALF, BUT ONLY TO ~~ANY OTHER~~ AN EMPLOYEE OR OFFICER UNDER THE JURISDICTION OF THE APPOINTING AUTHORITY.

~~(F)~~ (D) AN APPOINTING AUTHORITY MAY NOT DELEGATE THE AUTHORITY TO MAKE THE FINAL DECISION ON THE TERMINATION OF AN EMPLOYEE.

~~(G)~~ (E) AN APPOINTING AUTHORITY SHALL NOTIFY THE SECRETARY OF BUDGET AND MANAGEMENT OF ANY DELEGATION OF AUTHORITY AUTHORIZED UNDER THIS SECTION BY PROVIDING THE SECRETARY A COPY OF THE DELEGATION.

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

Approved by the Governor, May 17, 2007.

CHAPTER 517

(Senate Bill 64)

AN ACT concerning

Young Farmers Advisory Board - Termination Date - Repeal

FOR the purpose of repealing the termination date for the provisions of law that establish a Young Farmers Advisory Board in the Department of Agriculture; and generally relating to the Young Farmers Advisory Board.

BY repealing and reenacting, with amendments,

Chapter 517 of the Acts of the General Assembly of 2004
Section 2

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

Chapter 517 of the Acts of 2004

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2004. [It shall remain effective for a period of 3 years and, at the end of September 30, 2007, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

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

Approved by the Governor, May 17, 2007.

CHAPTER 518

(Senate Bill 69)

AN ACT concerning

Task Force to Study Prison Violence in Maryland

FOR the purpose of establishing a Task Force to Study Prison Violence in Maryland; specifying the chair, membership, and duties of the Task Force; requiring the Task Force to make legislative recommendations; requiring the Task Force to meet ~~with a certain frequency~~ *at certain times and places*; requiring the Task Force to provide ~~a certain report~~ *certain reports* to the Governor and the General Assembly on or before ~~a certain date~~ *dates*; providing for staffing of the Task Force; providing for the termination of this Act; and generally relating to the Task Force to Study Prison Violence in Maryland.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

- (a) There is a Task Force to Study Prison Violence in Maryland.
- (b) The Task Force shall be ~~comprised~~ *composed* of:

(1) one member of the House of Delegates, appointed by the Speaker of the House to serve as a cochair;

(2) one member of the Senate of Maryland, appointed by the President of the Senate to serve as a cochair;

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

(4) the Commissioner of the Division of Correction, or a designee of the Commissioner;

(5) the Attorney General, or a designee of the Attorney General;

(6) the Secretary of Juvenile Services, or a designee of the Secretary;

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

and

~~(7)~~ (8) the following members appointed by the Governor:

(i) ~~one representative~~ two representatives, one male and one female, of the American Federation of State, County and Municipal Employees who ~~is~~ are also employed as ~~a worker workers~~ correctional officers in a State prison;

(ii) one representative of the Justice Policy Institute;

(iii) one representative of the criminology department of a Maryland institution of higher learning;

(iv) two former prisoners, one male and one female, of a State prison that were incarcerated for a minimum of 5 years;

~~and~~ (v) one expert in the field of chemical engineering or toxicology;

(vi) one representative of a Maryland prison reform advocacy group; ~~and~~

(vii) one intelligence lieutenant from the Division of Correction;

(viii) one representative knowledgeable and experienced in the field of medical and health care services for prisoners;

(ix) one representative of the Department of State Police; and

(x) two members, at least one of whom is a member of the Maryland Classified Employees Association, and each of whom is employed as a case manager, psychologist, addiction counselor, or warden in a State prison.

(c) A member of the Task Force may not receive compensation as a member of the Task Force but is entitled to reimbursement for expenses under the Standard State Travel Regulations as provided in the State budget.

(d) The Task Force shall meet ~~at least bimonthly~~ at the times and places that the cochairs determine.

(e) The Task Force shall:

(1) study available information on:

(i) the scope, nature, patterns, and causal relationships of violence in the State's prisons;

(ii) the impact of illegal drugs on violence in the State's prisons;

(iii) the impact of exposure to lead and other pollutants on violence in the State's prisons; ~~and~~

(iv) the best practices of other state correctional systems in dealing with prison violence;

(v) the impact of contraband on violence in the State's prisons;

(vi) the role of gang activity on violence in the State's prisons;
and

(vii) any other issues that the Task Force considers relevant;

(2) make legislative recommendations; and

(3) prepare a report summarizing the findings and recommendations of the Task Force.

(f) The Task Force shall submit:

(1) an interim report to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly, on or before December 31, 2007; and

(2) a final report of the findings and recommendations of the Task Force to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly on or before December 31, 2008.

(g) The Department of Public Safety and Correctional Services shall provide staff to the Task Force.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2007. It shall remain effective for a period of ~~2 years~~ 1 year and 7 months and, at the end of ~~September 30, 2009~~ January 31, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 519

(Senate Bill 83)

AN ACT concerning

Sexual Offenders - Evaluation Before Sentencing

FOR the purpose of requiring a court, unless there is a certain waiver, before sentencing a certain defendant under certain circumstances, to order that the defendant submit to a presentence investigation conducted by the Division of Parole and Probation and a mental health evaluation conducted by a certain individual employed or engaged by the Department of Health and Mental Hygiene; requiring a court to consider the presentence investigation and mental health evaluation when sentencing the defendant; and generally relating to evaluation and sentencing of sexual offenders.

BY adding to

Article - Criminal Procedure

Section ~~11-704.1~~ 11-727

Annotated Code of Maryland

(2001 Volume and 2006 Supplement)

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

Article - Criminal Procedure

~~11-704.1, 11-727.~~

(A) UNLESS WAIVED BY THE STATE'S ATTORNEY AND DEFENSE COUNSEL, BEFORE SENTENCING A DEFENDANT WHO ~~HAS BEEN CONVICTED OF A CRIME FOR WHICH THE DEFENDANT~~ IS REQUIRED TO REGISTER UNDER § 11-704 OF THIS SUBTITLE FOR A VIOLATION OF § 3-602 OF THE CRIMINAL LAW ARTICLE, THE COURT SHALL ORDER THE DEFENDANT TO SUBMIT TO:

(1) A PRESENTENCE INVESTIGATION CONDUCTED BY THE DIVISION OF PAROLE AND PROBATION; AND

(2) A MENTAL HEALTH ASSESSMENT, INCLUDING WHETHER THE DEFENDANT IS A DANGER TO SELF OR OTHERS, CONDUCTED BY A QUALIFIED MENTAL HEALTH PROFESSIONAL EMPLOYED OR ENGAGED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

(B) THE COURT SHALL CONSIDER THE PRESENTENCE INVESTIGATION AND MENTAL HEALTH EVALUATION WHEN SENTENCING THE DEFENDANT.

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

Approved by the Governor, May 17, 2007.

CHAPTER 520

(Senate Bill 112)

AN ACT concerning

Prince George's County - Task Force on the Establishment of Vocational and Technical Education High School Academies

FOR the purpose of establishing a Task Force on the Establishment of Vocational and Technical Education High School Academies in Prince George's County; establishing the membership and staffing of the Task Force; requiring the members of the Task Force to designate the chair of the Task Force; requiring the Task Force to evaluate and make recommendations regarding certain issues; requiring the Task Force to submit a report to certain officials regarding its recommendations by a certain date; prohibiting a member of the Task Force

from receiving certain compensation, but authorizing a member of the Task Force to receive certain reimbursements; providing for the termination of this Act; and generally relating to the Task Force on the Establishment of Vocational and Technical Education High School Academies in Prince George's County.

Preamble

WHEREAS, A disproportionately large number of students do not graduate from high school and may not be prepared for the workplace in Prince George's County; and

WHEREAS, A large percentage of students who do graduate from high school in Prince George's County do not go on to postsecondary education and instead directly enter the workforce; and

WHEREAS, It has been reported that the current Prince George's County public high school curriculum and method of teaching does not adequately prepare all students for meaningful and productive work; and

WHEREAS, There have been complaints from employers in Prince George's County that students are not adequately prepared for work; and

WHEREAS, There is a clear need for skilled workers in many industries and fields now located in Prince George's County or likely to move there; and

WHEREAS, There is a constitutional obligation that all students receive an adequate public education that prepares them for work and citizenship; and

WHEREAS, There is interest in the community in Prince George's County in exploring an alternative model for education for students who do not go on to postsecondary education; and

WHEREAS, There exists a need to identify research-based models that better prepare students for entry into the workplace and for lifelong advancement and learning; and

WHEREAS, There has been interest in the establishment of vocational and technical training academies in Prince George's County; and

WHEREAS, There is a need for a broad-based forum, with participation from many stakeholders, for the exploration of these topics in ways that lead to practical solutions; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force on the Establishment of Vocational and Technical Education High School Academies in Prince George's County.

(b) The Task Force consists of the following members:

(1) Two members of the House of Delegates, appointed by the Speaker of the House;

(2) One member of the Senate of Maryland, appointed by the President of the Senate;

(3) Three members appointed by the Chief Executive Officer of the Prince George's County public school system;

(4) Two members appointed by the Prince George's County Executive;

(5) Three members appointed by the Prince George's County Council;

(6) Two members appointed by the Prince George's County Chamber of Commerce;

(7) Two members appointed by the Maryland State Superintendent of Schools;

(8) One member appointed by the Prince George's County Economic Development Corporation;

(9) One member appointed by the President of Prince George's Community College; ~~and~~

(10) One member employed by the Maryland State and District of Columbia AFL-CIO who is familiar with union apprenticeship programs, appointed by the President of the Maryland State and District of Columbia AFL-CIO;

(11) One member appointed by the Metro Washington Chapter of the Associated Builders and Contractors, Inc.; and

(12) Two members of the Prince George's County Board of Education, appointed by the Chair of the Prince George's County Board of Education.

(c) The members of the Task Force shall designate the chair of the Task Force.

(d) The Prince George's County public school system shall provide staff for the Task Force.

(e) A member of the Task Force may not receive compensation for serving on the Task Force but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) Examine the needs of students in the Prince George's County public school system who are not completing high school to determine if they are being prepared for meaningful work and citizenship;

(2) Examine the needs of students in the Prince George's County public school system who are not going on to postsecondary education to determine if they are being prepared for meaningful work and citizenship;

(3) Explore whether the high school curriculum is contributing to the decisions of some students not to complete high school;

(4) Examine the workforce needs of the community, focusing especially on present and future opportunities for workers who are not college educated;

(5) Examine whether the current Prince George's County public high school curriculum meets the needs of students who are not going on to postsecondary education;

(6) Explore research-based alternatives to the current Prince George's County public high school curriculum that might better prepare students who are not going on to postsecondary education;

(7) Identify strategies and approaches that might better address the needs of students not going on to postsecondary education, including the feasibility of curriculum changes and the development of vocational and technical high school academies and other alternative instructional models;

(8) Identify legal, financial, regulatory, and organizational obstacles to the implementation of curriculum and instructional changes in Prince George's County public high schools, including the use of vocational and technical academies;

(9) Explore the willingness of stakeholders in Prince George's County to implement changes to curriculum and instruction in the county's public high schools; and

(g) On or before July 1, 2008, the Task Force shall report its findings and recommendations to the Governor, Prince George's County Executive, Prince George's County Council, Prince George's County Board of Education, and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period of 1 year and 1 month and, at the end of July 31, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 521

(Senate Bill 152)

AN ACT concerning

**Family Law – Criminal History Records Check Costs – Exemption for
Volunteers**

FOR the purpose of waiving certain costs and fees for certain volunteers at certain facilities and local departments of social services who are required to obtain a criminal history records check; and generally relating to volunteers and criminal history records checks.

BY repealing and reenacting, without amendments,
Article – Family Law
Section 5-561(d), (e), (f), (g), and (i)
Annotated Code of Maryland
(2006 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5-561(h)
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Family Law

5-561.

(d) An employer at a facility under subsection (b) of this section may require a volunteer at the facility to obtain a criminal history records check under this Part VI of this subtitle.

(e) A local department may require a volunteer of that department who works with children to obtain a criminal history records check under this Part VI of this subtitle.

(f) An employer at a facility not identified in subsection (b) of this section who employs individuals to work with children may require employees, including volunteers, to obtain a criminal history records check under this Part VI of this subtitle.

(g) An employer, as defined in § 5-560(e)(2) of this subtitle, shall require an employee, as defined in § 5-560(d)(2) of this subtitle, to obtain a criminal history records check under this Part VI of this subtitle.

(h) **(1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,** A person who is required to have a criminal history records check under this Part VI of this subtitle shall pay for:

[(1)] **(I)** the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check;

[(2)] **(II)** reasonable administrative costs to the Department, not to exceed 10% of the processing fee; and

[(3)] **(III)** the fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records.

(2) A VOLUNTEER UNDER SUBSECTION (D), (E), OR (F) OF THIS SECTION WHO VOLUNTEERS FOR A PROGRAM THAT IS REGISTERED WITH THE MARYLAND MENTORING PARTNERSHIP IS NOT REQUIRED TO PAY FOR COSTS OR FEES UNDER PARAGRAPH (1)(II) AND (III) OF THIS SUBSECTION.

(i) (1) An employer or other party may pay for the costs borne by the employee or other individual under subsection (h) of this section.

(2) The local department shall reimburse:

(i) an adult residing in a foster care home for the costs borne by the individual under subsection (h) of this section; and

(ii) an individual described in subsection (c)(4)(ii) of this section for the costs borne by the individual under subsection (h) of this section.

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

Approved by the Governor, May 17, 2007.

CHAPTER 522

(Senate Bill 164)

AN ACT concerning

Business Regulation - Licenses - ~~Application~~ - Calvert County

FOR the purpose of prohibiting the clerk of the circuit court for Calvert County from issuing a certain license for the first time to a business that will be located in Calvert County unless the applicant submits to the clerk a certain certification that the location of the business is zoned for the type of business for which the applicant is seeking the license; requiring that the certification be issued by a certain department or municipal corporation under certain circumstances; prohibiting the clerk of the circuit court for Calvert County from endorsing a certain change in a place of business until the licensee meets certain zoning requirements; and generally relating to the issuance of licenses in Calvert County.

BY repealing and reenacting, with amendments,
 Article - Business Regulation
 Section 17-302 and 17-307
 Annotated Code of Maryland
 (2004 Replacement Volume and 2006 Supplement)

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

Article - Business Regulation

17-302.

(a) Except as otherwise provided in this title, an applicant for a license under this title shall:

(1) submit to the clerk, in duplicate, an application on the form that the clerk provides;

(2) submit to the clerk a receipt or certificate for taxes in accordance with subsection (c) of this section; and

(3) pay to the clerk the appropriate license fee required by this title.

(b) Each application for a license shall be verified in the way and contain the information that the Comptroller requires by regulation.

(c) (1) In this subsection, "county treasurer" includes the Director of Finance or other chief fiscal officer of a county that does not have a county treasurer.

(2) This subsection does not apply to a domestic corporation that has shares subject to taxation under State law.

(3) An applicant for a license shall submit to the clerk:

(i) a certification by the State Department of Assessments and Taxation of the value of the goods, fixtures, and stock in trade in each county where the business is located for the applicant's business for the valuation year;

(ii) a certification by the county treasurer of that county that there are no unpaid taxes due to the State or county on the goods, fixtures, or stock in trade; and

(iii) a certification by the municipal corporation, if any, where the business is located that there are no unpaid taxes due to the municipal corporation on the goods, fixtures, or stock in trade.

(4) In this subsection, the valuation year:

(i) in Washington County, is the fiscal year that includes May 1 of the calendar year when the license is issued; or

(ii) in each other county, is the last calendar year before the year for which the license is sought.

(d) In Washington County, the clerk may not issue a license under this title for the first time unless the applicant submits to the clerk a certification that the location of the business for which the license is sought has proper zoning. The

certification must be from the county planning commission or, if the business is located in a municipal corporation, from the municipal corporation.

(E) (1) **THIS SUBSECTION APPLIES ONLY IN CALVERT COUNTY.**

(2) **THE CLERK MAY NOT ISSUE A LICENSE UNDER THIS ~~SECTION~~ TITLE FOR THE FIRST TIME TO A BUSINESS THAT WILL BE LOCATED IN CALVERT COUNTY UNLESS THE APPLICANT SUBMITS TO THE CLERK A CERTIFICATION THAT THE LOCATION OF THE BUSINESS FOR WHICH THE LICENSE IS SOUGHT IS ZONED FOR THE TYPE OF BUSINESS FOR WHICH THE APPLICANT IS SEEKING A LICENSE.**

(3) **THE CERTIFICATION MUST BE ISSUED FROM:**

(I) **THE CALVERT COUNTY DEPARTMENT OF PLANNING AND ZONING; OR**

(II) **THE APPROPRIATE MUNICIPAL CORPORATION, IF THE LOCATION OF THE PROPOSED BUSINESS IS WITHIN THE BOUNDARIES OF A MUNICIPAL CORPORATION.**

17-307.

(a) (1) If a specific place for doing business is stated in a license, the licensee may change the place of business only if the clerk endorses the change on the license.

(2) Subject to subsections [(b) and (c)] (B), (C), AND (D) of this section, on application of the licensee, the clerk shall endorse the change on the license.

(b) In Baltimore County, the clerk may not endorse a change in the place of business until the zoning commissioner approves the new place.

(c) In Washington County, the clerk may not endorse a change in the place of business until the licensee meets the zoning requirements of § 17-302(d) of this subtitle for a license issued for the first time.

(D) IN CALVERT COUNTY, THE CLERK MAY NOT ENDORSE A CHANGE IN THE PLACE OF BUSINESS UNTIL THE LICENSEE MEETS THE ZONING REQUIREMENTS OF § 17-302(E) OF THIS SUBTITLE FOR A LICENSE ISSUED FOR THE FIRST TIME.

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

Approved by the Governor, May 17, 2007.

CHAPTER 523

(Senate Bill 165)

AN ACT concerning

Task Force to Study the Boating Industry in Maryland

FOR the purpose of establishing a Task Force to Study the Boating Industry in Maryland; establishing the membership and staffing of the Task Force; requiring the President of the Senate and the Speaker of the House to designate the chair of the Task Force; authorizing the Task Force to establish certain subcommittees; requiring the Task Force to evaluate and make recommendations regarding certain issues; requiring the Task Force to submit a preliminary report and a final report to the Governor and General Assembly and its committees regarding its recommendations by a certain date; prohibiting a member of the Task Force from receiving certain compensation, but authorizing a member of the Task Force to receive certain reimbursements; providing for the termination of this Act; and generally relating to the Task Force to Study the Boating Industry in Maryland.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

- (a) There is a Task Force to Study the Boating ~~and~~ Industry in Maryland.
- (b) The Task Force consists of the following members:
 - (1) One member of the Senate of Maryland, appointed by the President of the Senate;
 - (2) One member of the House of Delegates, appointed by the Speaker of the House;
 - (3) The Secretary of Natural Resources, or the Secretary's designee;

(4) The Secretary of Business and Economic Development, or the Secretary's designee;

(5) The Secretary of the Environment, or the Secretary's designee; and

~~(5)~~ (6) The following members, appointed by the Governor:

(i) Two representatives from the Marine Trade Association of Maryland;

(ii) Two representatives from local tourism boards or visitor bureaus that are from counties that border the Chesapeake Bay;

(iii) One representative from a local yacht club;

(iv) One owner and operator of a marina in the State;

(v) One owner or operator of a boat dealership in the State; and

(vi) One representative from the Maryland Tourism Council.

(c) The President of the Senate and the Speaker of the House of Delegates jointly shall designate the chair of the Task Force.

(d) The Task Force may establish subcommittees as it determines necessary to fulfill its duties.

(e) The Department of Business and Economic Development and the Department of Natural Resources shall provide staff for the Task Force.

(f) A member of the Task Force may not receive compensation for serving as a member of the Task Force but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) The Task Force shall:

(1) Evaluate and make recommendations regarding growing the boating industry within the State, including:

(i) Evaluating incentives to encourage large boats and yachts to use marinas and boatyards for recreation, repair, and outfitting within the State;

(ii) Determining ways to encourage and promote tourism throughout waters of the State;

(iii) Researching the economic impact that marine industries and recreational boaters contribute to the State's economy; and

(iv) Identifying barriers that limit the State's competitiveness with other states regarding the boating industry and developing methods to overcome these barriers; and

(2) (i) On or before November 30, 2007, submit a preliminary report of its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee; and

(ii) On or before June 30, 2008, submit a final report of its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period of 1 year and 1 month and, at the end of July 31, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 524

(Senate Bill 170)

AN ACT concerning

Child Sexual Abuse and Crimes of Violence

FOR the purpose of adding the crime of sexual abuse of a minor under a certain age by an adult under certain circumstances and the crime of a continuing course of conduct with a child to the list of crimes of violence for which certain enhanced penalties are applied to certain offenders; and generally relating to crimes of violence.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 14-101
Annotated Code of Maryland
(2002 Volume and 2006 Supplement)

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

Article – Criminal Law

14–101.

(a) In this section, “crime of violence” means:

- (1) abduction;
- (2) arson in the first degree;
- (3) kidnapping;
- (4) manslaughter, except involuntary manslaughter;
- (5) mayhem;
- (6) maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;
- (7) murder;
- (8) rape;
- (9) robbery under § 3–402 or § 3–403 of this article;
- (10) carjacking;
- (11) armed carjacking;
- (12) sexual offense in the first degree;
- (13) sexual offense in the second degree;
- (14) use of a handgun in the commission of a felony or other crime of violence;
- (15) child abuse in the first degree under § 3–601 of this article;
- (16) SEXUAL ABUSE OF A MINOR UNDER § 3–602 OF THIS ARTICLE**

IF:

(I) THE VICTIM IS UNDER THE AGE OF 13 YEARS AND THE OFFENDER IS AN ADULT AT THE TIME OF THE OFFENSE; AND

(II) THE OFFENSE INVOLVED:

1. VAGINAL INTERCOURSE, AS DEFINED IN § 3-301 OF THIS ARTICLE;

2. A SEXUAL ACT, AS DEFINED IN § 3-301 OF THIS ARTICLE;

3. AN ACT IN WHICH A PART OF THE OFFENDER'S BODY PENETRATES, HOWEVER SLIGHTLY, INTO THE VICTIM'S GENITAL OPENING OR ANUS; OR

4. THE INTENTIONAL TOUCHING, NOT THROUGH THE CLOTHING, OF THE VICTIM'S OR THE OFFENDER'S GENITAL, ANAL, OR OTHER INTIMATE AREA FOR SEXUAL AROUSAL, GRATIFICATION, OR ABUSE;

[(16)] (17) an attempt to commit any of the crimes described in items (1) through **[(15)] (16)** of this subsection;

(18) CONTINUING COURSE OF CONDUCT WITH A CHILD UNDER § 3-315 OF THIS ARTICLE;

[(17)] (19) assault in the first degree;

[(18)] (20) assault with intent to murder;

[(19)] (21) assault with intent to rape;

[(20)] (22) assault with intent to rob;

[(21)] (23) assault with intent to commit a sexual offense in the first degree; and

[(22)] (24) assault with intent to commit a sexual offense in the second degree.

(b) This section does not apply if a person is sentenced to death.

(c) (1) Except as provided in subsection (g) of this section, on conviction for a fourth time of a crime of violence, a person who has served three separate terms of confinement in a correctional facility as a result of three separate convictions of any

crime of violence shall be sentenced to life imprisonment without the possibility of parole.

(2) Notwithstanding any other law, the provisions of this subsection are mandatory.

(d) (1) Except as provided in subsection (g) of this section, on conviction for a third time of a crime of violence, a person shall be sentenced to imprisonment for the term allowed by law but not less than 25 years, if the person:

(i) has been convicted of a crime of violence on two prior separate occasions:

1. in which the second or succeeding crime is committed after there has been a charging document filed for the preceding occasion; and

2. for which the convictions do not arise from a single incident; and

(ii) has served at least one term of confinement in a correctional facility as a result of a conviction of a crime of violence.

(2) The court may not suspend all or part of the mandatory 25-year sentence required under this subsection.

(3) A person sentenced under this subsection is not eligible for parole except in accordance with the provisions of § 4-305 of the Correctional Services Article.

(e) (1) On conviction for a second time of a crime of violence committed on or after October 1, 1994, a person shall be sentenced to imprisonment for the term allowed by law, but not less than 10 years, if the person:

(i) has been convicted on a prior occasion of a crime of violence, including a conviction for a crime committed before October 1, 1994; and

(ii) served a term of confinement in a correctional facility for that conviction.

(2) The court may not suspend all or part of the mandatory 10-year sentence required under this subsection.

(f) If the State intends to proceed against a person as a subsequent offender under this section, it shall comply with the procedures set forth in the Maryland Rules for the indictment and trial of a subsequent offender.

(g) (1) A person sentenced under this section may petition for and be granted parole if the person:

(i) is at least 65 years old; and

(ii) has served at least 15 years of the sentence imposed under this section.

(2) The Maryland Parole Commission shall adopt regulations to implement this subsection.

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

Approved by the Governor, May 17, 2007.

CHAPTER 525

(House Bill 213)

AN ACT concerning

Child Sexual Abuse and Crimes of Violence

FOR the purpose of adding the crime of sexual abuse of a minor under a certain age by an adult under certain circumstances and the crime of a continuing course of conduct with a child to the list of crimes of violence for which certain enhanced penalties are applied to certain offenders; and generally relating to crimes of violence.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 14-101
Annotated Code of Maryland
(2002 Volume and 2006 Supplement)

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

Article – Criminal Law

14-101.

- (a) In this section, “crime of violence” means:
- (1) abduction;
 - (2) arson in the first degree;
 - (3) kidnapping;
 - (4) manslaughter, except involuntary manslaughter;
 - (5) mayhem;
 - (6) maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;
 - (7) murder;
 - (8) rape;
 - (9) robbery under § 3-402 or § 3-403 of this article;
 - (10) carjacking;
 - (11) armed carjacking;
 - (12) sexual offense in the first degree;
 - (13) sexual offense in the second degree;
 - (14) use of a handgun in the commission of a felony or other crime of violence;
 - (15) child abuse in the first degree under § 3-601 of this article;
 - (16) SEXUAL ABUSE OF A MINOR UNDER § 3-602 OF THIS ARTICLE IF:**

(I) THE VICTIM IS UNDER THE AGE OF 13 YEARS AND THE OFFENDER IS AN ADULT AT THE TIME OF THE OFFENSE; AND

(II) THE OFFENSE INVOLVED:

1. VAGINAL INTERCOURSE, AS DEFINED IN § 3-301 OF THIS ARTICLE;

2. A SEXUAL ACT, AS DEFINED IN § 3-301 OF THIS ARTICLE;

3. AN ACT IN WHICH A PART OF THE OFFENDER'S BODY PENETRATES, HOWEVER SLIGHTLY, INTO THE VICTIM'S GENITAL OPENING OR ANUS; OR

4. THE INTENTIONAL TOUCHING, NOT THROUGH THE CLOTHING, OF THE VICTIM'S OR THE OFFENDER'S GENITAL, ANAL, OR OTHER INTIMATE AREA FOR SEXUAL AROUSAL, GRATIFICATION, OR ABUSE;”.

[(16)] (17) an attempt to commit any of the crimes described in items (1) through [(15)] (16) of this subsection;

(18) CONTINUING COURSE OF CONDUCT WITH A CHILD UNDER § 3-315 OF THIS ARTICLE;

[(17)] (19) assault in the first degree;

[(18)] (20) assault with intent to murder;

[(19)] (21) assault with intent to rape;

[(20)] (22) assault with intent to rob;

[(21)] (23) assault with intent to commit a sexual offense in the first degree; and

[(22)] (24) assault with intent to commit a sexual offense in the second degree.

(b) This section does not apply if a person is sentenced to death.

(c) (1) Except as provided in subsection (g) of this section, on conviction for a fourth time of a crime of violence, a person who has served three separate terms of confinement in a correctional facility as a result of three separate convictions of any crime of violence shall be sentenced to life imprisonment without the possibility of parole.

(2) Notwithstanding any other law, the provisions of this subsection are mandatory.

(d) (1) Except as provided in subsection (g) of this section, on conviction for a third time of a crime of violence, a person shall be sentenced to imprisonment for the term allowed by law but not less than 25 years, if the person:

(i) has been convicted of a crime of violence on two prior separate occasions:

1. in which the second or succeeding crime is committed after there has been a charging document filed for the preceding occasion; and

2. for which the convictions do not arise from a single incident; and

(ii) has served at least one term of confinement in a correctional facility as a result of a conviction of a crime of violence.

(2) The court may not suspend all or part of the mandatory 25-year sentence required under this subsection.

(3) A person sentenced under this subsection is not eligible for parole except in accordance with the provisions of § 4-305 of the Correctional Services Article.

(e) (1) On conviction for a second time of a crime of violence committed on or after October 1, 1994, a person shall be sentenced to imprisonment for the term allowed by law, but not less than 10 years, if the person:

(i) has been convicted on a prior occasion of a crime of violence, including a conviction for a crime committed before October 1, 1994; and

(ii) served a term of confinement in a correctional facility for that conviction.

(2) The court may not suspend all or part of the mandatory 10-year sentence required under this subsection.

(f) If the State intends to proceed against a person as a subsequent offender under this section, it shall comply with the procedures set forth in the Maryland Rules for the indictment and trial of a subsequent offender.

(g) (1) A person sentenced under this section may petition for and be granted parole if the person:

(i) is at least 65 years old; and

(ii) has served at least 15 years of the sentence imposed under this section.

(2) The Maryland Parole Commission shall adopt regulations to implement this subsection.

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

Approved by the Governor, May 17, 2007.

CHAPTER 526

(Senate Bill 175)

AN ACT concerning

Juveniles – Mentoring Program – “Maryland Rising”

FOR the purpose of requiring the Secretary of Juvenile Services to establish a statewide program of volunteer mentors for children ~~in detention or who have spent a certain amount of time in a committed placement; requiring the Program to try and place mentors in a certain manner;~~ in detention or who have spent a certain amount of time in a committed placement; establishing that the Program shall be called “Maryland Rising”; establishing the purpose of the Program; requiring the Department of Juvenile Services to develop a statewide network of State and community agencies, volunteer organizations, and other groups to recruit mentors; providing for the role of mentors; authorizing the Department to adopt certain regulations; and generally relating to a mentoring Program in the Department of Juvenile Services called “Maryland Rising”.

BY adding to

Article – Human Services

Section 9–240.1

Annotated Code of Maryland

(As enacted by Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007)

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

Article - Human Services

9-240.1.

(A) (1) **THE SECRETARY SHALL ESTABLISH A PROGRAM TO ATTEMPT TO PROVIDE A VOLUNTEER MENTOR FOR EACH CHILD IN THE STATE WHO ~~IS IN DETENTION, AS DEFINED IN § 3-8A-01(N) OF THE COURTS ARTICLE, OR HAS~~ SPENT AT LEAST 30 DAYS IN A COMMITTED PLACEMENT.**

~~(2) IN ASSIGNING A MENTOR, THE PROGRAM SHALL TRY TO CHOOSE A MENTOR THAT CAN STAY WITH THE CHILD FROM THE INITIAL DETENTION THROUGH ANY AFTERCARE THAT IS REQUIRED.~~

~~(3)~~ (2) **THE PROGRAM SHALL BE CALLED "MARYLAND RISING".**

(B) **THE PURPOSE OF THE PROGRAM IS TO PROVIDE INDIVIDUALIZED ATTENTION TO A CHILD:**

(1) **TO DECREASE THE CHILD'S DELINQUENT OR VIOLENT BEHAVIOR IN THE COMMUNITY; AND**

(2) **TO INCREASE THE CHILD'S POTENTIAL FOR BECOMING A PRODUCTIVE, SUCCESSFUL MEMBER OF THE COMMUNITY.**

(C) (1) **TO CARRY OUT THE PURPOSE OF THE PROGRAM, THE DEPARTMENT SHALL DEVELOP A STATEWIDE NETWORK OF STATE AGENCIES, COMMUNITY AGENCIES, CITIZEN ACTION GROUPS, SOCIAL SERVICES PROVIDERS, VOLUNTEER ORGANIZATIONS, COLLEGE STUDENT GROUPS, AND OTHER GROUPS WHO WILL RECRUIT VOLUNTEER MENTORS FOR ~~CHILDREN IN DETENTION~~ THE PROGRAM.**

(2) **A MENTOR SHALL HAVE FREQUENT CONTACT WITH THE CHILD AND MAY PROVIDE THE FOLLOWING SERVICES TO THE CHILD:**

(I) **INFORMAL COUNSELING;**

(II) **TUTORING;**

(III) **ASSISTING THE CHILD WITH LIFE SKILLS TRAINING;**

(IV) WORKING WITH THE CHILD'S FAMILY OR GUARDIAN;

(V) INTERACTING WITH THE CHILD'S SCHOOL OR EMPLOYER, IF NECESSARY; AND

(VI) OTHER INDIVIDUALIZED SUPPORT SERVICES THAT HELP THE CHILD AVOID NEGATIVE BEHAVIORS AND BECOME A SUCCESSFUL, PRODUCTIVE MEMBER OF THE COMMUNITY.

(D) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

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

Approved by the Governor, May 17, 2007.

CHAPTER 527

(Senate Bill 181)

AN ACT concerning

Oral Health Safety Net Program

FOR the purpose of establishing the Oral Health Safety Net Program in the Office of Oral Health in the Department of Health and Mental Hygiene; providing for the purpose of the Program; requiring the Office to solicit certain proposals; ~~and requiring the Office to~~ award certain grants and oversee the operation of the Program, subject to the limitations of the State budget; ~~requiring the Office to oversee the operation of the Program~~; requiring the Office to conduct a certain annual evaluation of the Program; requiring the Office to contract with a certain individual, subject to the limitations of the State budget; requiring the Office to provide certain education courses, subject to the limitations of the State budget; requiring the Office to submit a certain report to the Governor and to the General Assembly on or before a certain date each year; declaring the intent of the General Assembly; requiring the Department to conduct a certain survey; requiring the Secretary of Health and Mental Hygiene to submit a certain report to the General Assembly on a certain date; defining a certain term; providing for the termination of this Act; and generally relating to oral health for underserved populations in the State.

BY adding to

Article – Health – General

Section 13–2501 through 13–2506, ~~inclusive~~, to be under the new subtitle
“Subtitle 25. Oral Health Safety Net Program”

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

Preamble

WHEREAS, While almost 44% of HealthChoice recipients make at least one dental visit each year, only 14% of HealthChoice recipients receive restorative dental care; and

WHEREAS, Restorative treatment services should be increased to better accommodate the needs of the HealthChoice population and other underserved populations; now, therefore,

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

Article – Health – General

SUBTITLE 25. ORAL HEALTH SAFETY NET PROGRAM.

13–2501.

(A) IN THIS SUBTITLE, “PROGRAM” MEANS THE ORAL HEALTH SAFETY NET PROGRAM.

(B) THERE IS AN ORAL HEALTH SAFETY NET PROGRAM IN THE OFFICE OF ORAL HEALTH IN THE DEPARTMENT.

(C) THE PURPOSE OF THE PROGRAM IS TO PROVIDE START-UP FUNDING TO EXPAND ORAL HEALTH CAPACITY FOR UNDERSERVED LOW-INCOME AND DISABLED INDIVIDUALS, INCLUDING INDIVIDUALS ENROLLED IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND IN THE MARYLAND CHILDREN’S HEALTH PROGRAM.

13–2502.

(A) THE OFFICE OF ORAL HEALTH SHALL SOLICIT PROPOSALS FROM LOCAL HEALTH DEPARTMENTS, FEDERALLY QUALIFIED HEALTH CENTERS, AND ENTITIES PROVIDING DENTAL SERVICES WITHIN STATE FACILITIES, FOR THE

PURPOSE OF ISSUING GRANTS TO SUPPORT COLLABORATIVE AND INNOVATIVE WAYS TO INCREASE DENTAL PROVIDER CAPACITY FOR THE UNDERSERVED.

(B) SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, THE OFFICE OF ORAL HEALTH SHALL:

- (1) AWARD GRANTS; AND**
- (2) OVERSEE THE OPERATION OF THE PROGRAM.**

(C) THE OFFICE OF ORAL HEALTH SHALL PLACE PRIORITY ON AWARDING GRANTS TO PROPOSALS THAT:

(1) ARE TARGETED TO REGIONS OF THE STATE WHERE ORAL HEALTH SERVICES ARE MOST SCARCE FOR LOW-INCOME, DISABLED, AND MEDICAID POPULATIONS; AND

(2) ~~OUTLINE~~ OUTLINE HOW THE POTENTIAL GRANTEE WILL MAXIMIZE LIMITED RESOURCES, INCLUDING:

(1) SHARING OF RESOURCES WITH OTHER PERSONS ~~OR ORGANIZATIONS~~;

(2) CASE MANAGEMENT TO ELIMINATE BARRIERS TO DENTAL SERVICES;

(3) PUBLIC-PRIVATE PURCHASING AGREEMENTS;

(4) OBTAINING MATCHING FUNDS TO INCREASE RESOURCES;

(5) INCENTIVES TO INCREASE PROVIDER PARTICIPATION;

(6) QUANTIFIABLE OUTCOME MEASURES OF SUCCESS;

(7) SCHOOL-BASED SCREENINGS; AND

(8) PLANS TO ENSURE SUSTAINABILITY OF SERVICES AFTER TERMINATION OF GRANTS AWARDED UNDER THIS SUBTITLE.

13-2503.

SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, THE OFFICE OF ORAL HEALTH SHALL:

(1) CONTRACT WITH A LICENSED DENTIST TO PROVIDE EXPERTISE IN DENTAL PUBLIC HEALTH ISSUES FOR THE OFFICE; AND

(2) PROVIDE FOR APPROPRIATE CONTINUING EDUCATION COURSES FOR PROVIDERS THAT OFFER ORAL HEALTH TREATMENT TO UNDERSERVED POPULATIONS.

13-2504.

(A) (1) THE OFFICE OF ORAL HEALTH SHALL CONDUCT AN ANNUAL EVALUATION OF THE PROGRAM.

(2) THE EVALUATION REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE:

(I) DATA ON ANY PROGRESS RESULTING FROM EACH GRANT AWARDED UNDER THIS SUBTITLE;

(II) DATA ON ANY PROGRESS OF THE OVERALL ~~PROGRAM~~ PROGRAM;

(III) DATA DEMONSTRATING ANY INCREASE IN THE USE OF RESTORATIVE DENTAL CARE AMONG UNDERSERVED POPULATIONS; AND

(IV) DATA FROM ANY STATEWIDE SURVEY CONDUCTED BY THE DEPARTMENT THAT DEMONSTRATES ANY PROGRESS OF THE PROGRAM.

(B) THE OFFICE OF ORAL HEALTH SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE SEPTEMBER 30 OF EACH YEAR ON THE RESULTS OF THE PROGRAM ~~ESTABLISHED UNDER THIS SUBTITLE.~~

13-2505.

IT IS THE INTENT OF THE GENERAL ASSEMBLY:

(1) ~~THAT \$2,000,000 BE INCLUDED IN EACH OF THE FISCAL 2000, 2010, AND 2011 STATE OPERATING BUDGETS TO SUPPORT THE COSTS OF THE PROGRAM;~~

~~(2)~~ THAT GRANTS SHALL BE AWARDED THROUGH THE PROGRAM FROM JULY 1, 2008 THROUGH ~~JULY 31, 2008~~ JUNE 30, 2009, FOR FISCAL YEAR 2009; AND

~~(3)~~ (2) THAT FULL FUNDING FOR GRANTS SHALL CONTINUE IN THE SUBSEQUENT TWO FISCAL YEARS UNLESS THE OFFICE OF ORAL HEALTH DETERMINES THAT A GRANTEE IS NOT FULFILLING THE CONDITIONS OF THE AWARD.

13-2506.

~~THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE~~ SHALL CONDUCT A STATEWIDE FOLLOW-UP SURVEY ON OR BEFORE **JUNE 1, 2011**, CONCERNING THE ORAL HEALTH STATUS OF SCHOOL CHILDREN IN THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Secretary of Health and Mental Hygiene shall report, in accordance with § 2-1246 of the State Government Article, to the General Assembly the following:

(1) the annual cost to provide comprehensive oral health services in all programs funded by the Maryland Medical Assistance Program;

(2) the amount of State revenues spent on somatic health services related to the lack of comprehensive oral health care; and

(3) the number of dental providers in each jurisdiction in the State providing care to uninsured and under-insured residents, the number of residents served, and the dental providers' capacity to provide additional services.

(b) The report required under subsection (a) of this section shall be submitted to the General Assembly on or before December 1, 2007.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. It shall remain effective for a period of 4 years and, at the end of September 30, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 528

(House Bill 30)

AN ACT concerning

Oral Health Safety Net Program

FOR the purpose of establishing the Oral Health Safety Net Program in the Office of Oral Health in the Department of Health and Mental Hygiene; providing for the purpose of the Program; requiring the Office to solicit certain proposals; ~~and requiring the Office to~~ award certain grants and oversee the operation of the Program, subject to the limitations of the State budget; ~~requiring the Office to oversee the operation of the Program~~; requiring the Office to conduct a certain annual evaluation of the Program; requiring the Office to contract with a certain individual, subject to the limitations of the State budget; requiring the Office to provide certain education courses, subject to the limitations of the State budget; requiring the Office to submit a certain report to the Governor and to the General Assembly on or before a certain date each year; declaring the intent of the General Assembly; requiring the Department to conduct a certain survey; requiring the Secretary of Health and Mental Hygiene to submit a certain report to the General Assembly on a certain date; defining a certain term; providing for the termination of this Act; and generally relating to oral health for underserved populations in the State.

BY adding to

Article – Health – General

Section 13-2501 through 13-2506, ~~inclusive~~, to be under the new subtitle
“Subtitle 25. Oral Health Safety Net Program”

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

Preamble

WHEREAS, While almost 44% of HealthChoice recipients make at least one dental visit each year, only 14% of HealthChoice recipients receive restorative dental care; and

WHEREAS, Restorative treatment services should be increased to better accommodate the needs of the HealthChoice population and other underserved populations; now, therefore,

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

Article - Health - General

SUBTITLE 25. ORAL HEALTH SAFETY NET PROGRAM.

13-2501.

(A) IN THIS SUBTITLE, "PROGRAM" MEANS THE ORAL HEALTH SAFETY NET PROGRAM.

(B) THERE IS AN ORAL HEALTH SAFETY NET PROGRAM IN THE OFFICE OF ORAL HEALTH IN THE DEPARTMENT.

(C) THE PURPOSE OF THE PROGRAM IS TO PROVIDE START-UP FUNDING TO EXPAND ORAL HEALTH CAPACITY FOR UNDERSERVED LOW-INCOME AND DISABLED INDIVIDUALS, INCLUDING INDIVIDUALS ENROLLED IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND IN THE MARYLAND CHILDREN'S HEALTH PROGRAM.

13-2502.

(A) THE OFFICE OF ORAL HEALTH SHALL SOLICIT PROPOSALS FROM LOCAL HEALTH DEPARTMENTS, FEDERALLY QUALIFIED HEALTH CENTERS, AND ENTITIES PROVIDING DENTAL SERVICES WITHIN STATE FACILITIES, FOR THE PURPOSE OF ISSUING GRANTS TO SUPPORT COLLABORATIVE AND INNOVATIVE WAYS TO INCREASE DENTAL PROVIDER CAPACITY FOR THE UNDERSERVED.

(B) SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, THE OFFICE OF ORAL HEALTH SHALL:

- (1) AWARD GRANTS; AND
- (2) OVERSEE THE OPERATION OF THE PROGRAM.

(C) THE OFFICE OF ORAL HEALTH SHALL PLACE PRIORITY ON AWARDING GRANTS TO PROPOSALS THAT:

(1) ARE TARGETED TO REGIONS OF THE STATE WHERE ORAL HEALTH SERVICES ARE MOST SCARCE FOR LOW-INCOME, DISABLED, AND MEDICAID POPULATIONS; AND

(2) ~~OUTLINE~~ OUTLINE HOW THE POTENTIAL GRANTEE WILL MAXIMIZE LIMITED RESOURCES, INCLUDING:

- ~~(1)~~ (I) SHARING OF RESOURCES WITH OTHER PERSONS ~~OR ORGANIZATIONS~~;
- ~~(2)~~ (II) CASE MANAGEMENT TO ELIMINATE BARRIERS TO DENTAL SERVICES;
- ~~(3)~~ (III) PUBLIC-PRIVATE PURCHASING AGREEMENTS;
- ~~(4)~~ (IV) OBTAINING MATCHING FUNDS TO INCREASE RESOURCES;
- ~~(5)~~ (V) INCENTIVES TO INCREASE PROVIDER PARTICIPATION;
- ~~(6)~~ (VI) QUANTIFIABLE OUTCOME MEASURES OF SUCCESS;
- ~~(7)~~ (VII) SCHOOL-BASED SCREENINGS; AND
- ~~(8)~~ (VIII) PLANS TO ENSURE SUSTAINABILITY OF SERVICES AFTER TERMINATION OF GRANTS AWARDED UNDER THIS SUBTITLE.

13-2503.

SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, THE OFFICE OF ORAL HEALTH SHALL:

- (1) CONTRACT WITH A LICENSED DENTIST TO PROVIDE EXPERTISE IN DENTAL PUBLIC HEALTH ISSUES FOR THE OFFICE; AND
- (2) PROVIDE FOR APPROPRIATE CONTINUING EDUCATION COURSES FOR PROVIDERS THAT OFFER ORAL HEALTH TREATMENT TO UNDERSERVED POPULATIONS.

13-2504.

- (A) (1) THE OFFICE OF ORAL HEALTH SHALL CONDUCT AN ANNUAL EVALUATION OF THE PROGRAM.
- (2) THE EVALUATION REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE:
 - (I) DATA ON ANY PROGRESS RESULTING FROM EACH GRANT AWARDED UNDER THIS SUBTITLE;

(II) DATA ON ANY PROGRESS OF THE OVERALL ~~PROGRAM~~
PROGRAM;

(III) DATA DEMONSTRATING ANY INCREASE IN THE USE OF RESTORATIVE DENTAL CARE AMONG UNDERSERVED POPULATIONS; AND

(IV) DATA FROM ANY STATEWIDE SURVEY CONDUCTED BY THE DEPARTMENT THAT DEMONSTRATES ANY PROGRESS OF THE PROGRAM.

(B) THE OFFICE OF ORAL HEALTH SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE SEPTEMBER 30 OF EACH YEAR ON THE RESULTS OF THE PROGRAM ~~ESTABLISHED UNDER THIS SUBTITLE.~~

13-2505.

IT IS THE INTENT OF THE GENERAL ASSEMBLY:

(1) ~~THAT \$2,000,000 BE INCLUDED IN EACH OF THE FISCAL 2009, 2010, AND 2011 STATE OPERATING BUDGETS TO SUPPORT THE COSTS OF THE PROGRAM;~~

~~(2)~~ (2) THAT GRANTS SHALL BE AWARDED THROUGH THE PROGRAM FROM JULY 1, 2008 THROUGH ~~JULY 31, 2008~~ JUNE 30, 2009, FOR FISCAL YEAR 2009; AND

~~(3)~~ (2) THAT FULL FUNDING FOR GRANTS SHALL CONTINUE IN THE SUBSEQUENT TWO FISCAL YEARS UNLESS THE OFFICE OF ORAL HEALTH DETERMINES THAT A GRANTEE IS NOT FULFILLING THE CONDITIONS OF THE AWARD.

13-2506.

~~THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE~~ SHALL CONDUCT A STATEWIDE FOLLOW-UP SURVEY ON OR BEFORE JUNE 1, 2011, CONCERNING THE ORAL HEALTH STATUS OF SCHOOL CHILDREN IN THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Secretary of Health and Mental Hygiene shall report, in accordance with § 2-1246 of the State Government Article, to the General Assembly the following:

(1) the annual cost to provide comprehensive oral health services in all programs funded by the Maryland Medical Assistance Program;

(2) the amount of State revenues spent on somatic health services related to the lack of comprehensive oral health care; and

(3) the number of dental providers in each jurisdiction in the State providing care to uninsured and under-insured residents, the number of residents served, and the dental providers' capacity to provide additional services.

(b) The report required under subsection (a) of this section shall be submitted to the General Assembly on or before December 1, 2007.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. It shall remain effective for a period of 4 years and, at the end of September 30, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 529

(Senate Bill 192)

AN ACT concerning

Procurement - Commercial Nondiscrimination Policy - Modifications

FOR the purpose of requiring the staff of the Maryland Commission on Human Relations to review certain complaints and make certain determinations; altering the responsibilities of the Commission and Commission staff; requiring the Commission to protect certain confidential information; altering the standard for certain findings made by Commission staff; altering the procedures to obtain a contested case hearing; requiring certain parties in a contested case hearing to provide notice on all other parties; providing the Commission with the discretion to designate the venue for a contested case hearing; authorizing an administrative law judge to affirm or reject all or part of a statement of charges; altering the scope of evidence that an administrative law judge may consider in a contested case hearing; requiring all false or frivolous allegations to be knowingly false or frivolous; authorizing the Commission to adopt certain regulations; altering certain terms; defining certain terms; making technical changes; making stylistic changes; and generally relating to the Maryland

Commission on Human Relations and the Commercial Nondiscrimination Policy.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 19–103, 19–106 through 19–110, 19–116, and 19–119
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – State Finance and Procurement

19–103.

- (a) In this title the following words have the meanings indicated.
- (b) “Administrative law judge” means the individual assigned by the Office of Administrative Hearings to conduct a hearing under this title.
- (c) (1) “Business entity” means any person, **AS DEFINED IN § 1–101(D) OF THIS ARTICLE**, firm, sole proprietorship, partnership, corporation, limited liability company, or other business entity or a combination of any of these entities, including any financial institution, developer, consultant, prime contractor, subcontractor, supplier, or vendor, that has submitted a bid or proposal for, has been selected to engage in, or is engaged in providing goods or services to the State.

(2) “Business entity” does not include another governmental entity that is subject to Title VI of the Civil Rights Act of 1964.
- (d) “Commercial customer” means a business entity that procured or attempted to procure goods or services from a business entity for business as opposed to personal, family, or household use.
- (e) “Commercial Nondiscrimination Policy” means the provisions contained under this title and any regulations or documentation requirements adopted by the Maryland [Human Relations] Commission [for the Office of Minority Affairs] **ON HUMAN RELATIONS** in accordance with this title.
- (f) (1) **“COMMERCIAL TREATMENT” MEANS THE TREATMENT OF A VENDOR, SUPPLIER, SUBCONTRACTOR, OR COMMERCIAL CUSTOMER BY A BUSINESS ENTITY THAT AFFECTS THE CONDUCT OF BUSINESS AND THE TERMS AND CONDITIONS UNDER WHICH BUSINESS IS TRANSACTED BETWEEN TWO OR MORE BUSINESS ENTITIES.**

(2) “COMMERCIAL TREATMENT” DOES NOT MEAN TREATMENT THAT IS UNRELATED TO A BUSINESS TRANSACTION OR THE CONDUCT OF BUSINESS.

[(f)] (G) “Commission” means the Maryland [Human Relations] Commission ON HUMAN RELATIONS.

(H) “COMMISSION STAFF” MEANS EMPLOYEES OF THE MARYLAND COMMISSION ON HUMAN RELATIONS DESIGNATED BY THE COMMISSION TO PROCESS, INVESTIGATE, AND PURSUE COMPLAINTS FILED UNDER THIS TITLE.

[(g)] (I) “Contract” means an agreement with a business entity that is let by or on behalf of the State for that business entity to sell or lease supplies or goods, or to provide construction, real estate development, financial, insurance, professional, or other services to the State in return for a fee or any other form of compensation to be paid or provided by the State.

[(h)] (J) (1) “Discrimination” means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, supplier, subcontractor, or commercial customer on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor’s, supplier’s, or commercial customer’s employees or owners.

(2) “Discrimination” does not include lawful efforts to remedy the effects of discrimination that have occurred or are occurring in the marketplace.

[(i)] (K) “Economic development project” means a real estate development, construction, or renovation project for which the State provides:

- (1) funding or other financial assistance, other than payments in exchange for goods or services;**
- (2) land;**
- (3) road improvements;**
- (4) tax credits; or**
- (5) a below market purchase price.**

[(j)] (L) (1) “Financial institution” means a person:

(i) engaged in the business of lending money, guaranteeing loans, extending credit, securing bonds, or providing venture or equity capital; or

(ii) that offers financial services in connection with State projects or the administration of State government.

(2) "Financial institution" includes banks, savings and loans, venture capital companies, insurance companies, bonding companies, mortgage companies, credit unions, and brokers.

[(k)] "Office" means the Office of the Executive Director of the Maryland Human Relations Commission or the Executive Director's designee.]

[(l)] (M) "Party" means:

(1) the person who has filed a complaint under this title;

(2) the respondent business entity that has been alleged to have violated this title; and

(3) the [office] **COMMISSION** that is responsible for investigating the complaint and rendering the initial findings.

[(m)] (N) "Retaliate" means to take any action that has a material negative effect against any person, business or other entity for reporting any incident of discrimination, testifying as a witness at a hearing, or providing requested assistance to [the Office] **COMMISSION STAFF** in any investigation of an incident of discrimination under this title.

[(n)] (O) "Services" includes construction, real estate development, financial, insurance, professional, and other services.

[(o)] (P) "State subcontract" means an agreement for the provision of goods or the performance of a particular portion of work to be performed under a contract with the State, where:

(1) the party providing the goods or services is on reasonable notice that the work is to be performed under a State contract; and

(2) the amount to be paid for such [service] **GOODS AND SERVICES** is material with respect to the overall amount of the contract.

[(p)] (Q) "State subcontractor" means the party providing goods or services under a State subcontract.

19-106.

(a) Any person may file an administrative complaint with the Commission within the limitations period set forth in § 19-101(c) of this title stating facts showing or tending to show that a business entity has within the preceding 4-year period engaged in discrimination or retaliation ~~against that person~~ in violation of this title.

(b) Within 10 business days, the Commission shall notify the business entity against whom the complaint was filed that a complaint has been received.

(C) BEFORE THE COMMENCEMENT OF AN INVESTIGATION OF AN ADMINISTRATIVE COMPLAINT, COMMISSION STAFF SHALL REVIEW THE COMPLAINT TO DETERMINE WHETHER:

(1) MEDIATION WOULD BE APPROPRIATE; AND

(2) BOTH PARTIES SHOULD BE CONTACTED TO ATTEMPT SUCH MEDIATION IN A MANNER CONSISTENT WITH THE REGULATIONS ADOPTED UNDER THIS TITLE.

19-107.

(a) [The Office] **COMMISSION STAFF** shall be responsible for [investigating] **DIRECTING AND CONDUCTING INVESTIGATIONS OF** discrimination and retaliation complaints filed under this title **IN A MANNER CONSISTENT WITH ARTICLE 49B § 3, § 10, AND § 11.**

(b) The [Office] **COMMISSION** may request [that the Commission provide] **ASSIGNMENT OF** additional State personnel or outside consultants as may be reasonably necessary or appropriate to conduct an investigation.

(c) (1) [The Office] **COMMISSION STAFF** shall exercise reasonable judgment in seeking relevant evidence from the complainant, the respondent business entity and, as necessary, external sources.

(2) This title may not be construed to require the State to fund the cost of:

(i) having State staff or other individuals travel outside the State to investigate any claim under this title; or

(ii) having witnesses travel to the State for the purpose of investigating a claim or testifying at a hearing or proceeding under this title.

(d) (1) Consistent with **ARTICLE 49B, § 13 OF THE CODE**, the Public Information Act, and the Open Meetings Act, the [Office] **COMMISSION SHALL PROTECT THE CONFIDENTIAL CHARACTER OF INFORMATION RELATING TO AN INVESTIGATION AND** may issue protective orders for good cause to limit, or otherwise impose conditions on, access by any person to any document in the possession of a party.

(2) A protective order issued under paragraph (1) of this subsection may include:

(i) a document in the possession of the State or otherwise in the record that is not a public record; and

(ii) information disclosed in accordance with § 19-116 of this subtitle.

(e) The [Office] **COMMISSION** shall exercise reasonable discretion in determining the extent of the investigation required to support [the Commission's] **COMMISSION STAFF'S** initial findings and recommendations.

(f) (1) The [Office] **COMMISSION** may investigate and adjudicate a claim of discrimination under this title only if the claim alleges that:

(i) the discrimination was committed by a business entity within the limitations period set forth in § 19-101(c) of this title; and

(ii) the discrimination occurred in the State.

(2) Discrimination is deemed to have occurred in the State only if:

(i) each party operated a place of business in, or resided in, the State at the time of the discrimination; or

(ii) the discriminatory act was committed in the State.

19-108.

(a) In determining whether to proceed further with an investigation and in making findings, [the Office] **COMMISSION STAFF** may consider any evidence provided by the complainant or the respondent business entity as to the following factors:

(1) whether there was an intent to discriminate on the part of the respondent business firm;

(2) whether there was a pattern and practice of discrimination on the part of the respondent business entity;

(3) any actions taken by the respondent business entity to remedy the alleged discrimination;

(4) the effectiveness of any prior attempts by the respondent business entity to remedy the discrimination;

(5) whether the respondent business entity has procured goods or services from or otherwise engaged in business with persons or entities of the same protected class as the complainant to an extent sufficient to demonstrate that the respondent business entity has not discriminated against such protected class in the overall context of its business; and

(6) any other evidence deemed relevant by the Commission.

(b) Based on [the Office's] A review and investigation [,the Office] **CONSISTENT WITH ARTICLE 49B, § 10 OF THE CODE, COMMISSION STAFF** shall make an initial finding of each allegation stated in the complaint, that either:

(1) the investigation produced sufficient evidence to find that the alleged discrimination or retaliation did take place (“[sustained] **PROBABLE CAUSE**”);

(2) the investigation failed to produce sufficient evidence to find that the alleged discrimination or retaliation took place (“[not sustained] **NO PROBABLE CAUSE**”);

(3) the investigation produced sufficient evidence to establish that the complainant knowingly made one or more false or frivolous allegations, and further investigation did not appear likely to produce sufficient evidence that the alleged discrimination or retaliation did take place (“false or frivolous”);

(4) the allegation has been settled or otherwise resolved with the agreement of the respondent business entity, the complainant, and the State (“settled”); or

(5) the allegation has been withdrawn (“withdrawn”).

(c) [The Office] **COMMISSION STAFF** shall make the initial findings under subsection (b) of this section based on a preponderance of the evidence.

(d) On completion of its initial investigation, [the Office] **COMMISSION STAFF** shall recommend to the Commission the appropriate action to be taken, including:

- (1) additional investigation of the complaint;
- (2) the Commission's adoption of the initial findings rendered by [the Office] **COMMISSION STAFF**;
- (3) imposition of sanctions;
- (4) imposition of remedies; or
- (5) other action consistent with this title.

(e) In determining appropriate action on a discrimination claim, the Commission may take into account any evidence provided or uncovered in the course of the investigation regarding:

- (1) the impact of the discrimination on affected parties;
- (2) the impact of any authorized remedy on the State or any other party;
- (3) actions taken by the respondent business entity to remedy the alleged discrimination;
- (4) the effectiveness of any prior attempts by the respondent business entity to remedy the discrimination;
- (5) whether the respondent business entity has procured goods or services from or otherwise engaged in business with persons or entities of the same protected class as the complainant to an extent sufficient to demonstrate that the respondent business entity has not discriminated against such protected class in the overall context of its business;
- (6) the number and scope of prior violations of this policy by the respondent business entity; and
- (7) any other evidence determined to be relevant by the Commission.

(f) (1) Except as provided in paragraph (2) of this subsection, the Commission shall make the initial findings and issue recommendations for appropriate action within 120 calendar days of the receipt of the complaint.

- (2) The Commission may[:

(i)] extend the time limit set forth in paragraph (1) of this subsection for:

(I) good cause; or

(II) if the parties agree to mediate a settlement to the complaint[; and

(ii) if mediation is unsuccessful, refer the matter to the Office of Administrative Hearings].

(g) The Commission shall notify the complainant and the business entity within 5 business days of the issuance of the initial findings and recommendations, including an explanation of the reasons justifying the initial findings.

19-109.

(a) [If the Commission determines that] **A REQUEST FOR A CONTESTED CASE HEARING IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN THIS SECTION MAY BE MADE BY:**

(1) A BUSINESS ENTITY, UPON A COMMISSION DETERMINATION OF PROBABLE CAUSE FOR one or more OF THE allegations STATED IN THE COMPLAINT AGAINST THE BUSINESS ENTITY, AND FAILURE OF TIMELY CONCILIATION; OR

(2) [are sustained or that] a complainant [has submitted] ON A COMMISSION DETERMINATION THAT THE COMPLAINANT HAS FILED a knowingly false or frivolous complaint[, the business entity against whom the allegations were made or the complainant who is claimed to have submitted a knowingly false or frivolous complaint shall be entitled to request a contested case hearing in accordance with the procedures specified in this section].

(b) (1) To submit a matter to an administrative hearing as a contested case under this title, the business entity or the complainant must request a contested case hearing by filing a written notice with the Commission [and the complainant] within 15 calendar days of notice of the initial findings and recommendations.

(2) The notice must contain the following information:

(i) a demand that the matter be referred to the Office of Administrative Hearings for a contested case hearing in accordance with § 10-205(c)(2) of the State Government Article;

(ii) the names, addresses, and telephone numbers of the Commission, the business entity's representatives, and [the other party] **ANY OTHER PARTIES**;

(iii) a reference to this title; and

(iv) a summary of the Commission's findings and recommendations that are being submitted for resolution to the administrative law judge for the contested case hearing.

(3) THE REQUESTING PARTY SHALL IMMEDIATELY SERVE NOTICE OF THE REQUEST FOR A CONTESTED CASE HEARING UPON ALL OTHER PARTIES.

(c) If the business entity fails to properly request a contested case hearing, the initial findings and recommendations of the Commission shall become the final administrative decision of the State, and the Commission shall then be authorized to enter any order and to take any action reasonably necessary or convenient to:

(1) implement remedies under § 19-110 of this title;

(2) impose sanctions under § 19-111 of this title; and

(3) govern the conduct of the parties in the manner described under § 19-112 of this title so that the purposes of this title are achieved.

(d) (1) (i) For each contested case hearing properly requested by the business entity or by the complainant, the Commission shall [delegate the matter to] **FILE A STATEMENT OF CHARGES WITH** the Office of Administrative Hearings [to assign] **AND REQUEST A HEARING BEFORE** an administrative law judge [to conduct a hearing] in a manner consistent with the requirements of this subsection.

(ii) **THE COMMISSION MAY DESIGNATE THE VENUE FOR THE CONTESTED CASE HEARING, TAKING INTO CONSIDERATION THE CONVENIENCE OF THE PARTIES AND THE LOCATION OF THE EVIDENCE.**

(III) At the contested case hearing, the Commission shall have the burden of proof by a preponderance of the evidence.

(2) The Office of Administrative Hearings shall conduct any contested case hearing in accordance with its rules of procedure under COMAR 28.02.01.

(3) (i) At the conclusion of the contested case hearing, the administrative law judge shall issue a written decision.

(ii) The administrative law judge's written decision may:

1. affirm or reject [the initial findings and recommendations] **ALL OR PART OF THE STATEMENT OF CHARGES; OR**

2. substitute different findings [or] **AND** recommend appropriate remedies]; or

3. continue the hearing and return the case to the Commission for further investigation and findings and to report to the administrative law judge on the results of the investigation within the time frame the administrative law judge may specify].

(4) The administrative law judge's written decision shall be solely based on a preponderance of the evidence contained in the record of the contested case hearing and shall reflect the evidentiary basis for its findings.

(5) AN ADMINISTRATIVE LAW JUDGE MAY CONSIDER ANY EVIDENCE REGARDING THE FACTORS DESCRIBED IN § 19-108(A) OF THIS TITLE WHEN DETERMINING WHETHER TO SUSTAIN AN ALLEGATION PRESENTED IN A STATEMENT OF CHARGES.

(e) Notwithstanding any contrary provision in this title, unless the administrative law judge finds that one or more allegations giving rise to the Commission's findings or the business entity's challenge to the findings were frivolous or knowingly false when made, each party shall bear the cost of its own legal representation and expert witness fees.

(f) If the administrative law judge finds that one or more allegations giving rise to the Commission's findings or the business entity's challenge to the findings was frivolous or knowingly false when made, the administrative law judge may require the party who made the frivolous or knowingly false allegations to bear all or a portion of the other party's legal fees and expert witness fees.

(g) The business entity, the Commission, and the complainant shall cooperate in good faith to have the contested case hearing concluded within 180 days after the business entity issues its notice for a contested case hearing.

(h) If the Commission determines that one or more allegations are **KNOWINGLY** false or frivolous, the complainant making the allegations shall be entitled to a contested case hearing on the allegations that are determined to be **KNOWINGLY** false or frivolous in accordance with the procedures set forth in this section, except that all references to the business entity with respect to matters of contested case hearing rules and procedure shall apply to the complainant.

(i) If the complainant fails to properly request a contested case hearing regarding a determination of a **KNOWINGLY** false or frivolous allegation as provided in this title, the initial findings and recommendations shall become the final administrative decision of the State in accordance with § 19–112 of this title.

(j) (1) If a timely contested case hearing is not requested, the Commission may vacate the [Office's] **COMMISSION STAFF'S** recommended remedy on written notice to all parties within 5 business days after the time for requesting a contested case hearing has expired.

(2) In the absence of notice, the Commission shall be deemed to have approved the [Office's] **COMMISSION STAFF'S** recommended remedy.

(k) [If the Commission vacates the Office's proposed remedy, the Commission shall initiate a contested case hearing by filing a request for a contested case hearing with the Office of Administrative Hearings in compliance with the requirements of this title.

(l)] To the extent that procedures and standards stated in this title differ from those contained in Title 10, Subtitle 2 of the State Government Article, this title shall govern but in all other respects, the provisions of the State Government Article shall govern.

19–110.

(a) When an allegation is sustained by an administrative law judge under this title, the administrative law judge may take additional evidence on the appropriate remedy to be recommended, including evidence relating to factors set forth in [§ 19–108(f)] **§ 19–108(E)** of this subtitle and any other evidence deemed relevant by the administrative law judge.

(b) If the administrative law judge sustains an allegation, the administrative law judge may order any one or more of the following actions:

(1) any remedy that is agreed to by the respondent business entity, the complainant, and the Commission;

(2) referral of the respondent business entity to the Board of Public Works for a determination of debarment pursuant to §§ 16–306 and 16–307 of this article to preclude the business entity from:

(i) bidding on or receiving contract awards on State projects;
and

- (ii) participating in State contracts as a subcontractor, vendor, or supplier for a period of not more than 3 years;
- (3) rescission, suspension, or termination of any current contract between the respondent business entity and the State under the terms of that contract;
- (4) exercise of any other rights or remedies available to the State under any current contract between the respondent business entity and the State;
- (5) finding that the respondent business entity is not a “responsible bidder” within the meaning of this article with respect to specific contracts that the State has put out for bids or intends to put out for bids;
- (6) referral of the matter for criminal prosecution of fraud and other violations under State law if appropriate under the circumstances; or
- (7) mediation.

19–116.

Every contract that the State enters into shall include the following language:

“As a condition of entering into this agreement, upon the [Maryland Human Relations Commission’s] request **OF THE MARYLAND COMMISSION ON HUMAN RELATIONS**, and only after the filing of a complaint against the company under Title 19 of the State Finance and Procurement Article, as amended from time to time, the company agrees to: provide to the State within 60 days after the request a truthful and complete list of the names of all subcontractors, vendors, and suppliers that the company has used in the past 4 years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by the contractor on each subcontract or supply contract. The company further agrees to cooperate in any investigation conducted by the State pursuant to the State’s Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, to provide any documents relevant to any investigation that is requested by the State. The company understands and agrees that violation of this clause shall be considered a material breach of this agreement and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.”.

19–119.

(a) [The] **IN ACCORDANCE WITH TITLE 10 OF THE STATE GOVERNMENT ARTICLE, THE** Commission shall [recommend] **ADOPT** regulations [as may be required from time to time] to implement this title.

(b) The Commission may establish documentation and reporting requirements to further the purposes and intent of this title.

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

Approved by the Governor, May 17, 2007.

CHAPTER 530

(House Bill 878)

AN ACT concerning

Procurement – Commercial Nondiscrimination Policy – Modifications

FOR the purpose of requiring the staff of the Maryland Commission on Human Relations to review certain complaints and make certain determinations; altering the responsibilities of the Commission and Commission staff; requiring the Commission to protect certain confidential information; altering the standard for certain findings made by Commission staff; altering the procedures to obtain a contested case hearing; requiring certain parties in a contested case hearing to provide notice on all other parties; providing the Commission with the discretion to designate the venue for a contested case hearing; authorizing an administrative law judge to affirm or reject all or part of a statement of charges; altering the scope of evidence that an administrative law judge may consider in a contested case hearing; requiring all false or frivolous allegations to be knowingly false or frivolous; authorizing the Commission to adopt certain regulations; altering certain terms; defining certain terms; making technical changes; making stylistic changes; and generally relating to the Maryland Commission on Human Relations and the Commercial Nondiscrimination Policy.

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- (d) “Commercial customer” means a business entity that procured or attempted to procure goods or services from a business entity for business as opposed to personal, family, or household use.
- (e) “Commercial Nondiscrimination Policy” means the provisions contained under this title and any regulations or documentation requirements adopted by the Maryland [Human Relations] Commission [for the Office of Minority Affairs] **ON HUMAN RELATIONS** in accordance with this title.
- (F) (1) “COMMERCIAL TREATMENT” MEANS THE TREATMENT OF A VENDOR, SUPPLIER, SUBCONTRACTOR, OR COMMERCIAL CUSTOMER BY A BUSINESS ENTITY THAT AFFECTS THE CONDUCT OF BUSINESS AND THE TERMS AND CONDITIONS UNDER WHICH BUSINESS IS TRANSACTED BETWEEN TWO OR MORE BUSINESS ENTITIES.**
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[(k)] “Office” means the Office of the Executive Director of the Maryland Human Relations Commission or the Executive Director’s designee.]

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- (1) the person who has filed a complaint under this title;
- (2) the respondent business entity that has been alleged to have violated this title; and
- (3) the [office] COMMISSION that is responsible for investigating the complaint and rendering the initial findings.

[(m)] (N) “Retaliate” means to take any action that has a material negative effect against any person, business or other entity for reporting any incident of discrimination, testifying as a witness at a hearing, or providing requested assistance to [the Office] COMMISSION STAFF in any investigation of an incident of discrimination under this title.

[(n)] (O) “Services” includes construction, real estate development, financial, insurance, professional, and other services.

[(o)] (P) “State subcontract” means an agreement for the provision of goods or the performance of a particular portion of work to be performed under a contract with the State, where:

- (1) the party providing the goods or services is on reasonable notice that the work is to be performed under a State contract; and
- (2) the amount to be paid for such [service] GOODS AND SERVICES is material with respect to the overall amount of the contract.

[(p)] (Q) “State subcontractor” means the party providing goods or services under a State subcontract.

19-106.

(a) Any person may file an administrative complaint with the Commission within the limitations period set forth in § 19-101(c) of this title stating facts showing or tending to show that a business entity has within the preceding 4-year period engaged in discrimination or retaliation [against that person] in violation of this title.

(b) Within 10 business days, the Commission shall notify the business entity against whom the complaint was filed that a complaint has been received.

(C) BEFORE THE COMMENCEMENT OF AN INVESTIGATION OF AN ADMINISTRATIVE COMPLAINT, COMMISSION STAFF SHALL REVIEW THE COMPLAINT TO DETERMINE WHETHER:

(1) MEDIATION WOULD BE APPROPRIATE; AND

(2) BOTH PARTIES SHOULD BE CONTACTED TO ATTEMPT SUCH MEDIATION IN A MANNER CONSISTENT WITH THE REGULATIONS ADOPTED UNDER THIS TITLE.

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(a) [The Office] **COMMISSION STAFF** shall be responsible for [investigating] **DIRECTING AND CONDUCTING INVESTIGATIONS OF** discrimination and retaliation complaints filed under this title **IN A MANNER CONSISTENT WITH ARTICLE 49B § 3, § 10, AND § 11.**

(b) The [Office] **COMMISSION** may request [that the Commission provide] **ASSIGNMENT OF** additional State personnel or outside consultants as may be reasonably necessary or appropriate to conduct an investigation.

(c) (1) [The Office] **COMMISSION STAFF** shall exercise reasonable judgment in seeking relevant evidence from the complainant, the respondent business entity and, as necessary, external sources.

(2) This title may not be construed to require the State to fund the cost of:

(i) having State staff or other individuals travel outside the State to investigate any claim under this title; or

(ii) having witnesses travel to the State for the purpose of investigating a claim or testifying at a hearing or proceeding under this title.

(d) (1) Consistent with **ARTICLE 49B, § 13 OF THE CODE**, the Public Information Act, and the Open Meetings Act, the [Office] **COMMISSION SHALL PROTECT THE CONFIDENTIAL CHARACTER OF INFORMATION RELATING TO AN INVESTIGATION AND** may issue protective orders for good cause to limit, or otherwise impose conditions on, access by any person to any document in the possession of a party.

(2) A protective order issued under paragraph (1) of this subsection may include:

(i) a document in the possession of the State or otherwise in the record that is not a public record; and

(ii) information disclosed in accordance with § 19–116 of this subtitle.

(e) The [Office] **COMMISSION** shall exercise reasonable discretion in determining the extent of the investigation required to support [the Commission's] **COMMISSION STAFF'S** initial findings and recommendations.

(f) (1) The [Office] **COMMISSION** may investigate and adjudicate a claim of discrimination under this title only if the claim alleges that:

(i) the discrimination was committed by a business entity within the limitations period set forth in § 19–101(c) of this title; and

(ii) the discrimination occurred in the State.

(2) Discrimination is deemed to have occurred in the State only if:

(i) each party operated a place of business in, or resided in, the State at the time of the discrimination; or

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19–108.

(a) In determining whether to proceed further with an investigation and in making findings, [the Office] **COMMISSION STAFF** may consider any evidence provided by the complainant or the respondent business entity as to the following factors:

(1) whether there was an intent to discriminate on the part of the respondent business firm;

(2) whether there was a pattern and practice of discrimination on the part of the respondent business entity;

(3) any actions taken by the respondent business entity to remedy the alleged discrimination;

(4) the effectiveness of any prior attempts by the respondent business entity to remedy the discrimination;

(5) whether the respondent business entity has procured goods or services from or otherwise engaged in business with persons or entities of the same protected class as the complainant to an extent sufficient to demonstrate that the respondent business entity has not discriminated against such protected class in the overall context of its business; and

(6) any other evidence deemed relevant by the Commission.

(b) Based on [the Office's] A review and investigation [the Office] **CONSISTENT WITH ARTICLE 49B, § 10 OF THE CODE, COMMISSION STAFF** shall make an initial finding of each allegation stated in the complaint, that either:

(1) the investigation produced sufficient evidence to find that the alleged discrimination or retaliation did take place (“[sustained] **PROBABLE CAUSE**”);

(2) the investigation failed to produce sufficient evidence to find that the alleged discrimination or retaliation took place (“[not sustained] **NO PROBABLE CAUSE**”);

(3) the investigation produced sufficient evidence to establish that the complainant knowingly made one or more false or frivolous allegations, and further investigation did not appear likely to produce sufficient evidence that the alleged discrimination or retaliation did take place (“false or frivolous”);

(4) the allegation has been settled or otherwise resolved with the agreement of the respondent business entity, the complainant, and the State (“settled”); or

(5) the allegation has been withdrawn (“withdrawn”).

(c) [The Office] **COMMISSION STAFF** shall make the initial findings under subsection (b) of this section based on a preponderance of the evidence.

(d) On completion of its initial investigation, [the Office] **COMMISSION STAFF** shall recommend to the Commission the appropriate action to be taken, including:

(1) additional investigation of the complaint;

(2) the Commission's adoption of the initial findings rendered by [the Office] **COMMISSION STAFF**;

(3) imposition of sanctions;

(4) imposition of remedies; or

(5) other action consistent with this title.

(e) In determining appropriate action on a discrimination claim, the Commission may take into account any evidence provided or uncovered in the course of the investigation regarding:

(1) the impact of the discrimination on affected parties;

(2) the impact of any authorized remedy on the State or any other party;

(3) actions taken by the respondent business entity to remedy the alleged discrimination;

(4) the effectiveness of any prior attempts by the respondent business entity to remedy the discrimination;

(5) whether the respondent business entity has procured goods or services from or otherwise engaged in business with persons or entities of the same protected class as the complainant to an extent sufficient to demonstrate that the respondent business entity has not discriminated against such protected class in the overall context of its business;

(6) the number and scope of prior violations of this policy by the respondent business entity; and

(7) any other evidence determined to be relevant by the Commission.

(f) (1) Except as provided in paragraph (2) of this subsection, the Commission shall make the initial findings and issue recommendations for appropriate action within 120 calendar days of the receipt of the complaint.

(2) The Commission may[:

(i)] extend the time limit set forth in paragraph (1) of this subsection for:

(I) good cause; or

(II) if the parties agree to mediate a settlement to the complaint[; and

(ii) if mediation is unsuccessful, refer the matter to the Office of Administrative Hearings].

(g) The Commission shall notify the complainant and the business entity within 5 business days of the issuance of the initial findings and recommendations, including an explanation of the reasons justifying the initial findings.

19-109.

(a) [If the Commission determines that] **A REQUEST FOR A CONTESTED CASE HEARING IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN THIS SECTION MAY BE MADE BY:**

(1) A BUSINESS ENTITY, UPON A COMMISSION DETERMINATION OF PROBABLE CAUSE FOR one or more OF THE allegations STATED IN THE COMPLAINT AGAINST THE BUSINESS ENTITY, AND FAILURE OF TIMELY CONCILIATION; OR

(2) [are sustained or that] a complainant [has submitted] ON A COMMISSION DETERMINATION THAT THE COMPLAINANT HAS FILED a knowingly false or frivolous complaint[, the business entity against whom the allegations were made or the complainant who is claimed to have submitted a knowingly false or frivolous complaint shall be entitled to request a contested case hearing in accordance with the procedures specified in this section].

(b) (1) To submit a matter to an administrative hearing as a contested case under this title, the business entity or the complainant must request a contested case hearing by filing a written notice with the Commission [and the complainant] within 15 calendar days of notice of the initial findings and recommendations.

(2) The notice must contain the following information:

(i) a demand that the matter be referred to the Office of Administrative Hearings for a contested case hearing in accordance with § 10-205(c)(2) of the State Government Article;

(ii) the names, addresses, and telephone numbers of the Commission, the business entity's representatives, and [the other party] **ANY OTHER PARTIES;**

(iii) a reference to this title; and

(iv) a summary of the Commission's findings and recommendations that are being submitted for resolution to the administrative law judge for the contested case hearing.

(3) THE REQUESTING PARTY SHALL IMMEDIATELY SERVE NOTICE OF THE REQUEST FOR A CONTESTED CASE HEARING UPON ALL OTHER PARTIES.

(c) If the business entity fails to properly request a contested case hearing, the initial findings and recommendations of the Commission shall become the final administrative decision of the State, and the Commission shall then be authorized to enter any order and to take any action reasonably necessary or convenient to:

- (1) implement remedies under § 19–110 of this title;
- (2) impose sanctions under § 19–111 of this title; and

(3) govern the conduct of the parties in the manner described under § 19–112 of this title so that the purposes of this title are achieved.

(d) (1) (i) For each contested case hearing properly requested by the business entity or by the complainant, the Commission shall [delegate the matter to] **FILE A STATEMENT OF CHARGES WITH** the Office of Administrative Hearings [to assign] **AND REQUEST A HEARING BEFORE** an administrative law judge [to conduct a hearing] in a manner consistent with the requirements of this subsection.

(ii) **THE COMMISSION MAY DESIGNATE THE VENUE FOR THE CONTESTED CASE HEARING, TAKING INTO CONSIDERATION THE CONVENIENCE OF THE PARTIES AND THE LOCATION OF THE EVIDENCE.**

(III) At the contested case hearing, the Commission shall have the burden of proof by a preponderance of the evidence.

(2) The Office of Administrative Hearings shall conduct any contested case hearing in accordance with its rules of procedure under COMAR 28.02.01.

(3) (i) At the conclusion of the contested case hearing, the administrative law judge shall issue a written decision.

(ii) The administrative law judge's written decision may:

1. affirm or reject [the initial findings and recommendations] **ALL OR PART OF THE STATEMENT OF CHARGES; OR**

2. substitute different findings [or] **AND** recommend appropriate remedies[]; or

3. continue the hearing and return the case to the Commission for further investigation and findings and to report to the administrative

law judge on the results of the investigation within the time frame the administrative law judge may specify].

(4) The administrative law judge's written decision shall be solely based on a preponderance of the evidence contained in the record of the contested case hearing and shall reflect the evidentiary basis for its findings.

(5) AN ADMINISTRATIVE LAW JUDGE MAY CONSIDER ANY EVIDENCE REGARDING THE FACTORS DESCRIBED IN § 19-108(A) OF THIS TITLE WHEN DETERMINING WHETHER TO SUSTAIN AN ALLEGATION PRESENTED IN A STATEMENT OF CHARGES.

(e) Notwithstanding any contrary provision in this title, unless the administrative law judge finds that one or more allegations giving rise to the Commission's findings or the business entity's challenge to the findings were frivolous or knowingly false when made, each party shall bear the cost of its own legal representation and expert witness fees.

(f) If the administrative law judge finds that one or more allegations giving rise to the Commission's findings or the business entity's challenge to the findings was frivolous or knowingly false when made, the administrative law judge may require the party who made the frivolous or knowingly false allegations to bear all or a portion of the other party's legal fees and expert witness fees.

(g) The business entity, the Commission, and the complainant shall cooperate in good faith to have the contested case hearing concluded within 180 days after the business entity issues its notice for a contested case hearing.

(h) If the Commission determines that one or more allegations are **KNOWINGLY** false or frivolous, the complainant making the allegations shall be entitled to a contested case hearing on the allegations that are determined to be **KNOWINGLY** false or frivolous in accordance with the procedures set forth in this section, except that all references to the business entity with respect to matters of contested case hearing rules and procedure shall apply to the complainant.

(i) If the complainant fails to properly request a contested case hearing regarding a determination of a **KNOWINGLY** false or frivolous allegation as provided in this title, the initial findings and recommendations shall become the final administrative decision of the State in accordance with § 19-112 of this title.

(j) (1) If a timely contested case hearing is not requested, the Commission may vacate the [Office's] **COMMISSION STAFF'S** recommended remedy on written notice to all parties within 5 business days after the time for requesting a contested case hearing has expired.

(2) In the absence of notice, the Commission shall be deemed to have approved the [Office's] **COMMISSION STAFF'S** recommended remedy.

(k) [If the Commission vacates the Office's proposed remedy, the Commission shall initiate a contested case hearing by filing a request for a contested case hearing with the Office of Administrative Hearings in compliance with the requirements of this title.

(l) To the extent that procedures and standards stated in this title differ from those contained in Title 10, Subtitle 2 of the State Government Article, this title shall govern but in all other respects, the provisions of the State Government Article shall govern.

19-110.

(a) When an allegation is sustained by an administrative law judge under this title, the administrative law judge may take additional evidence on the appropriate remedy to be recommended, including evidence relating to factors set forth in [§ 19-108(f)] **§ 19-108(E)** of this subtitle and any other evidence deemed relevant by the administrative law judge.

(b) If the administrative law judge sustains an allegation, the administrative law judge may order any one or more of the following actions:

(1) any remedy that is agreed to by the respondent business entity, the complainant, and the Commission;

(2) referral of the respondent business entity to the Board of Public Works for a determination of debarment pursuant to §§ 16-306 and 16-307 of this article to preclude the business entity from:

(i) bidding on or receiving contract awards on State projects;
and

(ii) participating in State contracts as a subcontractor, vendor, or supplier for a period of not more than 3 years;

(3) rescission, suspension, or termination of any current contract between the respondent business entity and the State under the terms of that contract;

(4) exercise of any other rights or remedies available to the State under any current contract between the respondent business entity and the State;

(5) finding that the respondent business entity is not a "responsible bidder" within the meaning of this article with respect to specific contracts that the State has put out for bids or intends to put out for bids;

(6) referral of the matter for criminal prosecution of fraud and other violations under State law if appropriate under the circumstances; or

(7) mediation.

19-116.

Every contract that the State enters into shall include the following language:

"As a condition of entering into this agreement, upon the [Maryland Human Relations Commission's] request **OF THE MARYLAND COMMISSION ON HUMAN RELATIONS**, and only after the filing of a complaint against the company under Title 19 of the State Finance and Procurement Article, as amended from time to time, the company agrees to: provide to the State within 60 days after the request a truthful and complete list of the names of all subcontractors, vendors, and suppliers that the company has used in the past 4 years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by the contractor on each subcontract or supply contract. The company further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, to provide any documents relevant to any investigation that is requested by the State. The company understands and agrees that violation of this clause shall be considered a material breach of this agreement and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions."

19-119.

(a) [The] **IN ACCORDANCE WITH TITLE 10 OF THE STATE GOVERNMENT ARTICLE, THE** Commission shall [recommend] **ADOPT** regulations [as may be required from time to time] to implement this title.

(b) The Commission may establish documentation and reporting requirements to further the purposes and intent of this title.

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

Approved by the Governor, May 17, 2007.

CHAPTER 531

(Senate Bill 194)

AN ACT concerning

Consumer Protection – Personal Information Protection Act

FOR the purpose of requiring a certain business, when destroying a customer's records that contain certain personal information of the customer, to take certain steps to protect against unauthorized access to or use of the personal information under certain circumstances; requiring a certain business that owns or licenses certain personal information of an individual residing in the State to implement and maintain certain security procedures and practices under certain circumstances; requiring certain businesses that own, license, or maintain computerized data that includes certain personal information of an individual residing in the State to conduct a certain investigation and notify certain persons of a breach of the security of a system under certain circumstances; specifying the time at which notification must be given; *specifying the contents of the notification*; authorizing notification to be given in a certain manner; *requiring certain businesses to retain certain records for a certain period of time under certain circumstances*; providing that a waiver of certain provisions of this Act is contrary to public policy and is void and unenforceable; providing that compliance with certain provisions of this Act does not relieve a certain business from a duty to comply with certain other requirements of federal law; providing that the provisions of this Act are exclusive and shall preempt any provision of local law; requiring a business to report to certain consumer reporting agencies on the breach of the security of a system under certain circumstances; *requiring a business to provide notice of a breach of the security of a system to the Office of the Attorney General prior to giving a certain notification*; providing that certain businesses and affiliates shall be deemed to be in compliance with the requirements of this Act under certain circumstances; providing that a violation of this Act is an unfair or deceptive trade practice within the meaning of the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions; defining certain terms; providing for a delayed effective date; and generally relating to the protection of personal information contained in the records of businesses, owned or licensed by businesses, or included in computerized data owned, licensed, or maintained by businesses.

BY adding to

Article – Commercial Law

Section 14–3501 through 14–3508 to be under the new subtitle “Subtitle 35.
Maryland Personal Information Protection Act”

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

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

Article - Commercial Law

SUBTITLE 35. MARYLAND PERSONAL INFORMATION PROTECTION ACT.

14-3501.

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

(B) (1) "BUSINESS" MEANS A SOLE PROPRIETORSHIP, PARTNERSHIP, CORPORATION, ASSOCIATION, OR ANY OTHER BUSINESS ENTITY, WHETHER OR NOT ORGANIZED TO OPERATE AT A PROFIT.

(2) "BUSINESS" INCLUDES A FINANCIAL INSTITUTION ORGANIZED, CHARTERED, LICENSED, OR OTHERWISE AUTHORIZED UNDER THE LAWS OF THIS STATE, ANY OTHER STATE, THE UNITED STATES, OR ANY OTHER COUNTRY, AND THE PARENT OR SUBSIDIARY OF A FINANCIAL INSTITUTION.

~~(3) "BUSINESS" DOES NOT INCLUDE AN ENTITY THAT HAS AN ANNUAL GROSS INCOME OF LESS THAN \$1,000,000.~~

(C) "ENCRYPTED" MEANS THE TRANSFORMATION OF DATA THROUGH THE USE OF AN ALGORITHMIC PROCESS INTO A FORM IN WHICH THERE IS A LOW PROBABILITY OF ASSIGNING MEANING WITHOUT USE OF A CONFIDENTIAL PROCESS OR KEY.

~~(C)~~ (D) (1) "PERSONAL INFORMATION" MEANS AN INDIVIDUAL'S FIRST NAME OR FIRST INITIAL AND LAST NAME IN COMBINATION WITH ANY ONE OR MORE OF THE FOLLOWING DATA ELEMENTS, WHEN THE NAME OR THE DATA ELEMENTS ARE NOT ENCRYPTED, REDACTED, OR OTHERWISE PROTECTED BY ANOTHER METHOD THAT RENDERS THE INFORMATION UNREADABLE OR UNUSABLE:

(I) A SOCIAL SECURITY NUMBER;

(II) A DRIVER'S LICENSE NUMBER; ~~OR~~

(III) A FINANCIAL ACCOUNT NUMBER, INCLUDING A CREDIT CARD NUMBER OR DEBIT CARD NUMBER, THAT IN COMBINATION WITH ANY REQUIRED SECURITY CODE, ACCESS CODE, OR PASSWORD, WOULD PERMIT ACCESS TO AN INDIVIDUAL'S FINANCIAL ACCOUNT; OR

(IV) AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER;

~~OR~~

~~(IV) A CONSUMER REPORT, AS DEFINED IN § 14-1201 OF THIS TITLE.~~

(2) "PERSONAL INFORMATION" DOES NOT INCLUDE:

(I) PUBLICLY AVAILABLE INFORMATION THAT IS LAWFULLY MADE AVAILABLE TO THE GENERAL PUBLIC FROM FEDERAL, STATE, OR LOCAL GOVERNMENT RECORDS;

(II) INFORMATION THAT AN INDIVIDUAL HAS CONSENTED TO HAVE PUBLICLY DISSEMINATED OR LISTED; OR

(III) INFORMATION THAT IS DISSEMINATED OR LISTED IN ACCORDANCE WITH THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.

~~(D)~~ (E) "RECORDS" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

14-3502.

(A) IN THIS SECTION, "CUSTOMER" MEANS AN INDIVIDUAL RESIDING IN THE STATE WHO PROVIDES PERSONAL INFORMATION TO A BUSINESS FOR THE PURPOSE OF PURCHASING OR LEASING A PRODUCT OR OBTAINING A SERVICE FROM THE BUSINESS.

(B) WHEN A BUSINESS IS DESTROYING A CUSTOMER'S RECORDS THAT CONTAIN PERSONAL INFORMATION OF THE CUSTOMER, THE BUSINESS SHALL TAKE REASONABLE STEPS TO PROTECT AGAINST UNAUTHORIZED ACCESS TO OR USE OF THE PERSONAL INFORMATION, TAKING INTO ACCOUNT:

(1) THE SENSITIVITY OF THE RECORDS;

(2) THE NATURE AND SIZE OF THE BUSINESS AND ITS OPERATIONS;

(3) THE COSTS AND BENEFITS OF DIFFERENT DESTRUCTION METHODS; AND

(4) AVAILABLE TECHNOLOGY.

14-3503.

(A) TO PROTECT PERSONAL INFORMATION FROM UNAUTHORIZED ACCESS, USE, MODIFICATION, OR DISCLOSURE, A BUSINESS THAT OWNS OR LICENSES PERSONAL INFORMATION OF AN INDIVIDUAL RESIDING IN THE STATE SHALL IMPLEMENT AND MAINTAIN REASONABLE SECURITY PROCEDURES AND PRACTICES THAT ARE APPROPRIATE TO THE NATURE OF THE PERSONAL INFORMATION OWNED OR LICENSED AND THE NATURE AND SIZE OF THE BUSINESS AND ITS OPERATIONS.

(B) (1) A BUSINESS THAT USES A NONAFFILIATED THIRD PARTY AS A SERVICE PROVIDER TO PERFORM SERVICES FOR THE BUSINESS AND DISCLOSES PERSONAL INFORMATION ABOUT AN INDIVIDUAL RESIDING IN THE STATE UNDER A WRITTEN CONTRACT WITH THE THIRD PARTY SHALL REQUIRE BY CONTRACT THAT THE THIRD PARTY IMPLEMENT AND MAINTAIN REASONABLE SECURITY PROCEDURES AND PRACTICES THAT:

(I) ARE APPROPRIATE TO THE NATURE OF THE PERSONAL INFORMATION DISCLOSED TO THE NONAFFILIATED THIRD PARTY; AND

(II) ARE REASONABLY DESIGNED TO HELP PROTECT THE PERSONAL INFORMATION FROM UNAUTHORIZED ACCESS, USE, MODIFICATION, DISCLOSURE, OR DESTRUCTION.

(2) THIS SUBSECTION SHALL APPLY TO A WRITTEN CONTRACT THAT IS ENTERED INTO ON OR AFTER JANUARY 1, 2009.

14-3504.

(A) IN THIS SECTION:

(1) "BREACH OF THE SECURITY OF A SYSTEM" MEANS THE UNAUTHORIZED ACQUISITION OF COMPUTERIZED DATA THAT COMPROMISES THE SECURITY, CONFIDENTIALITY, OR INTEGRITY OF THE PERSONAL

~~INFORMATION MAINTAINED BY A BUSINESS AND WILL LIKELY RESULT IN A MATERIAL RISK OF IDENTITY THEFT; AND~~

(2) "BREACH OF THE SECURITY OF A SYSTEM" DOES NOT INCLUDE THE GOOD FAITH ACQUISITION OF PERSONAL INFORMATION BY AN EMPLOYEE OR AGENT OF A BUSINESS FOR THE PURPOSES OF THE BUSINESS, PROVIDED THAT:

~~(I) THE THE PERSONAL INFORMATION IS NOT USED OR SUBJECT TO FURTHER UNAUTHORIZED DISCLOSURE; AND~~

~~(II) IT IS NOT LIKELY THAT THE ACQUISITION WILL RESULT IN A MATERIAL RISK OF IDENTITY THEFT.~~

(B) (1) A BUSINESS THAT OWNS OR LICENSES COMPUTERIZED DATA THAT INCLUDES PERSONAL INFORMATION OF AN INDIVIDUAL RESIDING IN THE STATE, WHEN IT DISCOVERS OR IS NOTIFIED OF A BREACH OF THE SECURITY OF A SYSTEM, SHALL CONDUCT IN GOOD FAITH A REASONABLE AND PROMPT INVESTIGATION TO DETERMINE THE LIKELIHOOD THAT ~~THE BREACH WILL RESULT IN A MATERIAL RISK OF IDENTITY THEFT~~ PERSONAL INFORMATION OF THE INDIVIDUAL HAS BEEN OR WILL BE MISUSED AS A RESULT OF THE BREACH.

(2) IF, AFTER THE INVESTIGATION IS CONCLUDED, THE BUSINESS ~~REASONABLY BELIEVES~~ DETERMINES THAT ~~THE BREACH OF THE SECURITY OF A SYSTEM HAS RESULTED OR WILL RESULT IN A MATERIAL RISK OF IDENTITY THEFT OF PERSONAL INFORMATION OF AN INDIVIDUAL RESIDING IN THE STATE~~ MISUSE OF THE INDIVIDUAL'S PERSONAL INFORMATION HAS OCCURRED OR IS REASONABLY LIKELY TO OCCUR AS A RESULT OF A BREACH OF THE SECURITY OF A SYSTEM, THE BUSINESS SHALL NOTIFY THE INDIVIDUAL OF THE BREACH.

(3) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE NOTIFICATION REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE GIVEN AS SOON AS REASONABLY PRACTICABLE AFTER THE BUSINESS CONDUCTS THE INVESTIGATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(4) IF AFTER THE INVESTIGATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS CONCLUDED, THE BUSINESS DETERMINES THAT NOTIFICATION UNDER PARAGRAPH (2) OF THIS SUBSECTION IS NOT REQUIRED, THE BUSINESS SHALL MAINTAIN RECORDS THAT REFLECT ITS DETERMINATION FOR 3 YEARS AFTER THE DETERMINATION IS MADE.

(c) (1) A BUSINESS THAT MAINTAINS COMPUTERIZED DATA THAT INCLUDES PERSONAL INFORMATION THAT THE BUSINESS DOES NOT OWN OR LICENSE SHALL NOTIFY THE OWNER OR LICENSEE OF THE PERSONAL INFORMATION OF A BREACH OF THE SECURITY OF A SYSTEM IF IT IS LIKELY THAT THE BREACH HAS RESULTED OR WILL RESULT IN ~~A MATERIAL RISK OF IDENTITY THEFT~~ THE MISUSE OF PERSONAL INFORMATION OF AN INDIVIDUAL RESIDING IN THE STATE.

(2) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE NOTIFICATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE GIVEN AS SOON AS REASONABLY PRACTICABLE AFTER THE BUSINESS DISCOVERS OR IS NOTIFIED OF THE BREACH OF THE SECURITY OF A SYSTEM.

(3) A BUSINESS THAT IS REQUIRED TO NOTIFY AN OWNER OR LICENSEE OF PERSONAL INFORMATION OF A BREACH OF THE SECURITY OF A SYSTEM UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL SHARE WITH THE OWNER OR LICENSEE INFORMATION RELEVANT TO THE BREACH.

(d) (1) THE NOTIFICATION REQUIRED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION MAY BE DELAYED:

(i) IF A LAW ENFORCEMENT AGENCY DETERMINES THAT THE NOTIFICATION WILL IMPEDE A CRIMINAL INVESTIGATION OR JEOPARDIZE HOMELAND OR NATIONAL SECURITY; OR

(ii) TO DETERMINE THE SCOPE OF THE BREACH OF THE SECURITY OF A SYSTEM, IDENTIFY THE INDIVIDUALS AFFECTED, OR RESTORE THE INTEGRITY OF THE SYSTEM.

(2) IF NOTIFICATION IS DELAYED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, NOTIFICATION SHALL BE GIVEN AS SOON AS REASONABLY PRACTICABLE AFTER THE LAW ENFORCEMENT AGENCY DETERMINES THAT IT WILL NOT IMPEDE A CRIMINAL INVESTIGATION AND WILL NOT JEOPARDIZE HOMELAND OR NATIONAL SECURITY.

(e) THE NOTIFICATION REQUIRED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION MAY BE GIVEN:

(1) BY WRITTEN NOTICE SENT TO THE MOST RECENT ADDRESS OF THE INDIVIDUAL IN THE RECORDS OF THE BUSINESS;

(2) BY ELECTRONIC ~~NOTICE, IF THE ELECTRONIC NOTICE IS CONSISTENT WITH THE REQUIREMENTS FOR ELECTRONIC RECORDS AND~~

~~SIGNATURES UNDER 15 U.S.C. § 7001~~ MAIL TO THE MOST RECENT ELECTRONIC MAIL ADDRESS OF THE INDIVIDUAL IN THE RECORDS OF THE BUSINESS, *IF*:

(I) THE INDIVIDUAL HAS EXPRESSLY CONSENTED TO RECEIVE ELECTRONIC NOTICE; OR

(II) THE BUSINESS CONDUCTS ITS BUSINESS PRIMARILY THROUGH INTERNET ACCOUNT TRANSACTIONS OR THE INTERNET;

(3) BY TELEPHONIC NOTICE, TO THE MOST RECENT TELEPHONE NUMBER OF THE INDIVIDUAL IN THE RECORDS OF THE BUSINESS; OR

(4) BY SUBSTITUTE NOTICE AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, IF:

(I) THE BUSINESS DEMONSTRATES THAT THE COST OF PROVIDING NOTICE WOULD EXCEED ~~\$25,000~~ \$100,000 OR THAT THE AFFECTED CLASS OF INDIVIDUALS TO BE NOTIFIED EXCEEDS ~~50,000~~ 175,000; OR

(II) THE BUSINESS DOES NOT HAVE SUFFICIENT CONTACT INFORMATION TO GIVE NOTICE IN ACCORDANCE WITH ITEM (1), (2), OR (3) OF THIS SUBSECTION.

(F) SUBSTITUTE NOTICE UNDER SUBSECTION (E)(4) OF THIS SECTION SHALL CONSIST OF:

(1) ELECTRONICALLY MAILING THE NOTICE TO AN INDIVIDUAL ENTITLED TO NOTIFICATION UNDER SUBSECTION (B) OF THIS SECTION, IF THE BUSINESS HAS AN ELECTRONIC MAIL ADDRESS FOR THE INDIVIDUAL TO BE NOTIFIED;

(2) CONSPICUOUS POSTING OF THE NOTICE ON THE WEBSITE OF THE BUSINESS, IF THE BUSINESS MAINTAINS A WEBSITE; AND

(3) NOTIFICATION TO STATEWIDE MEDIA.

(G) THE NOTIFICATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:

(1) TO THE EXTENT POSSIBLE, A DESCRIPTION OF THE CATEGORIES OF INFORMATION THAT WERE, OR ARE REASONABLY BELIEVED TO HAVE BEEN, ACQUIRED BY AN UNAUTHORIZED PERSON, INCLUDING WHICH OF

THE ELEMENTS OF PERSONAL INFORMATION WERE, OR ARE REASONABLY BELIEVED TO HAVE BEEN, ACQUIRED;

(2) CONTACT INFORMATION FOR THE BUSINESS MAKING THE NOTIFICATION, INCLUDING THE BUSINESS' ADDRESS, TELEPHONE NUMBER, AND TOLL-FREE TELEPHONE NUMBER IF ONE IS MAINTAINED;

(3) THE TOLL-FREE TELEPHONE NUMBERS AND ADDRESSES FOR THE MAJOR CONSUMER REPORTING AGENCIES; AND

(4) (I) THE TOLL-FREE TELEPHONE NUMBERS, ADDRESSES, AND WEBSITE ADDRESSES FOR:

1. THE FEDERAL TRADE COMMISSION; AND

2. THE OFFICE OF THE ATTORNEY GENERAL; AND

(II) A STATEMENT THAT AN INDIVIDUAL CAN OBTAIN INFORMATION FROM THESE SOURCES ABOUT STEPS THE INDIVIDUAL CAN TAKE TO AVOID IDENTITY THEFT.

~~(G) A (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A~~

~~(H) PRIOR TO GIVING THE NOTIFICATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION AND SUBJECT TO SUBSECTION (D) OF THIS SECTION, A BUSINESS SHALL PROVIDE NOTICE OF A BREACH OF THE SECURITY OF A SYSTEM TO THE OFFICE OF THE ATTORNEY GENERAL WITHIN 5 BUSINESS DAYS AFTER THE BUSINESS BECOMES AWARE DISCOVERS OR IS NOTIFIED OF THE BREACH.~~

~~(2) (I) THE NOTIFICATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE DELAYED IF A LAW ENFORCEMENT AGENCY DETERMINES THAT THE NOTIFICATION WILL IMPEDE A CRIMINAL INVESTIGATION OR JEOPARDIZE HOMELAND OR NATIONAL SECURITY.~~

~~(II) IF NOTIFICATION IS DELAYED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, NOTIFICATION SHALL BE GIVEN AS SOON AS REASONABLY PRACTICABLE AFTER THE LAW ENFORCEMENT AGENCY DETERMINES THAT IT WILL NOT IMPEDE A CRIMINAL INVESTIGATION AND WILL NOT JEOPARDIZE HOMELAND OR NATIONAL SECURITY.~~

~~(H)~~ (I) A WAIVER OF ANY PROVISION OF THIS SECTION IS CONTRARY TO PUBLIC POLICY AND IS VOID AND UNENFORCEABLE.

~~(I)~~ (J) COMPLIANCE WITH THIS SECTION DOES NOT RELIEVE A BUSINESS FROM A DUTY TO COMPLY WITH ANY OTHER REQUIREMENTS OF FEDERAL LAW RELATING TO THE PROTECTION AND PRIVACY OF PERSONAL INFORMATION.

14-3505.

THE PROVISIONS OF THIS SUBTITLE ARE EXCLUSIVE AND SHALL PREEMPT ANY PROVISION OF LOCAL LAW.

14-3506.

(A) IF A BUSINESS IS REQUIRED UNDER § 14-3504 OF THIS SUBTITLE TO GIVE NOTICE OF A BREACH OF THE SECURITY OF A SYSTEM TO 1,000 OR MORE INDIVIDUALS, THE BUSINESS ALSO SHALL NOTIFY, WITHOUT UNREASONABLE DELAY, EACH CONSUMER REPORTING AGENCY THAT COMPILES AND MAINTAINS FILES ON CONSUMERS ON A NATIONWIDE BASIS, AS DEFINED BY 15 U.S.C. § 1681A(P), OF THE TIMING, DISTRIBUTION, AND CONTENT OF THE NOTICES.

(B) THIS SECTION DOES NOT REQUIRE THE INCLUSION OF THE NAMES OR OTHER PERSONAL IDENTIFYING INFORMATION OF RECIPIENTS OF NOTICES OF THE BREACH OF THE SECURITY OF A SYSTEM.

14-3507.

(A) IN THIS SECTION, "AFFILIATE" MEANS A COMPANY THAT CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH A BUSINESS DESCRIBED IN SUBSECTION (C)(1) OF THIS SECTION.

(B) A BUSINESS THAT COMPLIES WITH THE REQUIREMENTS FOR NOTIFICATION PROCEDURES, THE PROTECTION OR SECURITY OF PERSONAL INFORMATION, OR THE DESTRUCTION OF PERSONAL INFORMATION UNDER THE RULES, REGULATIONS, PROCEDURES, OR GUIDELINES ESTABLISHED BY THE PRIMARY OR FUNCTIONAL FEDERAL OR STATE REGULATOR OF THE BUSINESS SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS SUBTITLE.

(C) (1) A BUSINESS THAT IS SUBJECT TO AND IN COMPLIANCE WITH § 501(B) OF THE FEDERAL GRAMM-LEACH-BLILEY ACT, 15 U.S.C. § 6801, § 216 OF THE FEDERAL FAIR AND ACCURATE TRANSACTIONS ACT, 15 U.S.C. § 1681W, THE FEDERAL INTERAGENCY GUIDELINES ESTABLISHING

INFORMATION SECURITY STANDARDS, AND THE FEDERAL INTERAGENCY GUIDANCE ON RESPONSE PROGRAMS FOR UNAUTHORIZED ACCESS TO CUSTOMER INFORMATION AND CUSTOMER NOTICE, AND ANY REVISIONS, ADDITIONS, OR SUBSTITUTIONS, SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS SUBTITLE.

(2) AN AFFILIATE THAT COMPLIES WITH § 501(B) OF THE FEDERAL GRAMM-LEACH-BLILEY ACT, 15 U.S.C. § 6801, § 216 OF THE FEDERAL FAIR AND ACCURATE TRANSACTIONS ACT, 15 U.S.C. § 1681W, THE FEDERAL INTERAGENCY GUIDELINES ESTABLISHING INFORMATION SECURITY STANDARDS, AND THE FEDERAL INTERAGENCY GUIDANCE ON RESPONSE PROGRAMS FOR UNAUTHORIZED ACCESS TO CUSTOMER INFORMATION AND CUSTOMER NOTICE, AND ANY REVISIONS, ADDITIONS, OR SUBSTITUTIONS, SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS SUBTITLE.

14-3508.

A VIOLATION OF THIS SUBTITLE:

(1) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

(2) IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2008.

Approved by the Governor, May 17, 2007.

CHAPTER 532

(House Bill 208)

AN ACT concerning

Consumer Protection – Personal Information Protection Act

FOR the purpose of requiring a certain business, when destroying a customer's records that contain certain personal information of the customer, to take certain steps to protect against unauthorized access to or use of the personal information

under certain circumstances; requiring a certain business that owns or licenses certain personal information of an individual residing in the State to implement and maintain certain security procedures and practices under certain circumstances; requiring certain businesses that own, license, or maintain computerized data that includes certain personal information of an individual residing in the State to conduct a certain investigation and ~~conduct a certain investigation and~~ notify certain persons of a breach of the security of a system under certain circumstances; specifying the time at which notification must be given; specifying the contents of the notification; authorizing notification to be given in a certain manner; requiring certain businesses to retain certain records for a certain period of time under certain circumstances; providing that a waiver of certain provisions of this Act is contrary to public policy and is void and unenforceable; providing that compliance with certain provisions of this Act does not relieve a certain business from a duty to comply with certain other requirements of federal law; providing that the provisions of this Act are exclusive and shall preempt any provision of local law; requiring a business to report to certain consumer reporting agencies on the breach of the security of a system under certain circumstances; requiring a business to provide notice of a breach of the security of a system to the Office of the Attorney General prior to giving a certain notification; providing that certain businesses and affiliates shall be deemed to be in compliance with the requirements of this Act under certain circumstances; providing that a violation of this Act is an unfair or deceptive trade practice within the meaning of the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions; defining certain terms; providing for a delayed effective date; and generally relating to the protection of personal information contained in the records of businesses, owned or licensed by businesses, or included in computerized data owned, licensed, or maintained by businesses.

BY adding to

Article – Commercial Law

Section 14–3501 through 14–3508 to be under the new subtitle “Subtitle 35. Maryland Personal Information Protection Act”

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

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

Article – Commercial Law

SUBTITLE 35. MARYLAND PERSONAL INFORMATION PROTECTION ACT.

14–3501.

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

(B) (1) "BUSINESS" MEANS A SOLE PROPRIETORSHIP, PARTNERSHIP, CORPORATION, ASSOCIATION, OR ANY OTHER BUSINESS ENTITY, WHETHER OR NOT ORGANIZED TO OPERATE AT A PROFIT.

(2) "BUSINESS" INCLUDES A FINANCIAL INSTITUTION ORGANIZED, CHARTERED, LICENSED, OR OTHERWISE AUTHORIZED UNDER THE LAWS OF THIS STATE, ANY OTHER STATE, THE UNITED STATES, OR ANY OTHER COUNTRY, AND THE PARENT OR SUBSIDIARY OF A FINANCIAL INSTITUTION.

~~(3) "BUSINESS" DOES NOT INCLUDE AN ENTITY THAT HAS AN ANNUAL GROSS INCOME OF LESS THAN \$1,000,000.~~

(C) "ENCRYPTED" MEANS THE TRANSFORMATION OF DATA THROUGH THE USE OF AN ALGORITHMIC PROCESS INTO A FORM IN WHICH THERE IS A LOW PROBABILITY OF ASSIGNING MEANING WITHOUT USE OF A CONFIDENTIAL PROCESS OR KEY.

~~(D)~~ (D) (1) "PERSONAL INFORMATION" MEANS AN INDIVIDUAL'S FIRST NAME OR FIRST INITIAL AND LAST NAME IN COMBINATION WITH ANY ONE OR MORE OF THE FOLLOWING DATA ELEMENTS, WHEN THE NAME OR THE DATA ELEMENTS ARE NOT ENCRYPTED, REDACTED, OR OTHERWISE PROTECTED BY ANOTHER METHOD THAT RENDERS THE INFORMATION UNREADABLE OR UNUSABLE:

(I) A SOCIAL SECURITY NUMBER;

(II) A DRIVER'S LICENSE NUMBER;

(III) A FINANCIAL ACCOUNT NUMBER, INCLUDING A CREDIT CARD NUMBER OR DEBIT CARD NUMBER, THAT IN COMBINATION WITH ANY REQUIRED SECURITY CODE, ACCESS CODE, OR PASSWORD, WOULD PERMIT ACCESS TO AN INDIVIDUAL'S FINANCIAL ACCOUNT; OR ~~OR~~

~~(IV) A CONSUMER REPORT, AS DEFINED IN § 14-1201 OF THIS TITLE~~ AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER; OR

~~(V) A BILLING ACCOUNT NUMBER.~~

(2) "PERSONAL INFORMATION" DOES NOT INCLUDE:

(I) PUBLICLY AVAILABLE INFORMATION THAT IS LAWFULLY MADE AVAILABLE TO THE GENERAL PUBLIC FROM FEDERAL, STATE, OR LOCAL GOVERNMENT RECORDS;

(II) INFORMATION THAT AN INDIVIDUAL HAS CONSENTED TO HAVE PUBLICLY DISSEMINATED OR LISTED; OR

(III) INFORMATION THAT IS DISSEMINATED OR LISTED IN ACCORDANCE WITH THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.

~~(D)~~ (E) "RECORDS" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

14-3502.

(A) IN THIS SECTION, "CUSTOMER" MEANS AN INDIVIDUAL RESIDING IN THE STATE WHO PROVIDES PERSONAL INFORMATION TO A BUSINESS FOR THE PURPOSE OF PURCHASING OR LEASING A PRODUCT OR OBTAINING A SERVICE FROM THE BUSINESS.

(B) WHEN A BUSINESS IS DESTROYING A CUSTOMER'S RECORDS THAT CONTAIN PERSONAL INFORMATION OF THE CUSTOMER, THE BUSINESS SHALL TAKE REASONABLE STEPS TO PROTECT AGAINST UNAUTHORIZED ACCESS TO OR USE OF THE PERSONAL INFORMATION, TAKING INTO ACCOUNT:

- (1) THE SENSITIVITY OF THE RECORDS;
- (2) THE NATURE AND SIZE OF THE BUSINESS AND ITS OPERATIONS;
- (3) THE COSTS AND BENEFITS OF DIFFERENT DESTRUCTION METHODS; AND
- (4) AVAILABLE TECHNOLOGY.

14-3503.

(A) TO PROTECT PERSONAL INFORMATION FROM UNAUTHORIZED ACCESS, USE, MODIFICATION, OR DISCLOSURE, A BUSINESS THAT OWNS OR LICENSES PERSONAL INFORMATION OF AN INDIVIDUAL RESIDING IN THE STATE SHALL IMPLEMENT AND MAINTAIN REASONABLE SECURITY PROCEDURES AND

PRACTICES THAT ARE APPROPRIATE TO THE NATURE OF THE PERSONAL INFORMATION OWNED OR LICENSED AND THE NATURE AND SIZE OF THE BUSINESS AND ITS OPERATIONS.

(B) (1) A BUSINESS THAT USES A NONAFFILIATED THIRD PARTY AS A SERVICE PROVIDER TO PERFORM SERVICES FOR THE BUSINESS AND DISCLOSES PERSONAL INFORMATION ABOUT AN INDIVIDUAL RESIDING IN THE STATE UNDER A WRITTEN CONTRACT WITH THE THIRD PARTY SHALL REQUIRE BY CONTRACT THAT THE THIRD PARTY IMPLEMENT AND MAINTAIN REASONABLE SECURITY PROCEDURES AND PRACTICES THAT:

(I) ARE APPROPRIATE TO THE NATURE OF THE PERSONAL INFORMATION DISCLOSED TO THE NONAFFILIATED THIRD PARTY; AND

(II) ARE REASONABLY DESIGNED TO HELP PROTECT THE PERSONAL INFORMATION FROM UNAUTHORIZED ACCESS, USE, MODIFICATION, DISCLOSURE, OR DESTRUCTION.

(2) THIS SUBSECTION SHALL APPLY TO A WRITTEN CONTRACT THAT IS ENTERED INTO ON OR AFTER JANUARY 1, 2009.

14-3504.

(A) IN THIS SECTION:

(1) "BREACH OF THE SECURITY OF A SYSTEM" MEANS THE UNAUTHORIZED ACQUISITION OF COMPUTERIZED DATA THAT COMPROMISES THE SECURITY, CONFIDENTIALITY, OR INTEGRITY OF THE PERSONAL INFORMATION MAINTAINED BY A BUSINESS ~~AND WILL LIKELY RESULT IN A MATERIAL RISK OF IDENTITY THEFT~~; AND

(2) "BREACH OF THE SECURITY OF A SYSTEM" DOES NOT INCLUDE THE GOOD FAITH ACQUISITION OF PERSONAL INFORMATION BY AN EMPLOYEE OR AGENT OF A BUSINESS FOR THE PURPOSES OF THE BUSINESS, PROVIDED THAT:

~~(I) THE THE PERSONAL INFORMATION IS NOT USED OR SUBJECT TO FURTHER UNAUTHORIZED DISCLOSURE; AND~~

~~(II) IT IS NOT LIKELY THAT THE ACQUISITION WILL RESULT IN A MATERIAL RISK OF IDENTITY THEFT.~~

~~(B) (1) A BUSINESS THAT OWNS OR LICENSES COMPUTERIZED DATA THAT INCLUDES PERSONAL INFORMATION OF AN INDIVIDUAL RESIDING IN THE STATE, WHEN IT DISCOVERS OR IS NOTIFIED OF A BREACH OF THE SECURITY OF A SYSTEM, SHALL CONDUCT IN GOOD FAITH A REASONABLE AND PROMPT INVESTIGATION TO DETERMINE THE LIKELIHOOD THAT THE BREACH WILL RESULT IN A MATERIAL RISK OF IDENTITY THEFT.~~

~~(2) IF, AFTER THE INVESTIGATION IS CONCLUDED, THE BUSINESS REASONABLY BELIEVES THAT THE BREACH OF THE SECURITY OF A SYSTEM HAS RESULTED OR WILL RESULT IN A MATERIAL RISK OF IDENTITY THEFT OF PERSONAL INFORMATION OF AN INDIVIDUAL RESIDING IN THE STATE, THE BUSINESS SHALL NOTIFY THE INDIVIDUAL OF THE BREACH SHALL NOTIFY THE INDIVIDUAL OF A BREACH OF THE SECURITY OF A SYSTEM IF, AS A RESULT OF THE BREACH, THE INDIVIDUAL'S PERSONAL INFORMATION:~~

~~(i) HAS BEEN ACQUIRED BY AN UNAUTHORIZED PERSON;~~

~~OR~~

~~(ii) IS REASONABLY BELIEVED TO HAVE BEEN ACQUIRED BY AN UNAUTHORIZED PERSON.~~

(B) (1) A BUSINESS THAT OWNS OR LICENSES COMPUTERIZED DATA THAT INCLUDES PERSONAL INFORMATION OF AN INDIVIDUAL RESIDING IN THE STATE, WHEN IT DISCOVERS OR IS NOTIFIED OF A BREACH OF THE SECURITY OF A SYSTEM, SHALL CONDUCT IN GOOD FAITH A REASONABLE AND PROMPT INVESTIGATION TO DETERMINE THE LIKELIHOOD THAT PERSONAL INFORMATION OF THE INDIVIDUAL HAS BEEN OR WILL BE MISUSED AS A RESULT OF THE BREACH.

(2) IF AFTER THE INVESTIGATION IS CONCLUDED, THE BUSINESS DETERMINES THAT MISUSE OF THE INDIVIDUAL'S PERSONAL INFORMATION HAS OCCURRED OR IS REASONABLY LIKELY TO OCCUR AS A RESULT OF A BREACH OF THE SECURITY OF A SYSTEM, THE BUSINESS SHALL NOTIFY THE INDIVIDUAL OF THE BREACH.

~~(3) (2) (3) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE NOTIFICATION REQUIRED UNDER PARAGRAPH (2) (1) (2) OF THIS SUBSECTION SHALL BE GIVEN AS SOON AS REASONABLY PRACTICABLE AFTER THE BUSINESS CONDUCTS THE INVESTIGATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION~~ DISCOVERS OR IS NOTIFIED OF THE BREACH OF THE SECURITY OF A SYSTEM CONDUCTS THE INVESTIGATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(4) IF AFTER THE INVESTIGATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS CONCLUDED, THE BUSINESS DETERMINES THAT NOTIFICATION UNDER PARAGRAPH (2) OF THIS SUBSECTION IS NOT REQUIRED, THE BUSINESS SHALL MAINTAIN RECORDS THAT REFLECT ITS DETERMINATION FOR 3 YEARS AFTER THE DETERMINATION IS MADE.

(c) (1) A BUSINESS THAT MAINTAINS COMPUTERIZED DATA THAT INCLUDES PERSONAL INFORMATION THAT THE BUSINESS DOES NOT OWN OR LICENSE SHALL NOTIFY THE OWNER OR LICENSEE OF THE PERSONAL INFORMATION OF A BREACH OF THE SECURITY OF A SYSTEM **IF IT IS LIKELY THAT THE BREACH HAS RESULTED OR WILL RESULT IN THE MISUSE OF PERSONAL INFORMATION OF AN INDIVIDUAL RESIDING IN THE STATE** ~~IF IT IS LIKELY THAT THE BREACH HAS RESULTED OR WILL RESULT IN A MATERIAL RISK OF IDENTITY THEFT OF PERSONAL INFORMATION OF AN INDIVIDUAL RESIDING IN THE STATE.~~

(2) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE NOTIFICATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE GIVEN AS SOON AS REASONABLY PRACTICABLE AFTER THE BUSINESS DISCOVERS OR IS NOTIFIED OF THE BREACH OF THE SECURITY OF A SYSTEM.

(3) A BUSINESS THAT IS REQUIRED TO NOTIFY AN OWNER OR LICENSEE OF PERSONAL INFORMATION OF A BREACH OF THE SECURITY OF A SYSTEM UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL SHARE WITH THE OWNER OR LICENSEE INFORMATION RELATIVE TO THE BREACH.

(d) (1) THE NOTIFICATION REQUIRED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION MAY BE DELAYED:

(i) IF A LAW ENFORCEMENT AGENCY DETERMINES THAT THE NOTIFICATION WILL IMPEDE A CRIMINAL INVESTIGATION OR JEOPARDIZE HOMELAND OR NATIONAL SECURITY; OR

(ii) TO DETERMINE THE SCOPE OF THE BREACH OF THE SECURITY OF A SYSTEM, IDENTIFY THE INDIVIDUALS AFFECTED, OR RESTORE THE INTEGRITY OF THE SYSTEM.

(2) IF NOTIFICATION IS DELAYED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, NOTIFICATION SHALL BE GIVEN AS SOON AS REASONABLY PRACTICABLE AFTER THE LAW ENFORCEMENT AGENCY DETERMINES THAT IT

WILL NOT IMPEDE A CRIMINAL INVESTIGATION AND WILL NOT JEOPARDIZE HOMELAND OR NATIONAL SECURITY.

(E) THE NOTIFICATION REQUIRED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION MAY BE GIVEN:

(1) BY WRITTEN NOTICE SENT TO THE MOST RECENT ADDRESS OF THE INDIVIDUAL IN THE RECORDS OF THE BUSINESS;

(2) BY ELECTRONIC NOTICE, ~~IF THE ELECTRONIC NOTICE IS CONSISTENT WITH THE REQUIREMENTS FOR ELECTRONIC RECORDS AND SIGNATURES UNDER 15 U.S.C. § 7001~~ MAIL TO THE MOST RECENT ELECTRONIC MAIL ADDRESS OF THE INDIVIDUAL IN THE RECORDS OF THE BUSINESS, IF:

(I) THE INDIVIDUAL HAS EXPRESSLY CONSENTED TO RECEIVE ELECTRONIC NOTICE; OR

(II) THE BUSINESS CONDUCTS ITS BUSINESS PRIMARILY THROUGH INTERNET ACCOUNT TRANSACTIONS OR THE INTERNET;

(3) BY TELEPHONIC NOTICE, TO THE MOST RECENT TELEPHONE NUMBER OF THE INDIVIDUAL IN THE RECORDS OF THE BUSINESS; OR

(4) BY SUBSTITUTE NOTICE AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, IF:

(I) THE BUSINESS DEMONSTRATES THAT THE COST OF PROVIDING NOTICE WOULD EXCEED ~~\$25,000~~ ~~\$125,000~~ \$100,000 OR THAT THE AFFECTED CLASS OF INDIVIDUALS TO BE NOTIFIED EXCEEDS ~~50,000~~ ~~250,000~~ 175,000; OR

(II) THE BUSINESS DOES NOT HAVE SUFFICIENT CONTACT INFORMATION TO GIVE NOTICE IN ACCORDANCE WITH ITEM (1), (2), OR (3) OF THIS SUBSECTION.

(F) SUBSTITUTE NOTICE UNDER SUBSECTION (E)(4) OF THIS SECTION SHALL CONSIST OF:

(1) ELECTRONICALLY MAILING THE NOTICE TO AN INDIVIDUAL ENTITLED TO NOTIFICATION UNDER SUBSECTION (B) OF THIS SECTION, IF THE BUSINESS HAS AN ELECTRONIC MAIL ADDRESS FOR THE INDIVIDUAL TO BE NOTIFIED;

(2) CONSPICUOUS POSTING OF THE NOTICE ON THE WEBSITE OF THE BUSINESS, IF THE BUSINESS MAINTAINS A WEBSITE; AND

(3) NOTIFICATION TO STATEWIDE MEDIA.

(G) THE NOTIFICATION REQUIRED UNDER ~~SUBSECTIONS~~ SUBSECTION (B) AND ~~(C)~~ OF THIS SECTION SHALL INCLUDE:

(1) TO THE EXTENT POSSIBLE, A DESCRIPTION OF THE CATEGORIES OF INFORMATION THAT WERE, OR ARE REASONABLY BELIEVED TO HAVE BEEN, ACQUIRED BY AN UNAUTHORIZED PERSON, INCLUDING WHICH OF THE ELEMENTS OF PERSONAL INFORMATION WERE, OR ARE REASONABLY BELIEVED TO HAVE BEEN, ACQUIRED;

(2) CONTACT INFORMATION FOR THE BUSINESS MAKING THE NOTIFICATION, INCLUDING THE BUSINESS' ADDRESS, TELEPHONE NUMBER, AND TOLL-FREE TELEPHONE NUMBER IF ONE IS MAINTAINED;

(3) THE TOLL-FREE TELEPHONE NUMBERS AND ADDRESSES FOR THE MAJOR CONSUMER REPORTING AGENCIES; AND

(4) (I) THE TOLL-FREE TELEPHONE NUMBERS, ADDRESSES, AND WEBSITE ADDRESSES FOR:

1. THE FEDERAL TRADE COMMISSION; AND

2. THE OFFICE OF THE ATTORNEY GENERAL; AND

(II) A STATEMENT THAT AN INDIVIDUAL CAN OBTAIN INFORMATION FROM THESE SOURCES ABOUT STEPS THE INDIVIDUAL CAN TAKE TO AVOID IDENTITY THEFT.

~~(H)~~ (H) A PRIOR TO GIVING THE NOTIFICATION REQUIRED UNDER ~~SUBSECTIONS~~ SUBSECTION (B) AND ~~(C)~~ OF THIS SECTION AND SUBJECT TO SUBSECTION (D) OF THIS SECTION, A BUSINESS SHALL PROVIDE NOTICE OF A BREACH OF THE SECURITY OF A SYSTEM TO THE OFFICE OF THE ATTORNEY GENERAL WITHIN 5 BUSINESS DAYS AFTER THE BUSINESS BECOMES AWARE OF THE BREACH.

~~(I)~~ (I) A WAIVER OF ANY PROVISION OF THIS SECTION IS CONTRARY TO PUBLIC POLICY AND IS VOID AND UNENFORCEABLE.

~~(H)~~ **(J)** COMPLIANCE WITH THIS SECTION DOES NOT RELIEVE A BUSINESS FROM A DUTY TO COMPLY WITH ANY OTHER REQUIREMENTS OF FEDERAL LAW RELATING TO THE PROTECTION AND PRIVACY OF PERSONAL INFORMATION.

14-3505.

THE PROVISIONS OF THIS SUBTITLE ARE EXCLUSIVE AND SHALL PREEMPT ANY PROVISION OF LOCAL LAW.

14-3506.

(A) IF A BUSINESS IS REQUIRED UNDER § 14-3504 OF THIS SUBTITLE TO GIVE NOTICE OF A BREACH OF THE SECURITY OF A SYSTEM TO 1,000 OR MORE INDIVIDUALS, THE BUSINESS ALSO SHALL NOTIFY, WITHOUT UNREASONABLE DELAY, EACH CONSUMER REPORTING AGENCY THAT COMPILES AND MAINTAINS FILES ON CONSUMERS ON A NATIONWIDE BASIS, AS DEFINED BY 15 U.S.C. § 1681A(P), OF THE TIMING, DISTRIBUTION, AND CONTENT OF THE NOTICES.

(B) THIS SECTION DOES NOT REQUIRE THE INCLUSION OF THE NAMES OR OTHER PERSONAL IDENTIFYING INFORMATION OF RECIPIENTS OF NOTICES OF THE BREACH OF THE SECURITY OF A SYSTEM.

14-3507.

(A) IN THIS SECTION, "AFFILIATE" MEANS A COMPANY THAT CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH A BUSINESS DESCRIBED IN SUBSECTION (C)(1) OF THIS SECTION.

(B) A BUSINESS THAT COMPLIES WITH THE REQUIREMENTS FOR NOTIFICATION PROCEDURES, THE PROTECTION OR SECURITY OF PERSONAL INFORMATION, OR THE DESTRUCTION OF PERSONAL INFORMATION UNDER THE RULES, REGULATIONS, PROCEDURES, OR GUIDELINES ESTABLISHED BY THE PRIMARY OR FUNCTIONAL FEDERAL OR STATE REGULATOR OF THE BUSINESS SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS SUBTITLE.

(C) (1) A BUSINESS THAT IS SUBJECT TO AND IN COMPLIANCE WITH § 501(B) OF THE FEDERAL GRAMM-LEACH-BLILEY ACT, 15 U.S.C. § 6801, § 216 OF THE FEDERAL FAIR AND ACCURATE TRANSACTIONS ACT, 15 U.S.C. § 1681W, THE FEDERAL INTERAGENCY GUIDELINES ESTABLISHING INFORMATION SECURITY STANDARDS, AND THE FEDERAL INTERAGENCY GUIDANCE ON RESPONSE PROGRAMS FOR UNAUTHORIZED ACCESS TO CUSTOMER INFORMATION AND CUSTOMER NOTICE, AND ANY REVISIONS,

ADDITIONS, OR SUBSTITUTIONS, SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS SUBTITLE.

(2) AN AFFILIATE THAT COMPLIES WITH § 501(B) OF THE FEDERAL GRAMM-LEACH-BLILEY ACT, 15 U.S.C. § 6801, § 216 OF THE FEDERAL FAIR AND ACCURATE TRANSACTIONS ACT, 15 U.S.C. § 1681W, THE FEDERAL INTERAGENCY GUIDELINES ESTABLISHING INFORMATION SECURITY STANDARDS, AND THE FEDERAL INTERAGENCY GUIDANCE ON RESPONSE PROGRAMS FOR UNAUTHORIZED ACCESS TO CUSTOMER INFORMATION AND CUSTOMER NOTICE, AND ANY REVISIONS, ADDITIONS, OR SUBSTITUTIONS, SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS SUBTITLE.

14-3508.

A VIOLATION OF THIS SUBTITLE:

(1) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

(2) IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2008.

Approved by the Governor, May 17, 2007.

CHAPTER 533

(Senate Bill 198)

AN ACT concerning

Task Force to Combat Driving Under the Influence of Drugs and Alcohol

FOR the purpose of establishing the Task Force to Combat Driving Under the Influence of Drugs and Alcohol; providing for the membership of the Task Force; requiring the Governor to request that a certain representative participate in the Task Force; designating the chair of the Task Force; providing for the staffing for the Task Force; providing that a member of the Task Force may not receive certain compensation, but is entitled to a certain reimbursement;

establishing the duties of the Task Force; requiring the Task Force to submit interim and final reports to the Governor and the General Assembly on or before certain dates; providing for the termination of this Act; and generally relating to the Task Force to Combat Driving Under the Influence of Drugs and Alcohol.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Combat Driving Under the Influence of Drugs and Alcohol.

(b) The Task Force consists of the following members:

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

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

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

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

~~(5) the Secretary of Health and Mental Hygiene, or the Secretary's designee;~~

~~(6) the Motor Vehicle Administrator, or the Administrator's designee;~~

~~(7) the State Highway Administrator, or the Administrator's designee;~~

~~(8) the Attorney General of the State, or the Attorney General's designee;~~

~~(9)~~ (5) the Director of the Division of Parole and Probation, or the Director's designee;

~~(10)~~ (6) the Chief Administrative Law Judge of the Office of Administrative Hearings, or the Chief Administrative Law Judge's designee;

~~(11)~~ (7) the Executive Director of the Maryland Institute for Emergency Medical Services Systems, or the Executive Director's designee;

~~(12)~~ (8) ~~the Chief Judge of the District Court, or the Chief Judge's designee;~~

~~(13) one representative of the circuit courts appointed by the Chief Judge of the Court of Appeals;~~

~~(14) a provider of judicial training and education from the Judicial Institute of Maryland~~ one member of the Judiciary, appointed by the Chief Judge of the Court of Appeals;

~~(15)~~ (9) the President of the Maryland Chiefs of Police Association, or the President's designee;

~~(16)~~ (10) the President of the Maryland Sheriffs' Association, or the President's designee;

~~(17)~~ (11) the President of the Maryland State's Attorneys' Association, or the President's designee;

~~(18) (12) the President of the Maryland Public Defender's Association, or the President's designee;~~

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

~~(19)~~ (13) the President of the Maryland Trial Lawyers Association, or the President's designee; and

(14) the President of the Maryland Criminal Defense Attorneys' Association, or the President's designee; and

~~(20) (14)~~ (15) the following members appointed by the Governor:

(i) ~~three representatives~~ one representative of the Maryland ~~alcoholic beverage and~~ alcoholic beverage and hospitality industry;

(ii) ~~three representatives~~ one representative of the alcoholic beverage ~~manufacturers~~ industry; and

(iii) ~~three representatives~~ one representative from the auto insurance industry;

(iv) one member of the general public; and

(v) two representatives of citizen-based traffic safety advocacy groups.

(c) The Governor shall request that a representative from the National Transportation Safety Board participate in the Task Force.

~~(e)~~ (d) The chair of the Task Force shall be the State Secretary of Transportation, or the Secretary's designee.

~~(d)~~ (e) (1) The State Department of Transportation shall provide staff for the Task Force.

(2) At the request of the chair of the Task Force, other units of State government shall provide any facilities, assistance, and data that the Task Force needs to carry out its duties.

~~(e)~~ (f) A member of the Task Force:

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

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

~~(f)~~ (g) The Task Force shall:

(1) review any achievements made in the past 20 years in combating driving while under the influence of drugs and alcohol;

(2) identify and assess current efforts being taken to address driving while under the influence of drugs and alcohol in the State;

(3) identify national best practices for combating driving while under the influence of drugs and alcohol;

(4) determine if any gaps exist between current State efforts and identified national best practices for combating driving while under the influence of drugs and alcohol;

(5) recommend actions necessary to implement, in the State, national best practices for combating driving while under the influence of drugs and alcohol;

(6) recommend new State initiatives to address ~~populations~~ all impaired driving populations, including those found to be disproportionately responsible for driving fatalities, ~~including such as~~ repeat offenders, drivers with blood alcohol concentrations of .15% or more, and underage drinkers;

(7) recommend actions to sustain and enhance the public's awareness and concern for the danger posed by drunk driving; and

(8) recommend strategies for improved coordination of management, funding, and resources at State and local levels.

~~(g)~~ (h) (1) On or before December 31, 2007, the Task Force shall submit an interim report of its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

(2) On or before October 31, 2008, the Task Force shall submit a final report of its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period of 1 year and 6 months and, at the end of December 31, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 534

(House Bill 758)

AN ACT concerning

Task Force to Combat Driving Under the Influence of Drugs and Alcohol

FOR the purpose of establishing the Task Force to Combat Driving Under the Influence of Drugs and Alcohol; providing for the membership of the Task Force; requiring the Governor to request that a certain representative participate in the Task Force; designating the chair of the Task Force; providing for the staffing for the Task Force; providing that a member of the Task Force may not receive certain compensation, but is entitled to a certain reimbursement; establishing the duties of the Task Force; requiring the Task Force to submit interim and final reports to the Governor and the General Assembly on or before certain dates; providing for the termination of this Act; and generally relating to the Task Force to Combat Driving Under the Influence of Drugs and Alcohol.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Combat Driving Under the Influence of Drugs and Alcohol.

(b) The Task Force consists of the following members:

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

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

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

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

~~(5) the Secretary of Health and Mental Hygiene, or the Secretary's designee;~~

~~(6) the Motor Vehicle Administrator, or the Administrator's designee;~~

~~(7) the State Highway Administrator, or the Administrator's designee;~~

~~(8) the Attorney General of the State, or the Attorney General's designee;~~

~~(9)~~ (5) the Director of the Division of Parole and Probation, or the Director's designee;

~~(10)~~ (6) the Chief Administrative Law Judge of the Office of Administrative Hearings, or the Chief Administrative Law Judge's designee;

~~(11)~~ (7) the Executive Director of the Maryland Institute for Emergency Medical Services Systems, or the Executive Director's designee;

~~(12)~~ (8) ~~the Chief Judge of the District Court, or the Chief Judge's designee;~~

~~(13) one representative of the circuit courts appointed by the Chief Judge of the Court of Appeals;~~

~~(14) a provider of judicial training and education from the Judicial Institute of Maryland~~ one member of the Judiciary, appointed by the Chief Judge of the Court of Appeals;

~~(15)~~ (9) the President of the Maryland Chiefs of Police Association, or the President's designee;

~~(16)~~ (10) the President of the Maryland Sheriffs' Association, or the President's designee;

~~(17)~~ (11) the President of the Maryland State's Attorneys' Association, or the President's designee;

~~(18) the President of the Maryland Public Defender's Association, or the President's designee;~~

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

~~(19)~~ (13) the President of the Maryland Trial Lawyers Association, or the President's designee; ~~and~~

(14) the President of the Maryland Criminal Defense Attorneys' Association, or the President's designee; and

~~(15) one representative of the Maryland Beer Wholesalers Association, appointed by the Maryland Beer Wholesalers Association; and~~

~~(20)~~ (16) the following members appointed by the Governor:

(i) ~~three representatives~~ one representative of the Maryland ~~alcoholic beverage and~~ hospitality industry;

(ii) ~~three representatives~~ one representative of *the* alcoholic beverage ~~manufacturers~~ *industry*;

(iii) ~~three representatives~~ one representative from the auto insurance industry; ~~and~~

(iv) ~~five~~ two representatives of citizen-based traffic safety advocacy groups; and

(v) one member of the general public.

(c) The Governor shall request that a representative from the National Transportation Safety Board participate in the Task Force.

(d) The chair of the Task Force shall be the State Secretary of Transportation, or the Secretary's designee.

(e) (1) The State Department of Transportation shall provide staff for the Task Force.

(2) At the request of the chair of the Task Force, other units of State government shall provide any facilities, assistance, and data that the Task Force needs to carry out its duties.

(f) A member of the Task Force:

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

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

(g) The Task Force shall:

(1) review any achievements made in the past 20 years in combating driving while under the influence of drugs and alcohol;

(2) identify and assess current efforts being taken to address driving while under the influence of drugs and alcohol in the State;

(3) identify national best practices for combating driving while under the influence of drugs and alcohol;

(4) determine if any gaps exist between current State efforts and identified national best practices for combating driving while under the influence of drugs and alcohol;

(5) recommend actions necessary to implement, in the State, national best practices for combating driving while under the influence of drugs and alcohol;

(6) recommend new State initiatives to address all impaired driving populations including those found to be disproportionately responsible for driving fatalities, such as repeat offenders, drivers with blood alcohol concentrations of .15% or more, and underage drinkers;

(7) recommend actions to sustain and enhance the public's awareness and concern for the danger posed by drunk driving; and

(8) recommend strategies for improved coordination of management, funding, and resources at State and local levels.

(h) (1) On or before December 31, 2007, the Task Force shall submit an interim report of its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

(2) On or before October 31, 2008, the Task Force shall submit a final report of its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period of 1 year and 6 months and, at the end of December 31, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 535

(Senate Bill 214)

AN ACT concerning

~~Crimes~~ ***Criminal Law - Unauthorized Possession of Contraband of Contraband - Place of Confinement***

FOR the purpose of prohibiting a person from knowingly possessing certain contraband ~~to effect an escape, a weapon, an alcoholic beverage, a controlled dangerous substance, or a telecommunication device in a certain place of confinement without authorization by a certain managing official; prohibiting a person from knowingly possessing certain contraband to effect an escape, a weapon, or a telecommunication device in a certain place of confinement; prohibiting a person from knowingly receiving or possessing an alcoholic beverage or a controlled dangerous substance in a certain place of confinement; prohibiting a person from delivering a telecommunication device to a certain person in a certain place of confinement; establishing penalties for a violation of this Act; defining a certain term; and generally relating to possession of contraband certain items in a place of confinement.~~ *in a place of confinement; prohibiting a person detained or confined in a place of confinement from knowingly possessing a weapon or contraband to effect an escape; prohibiting a person detained or confined in a place of confinement from knowingly possessing or receiving an alcoholic beverage or controlled dangerous substance; prohibiting a person from delivering a certain telecommunication device to a person detained or confined in a certain place of confinement, possessing a certain*

telecommunication device with the intent to deliver it to a person detained or confined in a certain place of confinement, or depositing or concealing a certain telecommunication device in a certain manner with a certain intent; prohibiting a person detained or confined in a place of confinement from knowingly possessing or receiving a certain telecommunication device; establishing certain criminal penalties; defining a certain term; and generally relating to possession, receiving, or delivering of contraband and other prohibited items in a place of confinement.

~~BY repealing and reenacting, without amendments,~~

~~Article – Criminal Law~~

~~Section 9-401(c), 9-410(a), (e), (e), and (f), 9-411, 9-413, 9-414, 9-415, and 9-416 and 9-411~~

~~Annotated Code of Maryland~~

~~(2002 Volume and 2006 Supplement)~~

BY renumbering

Article – Criminal Law

Section 9-417

to be Section 9-418

Annotated Code of Maryland

(2002 Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section ~~9-410(e) and 9-412~~, 9-412, 9-413, 9-414, 9-415, ~~9-416, and 9-417~~ and 9-416

Annotated Code of Maryland

(2002 Volume and 2006 Supplement)

BY adding to

Article – Criminal Law

Section ~~9-410(e) and 9-417~~

Annotated Code of Maryland

(2002 Volume and 2006 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9-417 of Article – Criminal Law of the Annotated Code of Maryland be renumbered to be Section(s) 9-418.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Criminal Law

~~9-401.~~

~~(e) "Escape" retains its judicially determined meaning.~~

9-410.

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

(b) "Alcoholic beverage" means beer, wine, or distilled spirits.

(c) "Contraband" means any item, material, substance, or other thing that:

(1) is not authorized for inmate possession by the managing official; or

(2) is brought into the correctional facility in a manner prohibited by the managing official.

(d) "Controlled dangerous substance" has the meaning stated in § 5-101 of this article.

(e) "Managing official" means the administrator, director, warden, superintendent, sheriff, or other individual responsible for the management of a place of confinement.

(f) (1) "Place of confinement" means:

(i) a correctional facility;

(ii) a facility of the Department of Health and Mental Hygiene;

(iii) a detention center for juveniles;

(iv) a facility for juveniles listed in Article 83C, § 2-117(a)(2) of the Code;

(v) a place identified in a juvenile community detention order; or

(vi) any other facility in which a person is confined under color of law.

(2) "Place of confinement" does not include a place identified in a home detention order or agreement.

(g) (1) "TELECOMMUNICATION DEVICE" MEANS:

(I) A DEVICE THAT IS ABLE TO TRANSMIT TELEPHONIC, ELECTRONIC, DIGITAL, CELLULAR, OR RADIO COMMUNICATIONS; OR

(II) A PART OF A DEVICE THAT IS ABLE TO TRANSMIT TELEPHONIC, ELECTRONIC, DIGITAL, CELLULAR, OR RADIO COMMUNICATIONS, REGARDLESS OF WHETHER THE PART ITSELF IS ABLE TO TRANSMIT.

(2) "TELECOMMUNICATION DEVICE" INCLUDES A CELLULAR TELEPHONE, DIGITAL TELEPHONE, PICTURE TELEPHONE, AND MODEM-EQUIPPED DEVICE.

~~[(g)]~~ **(H) "Weapon" means a gun, knife, club, explosive, or other article that can be used to kill or inflict bodily injury.**

~~9-411.~~

~~This part does not apply to a drug or substance that is legally possessed by an individual under a written prescription issued by a person authorized by law and designated by the managing official to prescribe inmate medication.~~

9-412.

(a) A person may not:

(1) deliver any contraband to a person detained or confined in a place of confinement; [or]

(2) possess any contraband with intent to deliver it to a person detained or confined in a place of confinement; **OR**

(3) ~~WITHOUT AUTHORIZATION BY THE MANAGING OFFICIAL, KNOWINGLY POSSESS CONTRABAND TO EFFECT AN ESCAPE, A WEAPON, AN ALCOHOLIC BEVERAGE, A CONTROLLED DANGEROUS SUBSTANCE, OR A TELECOMMUNICATION DEVICE IN A PLACE OF CONFINEMENT.~~

(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 \$1,000 or both.

9-413.

(a) (1) A person may not deliver contraband to a person detained or confined in a place of confinement with the intent to effect an escape.

(2) A person may not possess contraband with the intent to deliver it to a person detained or confined in a place of confinement to effect an escape.

(3) A person may not deposit or conceal any contraband in or about a place of confinement or on any land appurtenant to the place of confinement to effect an escape.

(4) A person detained or confined in a place of confinement may not KNOWINGLY POSSESS OR receive ~~OR KNOWINGLY POSSESS~~ contraband to effect an escape.

(b) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.

9-414.

(a) (1) A person may not deliver a weapon to a person detained or confined in a place of confinement.

(2) A person may not possess a weapon with the intent to deliver it to a person detained or confined in a place of confinement.

(3) A person may not deposit or conceal a weapon in or about a place of confinement or on any land appurtenant to the place of confinement to effect an escape.

(4) A person detained or confined in a place of confinement may not KNOWINGLY POSSESS OR receive ~~OR KNOWINGLY POSSESS~~ a weapon.

(b) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.

9-415.

(a) This section does not apply to an alcoholic beverage delivered or possessed in a manner authorized by the managing official.

(b) A person may not:

(1) deliver an alcoholic beverage to a person detained or confined in a place of confinement; or

(2) possess an alcoholic beverage with the intent to deliver it to a person detained or confined in a place of confinement.

(C) A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT MAY NOT ~~RECEIVE OR KNOWINGLY POSSESS~~ KNOWINGLY POSSESS OR RECEIVE AN ALCOHOLIC BEVERAGE.

~~(C)~~ **(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.

9-416.

(a) A person may not:

(1) deliver a controlled dangerous substance to a person detained or confined in a place of confinement; or

(2) possess a controlled dangerous substance with the intent to deliver it to a person detained or confined in a place of confinement.

(B) A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT MAY NOT ~~RECEIVE OR KNOWINGLY POSSESS~~ KNOWINGLY POSSESS OR RECEIVE A CONTROLLED DANGEROUS SUBSTANCE.

~~(B)~~ **(C)** 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.

9-417.

~~(A) A PERSON MAY NOT DELIVER A TELECOMMUNICATION DEVICE TO A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT WITH SIGNS POSTED INDICATING THAT SUCH CONDUCT IS PROHIBITED.~~

~~(B) A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT MAY NOT RECEIVE OR KNOWINGLY POSSESS A TELECOMMUNICATION DEVICE.~~

~~(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:~~

~~(1) FOR A FIRST OFFENSE, IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$500 OR BOTH; AND~~

~~(2) FOR A SECOND OR SUBSEQUENT OFFENSE, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.~~

~~[9-417.] 9-418.~~

~~A sentence imposed under this part may be separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the crime under this part.~~

(A) (1) A PERSON MAY NOT DELIVER A TELECOMMUNICATION DEVICE TO A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT WITH SIGNS POSTED INDICATING THAT SUCH CONDUCT IS PROHIBITED.

(2) A PERSON MAY NOT POSSESS A TELECOMMUNICATION DEVICE WITH THE INTENT TO DELIVER IT TO A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT WITH SIGNS POSTED INDICATING THAT SUCH CONDUCT IS PROHIBITED.

(3) A PERSON MAY NOT DEPOSIT OR CONCEAL A TELECOMMUNICATION DEVICE IN OR ABOUT A PLACE OF CONFINEMENT WITH SIGNS POSTED INDICATING THAT SUCH CONDUCT IS PROHIBITED OR ON ANY LAND APPURTENANT TO THE PLACE OF CONFINEMENT WITH THE INTENT THAT IT BE OBTAINED BY A PERSON DETAINED OR CONFINED IN THE PLACE OF CONFINEMENT.

(4) A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT MAY NOT KNOWINGLY POSSESS OR RECEIVE A TELECOMMUNICATION DEVICE.

(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 \$1,000 OR BOTH.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 536

(House Bill 1194)

AN ACT concerning

Criminal Law – Unauthorized Possession of Contraband – ~~Places~~ Place of Confinement

FOR the purpose of prohibiting a person from knowingly possessing certain contraband in a place of confinement ~~without authorization by the managing official of the place of confinement~~; prohibiting a person detained or confined in a place of confinement from knowingly possessing a weapon or contraband to effect an escape; prohibiting a person detained or confined in a place of confinement from knowingly possessing or receiving an alcoholic beverage or controlled dangerous substance; prohibiting a person from delivering a certain telecommunication device to a person detained or confined in a certain place of confinement, possessing a certain telecommunication device with the intent to deliver it to a person detained or confined in a certain place of confinement, or depositing or concealing a certain telecommunication device in a certain manner with a certain intent; prohibiting a person detained or confined in a place of confinement from knowingly possessing or receiving a certain telecommunication device; establishing certain criminal penalties; defining a certain term; and generally relating to possession, receiving, or delivering of contraband and other prohibited items in a place of confinement.

BY renumbering

Article – Criminal Law

Section 9–417

to be Section 9–418

Annotated Code of Maryland

(2002 Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 9–410, 9–412, 9–413, 9–414, 9–415, and 9–416

Annotated Code of Maryland

(2002 Volume and 2006 Supplement)

BY adding to

Article – Criminal Law

Section 9–417

Annotated Code of Maryland

(2002 Volume and 2006 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9–417 of Article – Criminal Law of the Annotated Code of Maryland be renumbered to be Section(s) 9–418.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Criminal Law

9-410.

- (a) In this part the following words have the meanings indicated.
- (b) "Alcoholic beverage" means beer, wine, or distilled spirits.
- (c) "Contraband" means any item, material, substance, or other thing that:
 - (1) is not authorized for inmate possession by the managing official; or
 - (2) is brought into the correctional facility in a manner prohibited by the managing official.
- (d) "Controlled dangerous substance" has the meaning stated in § 5-101 of this article.
- (e) "Managing official" means the administrator, director, warden, superintendent, sheriff, or other individual responsible for the management of a place of confinement.
- (f) (1) "Place of confinement" means:
 - (i) a correctional facility;
 - (ii) a facility of the Department of Health and Mental Hygiene;
 - (iii) a detention center for juveniles;
 - (iv) a facility for juveniles listed in Article 83C, § 2-117(a)(2) of the Code;
 - (v) a place identified in a juvenile community detention order; or
 - (vi) any other facility in which a person is confined under color of law.
- (2) "Place of confinement" does not include a place identified in a home detention order or agreement.

(G) (1) "TELECOMMUNICATION DEVICE" MEANS:

(I) A DEVICE THAT IS ABLE TO TRANSMIT TELEPHONIC, ELECTRONIC, DIGITAL, CELLULAR, OR RADIO COMMUNICATIONS; OR

(II) A PART OF A DEVICE THAT IS ABLE TO TRANSMIT TELEPHONIC, ELECTRONIC, DIGITAL, CELLULAR, OR RADIO COMMUNICATIONS, REGARDLESS OF WHETHER THE PART ITSELF IS ABLE TO TRANSMIT.

(2) "TELECOMMUNICATION DEVICE" INCLUDES A CELLULAR TELEPHONE, DIGITAL TELEPHONE, PICTURE TELEPHONE, AND A MODEM EQUIPPED DEVICE.

[(g)] (H) "Weapon" means a gun, knife, club, explosive, or other article that can be used to kill or inflict bodily injury.

9-412.

(a) A person may not:

(1) deliver any contraband to a person detained or confined in a place of confinement; [or]

(2) possess any contraband with intent to deliver it to a person detained or confined in a place of confinement; **OR**

(3) ~~WITHOUT AUTHORIZATION BY THE MANAGING OFFICIAL,~~ KNOWINGLY POSSESS CONTRABAND IN A PLACE OF CONFINEMENT.

(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 \$1,000 or both.

9-413.

(a) (1) A person may not deliver contraband to a person detained or confined in a place of confinement with the intent to effect an escape.

(2) A person may not possess contraband with the intent to deliver it to a person detained or confined in a place of confinement to effect an escape.

(3) A person may not deposit or conceal any contraband in or about a place of confinement or on any land appurtenant to the place of confinement to effect an escape.

(4) A person detained or confined in a place of confinement may not **KNOWINGLY POSSESS OR** receive contraband to effect an escape.

(b) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.

9-414.

(a) (1) A person may not deliver a weapon to a person detained or confined in a place of confinement.

(2) A person may not possess a weapon with the intent to deliver it to a person detained or confined in a place of confinement.

(3) A person may not deposit or conceal a weapon in or about a place of confinement or on any land appurtenant to the place of confinement to effect an escape.

(4) A person detained or confined in a place of confinement may not **KNOWINGLY POSSESS OR** receive a weapon.

(b) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.

9-415.

(a) This section does not apply to an alcoholic beverage delivered or possessed in a manner authorized by the managing official.

(b) A person may not:

(1) deliver an alcoholic beverage to a person detained or confined in a place of confinement; or

(2) possess an alcoholic beverage with the intent to deliver it to a person detained or confined in a place of confinement.

(C) A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT MAY NOT KNOWINGLY POSSESS OR RECEIVE AN ALCOHOLIC BEVERAGE.

[(c)] (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.

9-416.

(a) A person may not:

- (1) deliver a controlled dangerous substance to a person detained or confined in a place of confinement; or
- (2) possess a controlled dangerous substance with the intent to deliver it to a person detained or confined in a place of confinement.

(B) A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT MAY NOT KNOWINGLY POSSESS OR RECEIVE A CONTROLLED DANGEROUS SUBSTANCE.

[(b)] (C) 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.

9-417.

(A) (1) A PERSON MAY NOT DELIVER A TELECOMMUNICATION DEVICE TO A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT WITH SIGNS POSTED INDICTING THAT SUCH CONDUCT IS PROHIBITED.

(2) A PERSON MAY NOT POSSESS A TELECOMMUNICATION DEVICE WITH THE INTENT TO DELIVER IT TO A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT WITH SIGNS POSTED INDICTING THAT SUCH CONDUCT IS PROHIBITED.

(3) A PERSON MAY NOT DEPOSIT OR CONCEAL A TELECOMMUNICATION DEVICE IN OR ABOUT A PLACE OF CONFINEMENT WITH SIGNS POSTED INDICTING THAT SUCH CONDUCT IS PROHIBITED OR ON ANY LAND APPURTENANT TO THE PLACE OF CONFINEMENT WITH THE INTENT THAT IT BE OBTAINED BY A PERSON DETAINED OR CONFINED IN THE PLACE OF CONFINEMENT.

(4) A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT MAY NOT KNOWINGLY POSSESS OR RECEIVE A TELECOMMUNICATION DEVICE.

(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A ~~FELONY~~ MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING ~~10~~ 3 YEARS OR A FINE NOT EXCEEDING ~~\$5,000~~ \$1,000 OR BOTH.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 537

(Senate Bill 252)

AN ACT concerning

~~Roadside Anne Arundel County - Roadside Advertising or Solicitation of Money or Donations from Occupants of Vehicles in Anne Arundel County - Prohibition~~

FOR the purpose of prohibiting a person from standing in a ~~roadway, median divider, or intersection~~ highway right-of-way in Anne Arundel County to solicit money or donations from an occupant of a vehicle; ~~prohibiting a person from standing in a highway right-of-way in Anne Arundel County to advertise a commercial, political, or other~~ any message; repealing the authority of the Anne Arundel County Council to enact, by ordinance, a certain licensing program for individuals who are of a certain age or older and certain organizations that wish to solicit money or donations from the occupants of vehicles by standing in a roadway, median divider, or intersection in Anne Arundel County; repealing the authority for the Anne Arundel County Council to prohibit, by ordinance, a person under a certain age from standing in a roadway, median divider, or intersection in Anne Arundel County to solicit money or donations from an occupant of a vehicle; making the provisions of this Act severable; defining a certain term; and generally relating to restrictions on the use of highways in Anne Arundel County for advertising or solicitation.

BY repealing and reenacting, with amendments,
Article - Transportation
Section 21-507
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article - Transportation

21-507.

(a) Except for the occupant of a disabled vehicle who seeks the aid of another vehicle, a person may not stand in a roadway to solicit a ride, employment, or business from the occupant of any vehicle.

(b) A person may not stand on or near a highway to solicit any other person to watch or guard any vehicle while it is parked or about to be parked on a highway.

(c) In ~~ANNE ARUNDEL COUNTY~~, Carroll County, Charles County, Frederick County, Harford County, and Washington County, a person may not stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

(d) (1) In Prince George's County:

(i) A child under the age of 15 years may not stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle; and

(ii) An adult may not cause, encourage, allow, or petition a child under the age of 15 years to stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

(2) A child under the age of 15 years may not be found guilty or adjudicated delinquent for a violation of paragraph (1)(i) of this subsection if an adult caused, encouraged, allowed, or petitioned the child in violation of paragraph (1)(ii) of this subsection.

~~(e)~~ (1) This subsection applies to Anne Arundel County.

~~(2) IN THIS SUBSECTION, "RIGHT-OF-WAY" MEANS ANY HIGHWAY AREA OR HIGHWAY STRUCTURE AND ANY PROPERTY ADJACENT TO A HIGHWAY ACQUIRED FOR THE OPERATION OR USE OF THE HIGHWAY.~~

~~(3) (1) A PERSON MAY NOT STAND IN A RIGHT-OF-WAY HIGHWAY TO:~~

~~(H) 1. SOLICIT MONEY OR DONATIONS OF ANY KIND FROM THE OCCUPANT OF A VEHICLE; OR~~

~~(H) 2. ADVERTISE A COMMERCIAL, POLITICAL, OR OTHER ANY MESSAGE.~~

(II) "HIGHWAY" INCLUDES:

1. RIGHTS-OF-WAY, ROADWAY SURFACES, ROADWAY SUBGRADES, SHOULDERS, MEDIAN DIVIDERS, DRAINAGE FACILITIES AND STRUCTURES, RELATED STORMWATER MANAGEMENT FACILITIES AND STRUCTURES, ROADWAY CUTS, ROADWAY FILLS, GUARDRAILS, BRIDGES, HIGHWAY GRADE SEPARATION STRUCTURES, RAILROAD GRADE SEPARATIONS, TUNNELS, OVERPASSES, UNDERPASSES, INTERCHANGES, ENTRANCE PLAZAS, APPROACHES, AND OTHER STRUCTURES FORMING AN INTEGRAL PART OF A STREET, ROAD, OR HIGHWAY, INCLUDING BICYCLE AND WALKING PATHS; AND

2. ANY OTHER PROPERTY ACQUIRED FOR THE CONSTRUCTION, OPERATION, OR USE OF THE HIGHWAY.

[(2) In this subsection, "qualified organization" means a fire company or a bona fide religious, fraternal, civic, war veterans', or charitable organization.

(3) The Anne Arundel County Council may, by ordinance, enact a licensing program for individuals who are 18 years old or older and qualified organizations that wish to solicit money or donations from the occupant of a vehicle by standing in a roadway, median divider, or intersection.

(4) The restriction on the age of individuals who may be licensed under the authority granted to the Anne Arundel County Council under paragraph (3) of this subsection applies to individuals who participate in the solicitation of donations as members or on behalf of the qualified organization.

(5) If the county council enacts an ordinance establishing a licensing program authorized by paragraph (3) of this subsection, the ordinance:

(i) May impose on an applicant that is an individual or a qualified organization a fee for the license, subject to item (ii) of this paragraph, in an amount not to exceed the county's cost to administer the program;

(ii) May not impose a fee exceeding \$100 per year for each applicant for a license or a renewal of a license;

(iii) Shall include provisions for the duration and renewal of the license;

(iv) May require that an applicant or licensee provide notice to the county as to the dates on which the solicitation will occur; and

(v) May provide for:

1. An exemption from the fee for an individual who is unable to pay the fee; and

2. Procedures for an individual to comply with in order to demonstrate the individual's inability to pay the fee.

(6) An ordinance that imposes a fee under paragraph (5) of this subsection on an applicant that is a qualified organization organized on a national or statewide basis and having more than one county or local chapter in the State shall impose one fee to be paid by the national or statewide organization to cover all of the county or local chapters in the State.

(7) (i) If the county council enacts an ordinance establishing a licensing program authorized by paragraph (3) of this subsection, an individual or organization that decides not to seek to become licensed under the program may not stand in a roadway, median divider, or intersection in Anne Arundel County to solicit money or donations of any kind from the occupant of a vehicle.

(ii) If the county council does not choose to enact an ordinance to establish a licensing program as authorized by paragraph (3) of this subsection, the provisions of this subsection may not be construed to prohibit an individual or qualified organization from standing in a roadway, median divider, or intersection in the county to solicit money or donations from the occupant of a vehicle.

(8) If the county council enacts an ordinance establishing a licensing program authorized by paragraph (3) of this subsection, then on or before December 1 of the calendar year that occurs after the anniversary of the first 12 months of the implementation of the licensing program, the Anne Arundel County Police Department shall report in writing to the Anne Arundel County Delegation to the General Assembly on the effectiveness of the county police department's enforcement of the provisions of this subsection with respect to individuals and organizations to solicit money or donations on roadways, median dividers, or intersections in the county from the occupants of vehicles.]

~~[(f)]~~ ~~(E)~~ (1) This subsection applies only to Cecil County.

(2) In this subsection, "qualified organization" means a fire company or bona fide religious, fraternal, civic, war veterans', or charitable organization.

(3) Except as provided in paragraph (4) of this subsection, in Cecil County a person may not:

(i) Stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle; or

(ii) Cause, encourage, allow, or petition another to stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

(4) (i) The County Commissioners of Cecil County or the governing body of a municipal corporation in Cecil County may, by appropriate resolution or ordinance, enact a permit program to allow individuals who are at least 18 years old and representatives of qualified organizations who are at least 18 years old to solicit money or donations from the occupant of a vehicle by standing in a roadway, median divider, or intersection.

(ii) If the County Commissioners or the governing body of a municipal corporation in the county enact a resolution or ordinance establishing a permit program authorized by this paragraph, the resolution or ordinance shall:

1. Require an applicant for a permit to submit proof that the individual or qualified organization has a plan for safely soliciting money or donations from the proposed location;

2. Provide that a permit is effective for a period of 1 calendar day; and

3. Allow an individual or a qualified organization to obtain only one permit per calendar year.

~~[(g)]~~ (1) In Montgomery County, a child under the age of 18 years may not stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

(2) This subsection shall be enforced by the issuance of a warning that informs the offender of the requirements of this subsection.

[(h) The Anne Arundel County Council, by ordinance may prohibit a child under the age of 18 years from standing in a roadway, median divider, or intersection in the county to solicit money or donations of any kind from the occupant of a vehicle.]

SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this Act 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 Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 538

(Senate Bill 254)

AN ACT concerning

**Environment – Groundwater Contamination – Notification and
Reimbursement of Costs**

FOR the purpose of altering certain procedures for notification of certain property owners of certain groundwater contamination findings by the Department of the Environment and the local health department; altering certain reimbursement requirements for certain responsible persons; and generally relating to groundwater contamination.

BY repealing and reenacting, with amendments,
Article – Environment
Section 4–411.2
Annotated Code of Maryland
(1996 Replacement Volume and 2006 Supplement)

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

Article – Environment

4–411.2.

(a) Within 14 days of the finding, the Department shall notify the appropriate local health department of a finding that a groundwater monitoring well sample taken from a high-risk groundwater use area, as defined by the Department, contains:

- (1) Methyl tertiary butyl ether at or in excess of 20 parts per billion;
- (2) Benzene at or in excess of 5 parts per billion; or

(3) A combination of benzene, toluene, ethyl benzene, and xylene at or in excess of 100 parts per billion.

(b) (1) [The local health department] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT** shall notify each owner of property within one-half mile of the site from which the sample was taken.

(2) **IF THE DEPARTMENT AND THE LOCAL HEALTH DEPARTMENT AGREE, THE LOCAL HEALTH DEPARTMENT SHALL GIVE THE NOTICE REQUIRED UNDER THIS SECTION.**

(3) The notification shall:

(i) Be mailed within 14 days of the receipt of a notice from the Department under subsection (a) of this section;

(ii) Be mailed via certified mail; and

(iii) Provide the property owner with information regarding the amount of contamination at the site.

(c) The person responsible for the release that resulted in the groundwater contamination shall reimburse **THE DEPARTMENT OR** the local health department for the costs associated with providing the notice required under subsection (b) of this section.

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

Approved by the Governor, May 17, 2007.

CHAPTER 539

(Senate Bill 255)

AN ACT concerning

State Board of Physicians – Sunset Extension and Program Evaluation

FOR the purpose of authorizing certain regulatory boards to investigate certain claims; continuing the State Board of Physicians in accordance with the

provisions of the Maryland Program Evaluation Act (Sunset Law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; repealing a provision of law requiring the Board to elect a secretary-treasurer; authorizing the Board's executive director or other duly authorized agent or investigator of the Board to enter certain premises under certain circumstances; altering the percentages of certain fees required to be distributed in certain fiscal years from the Board to the Office of Student Financial Assistance within the Maryland Higher Education Commission for certain uses under certain circumstances; ~~requiring applicants for licensure by the Board to submit to a certain criminal history records check; prohibiting a certain applicant who has a certain disciplinary order in another state from qualifying for a license under certain circumstances; requiring certain applicants to submit certain fingerprints and certain fees to the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services under certain circumstances; requiring the Central Repository to forward certain information to the Board and to certain applicants; providing that certain information is confidential and may be used only for certain purposes; authorizing certain subjects to contest certain contents of certain printed statements; requiring certain applicants for licensure to submit certain evidence to the Board; prohibiting the Board from issuing certain licenses if certain criminal history record information has not been received; requiring the Board to begin a process of requiring certain criminal history records checks as a condition of certain licensure renewal as determined by certain regulations;~~ authorizing the Board to impose a certain civil penalty in lieu of certain sanctions for a licensee's failure to obtain the required continuing medical education credits under certain circumstances; ~~requiring the Board to develop a pilot program for continuing competency for licensed physicians that addresses a physician's ability to practice medicine; authorizing a certain pilot program to be implemented in a certain teaching hospital; authorizing the Board to provide technical assistance and financial support to a certain teaching hospital for a continuing competency pilot program; requiring the Board to issue a certain report on or before a certain date including certain information;~~ altering the persons with which the Board must contract for peer review services; requiring the Board to obtain a certain number of peer review reports for certain allegations; altering certain qualifications a peer reviewer must meet; authorizing the Board to consult with certain societies to establish a list of physicians qualified to provide peer review services; authorizing the Board to use sole source procurement under certain circumstances; prohibiting certain stays of challenges because of the selection of certain peer reviewers prior to certain filings; repealing a provision requiring the Physician Rehabilitation Committee to report certain noncompliance by a physician to the Board; ~~requiring the Board to provide services for physician rehabilitation or contract with an entity or entities for physician rehabilitation;~~

requiring the Board to issue a request for proposals and enter into a certain contract with a nonprofit entity to provide certain rehabilitation services on or before a certain date; requiring the Board to directly provide certain rehabilitation services under certain circumstances; altering certain requirements that the Board contract with an entity or entities for ~~further investigation and physician peer review~~ investigatory, mediation, and related services; repealing provisions of law requiring the Board to assess certain applicants a fee for physician rehabilitation and peer review activities; establishing separate grounds for disciplinary action for immoral conduct and unprofessional conduct; authorizing the Board to disclose certain licensee information to the National Practitioner Data Bank under certain circumstances; ~~modifying the criteria for the reporting of medical malpractice claims and settlement information on the individual licensee profiles~~ repealing the requirement that certain medical malpractice settlement information be available as part of a licensee's public individual profile; requiring the Board to provide certain notification regarding certain malpractice settlement information on the Board's Internet site; requiring the Board to provide certain information within a certain period of time; requiring proceedings of the Board or the hearing officer to be open to the public under certain circumstances; authorizing the Board or hearing officer to close proceedings under certain circumstances; requiring the Board to adopt certain regulations; requiring the Administrative Office of the Courts and the Chief Judge of the District Court, in collaboration with the Board, to develop a certain procedure for required reporting; altering certain confidentiality requirements so as to require that certain records and other information relating to the records of a proceeding or transaction before an entity or ~~entities~~ individual that ~~contract~~ contracts with the Board are confidential; authorizing the Board to impose a certain civil penalty for failure to file certain reports with the Board; prohibiting certain entities from employing certain individuals without a certificate; authorizing the Board to impose a certain civil penalty for employing certain uncertified individuals; ~~requiring the Comptroller to distribute certain funds for certain programs administered by the Maryland Higher Education Committee under certain circumstances;~~ repealing provisions of law requiring the Comptroller to distribute certain fees received from the Board to the General Fund; ~~providing that the Insurance Commissioner, instead of certain regulatory boards, determines if certain payments were provided as a result of a prohibited referral;~~ extending to a certain date the termination provision relating to the statutory and regulatory authority of the Polysomnography Professional Standards Committee; altering certain definitions; defining a certain term; making technical changes; repealing certain provisions requiring the Board to establish or designate a training program for certain physicians on or before a certain date; repealing certain provisions requiring the Board to inform physicians about the availability of certain training and experience; authorizing the Board to adopt certain regulations to qualify certain physicians to practice certain opioid addiction therapy; repealing certain provisions of law relating to

~~the use of peer reviewers by a certain entity or entities and the Board; requiring the Board to utilize a certain peer reviewer to affirm a certain decision;~~ requiring the Board to make certain regulatory changes on or before a certain date; requiring the Secretary of Health and Mental Hygiene to standardize investigator job classifications within the Board on or before a certain date; requiring the Board to provide certain training to certain personnel of the Office of Administrative Hearings; requiring the Department of Health and Mental Hygiene and the Office of the Attorney General to review a certain process for investigating self-referral cases and make certain recommendations on or before a certain date; requiring the Board to submit a certain report regarding certain disagreement among certain peer reviewers on or before a certain date; ~~requiring the Governor to include funding for certain new regular positions for the Board in the annual budget bill for a certain fiscal year;~~ requiring the Chief Administrative Law Judge to designate certain administrative law judges to hear certain cases referred by the Board; exempting the Board from certain provisions of law requiring a certain preliminary evaluation; and generally relating to the State Board of Physicians.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section ~~1-306, 14-101, 14-203(a), 14-206(d)(1), 14-207, 14-307(a) and (f), 14-309(a), 14-313,~~ 14-316(d) and (e), 14-401, 14-402, ~~14-404(a)(3), 14-411(b) and (c)~~ 14-411(c), 14-411.1(b)(4), 14-411.1(b), (c), (d), 14-413(b), 14-414(b), 14-506, 14-5B-08, 14-5C-25, 14-702, and 15-206

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY adding to

Article – Health Occupations

Section ~~14-307.1, 14-316(g), 14-322, 14-411.2,~~ 14-5A-18(g), 14-5B-15(g), and 14-5C-18(g)

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section ~~14-316(e)~~ 14-411(a) and (b), 14-411.1(b)(3), 14-5A-18(a), 14-5B-15(a), and 14-5C-18(a)

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article – Insurance~~

~~Section 15-110~~

~~Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)~~

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(49) and (53)
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Chapter 220 of the Acts of the General Assembly of 2003
Section 1

~~BY repealing and reenacting, with amendments,~~
Chapter 252 of the Acts of the General Assembly of 2003
Section 8

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

Article – Health Occupations

1–306.

(A) A health care practitioner who fails to comply with the provisions of this subtitle shall be subject to disciplinary action by the appropriate regulatory board.

(B) THE APPROPRIATE REGULATORY BOARD MAY INVESTIGATE A CLAIM UNDER THIS SUBTITLE IN ACCORDANCE WITH THE INVESTIGATIVE AUTHORITY GRANTED UNDER THIS ARTICLE.

14–101.

- (a) In this title the following words have the meanings indicated.
- (b) “Board” means the State Board of Physicians.
- (c) “Civil action” includes a health care malpractice claim under Title 3, Subtitle 2A of the Courts Article.
- (d) “Faculty” means the Medical and Chirurgical Faculty of the State of Maryland.
- (e) “Hospital” has the meaning stated in § 19–301 of the Health – General Article.

(f) “License” means, unless the context requires otherwise, a license issued by the Board to practice medicine.

(g) “Licensed physician” means, unless the context requires otherwise, a physician, including a doctor of osteopathy, who is licensed by the Board to practice medicine.

(h) “Licensee” means an individual to whom a license is issued, including an individual practicing medicine within or as a professional corporation or professional association.

(i) “Perform acupuncture” means to stimulate a certain point or points on or near the surface of the human body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of ailments or conditions of the body.

(j) “Physician” means an individual who practices medicine.

(k) “Physician Rehabilitation [Committee] **PROGRAM**” means the [committee] **PROGRAM** of the **BOARD OR THE NONPROFIT** entity ~~or entities with whom~~ **WITH WHICH** the Board contracts under [§ 14-401(e)] **§ 14-401(G)** of this title that evaluates and provides assistance to impaired physicians **AND OTHER HEALTH PROFESSIONALS REGULATED BY THE BOARD** ~~in need of~~ **WHO ARE DIRECTED BY THE BOARD TO RECEIVE** treatment and rehabilitation for alcoholism, chemical dependency, or other physical, emotional, or mental conditions.

(l) (1) “Practice medicine” means to engage, with or without compensation, in medical:

- (i) Diagnosis;
- (ii) Healing;
- (iii) Treatment; or
- (iv) Surgery.

(2) “Practice medicine” includes doing, undertaking, professing to do, and attempting any of the following:

(i) Diagnosing, healing, treating, preventing, prescribing for, or removing any physical, mental, or emotional ailment or supposed ailment of an individual:

1. By physical, mental, emotional, or other process that is exercised or invoked by the practitioner, the patient, or both; or

2. By appliance, test, drug, operation, or treatment;

(ii) Ending of a human pregnancy; and

(iii) Performing acupuncture **AS PROVIDED UNDER § 14-504**

OF THIS TITLE.

(3) "Practice medicine" does not include:

(i) Selling any nonprescription drug or medicine;

(ii) Practicing as an optician; or

(iii) Performing a massage or other manipulation by hand, but by no other means.

(m) "Related institution" has the meaning stated in § 19-301 of the Health – General Article.

14-203.

(a) From among its members, the Board shall elect a [chairman, secretary-treasurer,] **CHAIR** and any other officers that it considers necessary.

14-206.

(d) (1) If the entry is necessary to carry out a duty under this title, the Board's executive director or other duly authorized agent or investigator of the Board may enter at any reasonable hour:

(I) [a] A place of business of a licensed physician;

(II) **PRIVATE PREMISES WHERE THE BOARD SUSPECTS THAT A PERSON WHO IS NOT LICENSED BY THE BOARD IS PRACTICING, ATTEMPTING TO PRACTICE, OR OFFERING TO PRACTICE MEDICINE, BASED ON A FORMAL COMPLAINT;** or

(III) [public] **PUBLIC** premises.

14-207.

(a) There is a Board of Physicians Fund.

(b) (1) The Board may set reasonable fees for the issuance and renewal of licenses and its other services.

(2) The fees charged shall be set so as to approximate the cost of maintaining the Board.

(3) Funds to cover the compensation and expenses of the Board members shall be generated by fees set under this section.

(c) (1) [Except for fees assessed in accordance with the provisions of § 14-402(e) of this title, the] **THE** Board shall pay all fees collected under the provisions of this title to the Comptroller of the State.

(2) (i) If the Governor does not include in the State budget at least \$750,000 for the operation of the Health [Manpower] **PERSONNEL** Shortage Incentive **GRANT** Program under § 18-803 of the Education Article and the **JANET L. HOFFMAN** Loan Assistance Repayment Program for primary care services under § 18-1502(c) of the Education Article, as administered by the Maryland Higher Education Commission, the Comptroller shall distribute:

1. ~~14~~ **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, 10 12** percent of the fees received from the Board to the Office of Student Financial Assistance to be used as follows:

A. One-half to make grants under the Health [Manpower] **PERSONNEL** Shortage Incentive Grant Program under § 18-803 of the Education Article; and

B. One-half to make grants under the Janet L. Hoffman Loan Assistance Repayment Program under § 18-1502(c) of the Education Article to physicians engaged in primary care or to medical residents specializing in primary care who agree to practice for at least 2 years as primary care physicians in a geographic area of the State that has been designated by the Secretary of Health and Mental Hygiene as being medically underserved; and

2. The balance of the fees to the Board of Physicians Fund.

(II) ~~1~~ FOR FISCAL 2008, IF THE GOVERNOR DOES NOT INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 14 PERCENT OF THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT

FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER PARAGRAPH (I) OF THIS PARAGRAPH.

~~2. FOR FISCAL 2009, IF THE GOVERNOR DOES NOT INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER PARAGRAPH (I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 12 PERCENT OF THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.~~

~~(ii)~~ **(III)** If the Governor includes in the State budget at least \$750,000 for the operation of the Health [Manpower] **PERSONNEL** Shortage Incentive **GRANT** Program under § 18-803 of the Education Article and the **JANET L. HOFFMAN** Loan Assistance Repayment Program for primary care services under § 18-1502(c) of the Education Article, as administered by the Maryland Higher Education Commission, the Comptroller shall distribute the fees to the Board of Physicians Fund.

(d) (1) The Fund shall be used exclusively to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this title.

(2) (i) The Fund is a continuing, nonlapsing fund, not subject to § 7-302 of the State Finance and Procurement Article.

(ii) Any unspent portions of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund to be used for the purposes specified in this title.

(3) Interest or other income earned on the investment of moneys in the Fund shall be paid into the Fund.

(4) No other State money may be used to support the Fund.

(e) (1) In addition to the requirements of subsection (d) of this section, the Board shall fund the budget of the Physician Rehabilitation [Committee] **PROGRAM** with fees set, collected, and distributed to the Fund under this title.

(2) After review and approval by the Board of a budget submitted by the Physician Rehabilitation [Committee] **PROGRAM**, the Board may allocate moneys from the Fund to the Physician Rehabilitation [Committee] **PROGRAM**.

(f) (1) The [chairman] **CHAIR** of the Board or the designee of the [chairman] **CHAIR** shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized by the provisions of this title.

(g) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2-1220 of the State Government Article.

~~14-307.~~

~~(a) To qualify for a license, an applicant shall be an individual who SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 14-307.1 OF THIS SUBTITLE AND meets the requirements of this section.~~

~~(f) (1) The applicant shall meet any other qualifications that the Board establishes in its regulations for license applicants.~~

~~(2) AN APPLICANT WHO HAS AN ACTIVE DISCIPLINARY ORDER ON A LICENSE IN ANOTHER STATE THAT IS GROUNDS FOR DISCIPLINARY ACTION UNDER § 14-404 OF THIS TITLE MAY NOT QUALIFY FOR A LICENSE.~~

~~14-307.1.~~

~~(A) IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.~~

~~(B) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT SHALL SUBMIT TO THE CENTRAL REPOSITORY:~~

~~(1) TWO COMPLETE SETS OF LEGIBLE FINGERPRINTS OF THE APPLICANT TAKEN IN A FORMAT 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 STATE CRIMINAL HISTORY RECORDS; AND~~

~~(3) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.~~

~~(C) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE BOARD AND TO THE APPLICANT THE CRIMINAL HISTORY RECORD INFORMATION OF THE APPLICANT.~~

~~(D) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION SHALL BE:~~

~~(1) CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND~~

~~(2) USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY THIS TITLE.~~

~~(E) 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.~~

~~14-309.~~

~~(a) To apply for a license, an applicant shall:~~

~~(1) (i) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 14-307.1 OF THIS SUBTITLE; OR~~

~~(ii) HAVE COMPLETED A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 14-307.1 OF THIS SUBTITLE THROUGH ANOTHER STATE MEDICAL BOARD WITHIN THE 5 YEARS PRECEDING THE DATE OF APPLICATION;~~

~~(2) Submit an application to the Board on the form that the Board requires; [and]~~

~~(3) SUBMIT WRITTEN, VERIFIED EVIDENCE THAT THE REQUIREMENT OF ITEM (1) OF THIS SUBSECTION IS BEING MET OR HAS BEEN MET; AND~~

~~[(2)] (4) Pay to the Board the application fee set by the Board.~~

~~14-313.~~

~~(A) [The] SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE Board shall issue a license to any applicant who meets the requirements of this title.~~

~~(B) THE BOARD MAY NOT ISSUE A LICENSE IF THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER § 14-307.1 OF THIS SUBTITLE HAS NOT BEEN RECEIVED.~~

14-316.

(d) (1) In addition to any other qualifications and requirements established by the Board, the Board may establish continuing education requirements as a condition to the renewal of licenses under this section.

(2) In establishing these requirements, the Board shall evaluate existing methods, devices, and programs in use among the various medical specialties and other recognized medical groups.

(3) The Board may not establish or enforce these requirements if they would so reduce the number of physicians in a community as to jeopardize the availability of adequate medical care in that community.

(4) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$100 PER CONTINUING MEDICAL EDUCATION CREDIT IN LIEU OF A SANCTION UNDER § 14-404 OF THIS TITLE, FOR A FIRST OFFENSE, FOR THE FAILURE OF A LICENSEE TO OBTAIN THE CONTINUING MEDICAL EDUCATION CREDITS REQUIRED BY THE BOARD.

(e) ~~{The}~~ ~~SUBJECT TO SUBSECTION (G) OF THIS SECTION,~~ THE Board shall renew the license of each licensee who meets the requirements of this section.

~~(G) (1) (I) BEGINNING WITH THE 2009 RENEWAL CYCLE, THE BOARD SHALL BEGIN A PROCESS REQUIRING CRIMINAL HISTORY RECORDS CHECKS ON SELECTED ANNUAL RENEWAL APPLICANTS AS DETERMINED BY REGULATIONS ADOPTED BY THE BOARD IN ACCORDANCE WITH § 14-307.1 OF THIS SUBTITLE.~~

~~(H) AN ADDITIONAL CRIMINAL HISTORY RECORDS CHECK SHALL BE PERFORMED EVERY 10 YEARS THEREAFTER.~~

~~(2) IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD MAY NOT RENEW A LICENSE IF THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER § 14-307.1 OF THIS SUBTITLE HAS NOT BEEN RECEIVED.~~

~~14-322.~~

~~(A) THE BOARD SHALL DEVELOP A PILOT PROGRAM FOR CONTINUING COMPETENCY FOR LICENSED PHYSICIANS THAT ADDRESSES:~~

~~(1) AN ASSESSMENT OF A LICENSED PHYSICIAN'S ABILITY TO PRACTICE MEDICINE;~~

~~(2) THE DEVELOPMENT, EXECUTION, AND DOCUMENTATION OF A LEARNING PLAN BASED ON THE ASSESSMENT IN ITEM (1) OF THIS SUBSECTION; AND~~

~~(3) PERIODIC DEMONSTRATIONS OF CONTINUING COMPETENCE THROUGH EVIDENCE-BASED METHODS.~~

~~(B) THE PILOT PROGRAM MAY BE IMPLEMENTED IN A STATE-BASED TEACHING HOSPITAL SYSTEM THAT:~~

~~(1) ELECTS TO IMPLEMENT THE PILOT PROGRAM;~~

~~(2) DEMONSTRATES THE CAPACITY TO IMPLEMENT THE PILOT PROGRAM; AND~~

~~(3) AGREES TO COLLECT OUTCOME MEASURES TO COMPARE THE COMPETENCY OF INDIVIDUALS ON ENTRY INTO THE PROGRAM AND ON COMPLETION OF THE PROGRAM.~~

~~(C) THE BOARD MAY PROVIDE TECHNICAL ASSISTANCE AND FINANCIAL SUPPORT TO A STATE-BASED TEACHING HOSPITAL SYSTEM THAT IMPLEMENTS A PILOT PROGRAM UNDER THIS SUBSECTION.~~

~~(D) THE BOARD SHALL ISSUE A REPORT ON THE STATUS OF, AND THE BENEFITS ACCRUED FROM, THE PILOT PROGRAM, TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY WITHIN 2 YEARS AFTER THE DATE THE PILOT PROGRAM IS IMPLEMENTED UNDER THIS SECTION.~~

14-401.

(a) The Board shall perform any necessary preliminary investigation before the Board refers to an investigatory body an allegation of grounds for disciplinary or other action brought to its attention.

(b) If an allegation of grounds for disciplinary or other action is made by a patient or a family member of a patient based on § 14-404(a)(22) of this subtitle and a

full investigation results from that allegation, the full investigation shall include an offer of an interview with the patient or a family member of the patient who was present on or about the time that the incident that gave rise to the allegation occurred.

(c) (1) Except as otherwise provided in this subsection, after performing any necessary preliminary investigation of an allegation of grounds for disciplinary or other action, the Board may:

(i) Refer the allegation for further investigation to the entity that has contracted with the Board under subsection (e) of this section;

(ii) Take any appropriate and immediate action as necessary; or

(iii) Come to an agreement for corrective action with a licensee pursuant to paragraph (4) of this subsection.

(2) After performing any necessary preliminary investigation of an allegation of grounds for disciplinary or other action, the Board shall refer any allegation based on § 14-404(a)(22) of this subtitle to the entity or entities that have contracted with the Board under subsection (e) of this section for further investigation and physician peer review within the involved medical specialty or specialties.

(3) If, after performing any necessary preliminary investigation, the Board determines that an allegation involving fees for professional or ancillary services does not constitute grounds for disciplinary or other action, the Board shall offer the complainant and the licensee an opportunity to mediate the dispute.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, if an allegation is based on § 14-404(a)(40) of this subtitle, the Board:

1. May determine that an agreement for corrective action is warranted; and

2. Shall notify the licensee of the identified deficiencies and enter into an agreement for corrective action with the licensee as provided in this paragraph.

(ii) The Board may not enter into an agreement for corrective action with a licensee if patient safety is an issue.

(iii) The Board shall subsequently evaluate the licensee and shall:

1. Terminate the corrective action if the Board is satisfied that the licensee is in compliance with the agreement for corrective action and has corrected the deficiencies; or

2. Pursue disciplinary action under § 14-404 of this subtitle if the deficiencies persist or the licensee has failed to comply with the agreement for corrective action.

(iv) An agreement for corrective action under this paragraph may not be made public or considered a disciplinary action under this title.

(v) The Board shall provide a summary of the corrective action agreements in the executive director's report of Board activities.

~~(d) The entity or entities with which the Board contracts under subsection (e) of this section, all committees of the entity or entities, [except for the Physician Rehabilitation Committee,] and all county COUNTY medical societies shall refer to the Board all complaints that set forth allegations of grounds for disciplinary action under § 14-404 of this subtitle.~~

(e) (1) ~~(I) Except as provided in~~ **IN ACCORDANCE WITH** subsection (f) of this section, the Board shall enter into a written contract with [a nonprofit] AN entity or ~~entities~~ **INDIVIDUAL** for further [investigation, physician rehabilitation,] ~~INVESTIGATION~~ and **CONFIDENTIAL** physician peer review of allegations based on § 14-404(a)(22) of this subtitle.

(II) THE BOARD SHALL OBTAIN TWO PEER REVIEW REPORTS FOR EACH ALLEGATION IT REFERS FOR PEER REVIEW.

~~(2) The [nonprofit] entity or entities shall employ reviewers that:~~

(2) A PEER REVIEWER SHALL:

- (i) ~~Are~~ **BE** Board certified;
- (ii) Have special qualifications to judge the matter at hand;
- (iii) Have received a specified amount of medical experience and training;

(iv) Have no formal actions against ~~their own licenses~~ **THE PEER REVIEWER'S OWN LICENSE;**

(v) Receive training in peer review; ~~and~~

(vi) Have a standard format for peer review reports; AND

(VII) TO THE EXTENT PRACTICABLE, BE LICENSED AND ENGAGED IN THE PRACTICE OF MEDICINE ~~WITHIN THE PAST YEAR~~ IN THE STATE.

(3) ~~The [nonprofit] entity or entities shall make a reasonable effort to employ physicians that are licensed in the State.~~ THE BOARD MAY CONSULT WITH THE APPROPRIATE SPECIALTY HEALTH CARE PROVIDER SOCIETIES IN THE STATE TO OBTAIN A LIST OF PHYSICIANS QUALIFIED TO PROVIDE PEER REVIEW SERVICES.

(4) FOR PURPOSES OF PEER REVIEW, THE BOARD MAY USE SOLE SOURCE PROCUREMENT UNDER § 13-107 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(5) THE HEARING OF CHARGES MAY NOT BE STAYED OR CHALLENGED BECAUSE OF THE SELECTION OF PEER REVIEWERS UNDER THIS SUBSECTION BEFORE THE FILING OF CHARGES.

(f) (1) [(i)] The [nonprofit] entity or ~~entities~~ INDIVIDUAL PEER REVIEWER with which the Board contracts under subsection (e) of this section shall have 90 days for completion of peer review.

[(ii)] (2) The [nonprofit] entity or ~~entities~~ INDIVIDUAL PEER REVIEWER may apply to the Board for an extension of up to 30 days to the time limit imposed under [subparagraph (i) of this paragraph] PARAGRAPH (1) OF THIS SUBSECTION.

[(iii)] (3) If an extension is not granted, and 90 days have elapsed, the Board may contract with any other entity OR INDIVIDUAL WHO MEETS THE REQUIREMENTS OF SUBSECTION (E)(2) OF THIS SECTION for the services of peer review.

[(iv)] (4) If an extension has been granted, and 120 days have elapsed, the Board may contract with any other entity OR INDIVIDUAL WHO MEETS THE REQUIREMENTS OF SUBSECTION (E)(2) OF THIS SECTION for the services of peer review.

[(2) If a physician has been noncompliant with a Physician Rehabilitation Committee for 60 days, the Physician Rehabilitation Committee shall report this noncompliance to the Board.]

~~(G) THE BOARD SHALL:~~

~~(1) PROVIDE SERVICES FOR PHYSICIAN REHABILITATION; OR~~

~~(2) ENTER INTO A WRITTEN CONTRACT WITH AN ENTITY OR ENTITIES FOR PHYSICIAN REHABILITATION.~~

(G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ON OR BEFORE JANUARY 1, 2008, THE BOARD SHALL ISSUE A REQUEST FOR PROPOSALS AND ENTER INTO A WRITTEN CONTRACT WITH A NONPROFIT ENTITY TO PROVIDE REHABILITATION SERVICES FOR PHYSICIANS OR OTHER ALLIED HEALTH PROFESSIONALS DIRECTED BY THE BOARD TO RECEIVE REHABILITATION SERVICES.

(2) IF THE BOARD DOES NOT RECEIVE A RESPONSIVE PROPOSAL UNDER PARAGRAPH (1) OF THIS SUBSECTION OR IS NOT ABLE TO CONTRACT WITH A NONPROFIT ENTITY, THE BOARD SHALL PROVIDE DIRECTLY REHABILITATION SERVICES FOR PHYSICIANS.

[(g)] (H) (1) To facilitate the investigation and prosecution of disciplinary matters and the mediation of fee disputes coming before it, the Board may[:

(i) Contract] CONTRACT with [the Faculty, its committees, and the component medical societies] AN ENTITY OR ENTITIES for the purchase of investigatory, mediation, and related services[; and

(ii) Contract with others for the purchase of investigatory, mediation, and related services and make these services available to the Faculty, its committees, and the component medical societies].

(2) Services that may be contracted for under this subsection include the services of:

- (i) Investigators;
- (ii) Attorneys;
- (iii) Accountants;
- (iv) Expert witnesses;
- (v) Consultants; and

(vi) Mediators.

[(h)] (I) The Board may issue subpoenas and administer oaths in connection with any investigation under this section and any hearing or proceeding before it.

[(i)] (J) Those individuals not licensed under this title but covered under § 14-413(a)(1)(ii)3 and 4 of this subtitle are subject to the hearing provisions of § 14-405 of this subtitle.

[(j)] (K) (1) It is the intent of this section that the disposition of every complaint against a licensee that sets forth allegations of grounds for disciplinary action filed with the Board shall be completed as expeditiously as possible and, in any event, within 18 months after the complaint was received by the Board.

(2) If the Board is unable to complete the disposition of a complaint within 1 year, the Board shall include in the record of that complaint a detailed explanation of the reason for the delay.

14-402.

(a) In reviewing an application for licensure, certification, or registration or in investigating an allegation brought against a licensed physician or any allied health professional regulated by the Board under this title, the Physician Rehabilitation [Committee] PROGRAM may request the Board to direct, or the Board on its own initiative may direct, the licensed physician or any allied health professional regulated by the Board under this title to submit to an appropriate examination.

(b) In return for the privilege given by the State issuing a license, certification, or registration, the licensed, certified, or registered individual is deemed to have:

(1) Consented to submit to an examination under this section, if requested by the Board in writing; and

(2) Waived any claim of privilege as to the testimony or examination reports.

(c) The unreasonable failure or refusal of the licensed, certified, or registered individual to submit to an examination is prima facie evidence of the licensed, certified, or registered individual's inability to practice medicine or the respective discipline competently, unless the Board finds that the failure or refusal was beyond the control of the licensed, certified, or registered individual.

(d) The Board shall pay the costs of any examination made under this section.

[(e) (1) The Board shall assess each applicant for a license to practice medicine or for renewal of a license to practice medicine a fee of not more than \$50 to be set after the submission of a budget for the physician rehabilitation program and peer review activities.

(2) The fee is to be used to fund the physician rehabilitation program and peer review activities.

(3) The Board shall set a fee under this subsection in accordance with the budget submitted by the entity or entities with which the Board contracts.]

[(f) (E) (1) The **BOARD OR THE** entity or entities with which the Board contracts shall appoint the members of the Physician Rehabilitation [Committee] **PROGRAM.**

(2) The [chairman] **CHAIR** of the Board shall appoint one member of the Board to serve as a liaison to the Physician Rehabilitation [Committee] **PROGRAM.**

[(g) (F) The Legislative Auditor shall every 2 years audit the accounts and transactions of the Physician Rehabilitation [Committee] **PROGRAM** as provided in § 2-1220 of the State Government Article.

14-404.

(a) Subject to the hearing provisions of § 14-405 of this subtitle, the Board, on the affirmative vote of a majority of the quorum, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(3) Is guilty of:

(I) [immoral or unprofessional] IMMORAL conduct in the practice of medicine; OR

(II) UNPROFESSIONAL CONDUCT IN THE PRACTICE OF MEDICINE;

14-411.

(a) In this section, "record" means the proceedings, records, or files of the Board.

(b) Except as otherwise expressly provided in this section and ~~§ 14-411.1~~ ~~§§ 14-411.1 AND 14-411.2~~ of this subtitle, the Board or any of its investigatory bodies may not disclose any information contained in a record.

(c) Nothing in this section shall be construed to prevent or limit the disclosure of:

(1) General licensure, certification, or registration information maintained by the Board, if the request for release complies with the criteria of § 10-617(h) of the State Government Article; [or]

(2) Profile information collected and disseminated under § 14-411.1 of this subtitle; OR

~~(3) DISCIPLINARY INFORMATION DISCLOSED UNDER § 14-411.2 OF THIS SUBTITLE; OR~~

~~(4)~~ **(3) PERSONAL AND OTHER IDENTIFYING INFORMATION OF A LICENSEE, AS REQUIRED BY THE NATIONAL PRACTITIONER DATA BANK FOR PARTICIPATION IN THE PROACTIVE DISCLOSURE SERVICE.**

14-411.1.

(b) The Board shall create and maintain a public individual profile on each licensee that includes the following information:

(1) A description of any disciplinary action taken by the Board against the licensee within the most recent 10-year period that includes a copy of the public order;

(2) A description in summary form of any final disciplinary action taken by a licensing board in any other state or jurisdiction against the licensee within the most recent 10-year period;

(3) The number of medical malpractice final court judgments and arbitration awards against the licensee within the most recent 10-year period for which all appeals have been exhausted as reported to the Board;

~~(4) The number of medical malpractice settlements involving the licensee if there are three or more [with a settlement amount of \$150,000 or greater] within the most recent [5-year] 10-YEAR period as reported to the Board;~~

[(5)] (4) A description of a conviction or entry of a plea of guilty or nolo contendere by the licensee for a crime involving moral turpitude reported to the Board under § 14-413(b) of this subtitle; and

[(6)] (5) Medical education and practice information about the licensee including:

(i) The name of any medical school that the licensee attended and the date on which the licensee graduated from the school;

(ii) A description of any internship and residency training;

(iii) A description of any specialty board certification by a recognized board of the American Board of Medical Specialties or the American Osteopathic Association;

(iv) The name of any hospital where the licensee has medical privileges as reported to the Board under § 14-413 of this subtitle;

(v) The location of the licensee's primary practice setting; and

(vi) Whether the licensee participates in the Maryland Medical Assistance Program.

(c) In addition to the requirements of subsection (b) of this section, the Board shall:

(1) Provide appropriate and accessible Internet links from the Board's Internet site:

(i) To the extent available, to the appropriate portion of the Internet site of each health maintenance organization licensed in this State which will allow the public to ascertain the names of the physicians affiliated with the health maintenance organization; and

(ii) To the appropriate portion of the Internet site of the American Medical Association; [and]

(2) Include a statement on each licensee's profile of information to be taken into consideration by a consumer when viewing a licensee's profile, including factors to consider when evaluating a licensee's malpractice data; AND

(3) PROVIDE ON THE BOARD'S INTERNET SITE:

(I) NOTIFICATION THAT A PERSON MAY CONTACT THE BOARD BY TELEPHONE, ELECTRONIC MAIL, OR WRITTEN REQUEST TO FIND OUT WHETHER THE NUMBER OF MEDICAL MALPRACTICE SETTLEMENTS INVOLVING A PARTICULAR LICENSEE TOTALS THREE OR MORE WITH A SETTLEMENT AMOUNT OF \$150,000 OR GREATER WITHIN THE MOST RECENT ~~10-YEAR~~ 5-YEAR PERIOD AS REPORTED TO THE BOARD; AND

(II) A TELEPHONE NUMBER, ELECTRONIC MAIL ADDRESS, AND PHYSICAL ADDRESS THROUGH WHICH A PERSON MAY CONTACT THE BOARD TO REQUEST THE INFORMATION REQUIRED TO BE PROVIDED UNDER ITEM (I) OF THIS ITEM.

(d) The Board:

(1) On receipt of a written request for a licensee's profile from any person, shall forward a written copy of the profile to the person; [and]

(2) Shall maintain a website that serves as a single point of entry where all physician profile information is available to the public on the Internet; AND

(3) ON RECEIPT OF A VERBAL, ELECTRONIC, OR WRITTEN REQUEST IN ACCORDANCE WITH SUBSECTION (C)(3) OF THIS SECTION, SHALL PROVIDE THE INFORMATION WITHIN 2 BUSINESS DAYS OF THE REQUEST.

~~14-411.2.~~

~~(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE PROCEEDINGS OF THE BOARD OR A HEARING OFFICER FOLLOWING THE ISSUANCE OF FORMAL CHARGES BY THE BOARD SHALL BE OPEN TO THE PUBLIC.~~

~~(B) THE BOARD OR A HEARING OFFICER MAY CONDUCT A PROCEEDING IN CLOSED SESSION ON REQUEST BY THE LICENSEE OR THE COMPLAINANT, FOR GOOD CAUSE SHOWN.~~

~~(C) THE BOARD SHALL ADOPT REGULATIONS THAT SPECIFY WHEN A PROCEEDING MAY BE CLOSED FOR GOOD CAUSE.~~

~~14-413.~~

~~(b) (1) Each court shall report to the Board each conviction of or entry of a plea of guilty or nolo contendere by a physician for any crime involving moral turpitude.~~

~~(2) The court shall submit the report within 10 days of the conviction or entry of the plea.~~

~~(3) THE ADMINISTRATIVE OFFICE OF THE COURTS AND THE CHIEF JUDGE OF THE DISTRICT COURT, IN COLLABORATION WITH THE BOARD, SHALL DEVELOP A PROCEDURE FOR REPORTING AS REQUIRED IN PARAGRAPH (1) OF THIS SUBSECTION.~~

~~14-414.~~

~~(b) (1) Each court shall report to the Board each conviction of or entry of a plea of guilty or nolo contendere by a physician for any crime involving moral turpitude.~~

~~(2) The court shall submit the report within 10 days of the conviction or entry of the plea.~~

~~(3) THE ADMINISTRATIVE OFFICE OF THE COURTS AND THE CHIEF JUDGE OF THE DISTRICT COURT, IN COLLABORATION WITH THE BOARD, SHALL DEVELOP A PROCEDURE FOR REPORTING AS REQUIRED IN PARAGRAPH (1) OF THIS SUBSECTION.~~

14-506.

(a) In this section, "the Maryland Institute for Emergency Medical Services Systems" means the State agency described in § 13-503 of the Education Article.

(b) The following records and other information are confidential records:

(1) Any record and other information obtained by the Faculty, a component society of the Faculty, the Maryland Institute for Emergency Medical Services Systems, a hospital staff committee, or a national medical society or group organized for research, if that record or information identifies any person; and

(2) Any record of a proceeding or transaction before the [Faculty] ENTITY OR ENTITIES INDIVIDUAL THAT CONTRACT CONTRACTS WITH THE BOARD or one of its committees that relates to any investigation or report under § 14-401 of this title as to an allegation of grounds for disciplinary or other action.

(c) Access to and use of any confidential record described in subsection (b) of this section is regulated by §§ 5-601 and 10-205(b) of the Courts Article.

(d) This section does not restrict the publication of any statistics or other information that does not disclose the identity of any person.

14-5A-18.

(a) Except as provided in subsections (b) and (d) of this section, hospitals, related institutions, alternative health systems as defined in § 1-401 of this article, and employers shall file with the Board a report that the hospital, related institution, alternative health system, or employer limited, reduced, otherwise changed, or terminated any licensed respiratory care practitioner for any reasons that might be grounds for disciplinary action under § 14-5A-17 of this subtitle.

(G) (1) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 FOR FAILURE TO REPORT UNDER THIS SECTION.

(2) THE BOARD SHALL REMIT ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

14-5B-08.

(a) Except as otherwise provided in this subtitle, an individual shall be certified by the Board before the individual may practice radiation oncology/therapy technology, medical radiation technology, or nuclear medicine technology in this State.

(b) Except as otherwise provided in this subtitle, a licensed physician may not employ or supervise an individual practicing radiation oncology/therapy technology, medical radiation technology, or nuclear medicine technology without a certificate.

(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER MAY NOT EMPLOY AN INDIVIDUAL PRACTICING RADIATION ONCOLOGY/THERAPY TECHNOLOGY, MEDICAL RADIATION TECHNOLOGY, OR NUCLEAR MEDICINE TECHNOLOGY WITHOUT A CERTIFICATE.

(D) (1) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 FOR EMPLOYING AN UNCERTIFIED INDIVIDUAL UNDER THIS SECTION.

(2) THE BOARD SHALL REMIT ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

14-5B-15.

(a) Except as provided in subsections (b) and (d) of this section, hospitals, related institutions, alternative health systems as defined in § 1-401 of this article, and employers shall file with the Board a report that the hospital, related institution,

alternative health system, or employer limited, reduced, otherwise changed, or terminated any radiation oncology/therapy technologist, certified medical radiation technologist, or certified nuclear medicine technologist for any reasons that might be grounds for disciplinary action under § 14-5B-13 of this subtitle.

(G) (1) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 FOR FAILURE TO REPORT UNDER THIS SECTION.

(2) THE BOARD SHALL REMIT ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

14-5C-18.

(a) Except as provided in subsections (b) and (d) of this section, hospitals, related institutions, alternative health systems as defined in § 1-401 of this article, and employers shall file with the Board a report that the hospital, related institution, alternative health system, or employer limited, reduced, otherwise changed, or terminated any licensed polysomnographic technologist for any reason that might be grounds for disciplinary action under § 14-5C-17 of this subtitle.

(G) (1) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 FOR FAILURE TO REPORT UNDER THIS SECTION.

(2) THE BOARD SHALL REMIT ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

14-5C-25.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14-702 of this title, this subtitle and all regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2011] **2013**.

14-702.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, [2007] **2013**.

15-206.

(a) The Board shall set reasonable fees for:

(1) The issuance and renewal of certificates; and

(2) The other services rendered by the Board in connection with physician assistants.

(b) (1) The Board shall pay all [funds] FEES collected under this title to the Comptroller of the State.

(2) (i) IF THE GOVERNOR DOES NOT INCLUDE IN THE STATE BUDGET AT LEAST \$750,000 FOR THE OPERATION OF THE HEALTH PERSONNEL SHORTAGE INCENTIVE GRANT PROGRAM UNDER § 18-803 OF THE EDUCATION ARTICLE AND THE JANET L. HOFFMAN LOAN ASSISTANCE REPAYMENT PROGRAM FOR PRIMARY CARE SERVICES UNDER § 18-1502(C) OF THE EDUCATION ARTICLE, AS ADMINISTERED BY THE MARYLAND HIGHER EDUCATION COMMISSION, THE COMPTROLLER SHALL DISTRIBUTE:

1. ~~14~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, 10 12 PERCENT OF THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT FINANCIAL ASSISTANCE TO BE USED AS FOLLOWS:

A. ONE-HALF TO MAKE GRANTS UNDER THE HEALTH PERSONNEL SHORTAGE INCENTIVE GRANT PROGRAM UNDER § 18-803 OF THE EDUCATION ARTICLE; AND

B. ONE-HALF TO MAKE GRANTS UNDER THE JANET L. HOFFMAN LOAN ASSISTANCE REPAYMENT PROGRAM UNDER § 18-1502(C) OF THE EDUCATION ARTICLE TO PHYSICIANS ENGAGED IN PRIMARY CARE OR TO MEDICAL RESIDENTS SPECIALIZING IN PRIMARY CARE WHO AGREE TO PRACTICE FOR AT LEAST 2 YEARS AS PRIMARY CARE PHYSICIANS IN A GEOGRAPHIC AREA OF THE STATE THAT HAS BEEN DESIGNATED BY THE SECRETARY OF HEALTH AND MENTAL HYGIENE AS BEING MEDICALLY UNDERSERVED; AND

2. THE BALANCE OF THE FEES TO THE BOARD OF PHYSICIANS FUND.

(ii) ~~1~~ FOR FISCAL 2008, IF THE GOVERNOR DOES NOT INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 14 PERCENT OF THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER PARAGRAPH (I) OF THIS PARAGRAPH.

~~2. FOR FISCAL 2009, IF THE GOVERNOR DOES NOT INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER PARAGRAPH (I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 12 PERCENT OF THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.~~

~~(H) (III)~~ IF THE GOVERNOR INCLUDES IN THE STATE BUDGET AT LEAST \$750,000 FOR THE OPERATION OF THE HEALTH PERSONNEL SHORTAGE INCENTIVE GRANT PROGRAM UNDER § 18-803 OF THE EDUCATION ARTICLE AND THE JANET L. HOFFMAN LOAN ASSISTANCE REPAYMENT PROGRAM FOR PRIMARY CARE SERVICES UNDER § 18-1502(C) OF THE EDUCATION ARTICLE, AS ADMINISTERED BY THE MARYLAND HIGHER EDUCATION COMMISSION, THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE BOARD OF PHYSICIANS FUND.

(c) The Comptroller shall distribute:

- (1) 20 percent of the fees received from the Board to the General Fund of the State; and
- (2) The balance of the fees to the Board of Physicians Fund.]

~~Article—Insurance~~

~~15-110.~~

- ~~(a) (1) In this section the following words have the meanings indicated.~~
 - ~~(2) "Health care practitioner" has the meaning stated in § 1-301 of the Health Occupations Article.~~
 - ~~(3) "Health care service" has the meaning stated in § 1-301 of the Health Occupations Article.~~
 - ~~(4) "Prohibited referral" means a referral prohibited by § 1-302 of the Health Occupations Article.~~
- ~~(b) This section applies to insurers and nonprofit health service plans that issue or deliver individual or group health insurance policies in the State.~~
- ~~(c) An entity subject to this section may seek repayment from a health care practitioner of any moneys paid for a claim, bill, or other demand or request for~~

~~payment for health care services that the [appropriate regulatory board] COMMISSIONER determines were provided as a result of a prohibited referral.~~

~~(d) Each individual and group health insurance policy that is issued for delivery in the State by an entity subject to this section and that provides coverage for health care services shall include a provision that excludes payment of any claim, bill, or other demand or request for payment for health care services that the [appropriate regulatory board] COMMISSIONER determines were provided as a result of a prohibited referral.~~

~~(e) An entity subject to this section shall report to the Commissioner and the appropriate regulatory board any pattern of claims, bills, or other demands or requests for payment submitted for health care services provided as a result of a prohibited referral within 30 days after the entity has knowledge of the pattern.~~

~~(f) (1) Notwithstanding any other provision of this section, an entity subject to this section that reimburses for health care services is not required to audit or investigate a claim, bill, or other demand or request for payment for health care services to determine whether those services were provided as a result of a prohibited referral.~~

~~(2) An audit or investigation of a claim, bill, or other demand or request for payment for health care services to determine whether those services were provided as a result of a prohibited referral is not grounds to delay payment or waive the provisions of §§ 15-1004 and 15-1005 of this title.~~

~~(g) In accordance with § 1-305 of the Health Occupations Article, an entity subject to this section may seek a refund of a payment made for a claim, bill, or other demand or request for payment that is subsequently determined to be for a health care service provided as a result of a prohibited referral.~~

Article - State Government

8-403.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(49) Physicians, State Board of (§ 14-201 of the Health Occupations Article: July 1, [2006] **2012**);

(53) Polysomnography Professional Standards Committee (§ 14-5C-05 of the Health Occupations Article: July 1, [2010] **2012**);

Chapter 220 of the Acts of 2003

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) [On or before November 1, 2003, the State Board of Physician Quality Assurance shall establish or designate a program to train Maryland physicians who wish to apply for a waiver from SAMHSA to practice office-based, medication-assisted opioid addiction therapy.

(b) In establishing or designating a training program required under subsection (a) of this section, the Board shall:

(1) consult the Model Policy Guidelines for Opioid Addiction Treatment in the Medical Office adopted by the Federation of State Medical Boards of the United States, Inc.; and

(2) adopt regulations regarding the specific experience or training qualifications required to:

(i) demonstrate the ability of the physician to treat and manage opiate-dependent patients in an office-based setting; and

(ii) qualify a physician for certification by the Board to apply for a waiver from SAMHSA to practice office-based, medication-assisted opioid addiction therapy.

(c) In addition to establishing or designating a program as required under subsection (a) of this section, the] **THE** Board shall, through its website, newsletter, and other correspondence with licensed physicians:

(1) educate licensed physicians about provisions of the federal Drug Addiction Treatment Act of 2000 that authorize qualifying physicians to practice office-based, medication-assisted opioid addiction therapy under a waiver from SAMHSA; **AND**

(2) encourage family practitioners and primary care providers to consider participating in office-based, medication-assisted opioid addiction therapy[; and

(3) inform licensed physicians about the availability of training and experience to qualify for a waiver to practice office-based, medication-assisted opioid addiction therapy that:

(i) addresses the treatment and management of opiate-dependent patients in an office-based setting; and

(ii) satisfies the training requirements that the Board establishes in the regulations adopted under subsection (b)(2) of this section].

[(d)] **(B)** To the extent feasible, the Board shall, in cooperation with the Alcohol and Drug Abuse Administration, develop an outreach strategy to educate opioid addicts about the availability of office-based, medication-assisted opioid addiction therapy.

(C) THE BOARD MAY ADOPT REGULATIONS REGARDING EXPERIENCE OR TRAINING QUALIFICATIONS REQUIRED TO QUALIFY A PHYSICIAN TO PRACTICE OFFICE-BASED, MEDICATION-ASSISTED OPIOID ADDICTION THERAPY.

Chapter 252 of the Acts of 2003

~~SECTION 8. AND BE IT FURTHER ENACTED, That the entity or entities with which the State Board of Physicians contracts under § 14-401(e) of the Health Occupations Article for further investigation and peer review of allegations based on § 14-404(a)(22) of the Health Occupations Article shall utilize two peer reviewers, and in the event of a lack of agreement between the two reviewers, the Board shall utilize a third reviewer to [render a final peer review decision].~~ **~~AFFIRM THE DECISION OF ONE OF THE PEER REVIEWERS.~~**

SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Physicians shall make regulatory changes necessary to reflect the procedures of the Board, including exceptions from licensure, and to implement the recommendations made in the "Report on the Maryland Board of Physicians' Investigative Processes and Optimal Caseloads" on or before September 1, 2007.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before July 1, 2007, the Secretary of Health and Mental Hygiene shall standardize job classifications for investigators at the State Board of Physicians by increasing the base salary grade to a Grade 16.

SECTION 4. AND BE IT FURTHER ENACTED, That the Chief Administrative Law Judge shall designate ~~15 specific~~ a pool of administrative law judges in the Office of Administrative Hearings to hear cases referred to it by the State Board of Physicians.

SECTION 5. AND BE IT FURTHER ENACTED, That the State Board of Physicians shall provide training at least annually to the personnel of the Office of Administrative Hearings in order to improve the quality and efficiency of the hearings

in physician discipline cases. The training shall include medical terminology, medical ethics, and, to the extent practicable, descriptions of basic medical and surgical procedures currently in use.

SECTION 6. AND BE IT FURTHER ENACTED, That, on or before October 1, 2007, the Department of Health and Mental Hygiene and the Office of the Attorney General shall:

(1) review the process for the investigation of self-referral cases by the health occupations boards;

(2) recommend a revised investigative process for self-referral cases that includes the determination of investigative resources for the health occupations boards in the investigation of self-referral cases; and

(3) report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee on their findings, recommendations, and any legislative or regulatory changes necessary to implement any recommended changes.

SECTION 7. AND BE IT FURTHER ENACTED, That the State Board of Physicians shall submit a report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly, on or before December 31, 2008, regarding:

(1) how many complaints reviewed by two peer reviewers resulted in disagreement between the peer reviewers; and

(2) of these complaints, how many resulted in charges being brought against a licensee.

~~SECTION 8. AND BE IT FURTHER ENACTED, That for fiscal 2009, the Governor shall include in the annual budget bill funding for an additional 7 new regular positions as compliance analysts for the State Board of Physicians, to be fully funded by the Board of Physicians Fund established under § 14-207 of the Health Occupations Article, in order to efficiently investigate complaints and protect the health, safety, and welfare of the public.~~

SECTION 5-9. §. AND BE IT FURTHER ENACTED, That the provisions of § 8-404 of the State Government Article requiring a preliminary evaluation do not apply to the State Board of Physicians prior to the evaluation required on or before July 1, 2012.

SECTION ~~6~~ ~~10~~ 9 AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 540

(Senate Bill 261)

AN ACT concerning

~~**Biodiesel Renewable Fuel Act**~~
Task Force on Renewable Alternative Fuels

FOR the purpose of ~~requiring certain retail service station dealers to sell a certain percentage of biodiesel in diesel fuel on an annual basis under certain circumstances; providing for the increase in the percentage of biodiesel that must be sold in the State, by certain years, and under certain circumstances; requiring the Secretary of Agriculture to make certain determinations; requiring certain retail service station dealers to provide certain evidence to the Secretary and the Comptroller on an annual basis; requiring the Department of Agriculture and the Comptroller to jointly establish an Advisory Committee to facilitate the implementation of this Act; requiring the Advisory Committee to make a certain annual report; exempting the sale of aviation fuel from the provisions of this Act; and generally relating to the use of biodiesel in the State~~ establishing a Task Force on Renewable Alternative Fuels; providing for the membership of the Task Force; requiring the Secretary of Agriculture to chair the Task Force; requiring the Department of Agriculture to provide staff for the Task Force; prohibiting members of the Task Force from receiving certain compensation; providing for the duties of the Task Force; requiring the Task Force to report to the Governor, the Senate Finance Committee, and the House Economic Matters Committee; providing for the termination of this Act; and generally relating to the Task Force on Renewable Alternative Fuels.

~~BY repealing and reenacting, without amendments,
Article — Agriculture
Section 10-1501(a) and (b)
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)~~

~~BY repealing and reenacting, without amendments,
Article — Business Regulation~~

~~Section 10-101(k)
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)~~

~~BY adding to
Article — Business Regulation
Section 10-325
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)~~

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

~~Article — Agriculture~~

~~10-1501.~~

- ~~(a) In this subtitle the following words have the meanings indicated.~~
- ~~(b) "Biodiesel" means an alternative motor fuel produced from a renewable resource such as vegetable oil or animal fat.~~

~~Article — Business Regulation~~

~~10-101.~~

~~(k) "Retail service station dealer" means a person who operates a retail place of business where motor fuel is sold and delivered into the fuel supply tanks of motor vehicles.~~

~~10-325.~~

~~(A) "BIODIESEL" HAS THE MEANING STATED IN § 10-1501 OF THE AGRICULTURE ARTICLE.~~

~~(B) (1) ON OR BEFORE JANUARY 1, 2009, OR WHEN THE SECRETARY OF AGRICULTURE DETERMINES THAT PRODUCTION OF BIODIESEL IN THE STATE IS SUFFICIENT, AT LEAST 2% OF THE TOTAL DIESEL FUEL SOLD IN THE STATE BY RETAIL SERVICE STATION DEALERS EACH YEAR SHALL BE BIODIESEL.~~

~~(2) ON OR BEFORE JANUARY 1, 2012, OR WHEN THE SECRETARY OF AGRICULTURE DETERMINES THAT PRODUCTION OF BIODIESEL IN THE STATE IS SUFFICIENT, AT LEAST 5% OF THE TOTAL DIESEL FUEL SOLD IN THE STATE BY RETAIL SERVICE STATION DEALERS EACH YEAR SHALL BE BIODIESEL.~~

~~(C) THE SECRETARY OF AGRICULTURE SHALL PUBLISH THE DETERMINATIONS MADE UNDER SUBSECTION (B) OF THIS SECTION IN THE MARYLAND REGISTER.~~

~~(D) RETAIL SERVICE STATION DEALERS SHALL PROVIDE EVIDENCE OF THEIR BIODIESEL SALES TO THE DEPARTMENT OF AGRICULTURE AND THE COMPTROLLER ON AN ANNUAL BASIS.~~

~~(E) (1) ON OR BEFORE JANUARY 1, 2008, THE DEPARTMENT OF AGRICULTURE AND THE COMPTROLLER SHALL JOINTLY ESTABLISH AN ADVISORY COMMITTEE TO FACILITATE THE IMPLEMENTATION OF THIS SECTION.~~

~~(2) THE ADVISORY COMMITTEE SHALL MAKE AN ANNUAL REPORT, WHICH INCLUDES INFORMATION ON:~~

~~(I) IMPLEMENTATION OF THIS SECTION, INCLUDING ANY LOGISTICAL, TECHNICAL, AND ECONOMIC ISSUES;~~

~~(II) COMPLIANCE AND ENFORCEMENT OF THIS SECTION;~~
AND

~~(III) NEW ADVANCEMENTS IN RENEWABLE FUELS.~~

~~(3) THE ADVISORY COMMITTEE SHALL REPORT TO THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE ENVIRONMENTAL MATTERS COMMITTEE, AND THE GOVERNOR, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE.~~

~~(F) THIS SECTION DOES NOT APPLY TO THE SALE OF AVIATION FUEL.~~

(a) There is a Task Force on Renewable Alternative Fuels.

(b) The Task Force consists of the following members:

(1) One member of the Senate of Maryland, appointed by the President of the Senate;

(2) One member of the House of Delegates, appointed by the Speaker of the House;

(3) The State Comptroller, or the Comptroller's designee;

- (4) The Secretary of Agriculture, or the Secretary's designee;
 - (5) The Secretary of the Environment, or the Secretary's designee;
 - (6) The ~~Executive~~ Director of the Maryland Energy Administration, or the ~~Executive~~ Director's designee;
 - (7) One representative from the Mid-Atlantic Petroleum Distributors' Association;
 - (8) One representative from the Maryland Motor Truck Association;
 - (9) One representative from the Maryland Petroleum Council;
 - (10) One representative from the Washington, Maryland, Delaware Service Station and Automotive Repair Association;
 - (11) One representative of the Maryland Farm Bureau; and
 - (12) One representative from groups that advocate for the environment.
- (c) The Secretary of Agriculture shall appoint the nondesignated members of the Task Force.
- (d) The Secretary of Agriculture shall chair the Task Force.
- (e) The Department of Agriculture shall provide staff for the Task Force.
- (f) A member of the Task Force may not receive compensation as a member of the Task Force but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.
- (g) The Task Force shall:
- (1) Study ways to integrate biodiesel and other renewable fuels into motor fuels used in State and local public fleets;
 - (2) Study incentives or mandates to integrate biodiesel and other renewable fuels in the private and public sector;
 - (3) Study home heating issues;
 - (4) Determine the economic and environmental impact on Maryland, including Maryland agriculture, regarding the use of biodiesel and other renewable fuels;

(5) Determine how the use of biodiesel and other renewable fuels affects agricultural supplies and fuel supplies in Maryland; and

(6) Examine Maryland energy policy in terms of the following factors:

(i) Improving domestic (Maryland) energy supply and security as it pertains to liquid fuels;

(ii) Currently available sources of renewable alternative fuels to the Maryland market and the quantities available;

(iii) Sources, types, and quantities of renewable alternative fuels potentially available to the Maryland market in the next 3 years;

(iv) Infrastructure improvements needed;

(v) Investment needed and potential return on investment;

(vi) Opportunities for the petroleum industry;

(vii) Relevant policies in other states and federal policies; and

(viii) A timeline for future review.

(h) The Task Force shall report its findings and recommendations on or before December 31, 2007, to the Governor, and, in accordance with § 2-1246 of the State Government Article, the Senate Finance Committee and the House Economic Matters Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2007~~ July 1, 2007. It shall remain effective for a period of 1 year and, at the end of June 30, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 541

(Senate Bill 283)

AN ACT concerning

~~Southern Maryland~~ Charles County Prostate Cancer Pilot Program

FOR the purpose of establishing the ~~Southern Maryland~~ Charles County Prostate Cancer Pilot Program; providing for the purpose of the Program; providing for eligibility for the Program; requiring the Program to provide certain services and activities; requiring the Program to be funded as provided in the State budget; requiring the Department of Health and Mental Hygiene to distribute grants to certain local health departments to administer the Program; requiring the Department to make a certain report to certain committees of the General Assembly on or before a certain date; authorizing a certain local health officer to establish an advisory committee to oversee a certain grant process and community education and outreach effort; defining certain terms; providing for the termination of this Act; and generally relating to the ~~Southern Maryland~~ Charles County Prostate Cancer Pilot Program.

BY adding to

Article – Health – General

Section 13–2501 through 13–2507 to be under the new subtitle “Subtitle 25.

~~Southern Maryland~~ Charles County Prostate Cancer Pilot Program”

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

Preamble

WHEREAS, Prostate cancer is the most common cancer and the second leading cause of cancer death among men; and

WHEREAS, More than 200,000 men are diagnosed with prostate cancer each year in the United States; and

WHEREAS, African–American men face a far greater risk from prostate cancer than Caucasian men; and

WHEREAS, Caucasian men will contract prostate cancer at a rate of 147 per 100,000 while African–American men will contract prostate cancer at a rate of 222 per 100,000; and

WHEREAS, ~~Southern Maryland~~ Charles County ~~has had~~ has had the highest incidence of prostate cancer diagnoses ~~and deaths~~ in Maryland from 1997–2001 and has consistently held the highest prostate cancer incidence rate in Maryland for the last decade; and

WHEREAS, Men living in rural areas are diagnosed with higher–stage prostate cancer than men living in urban areas; and

WHEREAS, Men whose prostate cancer is detected in the earlier stages have a 5-year survival rate of 94%, while men whose prostate cancer is diagnosed in advanced stages have a 5-year survival rate of 30%; and

WHEREAS, The Prostate Cancer National Blueprint for Action calls for screening and treatment, health promotion and education, education and support for parents, and public policy action; and

WHEREAS, Due to the increased public awareness of prostate cancer, programs should be established for prostate cancer education, early detection, and treatment services for underserved populations; now, therefore,

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

Article - Health - General

SUBTITLE 25. ~~SOUTHERN MARYLAND~~ CHARLES COUNTY PROSTATE CANCER PILOT PROGRAM.

13-2501.

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

(B) “PROGRAM” MEANS THE ~~SOUTHERN MARYLAND~~ CHARLES COUNTY PROSTATE CANCER PILOT PROGRAM.

(C) “UNINSURED MEN” MEANS MEN FOR WHOM SERVICES PROVIDED BY THE ~~SOUTHERN MARYLAND~~ CHARLES COUNTY PROSTATE CANCER PILOT PROGRAM ARE NOT COVERED BY PRIVATE HEALTH INSURANCE, THE MARYLAND MEDICAL ASSISTANCE PROGRAM, OR MEDICARE.

13-2502.

THERE IS A ~~SOUTHERN MARYLAND~~ CHARLES COUNTY PROSTATE CANCER PILOT PROGRAM.

13-2503.

THE PURPOSE OF THE PROGRAM IS TO FUND PROSTATE CANCER SCREENING AND TREATMENT SERVICES AND TO PROVIDE PROSTATE CANCER EDUCATION TO MEN RESIDING IN ~~SOUTHERN MARYLAND~~ CHARLES COUNTY.

13-2504.

THE PROGRAM SHALL BE OPEN TO:

- (1) UNINSURED MEN OR ECONOMICALLY CHALLENGED MEN WHO ARE AT LEAST 50 YEARS OLD AND WHO DO NOT HAVE HEALTH INSURANCE; AND**
- (2) ON THE ADVICE OF A PHYSICIAN OR AT THE REQUEST OF THE INDIVIDUAL, UNINSURED MEN OR ECONOMICALLY CHALLENGED MEN WHO ARE AT LEAST ~~40~~ 35 YEARS OLD BUT UNDER THE AGE OF 50 YEARS WHO ARE AT HIGH RISK FOR PROSTATE CANCER.**

13-2505.

THE ~~PILOT~~ PROGRAM SHALL PROVIDE:

- (1) PROSTATE CANCER SCREENING;**
- (2) REFERRAL SERVICES, INCLUDING SERVICES NECESSARY FOR DIAGNOSIS;**
- (3) TREATMENT SERVICES FOR INDIVIDUALS WHO ARE DIAGNOSED WITH PROSTATE CANCER AFTER BEING SCREENED; AND**
- (4) OUTREACH AND EDUCATION ACTIVITIES TO ENSURE AWARENESS AND UTILIZATION OF PROGRAM SERVICES BY UNINSURED MEN AND ECONOMICALLY CHALLENGED MEN.**

13-2506.

(A) THE PROGRAM SHALL BE FUNDED AS PROVIDED IN THE STATE BUDGET.

(B) THE DEPARTMENT SHALL DISTRIBUTE GRANTS TO ADMINISTER THE PROGRAM TO:

- (1) THE LOCAL HEALTH DEPARTMENTS IN SOUTHERN MARYLAND DEPARTMENT IN CHARLES COUNTY; OR**
- (2) A FEDERALLY QUALIFIED HEALTH CENTER IN CHARLES COUNTY. TO ADMINISTER THE PROGRAM.**

13-2507.

ON OR BEFORE SEPTEMBER 1, 2010, THE DEPARTMENT SHALL REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE ON:

(1) THE NUMBER OF INDIVIDUALS SCREENED AND TREATED BY THE PROGRAM, INCLUDING RACIAL AND ETHNIC DATA ON THE INDIVIDUALS WHO WERE SCREENED AND TREATED; AND

(2) ~~ANY~~ TO THE EXTENT POSSIBLE, ANY COST SAVINGS ACHIEVED BY THE PROGRAM AS A RESULT OF EARLY DETECTION OF PROSTATE CANCER.

SECTION 2. AND BE IT FURTHER ENACTED, That the local health officer in Charles County may establish an advisory committee to oversee the grant process and community education and outreach effort under the Charles County Prostate Pilot Program established under Section 1 of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. It shall remain effective for a period of 3 years and, at the end of September 30, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 542

(Senate Bill 302)

AN ACT concerning

~~State Residential Centers – Money Follows the Individual Act~~
Department of Health and Mental Hygiene – Money Follows the Person
Grant – Report

FOR the purpose of ~~prohibiting the Department of Health and Mental Hygiene from denying an individual home and community based waiver services when the individual resides in a State residential center and certain criteria are met; providing that nothing in this Act is intended to result in a certain reduction of federal funds; requiring the Department to notify certain residents of State~~

~~residential centers about certain opportunities to participate in a certain waiver; requiring the Department to submit a certain annual report; defining a certain term; and generally relating to individuals living in State residential centers and access to home and community based waivers requiring the Department of Health and Mental Hygiene to make a certain report to certain committees of the General Assembly on or before a certain date each year; providing for the termination of this Act; and generally relating to the Department of Health and Mental Hygiene and the Money Follows the Person grant.~~

BY adding to

Article - Health - General

Section ~~15-135.1~~ 15-144

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

Preamble

~~WHEREAS, The Written Plan of Habilitation (§ 7-904 of the Health - General Article) requires that the individual written plan for each individual residing at a State residential center include a recommendation regarding the most integrated setting to meet the individual's needs and barriers to providing services in the most integrated setting; and~~

~~WHEREAS, Ninety percent of the individuals reviewed to date have a finding from the independent resource coordinator that community residential services are the most integrated setting; and~~

~~WHEREAS, The Department of Health and Mental Hygiene's report on the Written Plan of Habilitation for Individuals in State Residential Centers to the General Assembly states that "capacity is not a significant barrier for most individuals if funding is available"; and~~

~~WHEREAS, No funding has been provided in the Department's budget to transition individuals from State residential centers to appropriate community services; now, therefore,~~

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

Article - Health - General

~~15-135.1.~~

~~(A) IN THIS SECTION, "STATE RESIDENTIAL CENTER" HAS THE MEANING STATED IN § 7-101 OF THIS ARTICLE.~~

~~(B) THE DEPARTMENT MAY NOT DENY AN INDIVIDUAL ACCESS TO A HOME AND COMMUNITY-BASED SERVICES WAIVER DUE TO A LACK OF FUNDING FOR WAIVER SERVICES IF:~~

~~(1) THE INDIVIDUAL IS LIVING IN A STATE RESIDENTIAL CENTER;~~

~~(2) THE INDIVIDUAL MEETS THE ELIGIBILITY CRITERIA FOR PARTICIPATION IN THE HOME AND COMMUNITY-BASED SERVICES WAIVER; AND~~

~~(3) THE HOME AND COMMUNITY-BASED SERVICES PROVIDED TO THE INDIVIDUAL QUALIFY FOR FEDERAL MATCHING FUNDS.~~

~~(C) NOTHING IN THIS SECTION IS INTENDED TO RESULT IN A REDUCTION OF FEDERAL FUNDS AVAILABLE TO THE DEPARTMENT.~~

~~(D) (1) ON OR BEFORE SEPTEMBER 1, 2007, THE DEPARTMENT SHALL NOTIFY ALL STATE RESIDENTIAL CENTER RESIDENTS WHOSE INTERMEDIATE CARE FACILITY/MENTAL RETARDATION SERVICES ARE PAID BY THE PROGRAM ABOUT THE OPPORTUNITY TO APPLY FOR A HOME AND COMMUNITY-BASED WAIVER.~~

~~(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PROVIDED TO EACH RESIDENT ANNUALLY AS PART OF THE WRITTEN PLAN OF HABILITATION DISCUSSION ON THE MOST INTEGRATED SETTING REQUIRED UNDER § 7-1006 OF THIS ARTICLE.~~

~~(E) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:~~

~~(1) THE DEPARTMENT'S EFFORTS TO PROMOTE HOME AND COMMUNITY-BASED SERVICES; AND~~

~~(2) THE NUMBER OF INDIVIDUALS WHO HAVE TRANSITIONED FROM STATE RESIDENTIAL CENTERS TO HOME AND COMMUNITY-BASED WAIVER SERVICES.~~

15-144.

(A) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE FINANCE COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE STATUS OF THE STATE'S MONEY FOLLOWS THE PERSON GRANT.

(B) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) AN UPDATE ON COMMUNICATIONS BETWEEN THE DEPARTMENT AND THE CENTERS FOR MEDICARE AND MEDICAID SERVICES RELATED TO THE GRANT;

(2) INFORMATION ON FUNDING RECEIVED FROM THE CENTERS FOR MEDICARE AND MEDICAID SERVICES UNDER THE GRANT;

(3) THE NUMBER OF INDIVIDUALS MOVED OUT OF INSTITUTIONAL SETTINGS UNDER THE GRANT, BY TYPE OF INSTITUTION; AND

(4) ANY PLANS OR POLICIES DEVELOPED BY THE DEPARTMENT TO MOVE INDIVIDUALS OUT OF INSTITUTIONAL SETTINGS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period of 6 years and, at the end of June 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 543

(House Bill 325)

AN ACT concerning

~~State Residential Centers - Money Follows the Individual Act~~
Department of Health and Mental Hygiene - Money Follows the Person Grant - Report

FOR the purpose of ~~prohibiting the Department of Health and Mental Hygiene from denying an individual home and community based waiver services when the individual resides in a State residential center and certain criteria are met; providing that nothing in this Act is intended to result in a certain reduction of federal funds; requiring the Department to notify certain residents of State residential centers about certain opportunities to participate in a certain waiver; requiring the Department to submit a certain annual report; defining a certain term; and generally relating to individuals living in State residential centers and access to home and community based waivers~~ requiring the Department of Health and Mental Hygiene to make a certain report to certain committees of the General Assembly on or before a certain date each year; providing for the termination of this Act; and generally relating to the Department of Health and Mental Hygiene and the Money Follows the Person grant.

BY adding to

Article – Health – General

Section ~~15-135.4~~ 15-144

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

Preamble

~~WHEREAS, The Written Plan of Habilitation (§ 7-904 of the Health General Article) requires that the individual written plan for each individual residing at a State residential center include a recommendation regarding the most integrated setting to meet the individual's needs and barriers to providing services in the most integrated setting; and~~

~~WHEREAS, Ninety percent of the individuals reviewed to date have a finding from the independent resource coordinator that community residential services are the most integrated setting; and~~

~~WHEREAS, The Department of Health and Mental Hygiene's report on the Written Plan of Habilitation for Individuals in State Residential Centers to the General Assembly states that "capacity is not a significant barrier for most individuals if funding is available"; and~~

~~WHEREAS, No funding has been provided in the Department's budget to transition individuals from State residential centers to appropriate community services; now, therefore,~~

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

Article - Health - General

~~15-135.1.~~

~~(A) IN THIS SECTION, "STATE RESIDENTIAL CENTER" HAS THE MEANING STATED IN § 7-101 OF THIS ARTICLE.~~

~~(B) THE DEPARTMENT MAY NOT DENY AN INDIVIDUAL ACCESS TO A HOME AND COMMUNITY-BASED SERVICES WAIVER DUE TO A LACK OF FUNDING FOR WAIVER SERVICES IF:~~

~~(1) THE INDIVIDUAL IS LIVING IN A STATE RESIDENTIAL CENTER;~~

~~(2) THE INDIVIDUAL MEETS THE ELIGIBILITY CRITERIA FOR PARTICIPATION IN THE HOME AND COMMUNITY-BASED SERVICES WAIVER; AND~~

~~(3) THE HOME AND COMMUNITY-BASED SERVICES PROVIDED TO THE INDIVIDUAL QUALIFY FOR FEDERAL MATCHING FUNDS.~~

~~(C) NOTHING IN THIS SECTION IS INTENDED TO RESULT IN A REDUCTION OF FEDERAL FUNDS AVAILABLE TO THE DEPARTMENT.~~

~~(D) (1) ON OR BEFORE SEPTEMBER 1, 2007, THE DEPARTMENT SHALL NOTIFY ALL STATE RESIDENTIAL CENTER RESIDENTS WHOSE INTERMEDIATE CARE FACILITY/MENTAL RETARDATION SERVICES ARE PAID BY THE PROGRAM ABOUT THE OPPORTUNITY TO APPLY FOR A HOME AND COMMUNITY-BASED WAIVER.~~

~~(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PROVIDED TO EACH RESIDENT ANNUALLY AS PART OF THE WRITTEN PLAN OF HABILITATION DISCUSSION ON THE MOST INTEGRATED SETTING REQUIRED UNDER § 7-1006 OF THIS ARTICLE.~~

~~(E) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:~~

~~(1) THE DEPARTMENT'S EFFORTS TO PROMOTE HOME AND COMMUNITY-BASED SERVICES; AND~~

~~(2) THE NUMBER OF INDIVIDUALS WHO HAVE TRANSITIONED FROM STATE RESIDENTIAL CENTERS TO HOME AND COMMUNITY BASED WAIVER SERVICES.~~

15-144.

(A) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE FINANCE COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE STATUS OF THE STATE'S MONEY FOLLOWS THE PERSON GRANT.

(B) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) AN UPDATE ON COMMUNICATIONS BETWEEN THE DEPARTMENT AND THE CENTERS FOR MEDICARE AND MEDICAID SERVICES RELATED TO THE GRANT;

(2) INFORMATION ON FUNDING RECEIVED FROM THE CENTERS FOR MEDICARE AND MEDICAID SERVICES UNDER THE GRANT;

(3) THE NUMBER OF INDIVIDUALS MOVED OUT OF INSTITUTIONAL SETTINGS UNDER THE GRANT, BY TYPE OF INSTITUTION; AND

(4) ANY PLANS OR POLICIES DEVELOPED BY THE DEPARTMENT TO MOVE INDIVIDUALS OUT OF INSTITUTIONAL SETTINGS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period of 6 years and, at the end of June 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 544

(Senate Bill 378)

AN ACT concerning

State Board of Nursing – Advanced Nurse Practitioners – Membership and Qualifications

FOR the purpose of requiring that the State Board of Nursing consist of a certain number of members certified in an advanced practice nursing specialty; requiring the Governor to appoint certain members from a list of nominees submitted by certain organizations; requiring that a certain number of nominees be on a certain list of nominations; requiring that certain organizations nominate certain nurses with a certain certification from a certain list of specialties for each vacancy for each term and that certain organizations rotate the specialty of nominations among certain specialties; requiring that certain members meet certain educational and professional requirements; and generally relating to the State Board of Nursing and membership.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 8–202
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Health Occupations

8–202.

(a) (1) The Board consists of [11] **12** members.

(2) Of the [11] **12** Board members:

(i) [6] **7** shall be registered nurses;

(ii) 3 shall be licensed practical nurses; and

(iii) 2 shall be consumers.

(3) Of the [6] **7** registered nurse members:

(I) **1 SHALL BE CERTIFIED IN AN ADVANCED PRACTICE NURSING SPECIALTY;**

[(i)] (II) 1 shall be a baccalaureate nursing educator with, at least, a master's degree in nursing or education;

~~[(ii)] (III)~~ 1 shall be an associate degree nursing educator with, at least, a master's degree in nursing or education;

~~[(iii)] (IV)~~ 1 shall be a practical nursing educator with, at least, a bachelor of science degree in nursing or education;

~~[(iv)](V)~~ 1 shall be a nurse administrator with, at least, a master's degree in nursing administration, education, or public health; and

~~[(v)](VI)~~ 2 shall be nurse clinicians, one of whom shall have, at least, a master's degree in nursing or public health.

(b) (1) (I) The Governor shall appoint:

1. THE REGISTERED NURSE MEMBERS CERTIFIED IN AN ADVANCED PRACTICE NURSING SPECIALTY, WITH THE ADVICE OF THE SECRETARY, FROM A LIST OF QUALIFIED INDIVIDUALS JOINTLY DEVELOPED IN ACCORDANCE WITH THE REQUIREMENTS OF SUBPARAGRAPH (III) OF THIS PARAGRAPH AND SUBMITTED TO THE SECRETARY AND THE GOVERNOR BY THE:

A. MARYLAND ASSOCIATION OF NURSE ANESTHETISTS, INC.;

B. NURSE PRACTITIONERS ASSOCIATION OF MARYLAND, INC.;

C. MARYLAND COALITION OF NURSE PRACTITIONERS, INC.;

D. MARYLAND CHAPTER, AMERICAN COLLEGE OF NURSE-MIDWIVES; AND

E. PSYCHIATRIC ADVANCE PRACTICE NURSES OF MARYLAND; AND

2. [the] THE OTHER registered nurse members, with the advice of the Secretary, from a list of qualified individuals submitted to the Secretary and the Governor by the Maryland Nurses Association, Inc.

(II) The number of names on the [list] LISTS SUBMITTED TO THE SECRETARY AND THE GOVERNOR IN SUBPARAGRAPH (I) OF THIS PARAGRAPH shall be 5 times the number of vacancies.

(III) THE ORGANIZATIONS DEVELOPING AND SUBMITTING THE LIST OF NOMINEES FOR REGISTERED NURSE MEMBERS CERTIFIED IN AN ADVANCED PRACTICE NURSING SPECIALTY IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, SHALL ONLY SUBMIT THE NAMES OF NURSES CERTIFIED IN ONE OF THE FOLLOWING SPECIALTIES FOR EACH VACANCY EACH TERM AND SHALL ROTATE AMONG THE SPECIALTIES WITH EACH NOMINATION FOR A VACANCY:

- 1. NURSE ANESTHETIST;**
- 2. NURSE PRACTITIONER;**
- 3. NURSE MIDWIFE;**
- 4. NURSE PSYCHOTHERAPIST.**

(2) The Governor shall appoint the licensed practical nurse members, with the advice of the Secretary, from a list of qualified individuals submitted to the Secretary and the Governor by the Maryland Licensed Practical Nurse Association, Inc. The number of names on the list shall be 5 times the number of vacancies.

(3) The Governor may request an additional list of 5 nominees for each vacancy.

(4) The Governor shall make the appointment for each vacancy from the original list or the additional list.

(5) The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.

(c) Each member of the Board shall be:

- (1) A citizen of the United States; and
- (2) A resident of this State.

(d) **(1)** A registered nurse member of the Board shall:

[(1)] (I) Have graduated from an approved school of nursing or its equivalent; and

[(2)] (II) Have at least 5 years of experience in nursing administration, education, or practice, which includes at least the 3 years immediately before the appointment.

(2) A MEMBER OF THE BOARD WHO IS A REGISTERED NURSE CERTIFIED IN AN ADVANCED PRACTICE NURSING SPECIALTY SHALL:

(I) HOLD A CURRENT LICENSE TO PRACTICE REGISTERED NURSING IN THIS STATE;

(II) HOLD A CURRENT CERTIFICATION IN AN ADVANCED PRACTICE NURSING SPECIALTY IN THIS STATE; AND

(III) HAVE AT LEAST 5 YEARS OF EXPERIENCE IN AN ADVANCED PRACTICE NURSING EDUCATION OR PRACTICE, INCLUDING AT LEAST THE 3 YEARS IMMEDIATELY BEFORE THE APPOINTMENT.

(e) A licensed practical nurse member of the Board shall have at least 5 years of experience in the practice of licensed practical nursing, which includes at least the 3 years immediately before the appointment.

(f) Each consumer member of the Board:

(1) Shall be a member of the general public;

(2) May not be or ever have been a registered nurse or licensed practical nurse or in training to become a registered nurse or licensed practical nurse;

(3) May not have a household member who is a registered nurse or licensed practical nurse or in training to become a registered nurse or licensed practical nurse;

(4) May not participate or ever have participated in a commercial or professional field related to registered nursing or licensed practical nursing;

(5) May not have a household member who participates in a commercial or professional field related to registered nursing or licensed practical nursing; or

(6) May not have had within 2 years before appointment a substantial financial interest in a person who is regulated by the Board.

(g) While a member of the Board, a consumer member may not have a substantial financial interest in a person regulated by the Board.

(h) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the State Constitution.

(i) (1) The term of a member is 4 years, except that the initial term of 1 of the consumer members is 2 years.

(2) The terms of the members are staggered as required by the terms provided for members of the Board on July 1, 1981.

(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 consecutive full terms.

(6) To the extent practicable, the Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.

(j) (1) The Governor may remove a member for incompetence, misconduct, neglect of a duty required by law, unprofessional conduct, or dishonorable conduct.

(2) Upon the recommendation of the Secretary, the Governor may remove a member whom the Secretary finds to have been absent from 2 successive Board meetings without adequate reason.

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

Approved by the Governor, May 17, 2007.

CHAPTER 545

(House Bill 445)

AN ACT concerning

State Board of Nursing – Advanced Nurse Practitioners – Membership and Qualifications

FOR the purpose of requiring that the State Board of Nursing consist of a certain number of members certified in an advanced practice nursing specialty;

requiring the Governor to appoint certain members from a list of nominees submitted by certain organizations; requiring that a certain number of nominees be on a certain list of nominations; requiring that certain organizations nominate certain nurses with a certain certification from a certain list of specialties for each vacancy for each term and that certain organizations rotate the specialty of nominations among certain specialties; requiring that certain members meet certain educational and professional requirements; and generally relating to the State Board of Nursing and membership.

BY repealing and reenacting, with amendments,
 Article – Health Occupations
 Section 8–202
 Annotated Code of Maryland
 (2005 Replacement Volume and 2006 Supplement)

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

Article – Health Occupations

8–202.

- (a) (1) The Board consists of [11] **12** members.
- (2) Of the [11] **12** Board members:
- (i) [6] **7** shall be registered nurses;
 - (ii) 3 shall be licensed practical nurses; and
 - (iii) 2 shall be consumers.
- (3) Of the [6] **7** registered nurse members:
- (I) **1 SHALL BE CERTIFIED IN AN ADVANCED PRACTICE NURSING SPECIALTY;**
 - [(i)] **(II)** 1 shall be a baccalaureate nursing educator with, at least, a master’s degree in nursing or education;
 - [(ii)] **(III)** 1 shall be an associate degree nursing educator with, at least, a master’s degree in nursing or education;

[(iii)] (IV) 1 shall be a practical nursing educator with, at least, a bachelor of science degree in nursing or education;

[(iv)](V) 1 shall be a nurse administrator with, at least, a master's degree in nursing administration, education, or public health; and

[(v)](VI) 2 shall be nurse clinicians, one of whom shall have, at least, a master's degree in nursing or public health.

(b) (1) (I) The Governor shall appoint:

1. THE REGISTERED NURSE MEMBERS CERTIFIED IN AN ADVANCED PRACTICE NURSING SPECIALTY, WITH THE ADVICE OF THE SECRETARY, FROM A LIST OF QUALIFIED INDIVIDUALS JOINTLY DEVELOPED IN ACCORDANCE WITH THE REQUIREMENTS OF SUBPARAGRAPH (III) OF THIS PARAGRAPH AND SUBMITTED TO THE SECRETARY AND THE GOVERNOR BY THE:

A. MARYLAND ASSOCIATION OF NURSE ANESTHETISTS, INC.;

B. NURSE PRACTITIONERS ASSOCIATION OF MARYLAND, INC.;

C. MARYLAND COALITION OF NURSE PRACTITIONERS, INC.;

D. MARYLAND CHAPTER, AMERICAN COLLEGE OF NURSE-MIDWIVES; AND

E. PSYCHIATRIC ADVANCE PRACTICE NURSES OF MARYLAND; AND

2. [the] THE OTHER registered nurse members, with the advice of the Secretary, from a list of qualified individuals submitted to the Secretary and the Governor by the Maryland Nurses Association, Inc.

(II) The number of names on the [list] LISTS SUBMITTED TO THE SECRETARY AND THE GOVERNOR IN SUBPARAGRAPH (I) OF THIS PARAGRAPH shall be 5 times the number of vacancies.

(III) THE ORGANIZATIONS DEVELOPING AND SUBMITTING THE LIST OF NOMINEES FOR REGISTERED NURSE MEMBERS CERTIFIED IN AN ADVANCED PRACTICE NURSING SPECIALTY IN SUBPARAGRAPH (I) OF THIS

PARAGRAPH, SHALL ONLY SUBMIT THE NAMES OF NURSES CERTIFIED IN ONE OF THE FOLLOWING SPECIALTIES FOR EACH VACANCY EACH TERM AND SHALL ROTATE AMONG THE SPECIALTIES WITH EACH NOMINATION FOR A VACANCY:

- 1. NURSE ANESTHETIST;**
- 2. NURSE PRACTITIONER;**
- 3. NURSE MIDWIFE;**
- 4. NURSE PSYCHOTHERAPIST.**

(2) The Governor shall appoint the licensed practical nurse members, with the advice of the Secretary, from a list of qualified individuals submitted to the Secretary and the Governor by the Maryland Licensed Practical Nurse Association, Inc. The number of names on the list shall be 5 times the number of vacancies.

(3) The Governor may request an additional list of 5 nominees for each vacancy.

(4) The Governor shall make the appointment for each vacancy from the original list or the additional list.

(5) The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.

(c) Each member of the Board shall be:

- (1) A citizen of the United States; and
- (2) A resident of this State.

(d) **(1)** A registered nurse member of the Board shall:

[(1)] (I) Have graduated from an approved school of nursing or its equivalent; and

[(2)] (II) Have at least 5 years of experience in nursing administration, education, or practice, which includes at least the 3 years immediately before the appointment.

(2) A MEMBER OF THE BOARD WHO IS A REGISTERED NURSE CERTIFIED IN AN ADVANCED PRACTICE NURSING SPECIALTY SHALL:

(I) HOLD A CURRENT LICENSE TO PRACTICE REGISTERED NURSING IN THIS STATE;

(II) HOLD A CURRENT CERTIFICATION IN AN ADVANCED PRACTICE NURSING SPECIALTY IN THIS STATE; AND

(III) HAVE AT LEAST 5 YEARS OF EXPERIENCE IN AN ADVANCED PRACTICE NURSING EDUCATION OR PRACTICE, INCLUDING AT LEAST THE 3 YEARS IMMEDIATELY BEFORE THE APPOINTMENT.

(e) A licensed practical nurse member of the Board shall have at least 5 years of experience in the practice of licensed practical nursing, which includes at least the 3 years immediately before the appointment.

(f) Each consumer member of the Board:

(1) Shall be a member of the general public;

(2) May not be or ever have been a registered nurse or licensed practical nurse or in training to become a registered nurse or licensed practical nurse;

(3) May not have a household member who is a registered nurse or licensed practical nurse or in training to become a registered nurse or licensed practical nurse;

(4) May not participate or ever have participated in a commercial or professional field related to registered nursing or licensed practical nursing;

(5) May not have a household member who participates in a commercial or professional field related to registered nursing or licensed practical nursing; or

(6) May not have had within 2 years before appointment a substantial financial interest in a person who is regulated by the Board.

(g) While a member of the Board, a consumer member may not have a substantial financial interest in a person regulated by the Board.

(h) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the State Constitution.

(i) (1) The term of a member is 4 years, except that the initial term of 1 of the consumer members is 2 years.

(2) The terms of the members are staggered as required by the terms provided for members of the Board on July 1, 1981.

(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 consecutive full terms.

(6) To the extent practicable, the Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.

(j) (1) The Governor may remove a member for incompetence, misconduct, neglect of a duty required by law, unprofessional conduct, or dishonorable conduct.

(2) Upon the recommendation of the Secretary, the Governor may remove a member whom the Secretary finds to have been absent from 2 successive Board meetings without adequate reason.

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

Approved by the Governor, May 17, 2007.

CHAPTER 546

(Senate Bill 384)

AN ACT concerning

General Assembly – Legislative Inquiries and Examinations

FOR the purpose of clarifying that the Legislative Policy Committee may delegate its authority to issue subpoenas, administer oaths, and take other related actions to any committee created by the Legislative Policy Committee; providing certain venue and procedures for certain legislative committees that have the power to issue subpoenas whenever those committees seek to take legal action to obtain compliance with a subpoena or to compel testimony; providing that the provisions of law that establish a code of fair procedures for the operation of a

legislative investigating committee do not limit the authority of a committee or subcommittee of the General Assembly to exercise the power to administer oaths or subpoena witnesses and records as otherwise authorized by law; repealing a prohibition on the filming, televising, or broadcasting, in whole or in part, of certain hearings; providing for procedures and venue with respect to the filing of a petition for an order directing compliance with a subpoena or compelling testimony; requiring that papers, books, accounts, documents, testimony, and records sought in accordance with a subpoena issued in accordance with certain provisions of law in connection with a lawfully authorized legislative inquiry or examination be pertinent to the inquiry or examination; providing that the papers, books, accounts, documents, testimony, or records are considered pertinent if they meet certain criteria; providing that the party whose conduct necessitated the filing of the petition has a certain number of days to respond to the petition; providing that a response by the party whose conduct necessitated the petition is the party's sole remedy for objecting only pleading that an objecting party may file to object to a subpoena and prohibiting that party from filing a motion to quash or a petition for an injunction with respect to the subpoena; requiring proceedings to enforce compliance with a subpoena issued by a legislative committee to be handled by the court in a certain manner; prohibiting the introduction of additional evidence in any hearing in a proceeding on a petition to comply with a subpoena or to compel testimony; requiring the court, under certain circumstances, to order the party whose conduct necessitated the petition to pay the petitioner reasonable expenses, including attorney's fees; providing for a certain exception; providing that a party to a proceeding to enforce compliance with a subpoena may appeal the decision of the court only in a certain manner; providing for the application of this Act; and generally relating to legislative inquiries and examinations.

BY repealing and reenacting, with amendments,

Article – State Government

Section 2-407, 2-408, 2-507, 2-807, 2-1104, 2-1602, and 2-1609(c)

Annotated Code of Maryland

(2004 Replacement Volume and 2006 Supplement)

BY adding to

Article – State Government

Section 2-1802 and 2-1803

Annotated Code of Maryland

(2004 Replacement Volume and 2006 Supplement)

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

Article – State Government

2-407.

- (a) The Committee has the following functions:
- (1) to review the work of the standing committees;
 - (2) to collect information about the government and general welfare of the State;
 - (3) to study the operation of and recommend changes in the Constitution, statutes, and common law of the State;
 - (4) to study the rules and procedures of the Senate and the House and recommend changes that would improve and expedite the consideration of legislation by the General Assembly;
 - (5) to coordinate and supervise generally the work of the General Assembly when it is not in session;
 - (6) to prepare or endorse a legislative program that includes the bills, resolutions, or other recommendations of the Committee that are to be presented to the General Assembly at its next session; and
 - (7) to carry out its powers and duties under the Maryland Program Evaluation Act.
- (b) To carry out its functions, the Committee:
- (1) shall receive, from any source, suggestions for legislation or investigation;
 - (2) may hold a hearing on any matter;
 - (3) may appoint a special committee **AND DELEGATE TO THAT COMMITTEE THE AUTHORITY SPECIFIED IN § 2-408 OF THIS SUBTITLE**;
 - (4) may refer a matter for study and report to any of its special committees or any committee of the General Assembly;
 - (5) shall consider the reports of standing, statutory, and special committees;
 - (6) may have any bill or resolution prepared to carry out its recommendations; and

(7) when the General Assembly is not in session:

(i) may accept a gift or grant of money from a person or public agency for any purpose that relates to the activities of the Legislative Policy Committee or of any other standing, statutory, or special committee; and

(ii) may spend the money for that purpose, in accordance with the State budget.

2-408.

(a) In carrying out any of its functions or powers, the Committee may:

(1) issue subpoenas;

(2) compel the attendance of witnesses;

(3) compel the production of any papers, books, accounts, documents, and testimony;

(4) administer oaths; and

(5) cause the depositions of witnesses, who reside in or outside of the State, to be taken in the manner provided by law for taking depositions in a civil case.

(b) **(1)** If a person fails to comply with a subpoena issued under this section or fails to testify on any matter on which the person lawfully may be interrogated, on petition of a member of the Committee, a circuit court may pass an order directing compliance with the subpoena or compelling testimony and may enforce the order by proceedings for contempt.

(2) VENUE AND PROCEDURES FOR A PROCEEDING UNDER PARAGRAPH (1) OF THIS SUBSECTION TO DIRECT COMPLIANCE WITH A SUBPOENA OR COMPEL TESTIMONY ARE AS PROVIDED IN ~~§ 2-1802~~ § 2-1803 OF THIS TITLE.

(c) False swearing by a witness before the Committee is perjury.

2-507.

(a) In carrying out any of its functions or powers, the Committee may:

(1) issue subpoenas;

- (2) compel the attendance of witnesses;
- (3) compel the production of any papers, books, accounts, documents, and testimony;
- (4) administer oaths; and
- (5) cause the depositions of witnesses, who reside in or outside of the State, to be taken in the manner provided by law for taking depositions in a civil case.

(b) (1) If a person fails to comply with a subpoena issued under this section or fails to testify on any matter on which the person lawfully may be interrogated, on petition of a member of the Committee, a circuit court may pass an order directing compliance with the subpoena or compelling testimony and may enforce the order by proceedings for contempt.

(2) VENUE AND PROCEDURES FOR A PROCEEDING UNDER PARAGRAPH (1) OF THIS SUBSECTION TO DIRECT COMPLIANCE WITH A SUBPOENA OR COMPEL TESTIMONY ARE AS PROVIDED IN ~~§ 2-1802~~ § 2-1803 OF THIS TITLE.

2-807.

- (a) In carrying out any of its functions or powers, the Committee may:
 - (1) issue subpoenas;
 - (2) compel the attendance of witnesses;
 - (3) compel the production of any papers, books, accounts, documents, and testimony;
 - (4) administer oaths; and
 - (5) cause the depositions of witnesses, who reside in or outside of the State, to be taken in the manner provided by law for taking depositions in a civil case.

(b) (1) If a person fails to comply with a subpoena issued under this section or fails to testify on any matter on which the person lawfully may be interrogated, on petition of a member of the Committee, a circuit court may pass an order directing compliance with the subpoena or compelling testimony and may enforce the order by proceedings for contempt.

(2) VENUE AND PROCEDURES FOR A PROCEEDING UNDER PARAGRAPH (1) OF THIS SUBSECTION TO DIRECT COMPLIANCE WITH A

SUBPOENA OR COMPEL TESTIMONY ARE AS PROVIDED IN ~~§ 2-1802~~ § 2-1803 OF THIS TITLE.

2-1104.

(a) With the prior approval of the Legislative Policy Committee, a standing committee, in carrying out any of its functions or powers, may:

- (1) issue subpoenas;
- (2) compel the attendance of witnesses;
- (3) compel the production of any papers, books, accounts, documents, and testimony;
- (4) administer oaths; and
- (5) cause the depositions of witnesses, who reside in or outside of the State, to be taken in the manner provided by law for taking depositions in a civil case.

(b) **(1)** If a person fails to comply with a subpoena issued under this section or fails to testify on any matter on which the person lawfully may be interrogated, on petition of a member of the standing committee, a circuit court may pass an order directing compliance with the subpoena or compelling testimony and may enforce the order by proceedings for contempt.

(2) VENUE AND PROCEDURES FOR A PROCEEDING UNDER PARAGRAPH (1) OF THIS SUBSECTION TO DIRECT COMPLIANCE WITH A SUBPOENA OR COMPEL TESTIMONY ARE AS PROVIDED IN ~~§ 2-1802~~ § 2-1803 OF THIS TITLE.

(c) False swearing by a witness before a standing committee is perjury.

2-1602.

(a) This subtitle establishes a code of fair procedures for the operation of an investigating committee so that it may hold hearings and otherwise properly carry out its powers and duties fairly, impartially, and consistently with:

- (1) the constitutional rights of a person who is involved in a proceeding of the investigating committee; and
- (2) the public good.

(b) This subtitle does not limit the acquisition of information or evidence by an investigating committee through a lawful means other than as provided in this subtitle.

(C) THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF A COMMITTEE OF THE GENERAL ASSEMBLY OR ANY SUBCOMMITTEE OF A COMMITTEE OF THE GENERAL ASSEMBLY TO EXERCISE THE POWER TO ADMINISTER OATHS AND SUBPOENA WITNESSES AND RECORDS AS OTHERWISE AUTHORIZED BY LAW.

2-1609.

(c) [(1)] A hearing shall be public unless, by a majority vote of all of the members of the investigating committee, the investigating committee determines otherwise.

[(2) A hearing may not be filmed, televised, or broadcast, in whole or in part.]

2-1802.

(A) PAPERS, BOOKS, ACCOUNTS, DOCUMENTS, TESTIMONY, AND RECORDS SOUGHT IN ACCORDANCE WITH A SUBPOENA ISSUED UNDER § 2-408, § 2-507, § 2-807, § 2-1104, OR § 2-1608 OF THIS TITLE IN CONNECTION WITH A LAWFULLY AUTHORIZED LEGISLATIVE INQUIRY OR EXAMINATION MUST BE PERTINENT TO THE INQUIRY OR EXAMINATION.

(B) FOR PURPOSES OF SUBSECTION (A) OF THIS SECTION, PAPERS, BOOKS, ACCOUNTS, DOCUMENTS, TESTIMONY, OR RECORDS ARE CONSIDERED PERTINENT IF THEY:

- (1) RELATE TO THE MATTERS UNDER INQUIRY OR EXAMINATION;**
- (2) ASSIST IN ASSESSING THE CREDIBILITY OF A WITNESS;**
- (3) CONTRADICT OR CORROBORATE THE TESTIMONY OF A WITNESS; OR**
- (4) DEMONSTRATE THE EXISTENCE OF UNDUE INFLUENCE ON A WITNESS.**

2-1803.

(A) THIS SECTION APPLIES TO A PETITION FOR AN ORDER DIRECTING COMPLIANCE WITH A SUBPOENA OR COMPELLING TESTIMONY UNDER § 2-408, § 2-507, § 2-807, OR § 2-1104 OF THIS TITLE.

(B) THE PETITION SHALL BE FILED IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY OR, AT THE ELECTION OF THE PETITIONER, IN ANY COUNTY IN WHICH VENUE WOULD BE APPROPRIATE UNDER § 6-201 OF THE COURTS ARTICLE.

(C) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE PETITION SHALL SET FORTH THE QUESTIONS OR REQUESTS THAT WERE ASKED OR MADE OF THE PARTY WHOSE CONDUCT NECESSITATED THE PETITION AND, IF ANY, THE ANSWERS OR OBJECTIONS PROVIDED OR RAISED BY THAT PARTY.

(2) THE PETITIONER MAY SATISFY THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION BY ATTACHING THE RELEVANT PORTIONS OF A TRANSCRIPT TO THE PETITION.

(3) THE PETITIONER NEED NOT COMPLY WITH THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION IF THERE HAS BEEN NO RESPONSE TO THE SUBPOENA.

(D) ANY RESPONSE TO THE PETITION SHALL BE FILED BY THE PARTY SERVED WITH THE PETITION WITHIN 15 DAYS AFTER BEING SERVED WITH THE PETITION, UNLESS THAT TIME PERIOD IS SHORTENED BY ORDER OF THE COURT.

(E) (1) A RESPONSE TO A PETITION FILED BY THE PARTY WHOSE CONDUCT NECESSITATED THE PETITION IS THE ~~PARTY'S SOLE REMEDY FOR OBJECTING~~ ONLY PLEADING THAT AN OBJECTING PARTY MAY FILE TO OBJECT TO A SUBPOENA.

(2) THE PARTY WHOSE CONDUCT NECESSITATED THE PETITION MAY NOT FILE A MOTION TO QUASH OR A PETITION FOR AN INJUNCTION WITH RESPECT TO THE SUBPOENA.

(F) (1) EXCEPT FOR CASES THAT THE COURT CONSIDERS TO REQUIRE A HIGHER PRIORITY, A PROCEEDING UNDER THIS SECTION, INCLUDING ANY SUBSEQUENT APPELLATE JUDICIAL REVIEW, SHALL:

(I) TAKE PRECEDENCE ON THE COURT'S DOCKET;

(II) BE HEARD AT THE EARLIEST PRACTICABLE DATE; AND

(III) BE EXPEDITED IN EVERY WAY.

(2) IN ANY HEARING ON THE PETITION IN A PROCEEDING UNDER THIS SECTION, THE COURT MAY NOT ALLOW ANY ADDITIONAL EVIDENCE.

~~(G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE COURT, AFTER PROVIDING AN OPPORTUNITY FOR A HEARING, SHALL REQUIRE THE PARTY WHOSE CONDUCT NECESSITATED THE PETITION TO PAY THE PETITIONER THE REASONABLE EXPENSES, INCLUDING ATTORNEY'S FEES, INCURRED IN OBTAINING THE COURT ORDER.~~

~~(2) THE PROVISIONS OF PARAGRAPH (1) DO NOT APPLY IF THE COURT FINDS THAT THE OPPOSITION TO THE PETITION WAS SUBSTANTIALLY JUSTIFIED OR THAT OTHER CIRCUMSTANCES WOULD RENDER AN INJUSTICE IF THE COURT REQUIRED THE PAYMENT OF EXPENSES TO THE PETITIONER.~~

~~(H)~~ (G) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PARTY TO A PROCEEDING UNDER THIS SECTION MAY APPEAL THE DECISION OF THE CIRCUIT COURT ONLY BY A PETITION TO THE COURT OF APPEALS FOR THE ISSUANCE OF A WRIT OF CERTIORARI.

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

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 547

(Senate Bill 392)

AN ACT concerning

**Election Law - Voting Systems - ~~Voter-Verified~~ Voter-Verifiable Paper
Records**

FOR the purpose of ~~requiring that certain voting systems produce a paper record of a voter's ballot choices and provide the voter with an opportunity to inspect the paper record before casting a final vote; requiring that the paper records be preserved at the polling place in a certain manner and for certain purposes; requiring that certain voting systems be accessible to certain individuals with disabilities; requiring certain comparisons and audits of certain ballots following an election; requiring public notice and demonstrations regarding certain voting systems and procedures; requiring the State Board of Elections to maintain certain information, to document certain occurrences, and to make certain information publicly available; requiring the Governor to allocate certain resources for certain purposes; defining certain terms; requiring the State Board to adopt certain regulations and certain guidelines; providing for the application of this Act; making this Act an emergency measure; and generally relating to voter-verified paper records for voting systems~~ prohibiting the State Board of Elections from certifying a voting system unless the State Board determines that the voting system provides voter-verifiable paper records; defining a certain term; clarifying the standard to be considered by the State Board when evaluating whether a voting system is accessible to voters with disabilities *requiring that certain voting systems be accessible to certain individuals with disabilities; requiring the State Board to provide certain training on the voting system to election judges; requiring the Attorney General to make a certain determination and to provide notice of the determination in writing to the Department of Legislative Services; making this Act subject to a certain contingency; requiring the Department of Budget and Management to make a certain determination and provide a certain notification by a certain time; providing for the application of this Act; and generally relating to voting systems and voter-verifiable paper records.*

~~BY renumbering~~

~~Article – Election Law~~

~~Section 9-101 through 9-105, respectively~~

~~to be Section 9-102 through 9-106, respectively~~

~~Annotated Code of Maryland~~

~~(2003 Volume and 2006 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Election Law

Section ~~1-101(xx)~~ 9-102 and 10-206

Annotated Code of Maryland

(2003 Volume and 2006 Supplement)

~~BY adding to~~

~~Article – Election Law~~

~~Section 9-101 and 9-107 through 9-112~~

~~Annotated Code of Maryland~~

~~(2003 Volume and 2006 Supplement)~~

~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9-101 through 9-105, respectively, of Article Election Law of the Annotated Code of Maryland be renumbered to be Section(s) 9-102 through 9-106, respectively.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article Election Law~~

~~1-101.~~

~~(xx) (1) "Voting system" means a method of casting and tabulating ballots or votes.~~

~~(2) "VOTING SYSTEM" INCLUDES A COLLECTION OF DEVICES THAT:~~

~~(i) ALLOW A VOTER TO VIEW BALLOTS, SELECT CANDIDATES, AND CAST VOTES; AND~~

~~(ii) AGGREGATE AND TABULATE ALL OF THE VOTES CAST IN AN ELECTION.~~

~~9-101.~~

~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(B) "HAND COUNT" MEANS A COUNTING OF THE VOTES IN WHICH:~~

~~(1) THE HANDLING OF THE DOCUMENT BALLOT IS DONE BY HUMAN HAND; AND~~

~~(2) THE IDENTIFICATION OF EACH VOTE IS DETERMINED BY VISUAL INSPECTION OF THE DOCUMENT BALLOT BY A HUMAN BEING.~~

~~(C) "MANDATORY RANDOM AUDIT" MEANS A HAND-COUNTED AUDIT CONDUCTED ON A ROUTINE BASIS FOLLOWING EACH ELECTION FOR THE PURPOSE OF COMPARING A PERCENTAGE OF VOTER-VERIFIED PAPER RECORDS WITH THE VOTE TALLIES RECORDED BY EACH OF THE FOLLOWING VOTING SYSTEMS:~~

- ~~(1) TOUCH SCREEN OR OTHER ELECTRONIC VOTING MACHINES;~~
- ~~(2) PRECINCT-BASED OPTICAL SCANNING EQUIPMENT;~~
- ~~(3) ABSENTEE BALLOTS AND OTHER DOMESTIC AND OVERSEAS BALLOTS MAILED TO THE LOCAL BOARDS OF ELECTIONS; AND~~
- ~~(4) BALLOTS CREATED THROUGH THE USE OF AN ELECTRONIC MARKING DEVICE.~~

~~(D) "NONVISUAL" MEANS:~~

- ~~(1) AN AURAL METHOD OF PRESENTATION, INCLUDING RECORDED, DIGITIZED, OR AUDIO SYNTHESIZED SPEECH;~~
- ~~(2) A TACTILE METHOD OF PRESENTATION, INCLUDING BRAILLE AND OTHER METHODS OF IDENTIFICATION THAT RELY ON TOUCH; OR~~
- ~~(3) A COMBINATION OF AN AURAL AND TACTILE METHOD OF PRESENTATION.~~

~~(E) "VOTER-VERIFIED PAPER RECORD" MEANS AN AUDITABLE PAPER RECORD THAT:~~

- ~~(1) IS AVAILABLE TO EACH VOTER TO INSPECT AND VERIFY BEFORE THE VOTER'S VOTE IS CAST;~~
- ~~(2) IS PRODUCED CONTEMPORANEOUSLY WITH OR EMPLOYED BY ANY VOTING SYSTEM;~~
- ~~(3) (I) LISTS THE DESIGNATION OF EACH OFFICE OR QUESTION AND THE VOTER'S CHOICE IN EACH OFFICE OR QUESTION; OR~~
 - ~~(II) IF THE VOTER MAKES NO SELECTION IN CONNECTION WITH ANY OFFICE OR QUESTION, NOTES THAT FACT ON THE RECORD THAT IS PRODUCED;~~
- ~~(4) IS SUITABLE FOR THE PURPOSES OF MANDATORY RANDOM AUDITS AND RECOUNTS; AND~~
- ~~(5) IS MAINTAINED AS THE OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.~~

~~(F) "VOTING SYSTEM AGGREGATION AND TABULATION" MEANS THE PROCESS AND THE HARDWARE AND SOFTWARE BY WHICH VOTES RECORDED BY THE VOTING SYSTEM ARE AGGREGATED, TOTALED, AND TABULATED TO DETERMINE THE OUTCOME OF AN ELECTION.~~

~~9-107.~~

~~(A) THE VOTING SYSTEM SELECTED AND CERTIFIED SHALL:~~

~~(1) PRODUCE OR REQUIRE THE USE OF AN INDIVIDUAL VOTER-VERIFIED PAPER RECORD OF THE VOTER'S VOTE; AND~~

~~(2) ENSURE THAT THE VOTER-VERIFIED PAPER RECORD IS MADE AVAILABLE FOR INSPECTION AND VERIFICATION BY THE VOTER BEFORE THE VOTER'S VOTE IS CAST.~~

~~(B) A VOTER-VERIFIED PAPER RECORD MAY INCLUDE ANY OF THE FOLLOWING:~~

~~(1) A PAPER PRINTOUT OF THE VOTER'S VOTE PRODUCED BY A TOUCH SCREEN OR OTHER ELECTRONIC VOTING MACHINE IF, IN EACH CASE, THE RECORD PERMITS THE VOTER TO VERIFY THE RECORD IN ACCORDANCE WITH THIS SECTION;~~

~~(2) A PAPER BALLOT PREPARED BY THE VOTER FOR THE PURPOSE OF BEING READ BY A PRECINCT-BASED OPTICAL SCANNER;~~

~~(3) A PAPER BALLOT PREPARED BY THE VOTER TO BE MAILED TO THE APPLICABLE LOCAL BOARD, WHETHER MAILED FROM A DOMESTIC OR AN OVERSEAS LOCATION; OR~~

~~(4) A PAPER BALLOT CREATED THROUGH THE USE OF A BALLOT MARKING DEVICE.~~

~~(C) EACH VOTER-VERIFIED PAPER RECORD SHALL:~~

~~(1) BE AN INDIVIDUAL DOCUMENT THAT IS PHYSICALLY SEPARATED FROM ANY OTHER SIMILAR DOCUMENT AND NOT PART OF A CONTINUOUS ROLL;~~

~~(2) BE SUFFICIENTLY DURABLE TO WITHSTAND REPEATED HANDLING FOR PURPOSES OF MANDATORY RANDOM AUDITS AND RECOUNTS; AND~~

~~(3) USE INK THAT DOES NOT FADE, SMEAR, OR OTHERWISE DEGRADE AND OBSCURE OR OBLITERATE THE PAPER RECORD OVER TIME.~~

~~(D) BEFORE THE VOTER-VERIFIED PAPER RECORD IS PRESERVED IN ACCORDANCE WITH THIS SECTION, A VOTER SHALL BE PROVIDED AN OPPORTUNITY TO CORRECT ANY ERROR MADE BY THE VOTING SYSTEM AND PRESENTED WITH THE ABILITY TO CORRECT ANY ERROR ON THE VOTER-VERIFIED PAPER RECORD.~~

~~(E) (1) EACH VOTER-VERIFIED PAPER RECORD PRODUCED SHALL BE SUITABLE FOR A MANDATORY RANDOM AUDIT HAND-COUNT IN ACCORDANCE WITH § 9-110 OF THIS SUBTITLE.~~

~~(2) IN THE EVENT OF ANY INCONSISTENCY OR IRREGULARITY BETWEEN AN ELECTRONIC RECORD AND THE VOTER-VERIFIED PAPER RECORD, THE VOTER-VERIFIED PAPER RECORD SHALL BE THE OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.~~

~~(3) THE VOTER-VERIFIED PAPER RECORD SHALL:~~

~~(I) BE PRESERVED AND RETAINED IN A MANNER THAT MAKES IT IMPOSSIBLE TO ASSOCIATE A VOTER WITH THE RECORD OF THE VOTER'S VOTE; AND~~

~~(II) BE STORED BY A LOCAL BOARD IN A PLACE AND MANNER THAT IS SECURE FOR AT LEAST 1 YEAR AFTER THE ELECTION.~~

~~9-108.~~

~~(A) A VOTING SYSTEM SELECTED, CERTIFIED, AND IMPLEMENTED UNDER THIS SECTION SHALL:~~

~~(1) PROVIDE ACCESS TO VOTERS WITH DISABILITIES THAT:~~

~~(I) IS EQUIVALENT TO THE ACCESS AFFORDED TO VOTERS WITHOUT DISABILITIES;~~

~~(II) FACILITATES THE CASTING OF SECRET BALLOTS BY VOTERS WITH DISABILITIES; AND~~

~~(III) FULLY COMPLIES WITH THE AMERICANS WITH DISABILITIES ACT, P.L. 101-336, AND THE HELP AMERICA VOTE ACT, P.L. 107-252; AND~~

~~(2) ALLOW A VOTER TO CAST, INSPECT, VERIFY, AND CORRECT THE SELECTIONS BY BOTH VISUAL AND NONVISUAL MEANS.~~

~~(B) AT LEAST ONE VOTING SYSTEM IN EACH POLLING PLACE SHALL PROVIDE ACCESS FOR VOTERS WITH DISABILITIES AND AFFORD THEM THE OPPORTUNITY FOR PRIVATE AND INDEPENDENT INSPECTION, VERIFICATION, AND CORRECTION OF THEIR BALLOTS.~~

~~(C) (1) EACH VOTER-VERIFIED PAPER RECORD PRODUCED BY THE VOTING SYSTEM ON ELECTION DAY SHALL BE PRESERVED IN THE SAME MANNER THAT ALL OTHER DOCUMENT BALLOTS ARE PRESERVED WITHIN THE POLLING PLACE ON ELECTION DAY.~~

~~(2) (I) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO VOTING EQUIPMENT USED PRIMARILY BY DISABLED VOTERS ON ELECTION DAY AT THE POLLING PLACE.~~

~~(II) THE VOTER-VERIFIED PAPER RECORD PRODUCED BY VOTING EQUIPMENT USED PRIMARILY BY DISABLED VOTERS ON ELECTION DAY MAY BE PRESERVED AT ANY LOCATION PRESCRIBED BY THE STATE BOARD.~~

~~9-109.~~

~~(A) THE VOTING SYSTEM AGGREGATION AND TABULATION EQUIPMENT EMPLOYED BY THE STATE TO STORE, AGGREGATE, AND TOTAL THE VOTES CAST BY VOTERS SHALL ONLY RECEIVE DATA AND TRANSFER DATA BY DISK AND TAPE OR OTHER PHYSICAL MEANS.~~

~~(B) IN AGGREGATING AND TABULATING ELECTION RESULTS, THE ACCURACY OF THE RESULTS SHALL TAKE PRIORITY OVER THE SPEED WITH WHICH THE RESULTS ARE POSTED.~~

~~(C) THE SOFTWARE AND HARDWARE USED IN THE VOTING SYSTEM AGGREGATION AND TABULATION PROCESS SHALL BE CERTIFIED AT LEAST 30 DAYS BEFORE ITS DEPLOYMENT IN EACH ELECTION.~~

~~(D) PROMPTLY AFTER THE CLOSE OF THE POLLS FOLLOWING EACH ELECTION, THE ELECTION JUDGES SHALL POST IN AN AREA ACCESSIBLE TO THE~~

~~PUBLIC A PAPER RECORD OF THE TOTAL OF ALL THE VOTES CAST AT THAT POLLING PLACE.~~

~~(E) BEFORE THE COMMENCEMENT OF THE MANDATORY RANDOM AUDIT PROCESS, INCLUDING THE AUDIT DRAWING REQUIRED UNDER § 9-110 OF THIS SUBTITLE, EACH LOCAL BOARD AND THE STATE BOARD SHALL MAKE THE INITIAL ELECTION RESULTS OF ALL OF THE VOTES CAST AT EACH POLLING PLACE AVAILABLE ON A PUBLICLY ACCESSIBLE INTERNET WEBSITE.~~

~~(F) THE PAPER RECORDS OF THE INITIAL VOTE TOTALS POSTED AT EACH POLLING PLACE SHALL BE RETAINED IN A SECURE LOCATION AND MADE AVAILABLE FOR PUBLIC REVIEW UNDER SECURE CONDITIONS FOR A PERIOD OF 1 YEAR AFTER THE DATE OF EACH ELECTION.~~

~~9-110.~~

~~(A) (1) WITHIN 3 DAYS AFTER THE INITIAL TOTAL OF ALL VOTES CAST AT EACH POLLING PLACE IN EACH COUNTY AND STATEWIDE ELECTION HAS BEEN PUBLICLY POSTED ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE BY EACH LOCAL BOARD AND THE STATE BOARD, EACH LOCAL BOARD SHALL CONDUCT A MANDATORY RANDOM AUDIT HAND COUNT OF THE ELECTION RESULTS.~~

~~(2) (i) EACH AUDIT SHALL COMPARE THE RESULTS OF ALL OF THE ELECTRONIC RECORDS PRODUCED BY THE VOTING SYSTEM WITH THE VOTER VERIFIED PAPER RECORDS PRODUCED BY THE VOTING SYSTEM.~~

~~(ii) IF THERE IS ANY INCONSISTENCY OR IRREGULARITY BETWEEN AN ELECTRONIC RECORD AND THE CORRESPONDING VOTER VERIFIED PAPER RECORD, THE VOTER VERIFIED PAPER RECORD SHALL BE THE OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.~~

~~(3) THE MANDATORY RANDOM AUDIT HAND COUNT SHALL:~~

~~(i) COMPARE THE ELECTRONIC RECORDS IN RANDOMLY SELECTED POLLING PLACES WITH THE CORRESPONDING INDIVIDUAL VOTER VERIFIED PAPER RECORDS;~~

~~(ii) BE CONSTRUCTED ON AN ENTIRELY RANDOM BASIS USING A UNIFORM DISTRIBUTION IN WHICH ALL POLLING PLACES IN THE COUNTY HAVE AN EQUAL CHANCE OF BEING SELECTED;~~

~~(III) INCLUDE ALL VOTES CAST IN NO LESS THAN 5% OF ALL OF THE POLLING PLACES IN THE COUNTY;~~

~~(IV) BE OPEN TO THE GENERAL PUBLIC AND THE PRESS FOR OBSERVATION, AND INCLUDE AN INVITATION AND AFFORD ACCESS TO AT LEAST ONE REPRESENTATIVE FROM EACH OFFICIALLY REGISTERED POLITICAL PARTY IN THE STATE TO PARTICIPATE IN THE AUDIT PROCESS;~~

~~(V) INCLUDE A RANDOM DRAWING, THAT IS OPEN TO OBSERVATION BY THE GENERAL PUBLIC AND THE PRESS, TO DETERMINE WHICH POLLING PLACES IN EACH COUNTY WILL BE SELECTED FOR THE AUDIT; AND~~

~~(VI) BEGIN IMMEDIATELY AFTER THE POLLING PLACES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH ARE SELECTED.~~

~~(B) IF A DISCREPANCY IS DISCOVERED BETWEEN THE VOTE TALLIES PRODUCED BY THE VOTING SYSTEM AND THE VOTE TALLIES OF VOTER VERIFIED PAPER RECORDS, THE STATE BOARD SHALL IMMEDIATELY CONDUCT AN EXPANDED AUDIT OF ADDITIONAL RANDOMLY SELECTED POLLING PLACES IN THE COUNTY IN ORDER TO:~~

~~(1) DETERMINE THE EXTENT OF ANY INCONSISTENCIES OR IRREGULARITIES; AND~~

~~(2) RESOLVE ANY CONCERNS AND ENSURE THE ACCURACY OF THE RESULTS.~~

~~(C) (1) ONCE THE EXTENT OF ANY INCONSISTENCIES OR IRREGULARITIES IS DETERMINED, THE STATE BOARD SHALL CONDUCT A THOROUGH INVESTIGATION OF THE VOTING SYSTEM BEFORE THE RESULTS OF THE ELECTION ARE CERTIFIED IN ACCORDANCE WITH APPLICABLE STATE LAW.~~

~~(2) IN ORDER TO RESOLVE THE OUTCOME AND CERTIFY THE RESULTS OF AN ELECTION, THE STATE BOARD SHALL ORDER THAT A RECOUNT BE CONDUCTED IN THE EVENT THAT THE RESULTS OF THE AUDIT CALL INTO QUESTION THE OUTCOME OF THE ELECTION FOR ANY FEDERAL, STATE, OR LOCAL CANDIDATE OR QUESTION.~~

~~(D) (1) ANY INCONSISTENCIES OR IRREGULARITIES IDENTIFIED BETWEEN THE CORRESPONDING AUDIT RESULTS AND THE INITIAL VOTE COUNTS SHALL BE POSTED PUBLICLY ON THE INTERNET WEBSITE OF THE STATE BOARD, ALONG WITH A DESCRIPTION OF THE ACTIONS TAKEN BY THE~~

~~STATE BOARD TO RESOLVE THE DISCREPANCIES AND ANY OTHER RELATED CONCERNS.~~

~~(2) A LOCAL BOARD MAY NOT CERTIFY THE RESULTS OF ANY ELECTION THAT IS SUBJECT TO AN AUDIT UNDER THIS SECTION BEFORE THE COMPLETION OF THE AUDIT AND THE ANNOUNCEMENT AND PUBLICATION OF THE AUDIT RESULTS UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(3) AS TO ANY INCONSISTENCIES OR IRREGULARITIES DISCOVERED UNDER THIS SECTION, THE VOTER VERIFIED PAPER RECORDS SHALL BE THE OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.~~

~~9-111.~~

~~(A) TO ENSURE PROPER FUNCTIONING AND MAINTAIN PUBLIC CONFIDENCE IN THE VOTING SYSTEM, SUBSEQUENT TO CERTIFICATION AND BEFORE ITS USE IN EACH ELECTION, A LOCAL BOARD SHALL CONDUCT A PUBLIC DEMONSTRATION OF THE VOTING SYSTEM IN THE COUNTY, INCLUDING THE VOTE AGGREGATION AND TABULATION EQUIPMENT TO BE USED IN THE ELECTION.~~

~~(B) (1) THE PUBLIC DEMONSTRATION SHALL BE OPEN TO THE PRESS AND THE GENERAL PUBLIC FOR FULL INSPECTION.~~

~~(2) THE DATE, TIME, AND LOCATION OF EACH DEMONSTRATION SHALL BE ANNOUNCED PUBLICLY AND POSTED CONSPICUOUSLY ON THE INTERNET WEBSITE OF THE STATE BOARD NO LATER THAN 7 BUSINESS DAYS BEFORE THE DATE THE DEMONSTRATION IS SCHEDULED TO TAKE PLACE.~~

~~(3) THE DEMONSTRATION SHALL TAKE PLACE NO SOONER THAN 30 DAYS NOR LESS THAN 10 DAYS BEFORE EACH ELECTION.~~

~~9-112.~~

~~(A) THE STATE BOARD SHALL AT ALL TIMES MAINTAIN INFORMATION REGARDING THE OCCURRENCE OF VOTING SYSTEM FAILURES THAT IT IDENTIFIES, WHETHER DURING:~~

~~(1) PREELECTION TESTING AND CERTIFICATION PROCEDURES;~~

~~(2) THE CONDUCT OF ELECTION ACTIVITIES;~~

~~(3) POSTELECTION AUDITS, RECOUNT PROCESSES, OR ELECTION RESULTS CERTIFICATION PROCEDURES; OR~~

~~(4) ANY OTHER TIME.~~

~~(B) THE VOTING SYSTEM FAILURES DOCUMENTED SHALL INCLUDE INFORMATION REGARDING:~~

~~(1) EQUIPMENT BREAKDOWNS;~~

~~(2) POWER OUTAGES AND SURGES;~~

~~(3) UNUSUAL OR MALFUNCTIONING COMPUTER HARDWARE AND SOFTWARE PROBLEMS; AND~~

~~(4) DISCREPANCIES IN VOTING SYSTEM AUDITING AND CERTIFICATION PROCEDURES.~~

~~(C) THE STATE BOARD SHALL:~~

~~(1) MAINTAIN A PERMANENT RECORD OF THE INFORMATION THAT IT ACCUMULATES UNDER THIS SECTION; AND~~

~~(2) MAKE THE INFORMATION AVAILABLE TO THE PUBLIC ON ITS INTERNET WEBSITE WITHIN 48 HOURS AFTER IT IS DISCOVERED, WHETHER BY THE STATE BOARD OR ANOTHER PERSON CHARGED WITH CERTIFYING OR DECERTIFYING ELECTION RESULTS OR AN ELECTION VOTING SYSTEM.~~

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

Article - Election Law

9-102.

(A) IN THIS SECTION, A "VOTER-VERIFIABLE PAPER RECORD" INCLUDES:

(1) A PAPER BALLOT PREPARED BY THE VOTER FOR THE PURPOSE OF BEING READ BY A PRECINCT-BASED OPTICAL SCANNER;

(2) A PAPER BALLOT PREPARED BY THE VOTER TO BE MAILED TO THE APPLICABLE LOCAL BOARD, WHETHER MAILED FROM A DOMESTIC OR AN OVERSEAS LOCATION; AND

(3) A PAPER BALLOT CREATED THROUGH THE USE OF A BALLOT MARKING DEVICE.

[(a)] (B) The State Board shall adopt regulations for the review, certification, and decertification of voting systems.

[(b)] (C) The State Board shall periodically review and evaluate alternative voting systems.

[(c)] (D) The State Board may not certify a voting system unless the State Board determines that:

(1) the voting system will:

(i) protect the secrecy of the ballot;

(ii) protect the security of the voting process;

(iii) count and record all votes accurately;

(iv) accommodate any ballot used under this article;

(v) protect all other rights of voters and candidates; [and]

(vi) be capable of creating a paper record of all votes cast in order that an audit trail is available in the event of a recount, INCLUDING A MANUAL RECOUNT; AND

(VII) PROVIDE A VOTER-VERIFIABLE PAPER RECORD THAT:

1. IS AN INDIVIDUAL DOCUMENT THAT IS PHYSICALLY SEPARATED FROM ANY OTHER SIMILAR DOCUMENT AND NOT PART OF A CONTINUOUS ROLL;

2. IS SUFFICIENTLY DURABLE TO WITHSTAND REPEATED HANDLING FOR THE PURPOSES OF MANDATORY RANDOM AUDITS AND RECOUNTS; AND

3. USES INK THAT DOES NOT FADE, SMEAR, OR OTHERWISE DEGRADE AND OBSCURE OR OBLITERATE THE PAPER RECORD OVER TIME;

(2) the voting system has been:

(i) examined by an independent testing laboratory that is approved by the [National Association of State Election Directors] U.S. ELECTION ASSISTANCE COMMISSION; and

(ii) shown by the testing laboratory to meet the performance and test standards for electronic voting systems established by the Federal Election Commission OR THE U.S. ELECTION ASSISTANCE COMMISSION; and

(3) the public interest will be served by the certification of the voting system.

~~[(d)]~~ (E) In determining whether a voting system meets the required standards, the State Board shall consider:

(1) the commercial availability of the system and its replacement parts and components;

(2) the availability of continuing service for the system;

(3) the cost of implementing the system;

(4) the efficiency of the system;

(5) the likelihood that the system will malfunction;

(6) the system's ease of understanding for the voter;

(7) the convenience of voting afforded by the system;

(8) the timeliness of the tabulation and reporting of election returns;

(9) the potential for an alternative means of verifying the tabulation;

(10) accessibility for all voters with disabilities recognized by the Americans with Disabilities Act, ~~INCLUDING FEATURES WHICH:~~

~~(i) ENSURE THAT ACCESSIBILITY FOR VOTERS WITH DISABILITIES IS EQUIVALENT TO THAT AFFORDED TO VOTERS WITHOUT DISABILITIES;~~

~~(II) DO NOT REQUIRE THE CREATION OF A SEGREGATED BALLOT FOR VOTERS WITH DISABILITIES; AND~~

~~(III) ALLOW FOR THE INDEPENDENT AND PRIVATE CASTING, INSPECTION, VERIFICATION, AND CORRECTION OF THE BALLOT BY VOTERS WITH DISABILITIES; and~~

(11) any other factor that the State Board considers relevant.

(F) A VOTING SYSTEM SELECTED, CERTIFIED, AND IMPLEMENTED UNDER THIS SECTION SHALL:

(1) PROVIDE ACCESS TO VOTERS WITH DISABILITIES THAT IS EQUIVALENT TO ACCESS AFFORDED VOTERS WITHOUT DISABILITIES WITHOUT CREATING A SEGREGATED BALLOT FOR VOTERS WITH DISABILITIES;

(2) ENSURE THE INDEPENDENT, PRIVATE CASTING, INSPECTION, VERIFICATION, AND CORRECTION OF SECRET BALLOTS BY VOTERS WITH DISABILITIES IN AN ACCESSIBLE MEDIA BY BOTH VISUAL AND NONVISUAL MEANS, INCLUDING SYNCHRONIZED AUDIO OUTPUT AND ENHANCED VISUAL DISPLAY; AND

(3) COMPLY WITH BOTH THE AMERICANS WITH DISABILITIES ACT, P.L. 101-336, AND THE HELP AMERICA VOTE ACT, P.L. 107-252, INCLUDING ACCESSIBILITY STANDARDS ADOPTED AS PART OF THE VOLUNTARY VOTING SYSTEM GUIDELINES PURSUANT TO THE HELP AMERICA VOTE ACT.

(G) (1) AT LEAST ONE VOTING SYSTEM IN EACH POLLING PLACE ON ELECTION DAY SHALL PROVIDE ACCESS FOR VOTERS WITH DISABILITIES IN COMPLIANCE WITH SUBSECTION (F) OF THIS SECTION.

(2) THE STATE BOARD SHALL ENSURE THAT ADEQUATE BACKUP EQUIPMENT IS AVAILABLE AND CONTINGENCY PLANS ARE ESTABLISHED TO ENSURE COMPLIANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

(H) BEFORE THE SELECTION OF A VOTING SYSTEM, THE STATE BOARD SHALL:

(1) ENSURE THAT AN ACCESSIBLE VOTING SYSTEM CONFORMS TO THE ACCESS REQUIREMENTS OF THE VOLUNTARY VOTING SYSTEM GUIDELINES DEVELOPED IN ACCORDANCE WITH THE HELP AMERICA VOTE ACT IN EFFECT AT THE TIME OF SELECTION; AND

(2) CONDUCT AN ACCESSIBILITY AND USABILITY EVALUATION OF THE VOTING SYSTEM TO ASSESS ITS ACCESSIBILITY AND USABILITY BY VOTERS WITH DISABILITIES, INCLUDING:

(I) A PUBLIC DEMONSTRATION OF THE SYSTEM; AND

(II) AN EVALUATION BY INDIVIDUALS REPRESENTING A CROSS-SECTION OF VOTERS WITH DISABILITIES.

~~[(e)]~~ **(I) (1) The State Board shall adopt regulations relating to requirements for each voting system selected and certified under § 9-101 of this subtitle.**

(2) The regulations shall specify the procedures necessary to assure that the standards of this title are maintained, including:

(i) a description of the voting system;

(ii) a public information program by the local board, at the time of introduction of a new voting system, to be directed to all voters, candidates, campaign groups, schools, and news media in the county;

(iii) local election officials' responsibility for management of the system;

(iv) the actions required to assure the security of the voting system;

(v) the supplies and equipment required;

(vi) the storage, delivery, and return of the supplies and equipment necessary for the operation of the voting system;

(vii) standards for training election officials in the operation and use of the voting system;

(viii) before each election and for all ballot styles to be used, testing by the members of the local board to ensure the accuracy of tallying, tabulation, and reporting of the vote, and observing of that testing by representatives of political parties and of candidates who are not affiliated with political parties;

(ix) the number of voting stations or voting booths required in each polling place, in relation to the number of registered voters assigned to the polling place;

(x) the practices and procedures in each polling place appropriate to the operation of the voting system;

(xi) assuring ballot accountability in systems using a document ballot;

(xii) the actions required to tabulate votes; and

(xiii) postelection review and audit of the system's output.

(3) Certification of a voting system is not effective until the regulations applicable to the voting system have been adopted.

10-206.

(a) In consultation with the local boards, the State Board shall:

(1) develop a program of instruction of election judges; and

(2) oversee the implementation of the program of instruction.

(b) The training materials utilized by the program may include:

(1) an instruction manual and other written directives;

(2) curriculum for training sessions; and

(3) audiovisuals.

(c) The State Board shall develop a process for the evaluation of the training program and the performance of the polling place staff in each county.

(d) To the extent appropriate, the training program shall be specific to each of the voting systems used in polling places in the State.

(E) (1) THE STATE BOARD SHALL PROVIDE ELECTION JUDGES WITH UNIFORM STATEWIDE TRAINING ON THE VOTING SYSTEM, INCLUDING:

(I) ALL FEATURES OF THE VOTING SYSTEM THAT PROVIDE ACCESS TO VOTERS WITH DISABILITIES; AND

(II) THE RIGHTS OF VOTERS WITH DISABILITIES, INCLUDING THOSE RIGHTS GUARANTEED BY STATE AND FEDERAL LAW.

~~[(e)] (F)~~ Each local board shall conduct election judge training based on the program developed by the State Board.

~~[(f)] (G)~~ (1) Except as provided in paragraph (2) of this subsection, each election judge shall participate in the training program provided for in subsection (a) of this section.

(2) An election judge who is appointed under emergency circumstances is not required to attend the course of instruction.

SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall apply to each election occurring on or after January 1, ~~2008~~ 2010, that is required to be conducted in accordance with the Election Law Article.

~~SECTION 4. AND BE IT FURTHER ENACTED, That the Governor shall allocate the resources required to implement the requirements of this Act, including any gift received by the State for the purposes of this Act under § 2-201 of the State Finance and Procurement Article, and, except for federal funds received by the State to implement the requirements of the Help America Vote Act 2002, any federal or other special funds or grant received by the State in accordance with federal and State law for the purposes of this Act.~~

~~SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.~~

SECTION 3. AND BE IT FURTHER ENACTED, That, if the Attorney General determines on or after the effective date of this Act that any provision of this Act is in conflict with any law of the United States or a rule, regulation, or policy of the U.S. Election Assistance Commission, the conflicting provision of this Act shall be abrogated and of no force or effect. The Attorney General, within 5 days after determining the existence of a conflict, shall notify in writing the Department of Legislative Services, Legislative Services Building, 90 State Circle, Annapolis, MD 21401.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is contingent on the appropriation of sufficient general, special, or federal funds in the State budget no later than fiscal year 2009 for the State Board of Elections to perform the functions set forth in Section 1 of this Act, and if sufficient funds are not appropriated in the State budget to the State Board of Elections by fiscal year 2009 to perform the functions set forth in Section 1 of this Act, this Act shall be null and void without the necessity of further action by the General Assembly. Within 10 days after the fiscal year 2009 budget has been enacted by the General Assembly, the Department of Budget and

Management shall determine and notify the Department of Legislative Services whether sufficient general, special, or federal funds have been appropriated in the fiscal year 2009 budget for the State Board of Elections to perform the functions set forth in Section 1 of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Sections 2 through 4 of this Act, this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 548

(House Bill 18)

AN ACT concerning

Election Law – Voting Systems – ~~Voter-Verified~~ Voter-Verifiable Paper Records

FOR the purpose of ~~requiring that certain voting systems produce a paper record of a voter's ballot choices and provide the voter with an opportunity to inspect the paper record before casting a final vote; requiring that the paper records be preserved at the polling place in a certain manner and for certain purposes; requiring that certain voting systems be accessible to certain individuals with disabilities; requiring certain comparisons and audits of certain ballots following an election; requiring public notice and demonstrations regarding certain voting systems and procedures; requiring the State Board of Elections to maintain certain information, to document certain occurrences, and to make certain information publicly available; requiring the Governor to allocate certain resources for certain purposes; making this Act subject to a certain contingency; requiring the Department of Budget and Management to make a certain determination and provide a certain notification by a certain time; defining certain terms; requiring the State Board to adopt certain regulations and certain guidelines; and generally relating to voter-verified paper records for voting systems~~ prohibiting the State Board of Elections from certifying a voting system unless the State Board determines that the voting system provides voter-verifiable paper records; defining a certain term; requiring that certain voting systems be accessible to certain individuals with disabilities; requiring the State Board to provide certain training on the voting system to election judges; requiring the Attorney General to make a certain determination and to provide notice of the determination in writing to the Department of Legislative Services; making this Act subject to a certain contingency; requiring the Department of

Budget and Management to make a certain determination and provide a certain notification by a certain time; providing for the application of this Act; and generally relating to voting systems and voter-verifiable paper records.

~~BY renumbering~~

~~Article — Election Law~~

~~Section 9-101 through 9-105, respectively
to be Section 9-102 through 9-106, respectively~~

~~Annotated Code of Maryland~~

~~(2003 Volume and 2006 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article — Election Law~~

~~Section 1-101(xx)~~

~~Annotated Code of Maryland~~

~~(2003 Volume and 2006 Supplement)~~

~~BY adding to~~

~~Article — Election Law~~

~~Section 9-101 and 9-107 through 9-112~~

~~Annotated Code of Maryland~~

~~(2003 Volume and 2006 Supplement)~~

~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9-101 through 9-105, respectively, of Article — Election Law of the Annotated Code of Maryland be renumbered to be Section(s) 9-102 through 9-106, respectively.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~BY repealing and reenacting, with amendments,~~

~~Article - Election Law~~

~~Section 9-102 and 10-206~~

~~Annotated Code of Maryland~~

~~(2003 Volume and 2006 Supplement)~~

~~Article — Election Law~~

~~1-101.~~

~~(xx) (1) “Voting system” means a method of casting and tabulating ballots or votes.~~

~~(2) "VOTING SYSTEM" INCLUDES A COLLECTION OF DEVICES THAT:~~

~~(i) ALLOW A VOTER TO VIEW BALLOTS, SELECT CANDIDATES, AND CAST VOTES; AND~~

~~(ii) AGGREGATE AND TABULATE ALL OF THE VOTES CAST IN AN ELECTION.~~

~~9-101.~~

~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(B) "HAND COUNT" MEANS A COUNTING OF THE VOTES IN WHICH:~~

~~(1) THE HANDLING OF THE DOCUMENT BALLOT IS DONE BY HUMAN HAND; AND~~

~~(2) THE IDENTIFICATION OF EACH VOTE IS DETERMINED BY VISUAL INSPECTION OF THE DOCUMENT BALLOT BY A HUMAN BEING.~~

~~(C) "MANDATORY RANDOM AUDIT" MEANS A HAND-COUNTED AUDIT CONDUCTED ON A ROUTINE BASIS FOLLOWING EACH ELECTION FOR THE PURPOSE OF COMPARING A PERCENTAGE OF VOTER-VERIFIED PAPER RECORDS WITH THE VOTE TALLIES RECORDED BY EACH OF THE FOLLOWING VOTING SYSTEMS:~~

~~(1) TOUCH-SCREEN OR OTHER ELECTRONIC VOTING MACHINES;~~

~~(2) PRECINCT-BASED OPTICAL SCANNING EQUIPMENT;~~

~~(3) ABSENTEE BALLOTS AND OTHER DOMESTIC AND OVERSEAS BALLOTS MAILED TO THE LOCAL BOARDS OF ELECTIONS; AND~~

~~(4) BALLOTS CREATED THROUGH THE USE OF AN ELECTRONIC MARKING DEVICE.~~

~~(D) "NONVISUAL" MEANS AUDIO-SYNTHESIZED SPEECH.~~

~~(E) "VOTER-VERIFIED PAPER RECORD" MEANS AN AUDITABLE PAPER RECORD THAT:~~

~~(1) IS AVAILABLE TO EACH VOTER TO INSPECT AND VERIFY BEFORE THE VOTER'S VOTE IS CAST;~~

~~(2) IS PRODUCED CONTEMPORANEOUSLY WITH OR EMPLOYED BY ANY VOTING SYSTEM;~~

~~(3) (I) LISTS THE DESIGNATION OF EACH OFFICE OR QUESTION AND THE VOTER'S CHOICE IN EACH OFFICE OR QUESTION; OR~~

~~(II) IF THE VOTER MAKES NO SELECTION IN CONNECTION WITH ANY OFFICE OR QUESTION, NOTES THAT FACT ON THE RECORD THAT IS PRODUCED;~~

~~(4) IS SUITABLE FOR THE PURPOSES OF MANDATORY RANDOM AUDITS AND RECOUNTS; AND~~

~~(5) IS MAINTAINED AS THE OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.~~

~~(F) "VOTING SYSTEM AGGREGATION AND TABULATION" MEANS THE PROCESS AND THE HARDWARE AND SOFTWARE BY WHICH VOTES RECORDED BY THE VOTING SYSTEM ARE AGGREGATED, TOTALED, AND TABULATED TO DETERMINE THE OUTCOME OF AN ELECTION.~~

~~9-107.~~

~~(A) THE VOTING SYSTEM SELECTED AND CERTIFIED SHALL:~~

~~(1) PRODUCE OR REQUIRE THE USE OF AN INDIVIDUAL VOTER-VERIFIED PAPER RECORD OF THE VOTER'S VOTE; AND~~

~~(2) ENSURE THAT THE VOTER-VERIFIED PAPER RECORD IS MADE AVAILABLE FOR INSPECTION AND VERIFICATION BY THE VOTER BEFORE THE VOTER'S VOTE IS CAST.~~

~~(B) A VOTER-VERIFIED PAPER RECORD MAY INCLUDE ANY OF THE FOLLOWING:~~

~~(1) A PAPER PRINTOUT OF THE VOTER'S VOTE PRODUCED BY A TOUCH-SCREEN OR OTHER ELECTRONIC VOTING MACHINE IF, IN EACH CASE, THE RECORD PERMITS THE VOTER TO VERIFY THE RECORD IN ACCORDANCE WITH THIS SECTION;~~

~~(2) A PAPER BALLOT PREPARED BY THE VOTER FOR THE PURPOSE OF BEING READ BY A PRECINCT-BASED OPTICAL SCANNER;~~

~~(3) A PAPER BALLOT PREPARED BY THE VOTER TO BE MAILED TO THE APPLICABLE LOCAL BOARD, WHETHER MAILED FROM A DOMESTIC OR AN OVERSEAS LOCATION; OR~~

~~(4) A PAPER BALLOT PREPARED BY A VOTER IN A POLLING PLACE AS A PROVISIONAL BALLOT; OR~~

~~(4)(5) A PAPER BALLOT CREATED THROUGH THE USE OF A BALLOT MARKING DEVICE.~~

~~(C) EACH VOTER-VERIFIED PAPER RECORD SHALL:~~

~~(1) BE AN INDIVIDUAL DOCUMENT THAT IS PHYSICALLY SEPARATED FROM ANY OTHER SIMILAR DOCUMENT AND NOT PART OF A CONTINUOUS ROLL;~~

~~(2) BE SUFFICIENTLY DURABLE TO WITHSTAND REPEATED HANDLING FOR PURPOSES OF MANDATORY RANDOM AUDITS AND RECOUNTS; AND~~

~~(3) USE INK THAT DOES NOT FADE, SMEAR, OR OTHERWISE DEGRADE AND OBSCURE OR OBLITERATE THE PAPER RECORD OVER TIME.~~

~~(D) BEFORE THE VOTER-VERIFIED PAPER RECORD IS PRESERVED IN ACCORDANCE WITH THIS SECTION, A VOTER SHALL BE PROVIDED AN OPPORTUNITY TO CORRECT ANY ERROR MADE BY THE VOTING SYSTEM AND PRESENTED WITH THE ABILITY TO CORRECT ANY ERROR ON THE VOTER-VERIFIED PAPER RECORD.~~

~~(E) (1) EACH VOTER-VERIFIED PAPER RECORD PRODUCED SHALL BE SUITABLE FOR A MANDATORY RANDOM AUDIT HAND COUNT IN ACCORDANCE WITH § 9-110 OF THIS SUBTITLE.~~

~~(2) IN THE EVENT OF ANY INCONSISTENCY OR IRREGULARITY BETWEEN AN ELECTRONIC RECORD AND THE VOTER-VERIFIED PAPER RECORD, THE VOTER-VERIFIED PAPER RECORD SHALL BE THE OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.~~

~~(3) THE VOTER-VERIFIED PAPER RECORD SHALL:~~

~~(I) BE PRESERVED AND RETAINED IN A MANNER THAT MAKES IT IMPOSSIBLE TO ASSOCIATE A VOTER WITH THE RECORD OF THE VOTER'S VOTE; AND~~

~~(H) BE STORED BY A LOCAL BOARD IN A PLACE AND MANNER THAT IS SECURE FOR AT LEAST 1 YEAR AFTER THE ELECTION.~~

~~9-108.~~

~~(A) A VOTING SYSTEM APPROVED BY THE STATE BOARD UNDER THIS ARTICLE SHALL HAVE THE ABILITY FOR A VOTER TO CAST AND VERIFY THE VOTER'S SELECTIONS BY BOTH VISUAL AND NONVISUAL MEANS.~~

~~(B) AT LEAST ONE VOTING SYSTEM IN EACH POLLING PLACE ON ELECTION DAY SHALL PROVIDE ACCESS FOR INDIVIDUALS WITH DISABILITIES AND AFFORD THE VOTER THE OPPORTUNITY FOR PRIVATE AND INDEPENDENT REVIEW, ACCEPTANCE, OR REJECTION OF THE BALLOT AS THE VOTER INTENDS TO CAST IT.~~

~~(C) THE STATE BOARD SHALL ADOPT REGULATIONS GOVERNING ANY VOTING SYSTEM USED FOR AN ELECTION GOVERNED BY THIS ARTICLE TO ENSURE THAT THE VOTING SYSTEM PROVIDES EQUIVALENT ACCESS FOR INDIVIDUALS WHO ARE BLIND OR PARTIALLY SIGHTED OR WHO HAVE OTHER DISABILITIES AS THE ACCESS THAT IS AFFORDED INDIVIDUALS WITHOUT DISABILITIES.~~

~~(A) A VOTING SYSTEM SELECTED, CERTIFIED, AND IMPLEMENTED UNDER THIS SECTION SHALL:~~

~~(1) PROVIDE ACCESS TO VOTERS WITH DISABILITIES THAT IS EQUIVALENT TO ACCESS AFFORDED VOTERS WITHOUT DISABILITIES WITHOUT CREATING A SEGREGATED BALLOT FOR VOTERS WITH DISABILITIES;~~

~~(2) ENSURE THE INDEPENDENT, PRIVATE CASTING, INSPECTION, VERIFICATION, AND CORRECTION OF SECRET BALLOTS BY VOTERS WITH DISABILITIES IN AN ACCESSIBLE MEDIA BY BOTH VISUAL AND NONVISUAL MEANS, INCLUDING SYNCHRONIZED AUDIO OUTPUT AND ENHANCED VISUAL DISPLAY; AND~~

~~(3) COMPLY WITH BOTH THE AMERICANS WITH DISABILITIES ACT, P.L. 101-336, AND THE HELP AMERICA VOTE ACT, P.L. 107-252, INCLUDING ACCESSIBILITY STANDARDS ADOPTED AS PART OF THE VOLUNTARY VOTING SYSTEM GUIDELINES PURSUANT TO THE HELP AMERICA VOTE ACT.~~

~~(B) (1) AT LEAST ONE VOTING SYSTEM IN EACH POLLING PLACE ON ELECTION DAY SHALL PROVIDE ACCESS FOR VOTERS WITH DISABILITIES IN COMPLIANCE WITH SUBSECTION (A) OF THIS SECTION.~~

~~(2) THE STATE BOARD SHALL ENSURE THAT ADEQUATE BACK UP EQUIPMENT IS AVAILABLE AND CONTINGENCY PLANS ARE ESTABLISHED TO ENSURE COMPLIANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(C) PRIOR TO THE SELECTION OF A VOTING SYSTEM, THE STATE BOARD SHALL:~~

~~(1) ENSURE THAT AN ACCESSIBLE VOTING SYSTEM CONFORMS TO THE ACCESS REQUIREMENTS OF THE VOLUNTARY VOTING SYSTEM GUIDELINES DEVELOPED PURSUANT TO THE HELP AMERICA VOTE ACT IN EFFECT AT THE TIME OF SELECTION; AND~~

~~(2) CONDUCT AN ACCESSIBILITY AND USABILITY EVALUATION OF THE VOTING SYSTEM TO ASSESS ITS ACCESSIBILITY AND USABILITY BY VOTERS WITH DISABILITIES, INCLUDING:~~

~~(I) A PUBLIC DEMONSTRATION OF THE SYSTEM; AND~~

~~(II) AN EVALUATION BY INDIVIDUALS REPRESENTING A CROSS SECTION OF VOTERS WITH DISABILITIES.~~

~~(D) (1) THE STATE BOARD SHALL PROVIDE ELECTION JUDGES WITH UNIFORM STATEWIDE TRAINING ON THE VOTING SYSTEM, INCLUDING BUT NOT LIMITED TO:~~

~~(I) ALL FEATURES OF THE VOTING SYSTEM THAT PROVIDE ACCESS TO VOTERS WITH DISABILITIES; AND~~

~~(II) THE RIGHTS OF VOTERS WITH DISABILITIES, INCLUDING THOSE RIGHTS GUARANTEED BY STATE AND FEDERAL LAW.~~

~~9-109.~~

~~(A) THE VOTING SYSTEM AGGREGATION AND TABULATION EQUIPMENT EMPLOYED BY THE STATE TO STORE, AGGREGATE, AND TOTAL THE VOTES CAST BY VOTERS SHALL ONLY RECEIVE DATA AND TRANSFER DATA BY DISK AND TAPE OR OTHER PHYSICAL MEANS.~~

~~(B) IN AGGREGATING AND TABULATING ELECTION RESULTS, THE ACCURACY OF THE RESULTS SHALL TAKE PRIORITY OVER THE SPEED WITH WHICH THE RESULTS ARE POSTED.~~

~~(C) THE SOFTWARE AND HARDWARE USED IN THE VOTING SYSTEM AGGREGATION AND TABULATION PROCESS SHALL BE CERTIFIED AT LEAST 30 DAYS PRIOR TO ITS DEPLOYMENT IN EACH ELECTION.~~

~~(D) PROMPTLY AFTER THE CLOSE OF THE POLLS FOLLOWING EACH ELECTION, THE ELECTION JUDGES SHALL POST IN AN AREA ACCESSIBLE TO THE PUBLIC A PAPER RECORD OF THE TOTAL OF ALL THE VOTES CAST AT THAT POLLING PLACE.~~

~~(E) BEFORE THE COMMENCEMENT OF THE MANDATORY RANDOM AUDIT PROCESS, INCLUDING THE AUDIT DRAWING PRESCRIBED UNDER § 9-110 OF THIS SUBTITLE, EACH LOCAL BOARD AND THE STATE BOARD SHALL MAKE THE INITIAL ELECTION RESULTS OF ALL OF THE VOTES CAST AT EACH POLLING PLACE AVAILABLE ON A PUBLICLY ACCESSIBLE INTERNET WEBSITE.~~

~~(F) THE PAPER PAPER RECORDS OF THE INITIAL VOTE TOTALS POSTED AT EACH POLLING PLACE SHALL BE RETAINED IN A SECURE LOCATION AND MADE AVAILABLE FOR PUBLIC REVIEW UNDER SECURE CONDITIONS FOR A PERIOD OF 1 YEAR AFTER THE DATE OF EACH ELECTION.~~

~~9-110.~~

~~(A) (1) WITHIN 3 DAYS AFTER THE INITIAL TOTAL OF ALL VOTES CAST AT EACH POLLING PLACE IN EACH COUNTY AND STATEWIDE ELECTION HAVE BEEN PUBLICLY POSTED ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE BY EACH LOCAL BOARD AND THE STATE BOARD PRIOR TO CERTIFYING ITS ELECTION RESULTS, EACH LOCAL BOARD SHALL CONDUCT A MANDATORY RANDOM AUDIT HAND COUNT OF THE ELECTION RESULTS.~~

~~(2) (i) EACH AUDIT SHALL COMPARE THE RESULTS OF ALL OF THE ELECTRONIC RECORDS PRODUCED BY THE VOTING SYSTEM WITH THE VOTER VERIFIED PAPER RECORDS PRODUCED BY THE VOTING SYSTEM.~~

~~(ii) IF THERE IS ANY INCONSISTENCY OR IRREGULARITY BETWEEN AN ELECTRONIC RECORD AND THE CORRESPONDING PAPER RECORD, THE PAPER RECORD SHALL BE THE OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.~~

~~(3) THE MANDATORY RANDOM AUDIT HAND COUNT SHALL:~~

~~(I) COMPARE THE ELECTRONIC RECORDS IN RANDOMLY SELECTED POLLING PLACES WITH THE CORRESPONDING INDIVIDUAL VOTER-VERIFIED PAPER RECORDS;~~

~~(II) BE CONSTRUCTED ON AN ENTIRELY RANDOM BASIS USING A UNIFORM DISTRIBUTION IN WHICH ALL POLLING PLACES IN THE COUNTY HAVE AN EQUAL CHANCE OF BEING SELECTED;~~

~~(III) INCLUDE ALL VOTES CAST IN NO LESS THAN 5% 2% OF ALL OF THE POLLING PLACES IN THE COUNTY, BUT NOT LESS THAN ONE POLLING PLACE IN THE COUNTY;~~

~~(IV) BE OPEN TO THE GENERAL PUBLIC AND THE PRESS FOR OBSERVATION, AND INCLUDE AN INVITATION AND AFFORD ACCESS TO AT LEAST ONE REPRESENTATIVE FROM EACH OFFICIALLY REGISTERED POLITICAL PARTY IN THE STATE TO PARTICIPATE IN THE AUDIT PROCESS;~~

~~(V) INCLUDE A RANDOM DRAWING, THAT IS OPEN TO OBSERVATION BY THE PUBLIC AND THE PRESS, TO DETERMINE WHICH POLLING PLACES IN EACH COUNTY WILL BE SELECTED FOR THE AUDIT; AND~~

~~(VI) BEGIN IMMEDIATELY AFTER THE POLLING PLACES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH ARE SELECTED.~~

~~(B) (1) IF A DISCREPANCY IS DISCOVERED BETWEEN THE VOTE TALLIES PRODUCED BY THE VOTING SYSTEM AND THE VOTE TALLIES OF VOTER-VERIFIED PAPER RECORDS MEETS THE LEVEL OF DISCREPANCY ESTABLISHED UNDER REGULATIONS ADOPTED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, THE STATE BOARD SHALL IMMEDIATELY CONDUCT AN EXPANDED AUDIT OF ADDITIONAL RANDOMLY SELECTED POLLING PLACES IN THE COUNTY IN ORDER TO:~~

~~(1) (I) DETERMINE THE EXTENT OF ANY INCONSISTENCIES OR IRREGULARITIES; AND~~

~~(2) (II) RESOLVE ANY CONCERNS AND ENSURE THE ACCURACY OF THE RESULTS.~~

~~(2) (I) THE STATE BOARD OF ELECTIONS SHALL ADOPT REGULATIONS GOVERNING THE ADMINISTRATION OF AN EXPANDED AUDIT.~~

~~(H) THE REGULATIONS SHALL INCLUDE THE LEVEL OF DISCREPANCY NEEDED IN ORDER FOR AN EXPANDED AUDIT TO BE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(c) (1) ONCE THE EXTENT OF ANY INCONSISTENCIES OR IRREGULARITIES IS DETERMINED, THE STATE BOARD SHALL CONDUCT A THOROUGH INVESTIGATION OF THE VOTING SYSTEM BEFORE THE RESULTS OF THE ELECTION ARE CERTIFIED IN ACCORDANCE WITH APPLICABLE STATE LAW.~~

~~(2) IN ORDER TO RESOLVE THE OUTCOME AND CERTIFY THE RESULTS OF AN ELECTION, THE STATE BOARD SHALL ORDER THAT A RECOUNT BE CONDUCTED IN THE EVENT THAT THE RESULTS OF THE AUDIT CALL INTO QUESTION THE OUTCOME OF THE ELECTION FOR ANY FEDERAL, STATE, OR LOCAL CANDIDATE OR QUESTION.~~

~~(d) (1) ANY INCONSISTENCIES OR IRREGULARITIES IDENTIFIED BETWEEN THE CORRESPONDING AUDIT RESULTS AND THE INITIAL VOTE COUNTS SHALL BE POSTED PUBLICLY ON THE INTERNET WEBSITE OF THE STATE BOARD, ALONG WITH A DESCRIPTION OF THE ACTIONS TAKEN BY THE STATE BOARD TO RESOLVE THE DISCREPANCIES AND ANY OTHER RELATED CONCERNS.~~

~~(2) A LOCAL BOARD MAY NOT CERTIFY THE RESULTS OF ANY ELECTION THAT IS SUBJECT TO AN AUDIT UNDER THIS SECTION BEFORE THE COMPLETION OF THE AUDIT AND THE ANNOUNCEMENT AND PUBLICATION OF THE AUDIT RESULTS UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(3) AS TO ANY INCONSISTENCIES OR IRREGULARITIES DISCOVERED UNDER THIS SECTION, THE VOTER VERIFIED PAPER RECORDS SHALL BE THE OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.~~

~~9-111.~~

~~(a) TO ENSURE PROPER FUNCTIONING AND MAINTAIN PUBLIC CONFIDENCE IN THE VOTING SYSTEM, SUBSEQUENT TO CERTIFICATION AND BEFORE ITS USE IN EACH ELECTION, A LOCAL BOARD SHALL CONDUCT A PUBLIC DEMONSTRATION OF THE VOTING SYSTEM IN THE COUNTY, INCLUDING THE VOTE AGGREGATION AND TABULATION EQUIPMENT TO BE USED IN THE ELECTION.~~

~~(b) (1) THE PUBLIC DEMONSTRATION SHALL BE OPEN TO THE PRESS AND THE PUBLIC FOR FULL INSPECTION.~~

~~(2) THE DATE, TIME, AND LOCATION OF EACH DEMONSTRATION SHALL BE ANNOUNCED PUBLICLY AND POSTED CONSPICUOUSLY ON THE INTERNET WEBSITE OF THE STATE BOARD NO LATER THAN 7 BUSINESS DAYS BEFORE THE DATE THE DEMONSTRATION IS SCHEDULED TO TAKE PLACE.~~

~~(3) THE DEMONSTRATION SHALL TAKE PLACE NO SOONER THAN 30 DAYS NOR LESS THAN 10 DAYS BEFORE EACH ELECTION.~~

~~9-112.~~

~~(A) THE STATE BOARD SHALL AT ALL TIMES MAINTAIN INFORMATION REGARDING THE OCCURRENCE OF VOTING SYSTEM FAILURES THAT IT IDENTIFIES, WHETHER DURING:~~

~~(1) PREELECTION TESTING AND CERTIFICATION PROCEDURES;~~

~~(2) THE CONDUCT OF ELECTION ACTIVITIES;~~

~~(3) POSTELECTION AUDITS, RECOUNT PROCESSES, OR ELECTION RESULTS CERTIFICATION PROCEDURES; OR~~

~~(4) ANY OTHER TIME.~~

~~(B) THE VOTING SYSTEM FAILURES DOCUMENTED SHALL INCLUDE INFORMATION REGARDING:~~

~~(1) EQUIPMENT BREAKDOWNS;~~

~~(2) POWER OUTAGES AND SURGES;~~

~~(3) UNUSUAL OR MALFUNCTIONING COMPUTER HARDWARE AND SOFTWARE PROBLEMS; AND~~

~~(4) DISCREPANCIES IN VOTING SYSTEM AUDITING AND CERTIFICATION PROCEDURES.~~

~~(C) THE STATE BOARD SHALL:~~

~~(1) MAINTAIN A PERMANENT RECORD OF THE INFORMATION THAT IT ACCUMULATES UNDER THIS SECTION; AND~~

~~(2) MAKE THE INFORMATION AVAILABLE TO THE PUBLIC ON ITS WEBSITE WITHIN 48 HOURS AFTER IT IS DISCOVERED, WHETHER BY THE STATE~~

~~BOARD OR ANOTHER PERSON CHARGED WITH CERTIFYING OR DECERTIFYING ELECTION RESULTS OR AN ELECTION VOTING SYSTEM.~~

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

Article - Election Law

9-102.

(A) IN THIS SECTION, A "VOTER-VERIFIABLE PAPER RECORD" INCLUDES:

(1) A PAPER BALLOT PREPARED BY THE VOTER FOR THE PURPOSE OF BEING READ BY A PRECINCT-BASED OPTICAL SCANNER;

(2) A PAPER BALLOT PREPARED BY THE VOTER TO BE MAILED TO THE APPLICABLE LOCAL BOARD, WHETHER MAILED FROM A DOMESTIC OR AN OVERSEAS LOCATION; AND

(3) A PAPER BALLOT CREATED THROUGH THE USE OF A BALLOT MARKING DEVICE.

[(a)] (B) The State Board shall adopt regulations for the review, certification, and decertification of voting systems.

[(b)] (C) The State Board shall periodically review and evaluate alternative voting systems.

[(c)] (D) The State Board may not certify a voting system unless the State Board determines that:

- (1) the voting system will:
 - (i) protect the secrecy of the ballot;
 - (ii) protect the security of the voting process;
 - (iii) count and record all votes accurately;
 - (iv) accommodate any ballot used under this article;
 - (v) protect all other rights of voters and candidates; [and]

(vi) be capable of creating a paper record of all votes cast in order that an audit trail is available in the event of a recount, INCLUDING A MANUAL RECOUNT; AND

(VII) PROVIDE A VOTER-VERIFIABLE PAPER RECORD THAT:

1. IS AN INDIVIDUAL DOCUMENT THAT IS PHYSICALLY SEPARATED FROM ANY OTHER SIMILAR DOCUMENT AND NOT PART OF A CONTINUOUS ROLL;

2. IS SUFFICIENTLY DURABLE TO WITHSTAND REPEATED HANDLING FOR THE PURPOSES OF MANDATORY RANDOM AUDITS AND RECOUNTS; AND

3. USES INK THAT DOES NOT FADE, SMEAR, OR OTHERWISE DEGRADE AND OBSCURE OR OBLITERATE THE PAPER RECORD OVER TIME;

(2) the voting system has been:

(i) examined by an independent testing laboratory that is approved by the [National Association of State Election Directors] U.S. ELECTION ASSISTANCE COMMISSION; and

(ii) shown by the testing laboratory to meet the performance and test standards for electronic voting systems established by the Federal Election Commission OR THE U.S. ELECTION ASSISTANCE COMMISSION; and

(3) the public interest will be served by the certification of the voting system.

[(d)] (E) In determining whether a voting system meets the required standards, the State Board shall consider:

(1) the commercial availability of the system and its replacement parts and components;

(2) the availability of continuing service for the system;

(3) the cost of implementing the system;

(4) the efficiency of the system;

(5) the likelihood that the system will malfunction;

- (6) the system's ease of understanding for the voter;
- (7) the convenience of voting afforded by the system;
- (8) the timeliness of the tabulation and reporting of election returns;
- (9) the potential for an alternative means of verifying the tabulation;
- (10) accessibility for all voters with disabilities recognized by the Americans with Disabilities Act; and
- (11) any other factor that the State Board considers relevant.

(F) A VOTING SYSTEM SELECTED, CERTIFIED, AND IMPLEMENTED UNDER THIS SECTION SHALL:

(1) PROVIDE ACCESS TO VOTERS WITH DISABILITIES THAT IS EQUIVALENT TO ACCESS AFFORDED VOTERS WITHOUT DISABILITIES WITHOUT CREATING A SEGREGATED BALLOT FOR VOTERS WITH DISABILITIES;

(2) ENSURE THE INDEPENDENT, PRIVATE CASTING, INSPECTION, VERIFICATION, AND CORRECTION OF SECRET BALLOTS BY VOTERS WITH DISABILITIES IN AN ACCESSIBLE MEDIA BY BOTH VISUAL AND NONVISUAL MEANS, INCLUDING SYNCHRONIZED AUDIO OUTPUT AND ENHANCED VISUAL DISPLAY; AND

(3) COMPLY WITH BOTH THE AMERICANS WITH DISABILITIES ACT, P.L. 101-336, AND THE HELP AMERICA VOTE ACT, P.L. 107-252, INCLUDING ACCESSIBILITY STANDARDS ADOPTED AS PART OF THE VOLUNTARY VOTING SYSTEM GUIDELINES PURSUANT TO THE HELP AMERICA VOTE ACT.

(G) (1) AT LEAST ONE VOTING SYSTEM IN EACH POLLING PLACE ON ELECTION DAY SHALL PROVIDE ACCESS FOR VOTERS WITH DISABILITIES IN COMPLIANCE WITH SUBSECTION (F) OF THIS SECTION.

(2) THE STATE BOARD SHALL ENSURE THAT ADEQUATE BACKUP EQUIPMENT IS AVAILABLE AND CONTINGENCY PLANS ARE ESTABLISHED TO ENSURE COMPLIANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

(H) BEFORE THE SELECTION OF A VOTING SYSTEM, THE STATE BOARD SHALL:

(1) ENSURE THAT AN ACCESSIBLE VOTING SYSTEM CONFORMS TO THE ACCESS REQUIREMENTS OF THE VOLUNTARY VOTING SYSTEM GUIDELINES DEVELOPED IN ACCORDANCE WITH THE HELP AMERICA VOTE ACT IN EFFECT AT THE TIME OF SELECTION; AND

(2) CONDUCT AN ACCESSIBILITY AND USABILITY EVALUATION OF THE VOTING SYSTEM TO ASSESS ITS ACCESSIBILITY AND USABILITY BY VOTERS WITH DISABILITIES, INCLUDING:

(I) A PUBLIC DEMONSTRATION OF THE SYSTEM; AND

(II) AN EVALUATION BY INDIVIDUALS REPRESENTING A CROSS-SECTION OF VOTERS WITH DISABILITIES.

[(e)] (1) The State Board shall adopt regulations relating to requirements for each voting system selected and certified under § 9-101 of this subtitle.

(2) The regulations shall specify the procedures necessary to assure that the standards of this title are maintained, including:

(i) a description of the voting system;

(ii) a public information program by the local board, at the time of introduction of a new voting system, to be directed to all voters, candidates, campaign groups, schools, and news media in the county;

(iii) local election officials' responsibility for management of the system;

(iv) the actions required to assure the security of the voting system;

(v) the supplies and equipment required;

(vi) the storage, delivery, and return of the supplies and equipment necessary for the operation of the voting system;

(vii) standards for training election officials in the operation and use of the voting system;

(viii) before each election and for all ballot styles to be used, testing by the members of the local board to ensure the accuracy of tallying, tabulation, and reporting of the vote, and observing of that testing by representatives of political parties and of candidates who are not affiliated with political parties;

(ix) the number of voting stations or voting booths required in each polling place, in relation to the number of registered voters assigned to the polling place;

(x) the practices and procedures in each polling place appropriate to the operation of the voting system;

(xi) assuring ballot accountability in systems using a document ballot;

(xii) the actions required to tabulate votes; and

(xiii) postelection review and audit of the system's output.

(3) Certification of a voting system is not effective until the regulations applicable to the voting system have been adopted.

10-206.

(a) In consultation with the local boards, the State Board shall:

(1) develop a program of instruction of election judges; and

(2) oversee the implementation of the program of instruction.

(b) The training materials utilized by the program may include:

(1) an instruction manual and other written directives;

(2) curriculum for training sessions; and

(3) audiovisuals.

(c) The State Board shall develop a process for the evaluation of the training program and the performance of the polling place staff in each county.

(d) To the extent appropriate, the training program shall be specific to each of the voting systems used in polling places in the State.

(E) (1) THE STATE BOARD SHALL PROVIDE ELECTION JUDGES WITH UNIFORM STATEWIDE TRAINING ON THE VOTING SYSTEM, INCLUDING:

(I) ALL FEATURES OF THE VOTING SYSTEM THAT PROVIDE ACCESS TO VOTERS WITH DISABILITIES; AND

(II) THE RIGHTS OF VOTERS WITH DISABILITIES, INCLUDING THOSE RIGHTS GUARANTEED BY STATE AND FEDERAL LAW.

[(e)] (F) Each local board shall conduct election judge training based on the program developed by the State Board.

[(f)] (G) (1) Except as provided in paragraph (2) of this subsection, each election judge shall participate in the training program provided for in subsection (a) of this section.

(2) An election judge who is appointed under emergency circumstances is not required to attend the course of instruction.

SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall apply to each election occurring on or after ~~March~~ January 1, 2008 ~~2010~~, that is required to be conducted in accordance with the Election Law Article.

SECTION 3. AND BE IT FURTHER ENACTED, That, if the Attorney General determines on or after the effective date of this Act that any provision of this Act is in conflict with any law of the United States or a rule, regulation, or policy of the U.S. Election Assistance Commission, the conflicting provision of this Act shall be abrogated and of no force or effect. The Attorney General, within 5 days after determining the existence of a conflict, shall notify in writing the Department of Legislative Services, Legislative Services Building, 90 State Circle, Annapolis, MD 21401.

~~SECTION 4. AND BE IT FURTHER ENACTED, That the Governor shall allocate the resources required to implement the requirements of this Act, including any gift received by the State for the purposes of this Act under § 2-201 of the State Finance and Procurement Article, and, except for federal funds received by the State to implement the requirements of the Help America Vote Act 2002, any federal or other special funds or grant received by the State in accordance with federal and State law for the purposes of this Act.~~

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is contingent on the appropriation of sufficient general, special, or federal funds in the State budget no later than fiscal year 2009 for the State Board of Elections to perform the functions set forth in Section ~~2~~ 1 of this Act, and if sufficient funds are not appropriated in the State budget to the State Board of Elections by fiscal year 2009 to perform the functions set forth in Section ~~2~~ 1 of this Act, this Act shall be null and void without the necessity of further action by the General Assembly. Within 10 days after the fiscal year 2009 budget has been enacted by the General Assembly, the Department of Budget and Management shall determine and notify the Department of Legislative Services whether sufficient general, special, or federal funds have been appropriated in the fiscal year 2009 budget for the State Board of Elections to perform the functions set forth in Section ~~2~~ 1 of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That, ~~subject to Section 4 Sections 2 through 4 of this Act,~~ this Act shall take effect ~~July~~ October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 549

(Senate Bill 400)

AN ACT concerning

Electric Industry Restructuring - Proceedings - Review and Evaluation

FOR the purpose of requiring the Public Service Commission to initiate new proceedings to review and evaluate certain requirements under a certain Act ~~beginning on a certain date;~~ requiring the Commission to conduct certain hearings which include the use of certain experts and consultants; repealing certain provisions relating to a certain merger and certain reporting requirements; altering certain considerations that the Commission is required to review in a certain study; prohibiting the Commission from approving an opt-out aggregation program under certain circumstances; requiring the Commission to identify the implications of certain aspects of an opt-out aggregation program; providing that certain requirements may not be construed to interfere with the development and implementation of certain programs and services; requiring the Commission to make certain determinations in its study of establishing a certain long-term goal; *requiring the Commission to convene one or more workgroups to study and make recommendations on certain matters concerning the availability of adequate generation and transmission assets in the State;* requiring the Commission to provide a certain interim report by a certain date; requiring the Commission to provide a certain final report by a certain date; providing that certain hearings are not required to be evidentiary proceedings; providing that certain unexpended funds shall be considered encumbered and may not be deducted from certain appropriations; allowing the Commission to impose on certain persons up to a certain amount as a special assessment, subject to certain limitations; allowing certain funds to be expended for certain purposes in accordance with an approved budget amendment; specifying the calculation of certain bills sent to certain electric companies and electricity suppliers; allowing the Commission to use a certain procurement process under certain circumstances; making stylistic changes; making this Act an emergency measure; and generally relating to *the status of the restructured electric utility industry and* the Public Service Commission.

BY repealing and reenacting, with amendments,
Chapter 5 of the Acts of the General Assembly of the ~~First~~ Special Session of
2006
Section 5 and 7

BY repealing and reenacting, without amendments,
Chapter 5 of the Acts of the General Assembly of the ~~First~~ Special Session of
2006
Section 18(a)(2) and (3), (b), and (c)

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

Chapter 5 of the Acts of the ~~First~~ Special Session of 2006

SECTION 5. AND BE IT FURTHER ENACTED, That:

[(a) The Public Service Commission may not take final action to approve or disapprove a merger between FPL Group, Inc., and Constellation Energy Group, Inc., pending as of the effective date of this Act until five members of the Commission have been appointed and qualified in accordance with Section 12 or Section 22 of this Act.

(b) The Public Service Commission [appointed in accordance with Section 12 or Section 22 of this Act] shall:

(1) conduct ~~investigatory and evidentiary proceedings~~ **HEARINGS**, including the use of any necessary outside experts and consultants, to reevaluate the general regulatory structure, agreements, orders, and other prior actions of the Public Service Commission under the Electric Customer Choice and Competition Act of 1999, including the determination of and allowances for stranded costs;

(2) ~~on or before June 30, 2007, report the results of that reevaluation to the General Assembly in accordance with § 2-1246 of the State Government Article;~~

(3) ~~promptly and comprehensively review and take action on the proposed merger between FPL Group, Inc., and Constellation Energy Group, Inc., in accordance with the standards and procedures contained in § 6-105 of the Public Utility Companies Article, as enacted by this Act;~~

(4) provide to residential customers of the Baltimore Gas and Electric Company funds for mitigation of rate increases ~~including~~

~~(i)~~ **RESULTING FROM** any adjustment, in favor of those customers, to allowances for stranded costs for assets that were transferred from Baltimore Gas and Electric Company to an affiliate; and

~~(ii) any funds identified by the Commission as properly allocated to Baltimore Gas and Electric Company and its residential customers as conditions of approval of the merger between FPL Group, Inc., and Constellation Energy Group, Inc.; and~~

~~(5)~~ **(3)** require that any funds for mitigating rates for residential electric customers under item ~~(4)~~ **(2)** of this subsection must be in the form of a nonbypassable credit on the customer's bill, and may not be recovered subsequently from those customers in rates or otherwise.

SECTION 7. AND BE IT FURTHER ENACTED, That:

(a) **(1)** The Public Service Commission [appointed in accordance with Section 12 of this Act] shall ~~initiate an evidentiary proceeding~~ **CONDUCT HEARINGS, INCLUDING THE USE OF ANY NECESSARY OUTSIDE EXPERTS AND CONSULTANTS,** to study and evaluate the status of electric restructuring in the State as it pertains to the **CURRENT AND FUTURE** availability of competitive generation to residential and small commercial customers and the structure, procurement, and terms and conditions of standard offer service for residential and small commercial customers.

(2) In its evaluation, the Commission shall consider changes that are necessary to provide ~~residents~~ **RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS** the benefit of a reliable electric system at the best possible price ~~and,~~ **INCLUDING** options for reregulation, if advisable, and to allow electric companies to develop a portfolio of electricity supply that provides electricity at the lowest cost with the least volatility.

(3) IN ITS EVALUATION, THE COMMISSION SHALL ALSO CONSIDER THE AVAILABILITY OF ADEQUATE TRANSMISSION AND GENERATION FACILITIES TO SERVE THE ELECTRICAL LOAD DEMANDS OF ALL CUSTOMERS IN THE STATE, PRICING AND PHYSICAL CONSTRAINTS ON THE ELECTRICAL TRANSMISSION AND DISTRIBUTION GRIDS IN THE STATE, AND OPTIONS AND POLICY RECOMMENDATIONS TO PROVIDE AN ADEQUATE, SAFE, AND RELIABLE SUPPLY OF ELECTRICITY AT REASONABLE COST TO ALL CUSTOMERS IN THE STATE.

(b) Among other considerations, the Commission shall consider the implications of the following:

(1) requiring or allowing investor-owned electric companies to purchase electricity by competitive or negotiated contracts of various durations or through other appropriate methods to minimize price volatility;

(2) requiring or allowing investor-owned electric companies to construct, acquire, or lease peak-load or other generating plants and associated transmission lines;

(3) IN ORDER TO ENCOURAGE THE PROCUREMENT AND IMPLEMENTATION OF COST-EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION PROGRAMS AND SERVICES:

(I) providing a process, at the time bids by investor-owned electric companies for electricity supply are obtained for the standard offer service, to solicit bids for the procurement of **COST-EFFECTIVE** energy efficiency and conservation ~~measures~~ **PROGRAMS** and services if energy efficiency and conservation ~~measures~~ **PROGRAMS** and services are less expensive than electricity generation; **AND**

(II) ESTABLISHING A LONG-TERM GOAL FOR SAVINGS OVER A PERIOD OF TIME OF THE TOTAL RESIDENTIAL RETAIL ENERGY CONSUMED IN A YEAR IN AN ELECTRIC COMPANY'S SERVICE TERRITORY THROUGH THE PROCUREMENT AND IMPLEMENTATION OF COST-EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION PROGRAMS AND SERVICES UNDER §§ 7-211 AND 7-510(C)(4)(II)2C OF THE PUBLIC UTILITY COMPANIES ARTICLE;

(4) providing a process to allow investor-owned electric companies to obtain a portion of its electricity supply for standard offer service through the negotiation of bilateral contracts with wholesale electricity suppliers, either in conjunction with or outside of procurement through competitive wholesale auctions; ~~and~~

(5) allowing opt-out aggregation of residential electric customer demand **AND SMALL COMMERCIAL ELECTRIC CUSTOMER DEMAND** by local governments in the service territories of investor-owned electric companies; ~~AND~~

(6) ESTABLISHING AN OFFICE OF RETAIL MARKET DEVELOPMENT; AND

(7) REQUIRING INVESTOR-OWNED ELECTRIC COMPANIES TO PURCHASE ACCOUNTS RECEIVABLE OF ELECTRICITY SUPPLIERS FOR RESIDENTIAL AND SMALL COMMERCIAL ACCOUNTS.

~~(c) On or before December 31, 2006, the Commission shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly on its findings and recommendations.~~

~~(d)~~ (1) The Commission may not implement any of the actions under subsection (b)(1) through (4) of this section that are otherwise authorized by this Act unless the Commission finds that the action is in the public interest.

(2) ~~On or before December 31, 2006, and based~~ **BASED** on its consideration of energy efficiency and conservation measures under subsection (b)(3) of this section, the Commission shall establish, by regulation or order:

(i) the process for procurement of energy and conservation ~~measures~~ **PROGRAMS** and services; and

(ii) criteria to evaluate bids that are submitted for energy and conservation ~~measures~~ **PROGRAMS** and services.

(3) As a part of its review of electric restructuring in the State as it pertains to the availability of competitive generation to residential and small commercial customers and the structure, procurement, and terms and conditions of standard offer service for residential and small commercial customers, the Commission shall:

1. adopt a uniform definition of a “small commercial customer” for purposes of standard offer service that applies in all service territories in the State; and

2. consider whether it benefits small commercial customers for an electric company not to be required to provide the standard offer service under § 7-510(c) for small commercial customers.

~~(e) (D) The requirement to study opt-out local governmental aggregation **FOR RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS IN THE SERVICE TERRITORIES OF INVESTOR-OWNED ELECTRIC COMPANIES** under subsection (b)(5) of this section may not be construed to interfere with any pilot program to implement local aggregation in existence on the effective date of this Act. **THE COMMISSION MAY NOT APPROVE AN OPT-OUT AGGREGATION PROGRAM UNLESS THE GENERAL ASSEMBLY THROUGH LEGISLATION AUTHORIZES THE COMMISSION TO ALLOW OPT-OUT AGGREGATION. IN ITS STUDY OF OPT-OUT AGGREGATION, THE COMMISSION SHALL IDENTIFY THE IMPLICATIONS OF THE VARIOUS ASPECTS OF AN OPT-OUT AGGREGATION PROGRAM, INCLUDING:**~~

~~(1) LIMITING THE ESTABLISHMENT OF AN OPT-OUT AGGREGATION PROGRAM TO ONLY RESIDENTIAL CUSTOMERS;~~

~~(2) RESTRICTING THE AMOUNT OF LOAD THAT MAY BE MOVED FROM THE STANDARD OFFER SERVICE IN ANY YEAR TO AN OPT-OUT AGGREGATION PROGRAM;~~

~~(3) LIMITING VOLUMETRIC RISK COSTS FOR CUSTOMERS REMAINING WITH THE STANDARD OFFER SERVICE;~~

~~(4) ENSURING THE ABILITY OF ELIGIBLE LOW-INCOME CUSTOMERS IN AN OPT-OUT AGGREGATION PROGRAM TO OBTAIN FUNDS THROUGH THE ELECTRIC UNIVERSAL SERVICE PROGRAM AND OTHER PROGRAMS AVAILABLE TO LOW-INCOME CUSTOMERS;~~

~~(5) TO PREVENT COST SHIFTING, REQUIRING A FIREWALL BETWEEN RATEPAYERS AND TAXPAYERS IN A LOCAL GOVERNMENT THAT HAS AN OPT-OUT AGGREGATION PROGRAM;~~

~~(6) IF AN OPT-OUT AGGREGATION PROGRAM IS MORE EXPENSIVE, OR BECOMES MORE EXPENSIVE, THAN THE STANDARD OFFER SERVICE DUE TO THE PROCUREMENT OF RENEWABLE ENERGY, REQUIRING AN ALTERNATIVE OPTION FOR CUSTOMERS IN THE OPT-OUT AGGREGATION PROGRAM;~~

~~(7) SPECIFYING THE METHODS, TIMING, AND ADEQUACY OF NOTIFICATION TO CUSTOMERS WHO ARE PLACED IN AN OPT-OUT AGGREGATION PROGRAM;~~

~~(8) SPECIFYING WHETHER DELINQUENT ACCOUNTS IN AN OPT-OUT AGGREGATION PROGRAM WOULD BE RETURNED TO THE STANDARD OFFER SERVICE;~~

~~(9) REQUIRING THAT NO ADDITIONAL FEES, TAXES, OR OTHER CHARGES OTHER THAN THE ACTUAL COST OF THE SERVICE MAY BE CHARGED TO CUSTOMERS IN AN OPT-OUT AGGREGATION PROGRAM;~~

~~(10) IDENTIFYING UP FRONT COSTS OF IMPLEMENTING AN OPT-OUT AGGREGATION PROGRAM, INCLUDING SPECIFYING THE COSTS ASSOCIATED WITH THE ROLE OF HIRING CONSULTANTS, AND DETERMINING HOW COSTS ARE PAID;~~

~~(11) IDENTIFYING WHEN CONTRACTS WOULD BEST BE AWARDED FOR AN OPT-OUT AGGREGATION PROGRAM IN RELATION TO THE STANDARD OFFER SERVICE;~~

~~(12) SPECIFYING OTHER STANDARDS AND PROCEDURES TO PROTECT CUSTOMERS IN AN OPT-OUT AGGREGATION PROGRAM, INCLUDING PROHIBITING DISCRIMINATION BASED ON THE LOCATION OF THE CUSTOMER; AND~~

~~(13) ENSURING THAT THE RENEWABLE PORTFOLIO STANDARD REQUIREMENTS UNDER TITLE 7, SUBTITLE 7 OF THE PUBLIC UTILITY COMPANIES ARTICLE APPLY TO AN OPT-OUT AGGREGATION PROGRAM.~~

~~(E) REGARDLESS OF WHETHER THE ELECTRIC SUPPLY MARKET REMAINS RESTRUCTURED OR RETURNS TO A REGULATED ELECTRIC SUPPLY MARKET, THE *THE* REQUIREMENT UNDER SUBSECTION (B)(3)(II) OF THIS SECTION RELATING TO ENERGY EFFICIENCY AND CONSERVATION PROGRAMS AND SERVICES MAY NOT BE CONSTRUED TO INTERFERE WITH THE DEVELOPMENT AND IMPLEMENTATION OF PROGRAMS AND SERVICES TO ENCOURAGE AND PROMOTE THE EFFICIENT USE AND CONSERVATION OF ENERGY BY CONSUMERS, GAS COMPANIES, AND ELECTRIC COMPANIES UNDER § 7-211 OF THE PUBLIC UTILITY COMPANIES ARTICLE. IN ITS STUDY OF ESTABLISHING A LONG TERM GOAL FOR SAVINGS OVER A PERIOD OF TIME OF THE TOTAL RESIDENTIAL RETAIL ENERGY CONSUMED IN A CERTAIN YEAR IN AN ELECTRIC COMPANY'S SERVICE TERRITORY THROUGH THE PROCUREMENT AND IMPLEMENTATION OF COST EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION PROGRAMS AND SERVICES, THE COMMISSION SHALL DETERMINE:~~

~~(I) HOW A REASONABLE AND ACHIEVABLE LONG TERM GOAL WOULD BE ESTABLISHED;~~

~~(II) WHO SHOULD PAY THE COSTS OF IMPLEMENTING PROGRAMS AND SERVICES THAT ARE TIED TO A LONG TERM GOAL;~~

~~(III) TO ENCOURAGE THE CONTINUATION OF COST EFFECTIVE PROGRAMS AND SERVICES PROCURED OR IMPLEMENTED THROUGH AN ELECTRIC COMPANY PRIOR TO THE ESTABLISHMENT OF A LONG TERM GOAL, HOW THOSE PROGRAMS AND SERVICES WOULD BE FACTORED INTO ESTABLISHING A LONG TERM GOAL REQUIREMENT ON THE ELECTRIC COMPANY; AND~~

~~(IV) HOW THE DEVELOPMENT AND IMPLEMENTATION OF PROGRAMS AND SERVICES FROM PERSONS OTHER THAN GAS COMPANIES AND ELECTRIC COMPANIES COULD CONTRIBUTE TO ACHIEVING A LONG TERM GOAL.~~

SECTION 18. AND BE IT FURTHER ENACTED, That:

(a) Pursuant to Article III, § 52(14) of the Maryland Constitution, in addition to the amounts provided under Chapter 216 of the Acts of 2006 (The Budget Bill), the following appropriations shall be made for fiscal year 2007 to implement the requirements of this Act:

(2) Public Service Commission

C90G00.01 General Administration and Hearings \$750,000
Special Funds

(3) People's Counsel

C91H00.01 General Administration \$500,000 Special
Funds

(b) Special funds appropriated in subsection (a)(2) through (4) of this section shall be recovered through the assessment on public utilities authorized under § 2-110 of the Public Utility Companies Article.

(c) Special funds appropriated in subsection (a)(5) of this section shall be credited from funds assessed under § 7-512.1 of the Public Utility Companies Article, as enacted by this Act, and the repeal of the income tax credit and designation of special funding under Sections 2 and 10 of this Act.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) ~~The~~ Notwithstanding the reporting dates established under Section 5(b) and Section 7(c) of Chapter 5 of the Acts of the General Assembly of the First Special Session of 2006 prior to the amendment of those sections by this Act, the Public Service Commission shall initiate new proceedings to review and evaluate the requirements under Section 5~~(b)~~ and Section 7 of Chapter 5 of the Acts of the General Assembly of the First Special Session of 2006, as amended by this Act.

(2) (i) *In conducting its review and analysis of the availability of adequate transmission and generation facilities serving the State under Section 7(a) of Chapter 5 of the Acts of the General Assembly of the Special Session of 2006, as amended by this Act, the Commission shall convene one or more workgroups that may include, and shall otherwise encourage participation from representatives of, the following:*

1. members of the House of Delegates of Maryland, appointed by the Speaker of the House;
 2. members of the Senate of Maryland, appointed by the President of the Senate of Maryland;
 3. the Federal Energy Regulatory Commission;
 4. PJM Interconnection, LLC;
 5. the North American Electric Reliability Corporation;
 6. competitive generation suppliers in the State and in the PJM region;
 7. transmission suppliers in the State and in the PJM region;
 8. the Office of People's Counsel;
 9. the Maryland Energy Administration;
 10. the Maryland Department of the Environment;
 11. the Maryland Department of Natural Resources;
 12. other interested State agencies;
 13. local governments, through the Maryland Association of Counties and the Maryland Municipal League;
 14. organizations representing environmental interests in the State;
 15. organizations representing commercial and industrial electric customers in the State; and
 16. other interested parties as identified by the Commission.
- (ii) The workgroup or workgroups shall assist the Commission in studying and preparing recommendations for statutory and regulatory changes to increase the availability of generation and transmission assets in the State.

(3) The review and evaluation shall include any orders that were issued by the Commission relating to the requirements of ~~those sections~~ Section 5 and Section 7 of Chapter 5 of the Acts of the General Assembly of the Special Session of 2006, prior to the amendment of those sections by this Act and may include review and evaluation of the open record for any case pending before the Commission relating to the requirements of those sections.

~~(b) The new proceedings shall begin on the earlier of:~~

~~(1) the date a Chairman of the Public Service Commission is appointed to replace the Chairman who served on January 30, 2007; or~~

~~(2) July 1, 2008.~~

~~(c) (b) (1) On or before January 1, 2008~~ December 1, 2007, the Public Service Commission shall submit an interim report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly. The interim report shall include at a minimum:

(i) the identification of the issues relating to options for reregulation, as required to be studied under Section 7 of Chapter 5 of the Acts of the General Assembly of the First Special Session of 2006, as amended by this Act; and

(ii) to the extent possible, discussion of costs and benefits to residential and small commercial customers of returning to a regulated electric supply market.

(2) On or before December ~~31~~ 1, 2008, the Public Service Commission shall submit a final report of its review and evaluations, evaluation, and findings and recommendations, as required under subsection (a) of this section, to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly. ~~As required to be studied under Section 5 and Section 7 of the Acts of the General Assembly of the First Special Session of 2006, as amended by this Act, the report shall include a full discussion of the costs and benefits to residential and small commercial customers of:~~

~~(i) continuing in a restructured electric supply market;~~

~~(ii) returning to a regulated electric supply market; and~~

~~(iii) allowing an electric supply market that includes a combination of competitive and regulated electric supply aspects.~~

(c) Any hearing conducted under this Act need not be an evidentiary proceeding.

SECTION 3. AND BE IT FURTHER ENACTED, That notwithstanding § 2-110(c)(10) of the Public Utility Companies Article, any unexpended funds at the end of fiscal 2007 that were appropriated under Section 18(a)(2) and (3) of Chapter 5 of the Acts of the General Assembly of the First Special Session of 2006:

(1) shall be considered encumbered by the Public Service Commission and the Office of People's Counsel, respectively, by June 30, 2007; and

(2) may not be deducted from the appropriation for fiscal 2008.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) Notwithstanding any other provision of law, for fiscal 2008 only, in addition to the amounts appropriated in the budget bill for fiscal 2008, the Public Service Commission may impose up to ~~\$4,000,000~~ \$3,000,000 as a special assessment using the assessment process authorized under § 2-110 of the Public Utility Companies Article, provided that:

(1) except as provided in subsection (d) of this section, the assessment shall be imposed only on those electric companies and electricity suppliers otherwise subject to the assessment under § 2-110 of the Public Utility Companies Article; and

(2) the limit under § 2-110(c)(12) of the Public Utility Companies Article does not apply to any assessment made under this section.

(b) (1) The amounts collected under subsection (a) of this section may be expended for fiscal 2008 for the support of the Commission in accordance with an approved budget amendment.

(2) Notwithstanding § 2-110(c)(10) of the Public Utility Companies Article, any unexpended funds at the end of fiscal 2008 that were collected under this section:

(i) shall be considered encumbered by the Public Service Commission by June 30, 2008; and

(ii) may not be deducted from the appropriation for fiscal 2009.

(c) ~~The~~ For that portion of the assessment to be paid by both electricity suppliers and electric companies under subsection (d) of this section, the bill sent to each electric company and electricity supplier subject to the assessment under subsection (a) of this section shall equal the product of multiplying:

(1) the amount authorized to be collected under this section; multiplied by and

(2) the ratio of the gross operating revenues of the entity subject to the special assessment to the total gross operating revenues for all entities subject to the assessment.

(d) (1) Of the \$3,000,000 assessment authorized under subsection (a) of this section, the Public Service Commission may not expend more than \$1,500,000 on consultants and experts related to the issues identified in Section 2(b)(1) of this Act, either in connection with the interim report or the final report of the Commission.

(2) The portion of the assessment that is allocated to the studies of issues identified in Section 2(b)(1) of this Act:

(i) shall be paid only by each electric company; and

(ii) shall equal the product of multiplying:

1. the amount to be collected under this section; and

2. the ratio of the gross operating revenues of each electric company to the total gross operating revenue for all electric companies in the State.

SECTION 5. AND BE IT FURTHER ENACTED, That notwithstanding any other provision of law, that the Public Service Commission may use an emergency procurement under § 13-108 of the State Finance and Procurement Article to obtain any outside experts or consultants necessary to conduct the studies required under this Act.

SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 17, 2007.

CHAPTER 550

(Senate Bill 408)

AN ACT concerning

Anne Arundel County – Chesapeake Bay Critical Area – Violations of Local Law – Statute of Limitations – Disclosure in Real Estate Sales Contracts

FOR the purpose of requiring that a prosecution ~~seeking a criminal penalty or civil fine~~ for an offense that occurs in the Chesapeake Bay Critical Area and is a violation of a certain local law in Anne Arundel County that relates to environmental protection or natural resource conservation be instituted within a certain time after the commission of the offense; ~~providing a certain exception to the imposition of a criminal penalty or civil fine under certain circumstances; and generally relating to the prosecution of offenses that occur in the Chesapeake Bay Critical Area~~ requiring a contract for sale of real estate in Anne Arundel County where a certain violation occurred to disclose certain information about the violation; providing that the disclosure requirements imposed by this Act do not apply under certain circumstances; and generally relating to violations of local laws in the Chesapeake Bay Critical Area in Anne Arundel County.

BY adding to

Article – Courts and Judicial Proceedings
Section 5–106(bb)
Annotated Code of Maryland
(2006 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~

~~Article – Natural Resources
Section 8–1815
Annotated Code of Maryland
(2000 Replacement Volume and 2006 Supplement)~~

BY adding to

Article – Real Property
Section 14–117(l)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article – Courts and Judicial Proceedings

5–106.

(BB) (1) THIS SUBSECTION APPLIES IN ANNE ARUNDEL COUNTY TO AN OFFENSE THAT:

(I) OCCURS IN THE CHESAPEAKE BAY CRITICAL AREA, AS DEFINED IN § 8-1807 OF THE NATURAL RESOURCES ARTICLE; AND

(II) IS A VIOLATION OF A LOCAL LAW THAT RELATES TO ENVIRONMENTAL PROTECTION OR NATURAL RESOURCE CONSERVATION, INCLUDING A LOCAL LAW REGULATING:

1. GRADING;
2. SEDIMENT CONTROL;
3. STORMWATER MANAGEMENT;
4. ZONING;
5. CONSTRUCTION; OR
6. HEALTH AND PUBLIC SAFETY.

(2) A PROSECUTION ~~SEEKING A CRIMINAL PENALTY OR CIVIL FINE~~ FOR AN OFFENSE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE COMMISSION OF THE OFFENSE.

~~Article - Natural Resources~~

~~§ 1815.~~

~~(a) (1) Violators of the provisions of programs approved or adopted by the Commission shall be subject to prosecution or suit by local authorities, who may invoke the sanctions and remedies afforded by State or local law.~~

~~(2) A local authority may request:~~

~~(i) Assistance from the Commission in an enforcement action;~~

~~or~~

~~(ii) That the chairman refer an enforcement action to the Attorney General.~~

~~(b) Whenever the chairman has reason to believe that a local jurisdiction is failing to enforce the requirements of a program applicable to a particular development, the chairman shall serve notice upon the local enforcement authorities. If within 30 days after service of the notice, the local authorities have failed to initiate~~

~~an action to remedy or punish the violation, the chairman may refer the matter to the Attorney General.~~

~~(c) Upon referral of an alleged violation under subsection (a) or (b) of this section, the Attorney General may invoke any sanction or remedy available to local authorities, in any court of competent jurisdiction in which the local authorities would be authorized to prosecute or sue the violator.~~

~~(D) NOTWITHSTANDING SUBSECTION (A), (B), OR (C) OF THIS SECTION, THIS SECTION MAY NOT BE CONSTRUED TO PERMIT THE IMPOSITION OF A CRIMINAL PENALTY OR CIVIL FINE ON AN INNOCENT PURCHASER OF THE LAND ON WHICH AN ALLEGED VIOLATION OCCURRED.~~

~~[(d)] (E) In addition to any other sanction or remedy available, the Attorney General may bring an action in equity to compel compliance or restrain noncompliance with the requirements of approved project plans, and to compel restoration of lands or structures to their condition prior to any modification which was done in violation of approved project plans.~~

~~[(c)] (F) Notwithstanding any other provision of this section, whenever a development in the Critical Area is proceeding in violation of approved project plans and threatens to immediately and irreparably degrade the quality of tidal waters or fish, wildlife, or plant habitat, the Attorney General, upon request of the chairman, may bring an action to restrain the violation and, as appropriate, to compel restoration of any land or water areas affected by the development.~~

Article - Real Property

14-117.

(L) (1) THIS SUBSECTION APPLIES TO ANNE ARUNDEL COUNTY.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IF ANNE ARUNDEL COUNTY OR THE STATE HAS INITIATED ENFORCEMENT ACTION FOR A VIOLATION OF A LOCAL LAW DESCRIBED IN § 5-106(BB)(1) OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE, A CONTRACT FOR SALE OF THE REAL PROPERTY WHERE THE VIOLATION OCCURRED SHALL DISCLOSE:

(I) THE NATURE OF THE VIOLATION;

(II) THE STATUS OF ANY ONGOING PROCEEDINGS TO ENFORCE THE VIOLATION; AND

(III) ANY ACTIONS THE BUYER OF THE REAL PROPERTY MAY BE REQUIRED TO TAKE WITH RESPECT TO THE PROPERTY IN ORDER TO CURE THE VIOLATION.

(3) IF A VIOLATION OF A LOCAL LAW DESCRIBED IN § 5-106(BB)(1) OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE IS CURED AND A BUYER OF THE REAL PROPERTY WHERE THE VIOLATION OCCURRED WOULD NOT HAVE ANY OBLIGATION TO CURE THE VIOLATION, PARAGRAPH (2) OF THIS SUBSECTION DOES NOT APPLY.

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

Approved by the Governor, May 17, 2007.

CHAPTER 551

(Senate Bill 418)

AN ACT concerning

**State Government - Submission of Publications to the General Assembly
- Procedures**

FOR the purpose of altering certain procedures to be followed by an official or unit of the State government intending to submit or distribute certain publications to the General Assembly or to a committee, staff agency, or employee of the General Assembly; requiring an official or unit to submit one copy of certain publications to the President of the Senate and the Speaker of the House of Delegates in a certain format under certain circumstances; requiring an official or unit intending to distribute a publication to a standing committee of the General Assembly to obtain the approval of the chair of the committee, except under certain circumstances, and to comply with certain procedures; requiring an official or unit to provide certain copies of a publication to the library of the Department of Legislative Services as requested by the library on behalf of a member of the General Assembly; requiring certain publications submitted in fulfillment of a duty imposed by law to contain certain information; requiring the library of the Department to collect, catalogue, and preserve certain publications; defining a certain term; making certain technical and clarifying changes; and generally relating to the procedures for the submission and distribution of publications to the General Assembly.

BY repealing and reenacting, with amendments,
 Article – State Government
 Section 2–1246
 Annotated Code of Maryland
 (2004 Replacement Volume and 2006 Supplement)

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

Article – State Government

2–1246.

(a) **IN THIS SECTION, “PUBLICATION” INCLUDES ANY REPORT, STUDY, OR NOTIFICATION.**

(B) [Each official or unit of the State government shall submit to the Department a list of the reports and other publications] **FOR EACH PUBLICATION that [the] AN official or unit [issues and] OF THE STATE GOVERNMENT intends to distribute or submit to the General Assembly or to any committee, staff agency, or employee of the General Assembly, THE OFFICIAL OR UNIT SHALL:**

(1) SUBMIT ONE COPY TO THE PRESIDENT AND ONE COPY TO THE SPEAKER IN THE FORMAT REQUESTED BY THE PRESIDENT AND THE SPEAKER;

(2) SUBMIT FIVE PRINTED COPIES TO THE LIBRARY OF THE DEPARTMENT; AND

(3) IN THE CASE OF A PUBLICATION TO BE DISTRIBUTED TO A COMMITTEE OF THE GENERAL ASSEMBLY:

(I) UNLESS THE PUBLICATION IS BEING SUBMITTED TO THE COMMITTEE AS SPECIFICALLY REQUIRED BY LAW, OBTAIN APPROVAL FOR THE DISTRIBUTION FROM THE COMMITTEE CHAIR; AND

(II) COMPLY WITH THE DISTRIBUTION REQUIREMENTS OF THE COMMITTEE.

[(b)] (C) An official or unit:

(1) shall submit to the LIBRARY OF THE Department [5 copies of each report that the official or unit intends to distribute or submit to the General Assembly or to any committee, staff agency, or employee of the General Assembly], IN

ADDITION TO THE COPIES OF A PUBLICATION REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION, ANY ADDITIONAL COPIES OF THE PUBLICATION REQUESTED BY THE LIBRARY ON BEHALF OF A MEMBER OF THE GENERAL ASSEMBLY; and

(2) may give [the report] **A PUBLICATION DIRECTLY** to a member of the General Assembly only if:

(i) the President and the Speaker have given written approval for distribution of the [report] **PUBLICATION** to each member of the General Assembly; or

(ii) the member asks for the [report] **PUBLICATION**.

(D) TO ASSIST THE DEPARTMENT IN CARRYING OUT ITS DUTIES UNDER SUBSECTION (F) OF THIS SECTION, EACH PUBLICATION SUBMITTED TO THE GENERAL ASSEMBLY OR TO ANY COMMITTEE, STAFF AGENCY, OR EMPLOYEE OF THE GENERAL ASSEMBLY IN FULFILLMENT OF A DUTY IMPOSED BY LAW SHALL SPECIFY THE LAW UNDER WHICH THE PUBLICATION IS BEING SUBMITTED.

[(c)] (E) The Department shall:

(1) keep a list of the publications of the officials and units;

(2) periodically send the list to each member of the General Assembly;

and

(3) on request of a member of the General Assembly, obtain a publication of an official or unit for the member.

[(d) (1)] (F) The **LIBRARY OF THE** Department shall [index]:

(1) CATALOG and preserve the publications that officials and units submit as required by law[.]; **AND**

(2) [The Department may] collect, [index] **CATALOG**, and preserve any other publication that the Department considers necessary **OR THAT THE DEPARTMENT IS DIRECTED BY THE PRESIDENT OR THE SPEAKER TO COLLECT, CATALOG, AND PRESERVE.**

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

Approved by the Governor, May 17, 2007.

CHAPTER 552

(Senate Bill 419)

AN ACT concerning

Income Tax – Subtraction Modification – Military Retirement Income for Commissioned Officers

FOR the purpose of altering a certain subtraction modification under the State income tax for certain military retirement income to include certain individuals; defining certain terms; providing for the application of this Act; and generally relating to the State income ~~tax~~ taxation of certain retirement income.

BY repealing and reenacting, without amendments,
 Article – Tax – General
 Section 10–207(a)
 Annotated Code of Maryland
 (2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
 Article – Tax – General
 Section 10–207(q)
 Annotated Code of Maryland
 (2004 Replacement Volume and 2006 Supplement)

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

Article – Tax – General

10–207.

(a) To the extent included in federal adjusted gross income, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(q) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Military service” means:

1. induction into the armed forces of the United States for training and service under the Selective Training and Service Act of 1940 or a subsequent act of a similar nature;
2. membership in a reserve component of the armed forces of the United States;
3. membership in an active component of the armed forces of the United States;
4. membership in the Maryland National Guard; or
5. [with respect to a person separated from employment on or after July 1, 1991,] active duty with the commissioned corps of the Public Health Service, the National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey.

(iii) "Military retirement income" means retirement income received as a result of military service.

(2) The subtraction under subsection (a) of this section includes the first \$5,000 of military retirement income received by an individual during the taxable year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007, and shall be applicable to all taxable years beginning after December 31, 2006.

Approved by the Governor, May 17, 2007.

CHAPTER 553

(House Bill 392)

AN ACT concerning

**Income Tax - Subtraction Modification - Military Retirement Income for
Commissioned Officers**

FOR the purpose of altering a certain subtraction modification under the State income tax for certain military retirement income to include certain individuals;

defining certain terms; providing for the application of this Act; and generally relating to the State income ~~tax~~ taxation of certain retirement income.

BY repealing and reenacting, without amendments,
 Article – Tax – General
 Section 10–207(a)
 Annotated Code of Maryland
 (2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
 Article – Tax – General
 Section 10–207(q)
 Annotated Code of Maryland
 (2004 Replacement Volume and 2006 Supplement)

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

Article – Tax – General

10–207.

(a) To the extent included in federal adjusted gross income, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(q) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Military service” means:

1. induction into the armed forces of the United States for training and service under the Selective Training and Service Act of 1940 or a subsequent act of a similar nature;

2. membership in a reserve component of the armed forces of the United States;

3. membership in an active component of the armed forces of the United States;

4. membership in the Maryland National Guard; or

5. [with respect to a person separated from employment on or after July 1, 1991,] active duty with the commissioned corps of the Public Health

Service, the National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey.

(iii) "Military retirement income" means retirement income received as a result of military service.

(2) The subtraction under subsection (a) of this section includes the first \$5,000 of military retirement income received by an individual during the taxable year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007, and shall be applicable to all taxable years beginning after December 31, 2006.

Approved by the Governor, May 17, 2007.

CHAPTER 554

(Senate Bill 423)

AN ACT concerning

Local Government - Street Lighting Equipment

FOR the purpose of authorizing a local government to purchase certain street lighting equipment from an electric company; requiring a local government to pay fair market value for the purchase of certain street lighting equipment; providing that a local government that purchases certain street lighting equipment is responsible for the maintenance of the street lighting equipment and may contract with an outside entity for the maintenance of the street lighting equipment; requiring a person that controls the right to use space on certain poles, lampposts, or other mounting surfaces to allow a certain local government to assume the rights and obligations of an electric company under certain circumstances; prohibiting a local government from restricting or prohibiting universal access for electricity or any other service under certain circumstances; ~~providing that certain provisions of law regarding high voltage lines do not apply to the maintenance of street lighting equipment under certain circumstances~~ requiring that certain disputes between an electric company and a local government be submitted to the Public Service Commission for resolution; providing that certain requirements applicable to a person performing certain activities in proximity to a high voltage line do not apply to a local government performing maintenance on street lighting equipment owned

by the local government; requiring a person who performs certain maintenance activities on street lighting equipment owned by a local government to be performed and certain persons to be qualified in accordance with the National Electric Safety Code comply with certain safety standards; defining a certain term; and generally relating to street lighting equipment.

BY adding to

Article 24 – Political Subdivisions – Miscellaneous Provisions
 Section 5-101 to be under the new title “Title 5. Street Lighting Equipment”
 Annotated Code of Maryland
 (2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article – Labor and Employment
Section 6-106
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Labor and Employment
 Section ~~6-102 and~~ 6-107
 Annotated Code of Maryland
 (1999 Replacement Volume and 2006 Supplement)

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

Article 24 – Political Subdivisions – Miscellaneous Provisions

TITLE 5. STREET LIGHTING EQUIPMENT.

5-101.

(A) IN THIS SECTION, “ELECTRIC COMPANY” HAS THE ~~SAME MEANING AS PROVIDED~~ MEANING STATED IN § 1-101 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

(B) ON WRITTEN REQUEST BY A LOCAL GOVERNMENT, AN ELECTRIC COMPANY SHALL SELL TO THE LOCAL GOVERNMENT SOME OR ALL OF THE ELECTRIC COMPANY’S EXISTING STREET LIGHTING EQUIPMENT THAT IS LOCATED WITHIN THE LOCAL JURISDICTION.

(C) IF THE LOCAL GOVERNMENT PURCHASES STREET LIGHTING EQUIPMENT FROM AN ELECTRIC COMPANY, THE LOCAL GOVERNMENT SHALL

PAY TO THE ELECTRIC COMPANY THE FAIR MARKET VALUE OF THE STREET LIGHTING EQUIPMENT.

(D) A LOCAL GOVERNMENT THAT PURCHASES THE STREET LIGHTING EQUIPMENT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF THE STREET LIGHTING EQUIPMENT AND MAY CONTRACT WITH AN OUTSIDE ENTITY FOR THE MAINTENANCE OF THE STREET LIGHTING EQUIPMENT.

(E) (1) ANY PERSON WHO CONTROLS THE RIGHT TO USE SPACE ON ANY POLE, LAMPOST, OR OTHER MOUNTING SURFACE PREVIOUSLY USED IN THE LOCAL JURISDICTION BY THE ELECTRIC COMPANY FOR STREET LIGHTING EQUIPMENT SHALL ALLOW A LOCAL GOVERNMENT THAT HAS PURCHASED THE STREET LIGHTING EQUIPMENT TO ASSUME THE RIGHTS AND OBLIGATIONS OF THE ELECTRIC COMPANY WITH RESPECT TO THE SPACE FOR THE UNEXPIRED TERM OF ANY LEASE OR OTHER AGREEMENT UNDER WHICH THE ELECTRIC COMPANY USED THE SPACE.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE LOCAL GOVERNMENT MAY NOT RESTRICT OR PROHIBIT UNIVERSAL ACCESS FOR ELECTRICITY OR ANY OTHER SERVICE BY ASSUMING THE RIGHTS AND OBLIGATIONS OF AN ELECTRIC COMPANY AS TO SPACE ON ANY POLE, LAMPOST, OR OTHER MOUNTING SURFACE USED FOR STREET LIGHTING EQUIPMENT.

(3) ANY DISPUTE BETWEEN AN ELECTRIC COMPANY AND A LOCAL GOVERNMENT ARISING UNDER THIS SUBSECTION SHALL BE SUBMITTED TO THE PUBLIC SERVICE COMMISSION FOR RESOLUTION.

Article - Labor and Employment

~~6-102.~~

~~This title does not apply to:~~

~~(1) the maintenance or repair of an electric power plant or system that a private company or corporation owns or operates for production of electricity for its own use; [or]~~

~~(2) the construction, maintenance, or operation of a high voltage line and its support structures and associated equipment by a public utility that the Public Service Commission regulates or an agent or contractor of the utility; OR~~

~~(3) THE MAINTENANCE OF STREET LIGHTING EQUIPMENT BY A LOCAL GOVERNMENT THAT OWNS THE STREET LIGHTING EQUIPMENT.~~

6-106.

If any part of an individual or object will come within 10 feet of a high voltage line while performing the activity, a person shall comply with § 6-107 of this title before the person may perform, or require or allow an employee to perform, any of the following activities:

- (1) moving all or any part of a building or other structure;
- (2) trimming a tree or doing any similar activity; or
- (3) erecting, operating, storing, transporting, or otherwise handling any object, including:
 - (i) an antenna;
 - (ii) an antenna support;
 - (iii) equipment;
 - (iv) a flagpole;
 - (v) machinery;
 - (vi) material;
 - (vii) tools; or
 - (viii) other apparatus.

6-107.

(A) [Whenever] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, WHENEVER an activity listed under § 6-106 of this title is to be performed within 10 feet of a high voltage line, the person responsible for performing the activity shall:

- (1) promptly notify the owner or operator of the high voltage line of the activity to be performed;

(2) make any appropriate arrangements with the owner or operator of the high voltage line to carry out any safety measures required by item (3) of this section SUBSECTION; and

(3) with any necessary cooperation from and subject to any necessary agreement with the owner or operator of the high voltage line, ensure that the high voltage line has been effectively guarded against accidental contact by:

(i) installing physical barriers to prevent physical contact with the high voltage line;

(ii) relocating the high voltage line; or

(iii) de-energizing and grounding the high voltage line.

~~**(B) (1) IF A LOCAL GOVERNMENT THAT OWNS STREET LIGHTING EQUIPMENT PERFORMS MAINTENANCE THAT INVOLVES AN ACTIVITY LISTED IN § 6-106 OF THIS TITLE WITHIN 10 FEET OF A HIGH VOLTAGE LINE, THE PERSON RESPONSIBLE FOR PERFORMING THE ACTIVITY SHALL**~~ ***THIS SUBSECTION APPLIES ONLY WHEN A LOCAL GOVERNMENT PERFORMS MAINTENANCE ON STREET LIGHTING EQUIPMENT OWNED BY THE LOCAL GOVERNMENT.***

(2) WHENEVER AN ACTIVITY LISTED UNDER § 6-106 OF THIS TITLE IS TO BE PERFORMED WITHIN 10 FEET OF A HIGH VOLTAGE LINE, THE PERSON RESPONSIBLE FOR PERFORMING THE ACTIVITY SHALL:

~~**(1) (I)**~~ ***COMPLY WITH THE NATIONAL ELECTRIC SAFETY CODE;***

AND

~~**(2) (II)**~~ ***BE QUALIFIED IN ACCORDANCE WITH THE QUALIFICATION STANDARDS AS DEFINED IN THE NATIONAL ELECTRIC SAFETY CODE.***

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

Approved by the Governor, May 17, 2007.

CHAPTER 555

(House Bill 875)

AN ACT concerning

Local Government – Street Lighting Equipment

FOR the purpose of authorizing a local government to purchase certain street lighting equipment from an electric company; requiring a local government to pay fair market value for the purchase of certain street lighting equipment; providing that a local government that purchases certain street lighting equipment is responsible for the maintenance of the street lighting equipment and may contract with an outside entity for the maintenance of the street lighting equipment; requiring a person that controls the right to use space on certain poles, lampposts, or other mounting surfaces to allow a certain local government to assume the rights and obligations of an electric company under certain circumstances; prohibiting a local government from restricting or prohibiting universal access for electricity or any other service under certain circumstances; ~~providing that certain provisions of law regarding high voltage lines do not apply to the maintenance of street lighting equipment under certain circumstances~~ requiring that certain disputes between an electric company and a local government be submitted to the Public Service Commission for resolution; providing that certain requirements applicable to a person performing certain activities in proximity to a high voltage line do not apply to a local government performing maintenance on street lighting equipment owned by the local government; requiring a person who performs certain maintenance on street lighting equipment owned by a local government to comply with certain safety standards; defining a certain term; and generally relating to street lighting equipment.

BY adding to

Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 5–101 to be under the new title “Title 5. Street Lighting Equipment”
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article – Labor and Employment
Section 6–106
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Labor and Employment
Section ~~6–102~~ 6–107
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

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

Article 24 - Political Subdivisions - Miscellaneous Provisions

TITLE 5. STREET LIGHTING EQUIPMENT.

5-101.

(A) IN THIS SECTION, "ELECTRIC COMPANY" HAS THE ~~SAME MEANING AS PROVIDED~~ MEANING STATED IN § 1-101 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

(B) ON WRITTEN REQUEST BY A LOCAL GOVERNMENT, AN ELECTRIC COMPANY SHALL SELL TO THE LOCAL GOVERNMENT SOME OR ALL OF THE ELECTRIC COMPANY'S EXISTING STREET LIGHTING EQUIPMENT THAT IS LOCATED WITHIN THE LOCAL JURISDICTION.

(C) IF THE LOCAL GOVERNMENT PURCHASES STREET LIGHTING EQUIPMENT FROM AN ELECTRIC COMPANY, THE LOCAL GOVERNMENT SHALL PAY TO THE ELECTRIC COMPANY THE FAIR MARKET VALUE OF THE STREET LIGHTING EQUIPMENT.

(D) A LOCAL GOVERNMENT THAT PURCHASES THE STREET LIGHTING EQUIPMENT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF THE STREET LIGHTING EQUIPMENT AND MAY CONTRACT WITH AN OUTSIDE ENTITY FOR THE MAINTENANCE OF THE STREET LIGHTING EQUIPMENT.

(E) (1) ANY PERSON WHO CONTROLS THE RIGHT TO USE SPACE ON ANY POLE, LAMPOST, OR OTHER MOUNTING SURFACE PREVIOUSLY USED IN THE LOCAL JURISDICTION BY THE ELECTRIC COMPANY FOR STREET LIGHTING EQUIPMENT SHALL ALLOW A LOCAL GOVERNMENT THAT HAS PURCHASED THE STREET LIGHTING EQUIPMENT TO ASSUME THE RIGHTS AND OBLIGATIONS OF THE ELECTRIC COMPANY WITH RESPECT TO THE SPACE FOR THE UNEXPIRED TERM OF ANY LEASE OR OTHER AGREEMENT UNDER WHICH THE ELECTRIC COMPANY USED THE SPACE.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE LOCAL GOVERNMENT MAY NOT RESTRICT OR PROHIBIT UNIVERSAL ACCESS FOR ELECTRICITY OR ANY OTHER SERVICE BY ASSUMING THE RIGHTS AND OBLIGATIONS OF AN ELECTRIC COMPANY AS TO SPACE ON ANY POLE,

LAMPPOST, OR OTHER MOUNTING SURFACE USED FOR STREET LIGHTING EQUIPMENT.

(3) ANY DISPUTE BETWEEN AN ELECTRIC COMPANY AND A LOCAL GOVERNMENT ARISING UNDER THIS SUBSECTION SHALL BE SUBMITTED TO THE PUBLIC SERVICE COMMISSION FOR RESOLUTION.

Article - Labor and Employment

~~6-102.~~

~~This title does not apply to:~~

~~(1) the maintenance or repair of an electric power plant or system that a private company or corporation owns or operates for production of electricity for its own use; [or]~~

~~(2) the construction, maintenance, or operation of a high voltage line and its support structures and associated equipment by a public utility that the Public Service Commission regulates or an agent or contractor of the utility; OR~~

~~(3) THE MAINTENANCE OF STREET LIGHTING EQUIPMENT BY A LOCAL GOVERNMENT THAT OWNS THE STREET LIGHTING EQUIPMENT.~~

6-106.

If any part of an individual or object will come within 10 feet of a high voltage line while performing the activity, a person shall comply with § 6-107 of this title before the person may perform, or require or allow an employee to perform, any of the following activities:

(1) moving all or any part of a building or other structure;

(2) trimming a tree or doing any similar activity; or

(3) erecting, operating, storing, transporting, or otherwise handling any object, including:

(i) an antenna;

(ii) an antenna support;

(iii) equipment;

(iv) a flagpole;

- (v) machinery;
- (vi) material;
- (vii) tools; or
- (viii) other apparatus.

6-107.

(A) [Whenever] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, WHENEVER an activity listed under § 6-106 of this title is to be performed within 10 feet of a high voltage line, the person responsible for performing the activity shall:

(1) promptly notify the owner or operator of the high voltage line of the activity to be performed;

(2) make any appropriate arrangements with the owner or operator of the high voltage line to carry out any safety measures required by item (3) of this ~~section~~ SUBSECTION; and

(3) with any necessary cooperation from and subject to any necessary agreement with the owner or operator of the high voltage line, ensure that the high voltage line has been effectively guarded against accidental contact by:

(i) installing physical barriers to prevent physical contact with the high voltage line;

(ii) relocating the high voltage line; or

(iii) de-energizing and grounding the high voltage line.

(B) (1) THIS SUBSECTION APPLIES ONLY WHEN A LOCAL GOVERNMENT PERFORMS MAINTENANCE ON STREET LIGHTING EQUIPMENT OWNED BY THE LOCAL GOVERNMENT.

(2) WHENEVER AN ACTIVITY LISTED UNDER § 6-106 OF THIS TITLE IS TO BE PERFORMED WITHIN 10 FEET OF A HIGH VOLTAGE LINE, THE PERSON RESPONSIBLE FOR PERFORMING THE ACTIVITY SHALL:

(I) COMPLY WITH THE NATIONAL ELECTRIC SAFETY CODE;

AND

(II) BE QUALIFIED AS DEFINED IN THE NATIONAL ELECTRIC SAFETY CODE.

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

Approved by the Governor, May 17, 2007.

CHAPTER 556

(Senate Bill 438)

AN ACT concerning

Maryland Transit Administration – Continuation of Passenger Railroad Service on Amtrak and CSX Lines

FOR the purpose of requiring the Maryland Transit Administration to continue to operate passenger railroad service on certain lines at levels equivalent to the levels established as of certain dates; prohibiting the Administration from closing a station before a certain date, subject to an exception; requiring the Administration to hold a certain public hearing under certain circumstances; requiring the Administration to give a certain notice of the hearing; prohibiting the Administration from taking certain actions if inadequate notice is given; prohibiting the Administration from making certain policy changes during a certain time period; and generally relating to passenger railroad service on certain railroad lines.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 7–902
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

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

Article – Transportation

7–902.

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

(2) "LEVEL OF SERVICE" INCLUDES THE NUMBER OF ROUND TRIPS OPERATED ON A ROUTE AND THE NUMBER OF STATIONS ALONG A ROUTE.

(3) "ROUTE" MEANS A PASSENGER RAILROAD SERVICE LINE DESCRIBED UNDER SUBSECTIONS (B) THROUGH (D) OF THIS SECTION.

[(a)] (B) The Administration shall continue to operate the following passenger railroad services at levels of service at least equivalent to the level of service established as of July 1, 1981:

(1) The CSX line between Brunswick and the District of Columbia;

(2) The Amtrak line between Penn Station in Baltimore and the District of Columbia; and

(3) The CSX line between Camden Station in Baltimore and the District of Columbia.

(C) THE ADMINISTRATION SHALL CONTINUE TO OPERATE THE PASSENGER RAILROAD SERVICE ON THE AMTRAK LINE BETWEEN PERRYVILLE AND PENN STATION IN BALTIMORE AT THE LEVEL OF SERVICE AT LEAST EQUIVALENT TO THE LEVEL OF SERVICE ESTABLISHED AS OF MAY 1, 1991.

(D) THE ADMINISTRATION SHALL CONTINUE TO OPERATE THE PASSENGER SERVICES ON THE CSX LINE BETWEEN FREDERICK AND POINT OF ROCKS AT THE LEVEL OF SERVICE AT LEAST EQUIVALENT TO THE LEVEL OF SERVICE ESTABLISHED AS OF DECEMBER 17, 2001.

[(b)] (E) The Administration shall recover at least 50 percent of total operating costs for all passenger railroad services under its control from fares and operating revenues. Notwithstanding § 7-208 of this title, the Maryland Transit Administration shall calculate for passenger rail services a separate farebox recovery ratio for the administrative purposes of determining a separate cost recovery ratio for each of the aforementioned transit modes from the calculation for mass transit, Metro, and light rail.

[(c)] (F) (1) [Except as provided in paragraph (2) of this subsection, the] THE Administration may not close a station on [a passenger railroad service line described in subsection (a) of this section] ANY ROUTE before [March 6, 2007] JUNE 30, 2008.

(2) [The] **NOTWITHSTANDING THE PROVISIONS OF THIS SECTION**, **THE** Administration may close the Jessup Station on the CSX line between Camden Station in Baltimore and the District of Columbia at any time if the Administration finds that the ridership at the Jessup Station does not warrant keeping the station open.

[(d)] **(G)** The Administration shall adopt regulations to facilitate the transportation of bicycles on board passenger railroad services.

[(e)] **(H)** Before closing a station on a passenger railroad service line described in subsection [(a)] **(B)** of this section, the [Mass] **MARYLAND** Transit Administration shall review and report, in accordance with § 2-1246 of the State Government Article, to the Governor and the General Assembly, on the following:

(1) With respect to the Dickerson and Boyds MARC stations on the CSX line between Brunswick and the District of Columbia:

(i) The impact on traffic congestion along the Interstate 270, Md State Route 117, and Md State Route 28 corridors as a result of the station closures;

(ii) The impact of future growth in upper Montgomery and southern Frederick counties, particularly in Clarksburg over the next 5 years, and the projected ridership for the Boyds and Dickerson stations as a result of that future growth;

(iii) The impact of the projected growth in upper Montgomery and southern Frederick counties on traffic congestion along the Interstate 270, Md State Route 117, and Md State Route 28 corridors and the transit alternatives that are contemplated to meet any increased demand;

(iv) The methodology used to compute average daily ridership;

(v) The impact on projected ridership on the line if the stations are closed and later reopened due to impending growth;

(vi) The projected ridership if train stops are increased from three stops each to nine stops each for trains arriving at Washington Union Station and from four stops each to ten stops each (to discharge passengers only) for trains departing Washington Union Station;

(vii) Under an expanded schedule, the estimated increase in train service as a result of increasing the number of stops;

(viii) Options to increase ridership at stations with low ridership, including investing in a ridership campaign to promote stations with low ridership;

(ix) The projected ridership after investing in a ridership campaign to promote the stations;

(x) The schedule for installing ticket vending machines at the stations and whether such vending machines have already been purchased;

(xi) Whether a vending machine that is scheduled to be installed at another station could temporarily be used at either or both of these stations;

(xii) The impact on riders boarding at these stations if vending machines are not installed at the stations;

(xiii) An evaluation of potential increased bus service to the stations, and parking lot expansion near the stations, including any possible options for parking lot expansion;

(xiv) Specific efforts undertaken to:

1. Attract new riders on the lines and to retain riders already using the lines; and
2. improve access for individuals with disabilities;

(xv) Potential alternatives to closing stations that would achieve greater efficiency on the Brunswick and Camden CSX lines;

(xvi) Potential sources of alternative funding for the operating and capital costs of keeping the stations open, including collaboration with local governments; and

(xvii) The description of the \$300,000 passenger warning system for the Dickerson Station and whether other possible, less costly, passenger warning systems were considered and the reasons why such systems were not employed; and

(2) With regard to the St. Denis Station on the CSX line between Camden Station in Baltimore and the District of Columbia:

(i) The information required under items (1)(vii) through (xvi) of this subsection;

(ii) The implications of closing a passenger railroad service facility that is a State or federally designated historic landmark or that is located in a State or federally designated historic district;

(iii) The impact on traffic congestion along the Interstate 95, Interstate 295, and Md State Route 100 corridors as a result of the station closure;

(iv) The effect of closing the St. Denis Station on ridership at the Halethorpe Station, including the effect on traffic and parking at the Halethorpe Station and in Arbutus;

(v) The projected ridership at the St. Denis Station if train stops are increased up to nine stops; and

(vi) The projected ridership at the St. Denis Station if service to and from Baltimore is resumed.

(I) (1) UNTIL A PUBLIC HEARING IS HELD ON THE MATTER, THE ADMINISTRATION MAY NOT ESTABLISH OR ABANDON A STATION ON A ROUTE.

(2) THE ADMINISTRATION SHALL GIVE NOTICE OF A HEARING AT LEAST 30 DAYS BEFORE THE HEARING.

(3) THE NOTICE SHALL BE:

(I) PUBLISHED ONCE A WEEK FOR 2 SUCCESSIVE WEEKS IN TWO OR MORE NEWSPAPERS OF ~~GENERAL-DAILY~~ WIDE CIRCULATION THROUGHOUT ~~EACH COUNTY THROUGH WHICH A ROUTE TRAVELS~~ THE ADMINISTRATION'S COMMUTER RAIL SERVICE AREA; AND

(II) POSTED IN ALL OF THE ADMINISTRATION'S OFFICES, STATIONS, AND TERMINALS AND ALL OF ITS ~~VEHICLES AND~~ COMMUTER RAIL ROLLING STOCK IN REVENUE SERVICE.

(4) THE 30-DAY PERIOD BEGINS WHEN THE NOTICE FIRST APPEARS IN THE NEWSPAPER.

(5) (I) IF THE ADMINISTRATION GIVES INADEQUATE NOTICE OF A PUBLIC HEARING ON A MATTER DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE ADMINISTRATION MAY NOT ESTABLISH OR ABANDON A STATION UNLESS A LEGALLY SUFFICIENT PUBLIC HEARING IS HELD.

(II) FOR THE PURPOSES OF THIS PARAGRAPH, NOTICE SHALL BE CONSIDERED INADEQUATE IF:

1. THE ADMINISTRATION DOES NOT COMPLY WITH THE NEWSPAPER PUBLICATION REQUIREMENT UNDER PARAGRAPH (3)(I) OF THIS SUBSECTION; OR

2. AT LEAST 30% OF THE ADMINISTRATION'S FACILITIES ARE NOT POSTED AS REQUIRED UNDER PARAGRAPH (3)(II) OF THIS SUBSECTION.

(6) THE ADMINISTRATION MAY IMPLEMENT A CHANGE OF POLICY ON A MATTER DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION ONLY DURING THE TIME PERIOD BEGINNING 6 WEEKS AFTER THE DATE OF THE PUBLIC HEARING AND ENDING 6 MONTHS AFTER THE DATE OF THE PUBLIC HEARING.

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

Approved by the Governor, May 17, 2007.

CHAPTER 557

(Senate Bill 472)

AN ACT concerning

Mental Hygiene Law - Court Records Relating to a Petition for Emergency Evaluation - Confidentiality

FOR the purpose of requiring that ~~a certain~~ certain court records relating to a petition for emergency evaluation be confidential; prohibiting ~~a certain petition for emergency evaluation~~ certain court records from being divulged, except by a certain order of the court; providing that a certain ~~section~~ provision of this Act does not prohibit ~~a certain law enforcement agency, the Department of Health and Mental Hygiene, or a local health department~~ from having access to and ~~confidential use of a certain petition for a certain purpose; providing that the Department or a local health department shall be liable for the unauthorized release of a certain petition; requiring the Department or a local health department that has accessed a certain petition to submit a certain report to a certain court within a certain period of time;~~ certain persons from reviewing certain court records; requiring that a certain petition for an emergency

evaluation be considered a mental health record; authorizing the release of the petition by certain health care providers only as permitted by law; and generally relating to the confidentiality of court records relating to a petition for emergency evaluation.

BY adding to

Article – Health – General

Section 10–630

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

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

Article – Health – General

10–630.

~~(A) A PETITION FOR EMERGENCY EVALUATION, MADE UNDER PART IV OF THIS SUBTITLE ON OR AFTER JANUARY 1, 2006, IS CONFIDENTIAL AND ITS ALL COURT RECORDS RELATING TO A PETITION FOR AN EMERGENCY EVALUATION MADE UNDER THIS SUBTITLE ARE CONFIDENTIAL AND THE CONTENTS MAY NOT BE DIVULGED, BY SUBPOENA OR OTHERWISE, EXCEPT BY ORDER OF THE COURT ON GOOD CAUSE SHOWN.~~

~~(B) (1) THIS SECTION DOES NOT PROHIBIT ACCESS TO AND CONFIDENTIAL USE OF A PETITION REVIEW OF A COURT RECORD RELATING TO A PETITION BY:~~

~~(i) A LAW ENFORCEMENT AGENCY IN THE INVESTIGATION AND PROSECUTION OF THE EMERGENCY EVALUEE; OR~~

~~(ii) THE DEPARTMENT OR A LOCAL HEALTH DEPARTMENT IF THE DEPARTMENT OR LOCAL HEALTH DEPARTMENT IS PROVIDING TREATMENT OR CARE TO AN EMERGENCY EVALUEE WHO IS THE SUBJECT OF THE PETITION FOR A PURPOSE RELEVANT TO THE TREATMENT OR CARE.~~

~~(2) THE DEPARTMENT OR A LOCAL HEALTH DEPARTMENT SHALL BE LIABLE FOR THE UNAUTHORIZED RELEASE OF A PETITION UNDER THIS SUBSECTION.~~

~~(3) WITHIN 180 DAYS AFTER THE DEPARTMENT OR A LOCAL HEALTH DEPARTMENT ACCESSES A PETITION UNDER THIS SUBSECTION, THE~~

~~DEPARTMENT OR A LOCAL HEALTH DEPARTMENT SHALL SUBMIT A REPORT TO THE COURT DETAILING THE PURPOSES FOR WHICH THE PETITION WAS USED.~~

- (1) PERSONNEL OF THE COURT;
 - (2) THE PETITIONER;
 - (3) THE EMERGENCY EVALUEE OR COUNSEL FOR THE EMERGENCY EVALUEE;
 - (4) AUTHORIZED PERSONNEL OF THE DEPARTMENT;
 - (5) AUTHORIZED PERSONNEL OF THE LOCAL CORE SERVICE AGENCY;
 - (6) A LAW ENFORCEMENT AGENCY; OR
 - (7) A PERSON AUTHORIZED BY A COURT ORDER ON GOOD CAUSE SHOWN.
- (C) A PETITION FOR AN EMERGENCY EVALUATION:
- (1) SHALL BE CONSIDERED A MENTAL HEALTH RECORD UNDER TITLE 4 OF THIS ARTICLE; AND
 - (2) MAY BE RELEASED BY A HEALTH CARE PROVIDER, AS DEFINED IN § 4-301 OF THIS ARTICLE, ONLY AS PERMITTED BY LAW.

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

Approved by the Governor, May 17, 2007.

CHAPTER 558

(Senate Bill 486)

AN ACT concerning

Property Tax Credit - Replacement Home Purchased After Acquisition of Dwelling for Public Use

FOR the purpose of ~~providing for a tax credit against the State, county, and municipal corporation~~ authorizing the Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation to grant, by law, a tax credit against county or municipal corporation property taxes for certain property purchased by certain owners of certain property that is acquired for public use; ~~providing for the computation and duration of the credit; requiring the State Department of Assessments and Taxation to adopt certain regulations;~~ authorizing the county or municipal corporation to provide, by law, for the amount and duration of the credit, subject to certain limitations; authorizing the county or municipal corporation to provide, by law, for certain provisions necessary to carry out this Act; defining certain terms; providing for the application of this Act; and generally relating to a property tax credit for certain property purchased by certain owners of certain property acquired for public use.

BY adding to

Article – Tax – Property

Section ~~9-110~~ 9-246

Annotated Code of Maryland

(2001 Replacement Volume and 2006 Supplement)

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

Article – Tax – Property

~~9-110.~~ 9-246.

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

(2) “ACQUIRED DWELLING” MEANS A DWELLING:

(I) THAT WAS OWNED BY A QUALIFIED DISPLACED HOMEOWNER;

(II) THAT BY NEGOTIATION OR CONDEMNATION WAS ACQUIRED FROM THE QUALIFIED DISPLACED HOMEOWNER FOR PUBLIC USE BY THE STATE OR A POLITICAL SUBDIVISION OR INSTRUMENTALITY OF THE STATE, WHERE THE ACQUIRING AGENCY HAD THE POWER TO ACQUIRE THE DWELLING FOR PUBLIC USE BY CONDEMNATION; AND

(III) FOR WHICH THE QUALIFIED DISPLACED HOMEOWNER WAS ELIGIBLE FOR A CREDIT UNDER § 9-105 OF THIS SUBTITLE FOR THE TAXABLE YEAR IN WHICH THE DWELLING WAS ACQUIRED FOR PUBLIC USE.

(3) "ACQUISITION YEAR" MEANS THE TAXABLE YEAR IN WHICH AN ACQUIRED DWELLING WAS ACQUIRED FOR PUBLIC USE BY THE STATE OR A POLITICAL SUBDIVISION OR INSTRUMENTALITY OF THE STATE.

(4) "DWELLING" HAS THE MEANING STATED IN § 9-105 OF THIS SUBTITLE.

(5) "QUALIFIED DISPLACED HOMEOWNER" MEANS A PROPERTY OWNER WHO:

(I) QUALIFIED FOR A CREDIT UNDER § 9-105 OF THIS SUBTITLE FOR AN ACQUIRED DWELLING FOR THE ACQUISITION YEAR; AND

(II) DID NOT RECEIVE COMPENSATION FOR INCREASED PROPERTY TAXES RESULTING FROM THE LOSS OF THE CREDIT UNDER § 9-105 OF THIS SUBTITLE.

(6) "REPLACEMENT DWELLING" MEANS A DWELLING THAT IS PURCHASED BY A QUALIFIED DISPLACED HOMEOWNER BY THE END OF THE TAXABLE YEAR FOLLOWING THE ACQUISITION YEAR.

(7) "TAXABLE ASSESSMENT" HAS THE MEANING STATED IN § 9-105 OF THIS SUBTITLE.

(B) ~~THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION SHALL GRANT~~ MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION MAY GRANT, BY LAW, A TAX CREDIT AS PROVIDED IN THIS SECTION AGAINST THE ~~STATE, COUNTY, OR MUNICIPAL CORPORATION~~ PROPERTY TAX IMPOSED ON A REPLACEMENT DWELLING.

(C) (1) THE PROPERTY TAX CREDIT UNDER THIS SECTION:

(I) ~~SHALL~~ MAY NOT BE GRANTED FOR MORE THAN 5 YEARS, BEGINNING WITH THE FIRST TAXABLE YEAR AFTER THE TAXABLE YEAR IN WHICH THE REPLACEMENT DWELLING WAS PURCHASED; AND

(II) ~~SHALL EQUAL~~ MAY NOT EXCEED THE FOLLOWING PERCENTAGES OF THE ~~STATE, COUNTY, OR MUNICIPAL CORPORATION~~

PROPERTY TAX ATTRIBUTABLE TO THE ELIGIBLE HOMESTEAD ASSESSMENT OF THE ACQUIRED DWELLING, AS DETERMINED UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION:

1. 100% FOR THE FIRST TAXABLE YEAR;
2. 80% FOR THE SECOND TAXABLE YEAR;
3. 60% FOR THE THIRD TAXABLE YEAR;
4. 40% FOR THE FOURTH TAXABLE YEAR; AND
5. 20% FOR THE FIFTH TAXABLE YEAR.

(2) THE ~~STATE,~~ COUNTY, OR MUNICIPAL CORPORATION PROPERTY TAX ATTRIBUTABLE TO THE ELIGIBLE HOMESTEAD ASSESSMENT OF THE ACQUIRED DWELLING IS THE PRODUCT OF MULTIPLYING THE APPLICABLE ~~STATE,~~ COUNTY, OR MUNICIPAL CORPORATION TAX RATE FOR THE CURRENT YEAR TIMES THE ELIGIBLE HOMESTEAD ASSESSMENT OF THE ACQUIRED DWELLING, AS DETERMINED UNDER PARAGRAPH (3) OF THIS SUBSECTION.

(3) FOR PURPOSES OF PARAGRAPH (2) OF THIS SUBSECTION, AND SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE ELIGIBLE HOMESTEAD ASSESSMENT OF THE ACQUIRED DWELLING IS THE AMOUNT BY WHICH THE ACQUISITION YEAR ASSESSMENT OF THE ACQUIRED DWELLING EXCEEDS THE PRODUCT OF MULTIPLYING THE PRIOR YEAR'S TAXABLE ASSESSMENT OF THE ACQUIRED DWELLING TIMES:

(I) FOR PURPOSES OF THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX WHERE THE REPLACEMENT DWELLING AND THE ACQUIRED DWELLING ARE LOCATED IN THE SAME COUNTY OR THE SAME MUNICIPAL CORPORATION, THE HOMESTEAD CREDIT PERCENTAGE APPLICABLE TO THE COUNTY PROPERTY TAX OR MUNICIPAL CORPORATION PROPERTY TAX FOR THE ACQUISITION YEAR; AND

(II) FOR PURPOSES OF THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX WHERE THE REPLACEMENT DWELLING AND THE ACQUIRED DWELLING ARE NOT LOCATED IN THE SAME COUNTY OR THE SAME MUNICIPAL CORPORATION, 110%;~~AND~~

~~(III) FOR PURPOSES OF THE STATE PROPERTY TAX, 100%~~
110%.

(4) THE ELIGIBLE HOMESTEAD ASSESSMENT DETERMINED UNDER PARAGRAPH (3) OF THIS SUBSECTION SHALL BE REDUCED, BUT NOT BELOW ZERO, BY THE AMOUNT, IF ANY, BY WHICH THE ACQUISITION YEAR ASSESSMENT OF THE ACQUIRED DWELLING EXCEEDS THE ASSESSMENT OF THE REPLACEMENT DWELLING FOR THE FIRST TAXABLE YEAR FOR WHICH THE CREDIT UNDER THIS SECTION IS ALLOWED.

(D) ~~THE DEPARTMENT OF ASSESSMENTS AND TAXATION SHALL ADOPT REGULATIONS~~ MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY PROVIDE, BY LAW, FOR:

(1) THE AMOUNT AND DURATION OF THE PROPERTY TAX CREDIT UNDER THIS SECTION;

(2) ADDITIONAL ELIGIBILITY CRITERIA FOR THE TAX CREDIT UNDER THIS SECTION;

(3) REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE TAX CREDIT; AND

(4) ANY OTHER PROVISION NECESSARY TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007, and shall be applicable to all taxable years beginning after June 30, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 559

(House Bill 755)

AN ACT concerning

Property Tax Credit - Replacement Home Purchased After Acquisition of Dwelling for Public Use

FOR the purpose of ~~providing for a tax credit against the State, county, and municipal corporation~~ authorizing the Mayor and City Council of Baltimore City or the

~~governing body of a county or of a municipal corporation to grant, by law, a tax credit against a county or municipal corporation property taxes for certain property purchased by certain owners of certain property that is acquired for public use; providing for the computation and duration of the credit; requiring the State Department of Assessments and Taxation to adopt certain regulations; authorizing the county or municipal corporation to provide, by law, for the amount and duration of the credit, subject to certain limitations; authorizing the county or municipal corporation to provide, by law, for certain provisions necessary to carry out this Act; defining certain terms; providing for the application of this Act; and generally relating to a property tax credit for certain property purchased by certain owners of certain property acquired for public use.~~

BY adding to

Article – Tax – Property

Section ~~9-110~~ 9-246

Annotated Code of Maryland

(2001 Replacement Volume and 2006 Supplement)

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

Article – Tax – Property

~~9-110.~~ 9-246.

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

(2) “ACQUIRED DWELLING” MEANS A DWELLING:

(I) THAT WAS OWNED BY A QUALIFIED DISPLACED HOMEOWNER;

(II) THAT BY NEGOTIATION OR CONDEMNATION WAS ACQUIRED FROM THE QUALIFIED DISPLACED HOMEOWNER FOR PUBLIC USE BY THE STATE OR A POLITICAL SUBDIVISION OR INSTRUMENTALITY OF THE STATE, WHERE THE ACQUIRING AGENCY HAD THE POWER TO ACQUIRE THE DWELLING FOR PUBLIC USE BY CONDEMNATION; AND

(III) FOR WHICH THE QUALIFIED DISPLACED HOMEOWNER WAS ELIGIBLE FOR A CREDIT UNDER § 9-105 OF THIS SUBTITLE FOR THE TAXABLE YEAR IN WHICH THE DWELLING WAS ACQUIRED FOR PUBLIC USE.

(3) "ACQUISITION YEAR" MEANS THE TAXABLE YEAR IN WHICH AN ACQUIRED DWELLING WAS ACQUIRED FOR PUBLIC USE BY THE STATE OR A POLITICAL SUBDIVISION OR INSTRUMENTALITY OF THE STATE.

(4) "DWELLING" HAS THE MEANING STATED IN § 9-105 OF THIS SUBTITLE.

(5) "QUALIFIED DISPLACED HOMEOWNER" MEANS A PROPERTY OWNER WHO:

(I) QUALIFIED FOR A CREDIT UNDER § 9-105 OF THIS SUBTITLE FOR AN ACQUIRED DWELLING FOR THE ACQUISITION YEAR; AND

(II) DID NOT RECEIVE COMPENSATION FOR INCREASED PROPERTY TAXES RESULTING FROM THE LOSS OF THE CREDIT UNDER § 9-105 OF THIS SUBTITLE.

(6) "REPLACEMENT DWELLING" MEANS A DWELLING THAT IS PURCHASED BY A QUALIFIED DISPLACED HOMEOWNER BY THE END OF THE TAXABLE YEAR FOLLOWING THE ACQUISITION YEAR.

(7) "TAXABLE ASSESSMENT" HAS THE MEANING STATED IN § 9-105 OF THIS SUBTITLE.

(B) ~~THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION SHALL GRANT~~ MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION MAY GRANT, BY LAW, A TAX CREDIT AS PROVIDED IN THIS SECTION AGAINST THE STATE, COUNTY, OR MUNICIPAL CORPORATION PROPERTY TAX IMPOSED ON A REPLACEMENT DWELLING.

(C) (1) THE PROPERTY TAX CREDIT UNDER THIS SECTION:

(I) ~~SHALL~~ MAY NOT BE GRANTED FOR MORE THAN 5 YEARS, BEGINNING WITH THE FIRST TAXABLE YEAR AFTER THE TAXABLE YEAR IN WHICH THE REPLACEMENT DWELLING WAS PURCHASED; AND

(II) ~~SHALL EQUAL~~ MAY NOT EXCEED THE FOLLOWING PERCENTAGES OF THE ~~STATE, COUNTY, OR MUNICIPAL CORPORATION~~ PROPERTY TAX ATTRIBUTABLE TO THE ELIGIBLE HOMESTEAD ASSESSMENT OF THE ACQUIRED DWELLING, AS DETERMINED UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION:

1. 100% FOR THE FIRST TAXABLE YEAR;
2. 80% FOR THE SECOND TAXABLE YEAR;
3. 60% FOR THE THIRD TAXABLE YEAR;
4. 40% FOR THE FOURTH TAXABLE YEAR; AND
5. 20% FOR THE FIFTH TAXABLE YEAR.

(2) THE ~~STATE,~~ COUNTY, OR MUNICIPAL CORPORATION PROPERTY TAX ATTRIBUTABLE TO THE ELIGIBLE HOMESTEAD ASSESSMENT OF THE ACQUIRED DWELLING IS THE PRODUCT OF MULTIPLYING THE APPLICABLE ~~STATE,~~ COUNTY, OR MUNICIPAL CORPORATION TAX RATE FOR THE CURRENT YEAR TIMES THE ELIGIBLE HOMESTEAD ASSESSMENT OF THE ACQUIRED DWELLING, AS DETERMINED UNDER PARAGRAPH (3) OF THIS SUBSECTION.

(3) FOR PURPOSES OF PARAGRAPH (2) OF THIS SUBSECTION, AND SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE ELIGIBLE HOMESTEAD ASSESSMENT OF THE ACQUIRED DWELLING IS THE AMOUNT BY WHICH THE ACQUISITION YEAR ASSESSMENT OF THE ACQUIRED DWELLING EXCEEDS THE PRODUCT OF MULTIPLYING THE PRIOR YEAR'S TAXABLE ASSESSMENT OF THE ACQUIRED DWELLING TIMES:

(I) FOR PURPOSES OF THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX WHERE THE REPLACEMENT DWELLING AND THE ACQUIRED DWELLING ARE LOCATED IN THE SAME COUNTY OR THE SAME MUNICIPAL CORPORATION, THE HOMESTEAD CREDIT PERCENTAGE APPLICABLE TO THE COUNTY PROPERTY TAX OR MUNICIPAL CORPORATION PROPERTY TAX FOR THE ACQUISITION YEAR; AND

(II) FOR PURPOSES OF THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX WHERE THE REPLACEMENT DWELLING AND THE ACQUIRED DWELLING ARE NOT LOCATED IN THE SAME COUNTY OR THE SAME MUNICIPAL CORPORATION, 110%; ~~AND~~

~~(III) FOR PURPOSES OF THE STATE PROPERTY TAX, 100%.~~

(4) THE ELIGIBLE HOMESTEAD ASSESSMENT DETERMINED UNDER PARAGRAPH (3) OF THIS SUBSECTION SHALL BE REDUCED, BUT NOT BELOW ZERO, BY THE AMOUNT, IF ANY, BY WHICH THE ACQUISITION YEAR ASSESSMENT OF THE ACQUIRED DWELLING EXCEEDS THE ASSESSMENT OF THE

REPLACEMENT DWELLING FOR THE FIRST TAXABLE YEAR FOR WHICH THE CREDIT UNDER THIS SECTION IS ALLOWED.

(D) ~~THE DEPARTMENT OF ASSESSMENTS AND TAXATION SHALL ADOPT REGULATIONS~~ MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY PROVIDE, BY LAW, FOR:

(1) THE AMOUNT AND DURATION OF THE PROPERTY TAX CREDIT UNDER THIS SECTION;

(2) ADDITIONAL ELIGIBILITY CRITERIA FOR THE TAX CREDIT UNDER THIS SECTION;

(3) REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE TAX CREDIT; AND

(4) ANY OTHER PROVISION NECESSARY TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007, and shall be applicable to all taxable years beginning after June 30, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 560

(Senate Bill 491)

AN ACT concerning

Public Utility Companies - ~~Electricity Rates for~~ Electric Universal Service Program - Residential Tenants and Condominium Owners - Study of Nonresidential Customers

FOR the purpose of requiring the Public Service Commission ~~to initiate a certain proceeding to investigate options available to implement a rate mitigation plan or rate stabilization plan to phase in the costs of electricity rate increases for certain residential tenants of a nonresidential customer of an electric company in a certain service territory, where a certain percentage of the residential~~

~~tenants are low- and moderate-income individuals; requiring the rate mitigation plan or rate stabilization plan to apply to increases in electricity rates that will take effect on or after a certain date; making this Act an emergency measure; defining a certain term; the Office of Home Energy Programs in the Department of Human Resources, and the Office of People's Counsel to meet to discuss certain options for expanding the electric universal service program to include assistance to certain low-income residential tenants of apartments and low-income residential condominium owners who are not actual customers of an electric company; specifying items that the agencies shall consider in discussing certain options; requiring the Commission to report to certain committees by a certain date; and generally relating to electricity rates a study of expanding the electric universal service program for residential tenants and condominium owners of nonresidential customers.~~

~~BY repealing and reenacting, with amendments,
Article — Public Utility Companies
Section 7-501(n) through (q)
Annotated Code of Maryland
(1998 Volume and 2006 Supplement)~~

~~BY adding to
Article — Public Utility Companies
Section 7-501(n)
Annotated Code of Maryland
(1998 Volume and 2006 Supplement)~~

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

~~**Article — Public Utility Companies**~~

~~7-501.~~

~~(N) "RESIDENTIAL CUSTOMER" INCLUDES A RESIDENTIAL TENANT OF A NONRESIDENTIAL CUSTOMER.~~

~~[(n)] (O) "Standard offer service" means electric service that an electric company must offer to its customers under § 7-510(c) of this subtitle.~~

~~[(o)] (P) "Transition bond" means a bond, debenture, note, certificate of participation or beneficial interest, or other evidence of indebtedness or ownership, approved in a qualified rate order and issued under an executed trust indenture or other agreement of an electric company or assignee, and which is secured by, evidences ownership interest in, or is payable from intangible transition property.~~

~~[(p)] (Q)~~ “Transition cost” means a cost, liability, or investment that:

~~(1) traditionally would have been or would be recoverable under rate of return regulation, but which may not be recoverable in a restructured electricity supply market; or~~

~~(2) arises as a result of electric industry restructuring and is related to the creation of customer choice.~~

~~[(q)] (R)~~ (1) “Universal service program” means a program that helps low income customers maintain electric service.

~~(2) “Universal service program” includes customer bill assistance and payment programs, termination of service protection, and policies and services that help low income customers to reduce or manage energy consumption in a cost effective manner.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

~~(a) This section applies only to a service territory in which a rate cap or freeze was not in effect for residential customers as of July 1, 2004, and which had a rate mitigation plan in effect on July 1, 2006, for residential customers in accordance with Order No. 80747 of the Public Service Commission.~~

~~(b) On or before July 1, 2007, the Public Service Commission shall initiate a proceeding to investigate options available to implement a rate mitigation plan or rate stabilization plan, including renegotiation of a settlement agreement, to phase in the costs of electricity rate increases for residential tenants of a nonresidential customer of an electric company, where 90% of the residential tenants of the nonresidential customer are low and moderate income individuals.~~

~~(c) The rate mitigation plan or rate stabilization plan implemented under subsection (b) of this section shall apply to increases in electricity rates as a result of increases in the cost of electricity that will take effect on or after June 1, 2007, for which the electric company has contracted.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.~~

(a) The Public Service Commission, the Office of Home Energy Programs in the Department of Human Resources, and the Office of People’s Counsel shall meet to discuss options for expanding the electric universal service program to include

assistance to low-income residential tenants of apartments and low-income residential condominium owners who are not actual customers of an electric company.

(b) In discussing options, the agencies shall consider:

(1) the estimated number of tenants of apartments and condominium owners who could be income eligible under the electric universal service program;

(2) other programs that are currently available to low-income residential tenants of apartments and low-income residential condominium owners, including the Maryland Energy Assistance Program and rental assistance programs;

(3) how to determine the amount of assistance that could be provided under the electric universal service program to income eligible tenants of apartments and owners of condominiums who are served by a master meter or by a sub-meter;

(4) how the payment of assistance from the electric universal service program would be provided in a manner that ensures that tenants of apartments and owners of condominiums directly benefit from the assistance;

(5) how budget billing requirements of the electric universal service program would apply to tenants of apartments and owners of condominiums;

(6) the impact on current participants of the electric universal service program of expanding the program to include assistance to tenants of apartments and residential condominium owners;

(7) the impact on the current funding level and the need to increase the funding level, of the electric universal service program of expanding the program to include assistance to tenants of apartments and residential condominium owners;

(8) the impact on the operation and administration of the electric universal service program of expanding the program to include assistance to tenants of apartments and residential condominium owners;

(9) how outreach programs could be put in place to notify tenants of apartments and owners of condominiums about the electric universal service program;

(10) any administrative and legislative changes that would be needed to expand the electric universal service program to include assistance to income eligible tenants of apartments and owners of condominiums; and

(11) how outreach programs could be put in place to encourage landlords of apartments and condominium associations to competitively shop for electric supply services for their apartment tenants and condominium owners.

(c) On or before October 1, 2007, the Public Service Commission shall report to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2-1246 of the State Government Article, on the findings and recommendations of the agencies.

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

Approved by the Governor, May 17, 2007.

CHAPTER 561

(Senate Bill 507)

AN ACT concerning

Baltimore County - Alcoholic Beverages - Wine Tasting

FOR the purpose of ~~repealing in Baltimore County the maximum number of Class BWT beer and wine (on-premises) tasting licenses that are available each year to a holder of a Class A beer and light wine license or a Class A beer, wine and liquor license~~ establishing a beer, wine, and liquor tasting Class BWLT license in Baltimore County; increasing the fee for a Class BWT license in Baltimore County; establishing fees for Class BWLT licenses; authorizing a Class BWLT license holder to allow the consumption of certain alcoholic beverages for tasting and sampling; requiring a Class A license holder to apply for a Class BWT or Class BWLT license in a certain manner; requiring Class BWT and Class BWLT license holders to dispose of any unconsumed alcoholic beverages remaining in a container that was opened for tasting or sampling; and generally relating to alcoholic beverages licenses in Baltimore County.

BY repealing and reenacting, with amendments,
Article 2B - Alcoholic Beverages
Section 8-404.1
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article 2B - Alcoholic Beverages

8-404.1.

~~(a) In Baltimore County, the Board of License Commissioners may issue a 1-day Class BWT beer and wine (on-premises) tasting license.~~

~~[(b) The maximum number of licenses available each year is 12.]~~

(A) THIS SECTION APPLIES IN BALTIMORE COUNTY.

(B) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS BWT BEER AND LIGHT WINE (ON-PREMISES) TASTING LICENSE TO THE HOLDER OF A CLASS A BEER AND LIGHT WINE TASTING LICENSE.

(C) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS BWLT BEER, WINE, AND LIQUOR (ON-PREMISES) TASTING LICENSE TO A HOLDER OF A CLASS A BEER, WINE, AND LIQUOR LICENSE.

(D) (1) THE FEES FOR A CLASS BWT AND CLASS BWLT LICENSE ARE AS FOLLOWS:

(i) \$20 FOR A DAILY TASTING LICENSE, WHICH MAY BE ISSUED NOT MORE THAN 12 TIMES IN ANY ANNUAL LICENSE YEAR;

(ii) \$200 ANNUALLY FOR A 26-DAY TASTING LICENSE, WHICH MAY BE USED CONSECUTIVELY OR NONCONSECUTIVELY; AND

(iii) \$300 ANNUALLY FOR A 52-DAY TASTING LICENSE, WHICH MAY BE USED CONSECUTIVELY OR NONCONSECUTIVELY.

(2) THE FEES FOR A CLASS BWT LICENSE AND CLASS BWLT LICENSE ARE IN ADDITION TO THE CLASS A ANNUAL LICENSE FEE.

(E) (1) THE CLASS BWT LICENSE AUTHORIZES THE HOLDER TO ALLOW THE ON-PREMISES CONSUMPTION OF LIGHT WINE OR BEER FOR TASTING.

(2) A PERSON MAY CONSUME LIGHT WINE OR BEER COVERED BY A CLASS BWT LICENSE IN A QUANTITY NOT EXCEEDING:

(i) 1 OUNCE OF LIGHT WINE FROM ALL BRANDS IN A SINGLE DAY; AND

(II) 3 OUNCES OF BEER FROM ALL BRANDS IN A SINGLE DAY.

(F) (1) THE CLASS BWLT LICENSE AUTHORIZES THE HOLDER TO ALLOW THE ON-PREMISES CONSUMPTION OF BEER, LIGHT WINE, AND LIQUOR FOR TASTING OR SAMPLING.

(2) A PERSON MAY CONSUME LIGHT WINE, BEER, OR LIQUOR COVERED BY A CLASS BWLT LICENSE IN A QUANTITY NOT EXCEEDING:

(I) 1 OUNCE OF LIGHT WINE FROM ALL BRANDS IN A SINGLE DAY;

(II) 3 OUNCES OF BEER FROM ALL BRANDS IN A SINGLE DAY;
AND

(III) ONE-HALF OUNCE OF LIQUOR FROM ALL BRANDS IN A SINGLE DAY.

(G) AT THE END OF EACH DAY FOR WHICH A CLASS BWT OR A CLASS BWLT LICENSE IS VALID, THE HOLDER OF THE LICENSE SHALL DISPOSE OF ANY UNCONSUMED ALCOHOLIC BEVERAGE REMAINING IN A CONTAINER THAT WAS OPENED FOR TASTING OR SAMPLING.

(H) (1) EACH CLASS A LICENSE HOLDER THAT SEEKS ISSUANCE OF A BWT OR BWLT LICENSE FOR WHICH THEY ARE ELIGIBLE SHALL APPLY FOR THE TYPE OF TASTING LICENSE AUTHORIZED BY THIS SECTION ON FORMS PROVIDED BY THE BOARD OF LICENSE COMMISSIONERS.

(2) THE FORMS PROVIDED BY THE BOARD OF LICENSE COMMISSIONERS UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL SPECIFY THE DATE OR DATES ON WHICH THE TASTING IS REQUESTED TO OCCUR.

(3) THE APPLICATION AND PAYMENT FOR THE DAILY LICENSE SHALL BE SUBMITTED AT LEAST 7 DAYS IN ADVANCE OF THE TASTING EVENT OR 7 DAYS IN ADVANCE OF THE FIRST DAY OF CONSECUTIVE DAY TASTING EVENTS.

(4) THE APPLICATION AND PAYMENT FOR THE 26-DAY TASTING LICENSE AND THE 52-DAY TASTING LICENSE SHALL BE MADE AT LEAST 7 DAYS IN ADVANCE OF THE FIRST PROPOSED TASTING EVENT.

(5) THE HOLDER OF A 26-DAY TASTING LICENSE AND A 52-DAY TASTING LICENSE SHALL NOTIFY THE BOARD OF LICENSE COMMISSIONERS, ON

FORMS APPROVED BY THE BOARD, OF ADDITIONAL TASTING EVENTS AUTHORIZED BY THE LICENSES.

(I) THE PROVISIONS OF THIS SECTION ARE NOT RESTRICTED BY:

(1) § 12-107(B) OF THIS ARTICLE; AND

(2) THE PROVISIONS IN § 9-102 OF THIS ARTICLE WHICH PROHIBIT THE ISSUANCE OF TWO LICENSES FOR THE SAME PREMISES.

(J) THE HOLDER OF A CLASS BWT OR CLASS BWLT LICENSE MAY EXERCISE THE PRIVILEGES OF THIS SECTION DURING THE HOURS AND DAYS PROVIDED FOR UNDER THE HOLDER'S RESPECTIVE CLASS A LICENSE.

~~[(c)](B) A Class BWT license may only be issued to a holder of a Class A beer and light wine license or a Class A beer, wine and liquor license.~~

~~[(d)](C) (1) The fee for a Class BWT license is \$10.~~

~~(2) The fee for a Class BWT license is in addition to the Class A annual fee.~~

~~[(e)](D) The Class BWT license authorizes a holder to permit the on-premises consumption of the following alcoholic beverages for tasting or sampling purposes only:~~

~~(1) Light wine to be served in a quantity of not more than 1 ounce from each given brand to any 1 person; and~~

~~(2) Beer to be served in a quantity of not more than 3 ounces to any 1 person.~~

~~[(f)](E) At the end of the day for which the license is valid, a holder of a 1-day Class BWT license shall dispose of any unconsumed alcoholic beverage remaining in a container that was opened for tasting or sampling.~~

~~[(g)](F) The provisions of this section are not restricted by:~~

~~(1) The provisions in § 12-107(b) of this article; and~~

~~(2) The provisions of law in § 9-102 of this article which prohibit the issuance of 2 licenses for the same premises.~~

~~[(h)] (G) The holder may exercise the privileges under the Class BWT license only during the hours and days provided for under the respective Class A license.~~

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

Approved by the Governor, May 17, 2007.

CHAPTER 562

(Senate Bill 519)

AN ACT concerning

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

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

~~fine on a certain child; defining certain terms; and generally relating to offenses committed by juveniles and absences from school~~ certain applicants for a learner's instructional permit to present to the Motor Vehicle Administration the applicant's school attendance record; prohibiting the Administration from issuing a learner's instructional permit to certain applicants if the applicant's school attendance record indicates a certain number of unexcused absences; and generally relating to the issuance of learner's instructional permits and truancy.

~~BY adding to~~

~~Article—Courts and Judicial Proceedings
Section 3-8A-19(c-1)
Annotated Code of Maryland
(2006 Replacement Volume)~~

~~BY adding to~~

~~Article—Criminal Law
Section 14-104
Annotated Code of Maryland
(2002 Volume and 2006 Supplement)~~

BY repealing and reenacting, without amendments,

Article – Education
Section 7-301(a)(1)
Annotated Code of Maryland
(2006 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~

~~Article—Education
Section 7-302
Annotated Code of Maryland
(2006 Replacement Volume)~~

~~BY repealing and reenacting, without amendments,~~

~~Article—Transportation
Section 11-128 and 12-203
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Transportation
Section 16-105(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

~~BY adding to~~

~~Article—Transportation
Section 16-206.2
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)~~

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

~~Article—Courts and Judicial Proceedings~~

~~3-8A-10.~~

~~(C-1) (1) (i) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

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

~~A. COMMON LAW; OR~~

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

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

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

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

~~Article—Criminal Law~~

~~14-104.~~

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

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

~~1. COMMON LAW; OR~~

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

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

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

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

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

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

Article - Education

7-301.

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

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

~~(3) Except as provided in subsection (f) of this section or in regulations of the State Board of Education, each child who resides in this State shall attend a~~

~~kindergarten program regularly during the school year prior to entering the first grade unless the child is otherwise receiving regular, thorough instruction in the skills and studies usually taught in a kindergarten program of a public school.~~

~~7-302.~~

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

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

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

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

~~(3) Following the investigation or intervention:~~

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

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

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

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

~~(D) (1) THIS SUBSECTION APPLIES TO:~~

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

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

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

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

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

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

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

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

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

Article - Transportation

~~11-128.~~

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

~~(1) Driver's license; and~~

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

- ~~(i) Any temporary license;~~
- ~~(ii) A learner's instructional permit;~~
- ~~(iii) A provisional license;~~
- ~~(iv) The privilege of any individual to drive a motor vehicle, whether or not that individual is formally licensed by this or any other jurisdiction;~~
- ~~(v) Any nonresident's privilege to drive, as defined in this subtitle; and~~
- ~~(vi) A commercial driver's license.~~

~~12-203.~~

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

- ~~(1) The refusal, suspension, or revocation; and~~
- ~~(2) The right of the applicant or licensee to request a hearing.~~

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

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

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

16-105.

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

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

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

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

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

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

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

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

~~16-206.2.~~

~~(A) SUBJECT TO THE PROVISIONS OF SUBSECTION (C) OF THIS SECTION, ON RECEIPT OF NOTICE DESCRIBED UNDER § 7-302(D) OF THE EDUCATION ARTICLE THAT A CHILD HAS BEEN UNLAWFULLY ABSENT FROM SCHOOL OR HAS RECEIVED TRUANCY VIOLATION NOTICES, THE ADMINISTRATION SHALL:~~

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, May 17, 2007.

CHAPTER 563

(House Bill 571)

AN ACT concerning

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

FOR the purpose of requiring ~~the circuit court sitting as a juvenile court, when making a certain disposition, to consider whether a certain offense committed by a child was committed during certain hours; providing that a person who is under a certain age and is convicted as an adult of a certain crime is subject to a certain increase in the person's term of imprisonment or fine if the trier of fact finds~~

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

~~BY adding to~~

~~Article — Courts and Judicial Proceedings
Section 3-8A-19(c-1)
Annotated Code of Maryland
(2006 Replacement Volume)~~

~~BY adding to~~

~~Article — Criminal Law
Section 14-104
Annotated Code of Maryland
(2002 Volume and 2006 Supplement)~~

BY repealing and reenacting, without amendments,

Article – Education
Section 7-301(a)(1)
Annotated Code of Maryland
(2006 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~

~~Article—Education
Section 7-302
Annotated Code of Maryland
(2006 Replacement Volume)~~

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

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

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

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

~~Article—Courts and Judicial Proceedings~~

~~3-8A-19.~~

~~(C-1) (1) (i) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(ii) 1. “OFFENSE” MEANS AN ACT COMMITTED BY A CHILD IN THE STATE THAT IF COMMITTED BY AN ADULT WOULD BE A CRIME UNDER:~~

~~A. COMMON LAW; OR~~

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

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

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

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

~~Article Criminal Law~~

~~14-104.~~

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

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

~~1. COMMON LAW; OR~~

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

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

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

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

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

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

Article - Education

7-301.

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

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

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

~~7-302.~~

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

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

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

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

~~(3) Following the investigation or intervention:~~

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

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

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

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

~~(D) (1) THIS SUBSECTION APPLIES TO:~~

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

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

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

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

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

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

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

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

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

Article - Transportation

~~11-128.~~

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

~~(1) Driver's license; and~~

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

~~(i) Any temporary license;~~

~~(ii) A learner's instructional permit;~~

~~(iii) A provisional license;~~

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

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

~~(vi) A commercial driver's license.~~

~~12-203.~~

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

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

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

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

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

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

16-105.

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

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

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

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

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

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

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

(II) THE ADMINISTRATION MAY NOT ISSUE A LEARNER'S INSTRUCTIONAL PERMIT TO AN APPLICANT UNDER THE AGE OF 16 YEARS IF THE APPLICANT'S SCHOOL ATTENDANCE RECORD INDICATES MORE THAN 10

UNEXCUSED ABSENCES WITHIN THE PAST CALENDAR YEAR DURING THE PRIOR SCHOOL SEMESTER.

~~16-206.2.~~

~~(A) SUBJECT TO THE PROVISIONS OF SUBSECTION (C) OF THIS SECTION, ON RECEIPT OF NOTICE DESCRIBED UNDER § 7-302(D) OF THE EDUCATION ARTICLE THAT A CHILD HAS BEEN UNLAWFULLY ABSENT FROM SCHOOL OR HAS RECEIVED TRUANCY VIOLATION NOTICES, THE ADMINISTRATION SHALL:~~

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, May 17, 2007.

CHAPTER 564

(Senate Bill 522)

AN ACT concerning

Homestead Tax Credit - Eligibility Verification - Application

FOR the purpose of requiring homeowners to file certain applications to the State Department of Assessments and Taxation to qualify for the homestead property tax credit; providing that the homestead property tax credit may not be granted unless an application is filed as required within certain time periods under certain circumstances; providing that the Department shall provide the option for an application to be submitted on the Department's website; requiring the Comptroller to cooperate with the Department in adopting a certain procedure, provide certain information to the Department, and assist the Department in a postaudit of each application; requiring the counties to reimburse the Department for the administration of the homestead property tax credit application process; providing for a certain reporting requirement to certain committees of the General Assembly; and generally relating to the homestead property tax credit.

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section 9–105(d)(1)

Annotated Code of Maryland

(2001 Replacement Volume and 2006 Supplement)

BY adding to

Article – Tax – Property

Section 9–105(d)(6) ~~and (4)~~, (l), and (m)

Annotated Code of Maryland

(2001 Replacement Volume and 2006 Supplement)

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

Article - Tax - Property

9-105.

(d) (1) **[The] SUBJECT TO THE PROVISIONS OF PARAGRAPH (6) OF THIS SUBSECTION, THE** Department shall authorize and the State, a county, or a municipal corporation shall grant a property tax credit under this section for a taxable year unless during the previous taxable year:

(i) the dwelling was transferred for consideration to new ownership;

(ii) the value of the dwelling was increased due to a change in the zoning classification of the dwelling initiated or requested by the homeowner or anyone having an interest in the property;

(iii) the use of the dwelling was changed substantially; or

(iv) the assessment of the dwelling was clearly erroneous due to an error in calculation or measurement of improvements on the real property.

(6) (I) TO QUALIFY FOR THE CREDIT UNDER THIS SECTION, A HOMEOWNER SHALL SUBMIT AN APPLICATION FOR THE CREDIT TO THE DEPARTMENT AS PROVIDED IN THIS PARAGRAPH.

(II) THE APPLICATION SHALL:

1. BE MADE ON THE FORM THAT THE DEPARTMENT PROVIDES;

2. PROVIDE THE INFORMATION REQUIRED BY THE FORM; AND

3. INCLUDE A STATEMENT BY THE HOMEOWNER UNDER OATH THAT THE FACTS STATED IN THE APPLICATION ARE TRUE, CORRECT, AND COMPLETE.

(III) THE DEPARTMENT MAY NOT AUTHORIZE AND THE STATE, COUNTY, AND MUNICIPAL CORPORATION MAY NOT GRANT THE PROPERTY TAX CREDIT UNDER THIS SECTION FOR A DWELLING UNLESS AN APPLICATION IS FILED WITH THE DEPARTMENT AS REQUIRED UNDER THIS PARAGRAPH:

1. ~~ON OR BEFORE SEPTEMBER 1~~ WITHIN 180 DAYS FOLLOWING THE DATE THE DWELLING IS TRANSFERRED FOR CONSIDERATION TO NEW OWNERSHIP, FOR A DWELLING THAT IS TRANSFERRED FOR CONSIDERATION TO NEW OWNERSHIP AFTER DECEMBER 31, 2007; OR

2. ON OR BEFORE DECEMBER 31, 2012, FOR A DWELLING THAT WAS LAST TRANSFERRED FOR CONSIDERATION TO NEW OWNERSHIP ON OR BEFORE DECEMBER 31, 2007.

(IV) THE DEPARTMENT SHALL PROVIDE A HOMEOWNER THE OPTION TO SUBMIT THE APPLICATION REQUIRED UNDER THIS PARAGRAPH ELECTRONICALLY ON THE DEPARTMENT'S WEBSITE.

(L) THE COMPTROLLER SHALL:

(1) COOPERATE WITH THE DEPARTMENT IN ADOPTING A PROCEDURE TO AUDIT THE APPLICATION FORMS SUBMITTED UNDER THIS SECTION;

(2) NOTWITHSTANDING § 13-202 OF THE TAX - GENERAL ARTICLE, PROVIDE ADDITIONAL INFORMATION TO THE DEPARTMENT; AND

(3) ASSIST THE DEPARTMENT IN A POSTAUDIT OF EACH APPLICATION.

(M) (1) THE COUNTIES SHALL REIMBURSE THE DEPARTMENT FOR THE ADMINISTRATION OF THE APPLICATION PROCESS UNDER SUBSECTION (D)(6) OF THIS SECTION.

(2) FOR EACH FISCAL YEAR, THE REIMBURSEMENT REQUIRED UNDER THIS SUBSECTION SHALL BE PRORATED BASED ON THE RATIO OF THE NUMBER OF IMPROVED PROPERTIES THAT WOULD BE ELIGIBLE FOR THE CREDIT UNDER THIS SECTION LOCATED IN THE COUNTY COMPARED TO THE TOTAL NUMBER OF IMPROVED RESIDENTIAL PROPERTIES ELIGIBLE FOR THE CREDIT UNDER THIS SECTION STATEWIDE AS OF JULY 1 OF THAT FISCAL YEAR.

(3) THE DEPARTMENT SHALL BILL EACH COUNTY ACCORDING TO THE FORMULA UNDER PARAGRAPH (2) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That the State Department of Assessments and Taxation, in consultation with the Comptroller of the Treasury, shall initiate two studies of the implementation of the homestead property tax credit

eligibility application process as provided under this Act. The studies shall provide information on:

- (1) the application required by the Department;
- (2) the education and outreach methods used by the Department to notify affected taxpayers about the required application;
- (3) the aggregate number of applications received from taxpayers by county and the methods by which applications have been submitted;
- (4) the methods used by the Department to collect, maintain, and analyze data collected from applications;
- (5) the application audit and postaudit process adopted by the Department; and
- (6) any other pertinent issues related to the application process.

The first study shall be submitted, subject to § 2-1246 of the State Government Article, to the Senate Budget and Taxation Committee and the House Committee on Ways and Means on or before January 1, 2009, so that the committees may review the report during the 2009 legislative session. The second study shall be submitted, subject to § 2-1246 of the State Government Article, to the Senate Budget and Taxation Committee and the House Committee on Ways and Means on or before January 1, 2010, so that the committees may review the report during the 2010 legislative session.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 565

(House Bill 436)

AN ACT concerning

Homestead Tax Credit - Eligibility Verification - Application

FOR the purpose of requiring homeowners to file certain applications to the State Department of Assessments and Taxation to qualify for the homestead property tax credit; providing that the homestead property tax credit may not be granted unless an application is filed as required within certain time periods under certain circumstances; providing that the Department shall provide the option for an application to be submitted on the Department's website; requiring the Comptroller to cooperate with the Department in adopting a certain procedure, provide certain information to the Department, and assist the Department in a postaudit of each application; requiring the counties to reimburse the Department for the administration of the homestead property tax credit application process; providing for a certain reporting requirement to certain committees of the General Assembly; and generally relating to the homestead property tax credit.

BY repealing and reenacting, with amendments,
 Article – Tax – Property
 Section 9–105(d)(1)
 Annotated Code of Maryland
 (2001 Replacement Volume and 2006 Supplement)

BY adding to
 Article – Tax – Property
 Section 9–105(d)(6) ~~and (l)~~, (l), and (m)
 Annotated Code of Maryland
 (2001 Replacement Volume and 2006 Supplement)

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

Article – Tax – Property

9–105.

(d) (1) [The] **SUBJECT TO THE PROVISIONS OF PARAGRAPH (6) OF THIS SUBSECTION, THE** Department shall authorize and the State, a county, or a municipal corporation shall grant a property tax credit under this section for a taxable year unless during the previous taxable year:

(i) the dwelling was transferred for consideration to new ownership;

(ii) the value of the dwelling was increased due to a change in the zoning classification of the dwelling initiated or requested by the homeowner or anyone having an interest in the property;

(iii) the use of the dwelling was changed substantially; or

(iv) the assessment of the dwelling was clearly erroneous due to an error in calculation or measurement of improvements on the real property.

(6) (I) TO QUALIFY FOR THE CREDIT UNDER THIS SECTION, A HOMEOWNER SHALL SUBMIT AN APPLICATION FOR THE CREDIT TO THE DEPARTMENT AS PROVIDED IN THIS PARAGRAPH.

(II) THE APPLICATION SHALL:

1. BE MADE ON THE FORM THAT THE DEPARTMENT PROVIDES;

2. PROVIDE THE INFORMATION REQUIRED BY THE FORM; AND

3. INCLUDE A STATEMENT BY THE HOMEOWNER UNDER OATH THAT THE FACTS STATED IN THE APPLICATION ARE TRUE, CORRECT, AND COMPLETE.

(III) THE DEPARTMENT MAY NOT AUTHORIZE AND THE STATE, COUNTY, AND MUNICIPAL CORPORATION MAY NOT GRANT THE PROPERTY TAX CREDIT UNDER THIS SECTION FOR A DWELLING UNLESS AN APPLICATION IS FILED WITH THE DEPARTMENT AS REQUIRED UNDER THIS PARAGRAPH:

1. ~~ON OR BEFORE SEPTEMBER 1~~ WITHIN 90 180 DAYS FOLLOWING THE DATE THE DWELLING IS TRANSFERRED FOR CONSIDERATION TO NEW OWNERSHIP, FOR A DWELLING THAT IS TRANSFERRED FOR CONSIDERATION TO NEW OWNERSHIP AFTER DECEMBER 31, 2007; OR

2. ON OR BEFORE DECEMBER 31, 2012, FOR A DWELLING THAT WAS LAST TRANSFERRED FOR CONSIDERATION TO NEW OWNERSHIP ON OR BEFORE DECEMBER 31, 2007.

(IV) THE DEPARTMENT SHALL PROVIDE A HOMEOWNER THE OPTION TO SUBMIT THE APPLICATION REQUIRED UNDER THIS PARAGRAPH ELECTRONICALLY ON THE DEPARTMENT'S WEBSITE.

(L) THE COMPTROLLER SHALL:

(1) COOPERATE WITH THE DEPARTMENT IN ADOPTING A PROCEDURE TO AUDIT THE APPLICATION FORMS SUBMITTED UNDER THIS SECTION;

(2) NOTWITHSTANDING § 13-202 OF THE TAX - GENERAL ARTICLE, PROVIDE ADDITIONAL INFORMATION TO THE DEPARTMENT; AND

(3) ASSIST THE DEPARTMENT IN A POSTAUDIT OF EACH APPLICATION.

(M) (1) THE COUNTIES SHALL REIMBURSE THE DEPARTMENT FOR THE ADMINISTRATION OF THE APPLICATION PROCESS UNDER SUBSECTION (D)(6) OF THIS SECTION.

(2) FOR EACH FISCAL YEAR, THE REIMBURSEMENT REQUIRED UNDER THIS SUBSECTION SHALL BE PRORATED BASED ON THE RATIO OF THE NUMBER OF IMPROVED PROPERTIES THAT WOULD BE ELIGIBLE FOR THE CREDIT UNDER THIS SECTION LOCATED IN THE COUNTY COMPARED TO THE TOTAL NUMBER OF IMPROVED RESIDENTIAL PROPERTIES ELIGIBLE FOR THE CREDIT UNDER THIS SECTION STATEWIDE AS OF JULY 1 OF THAT FISCAL YEAR.

(3) THE DEPARTMENT SHALL BILL EACH COUNTY ACCORDING TO THE FORMULA UNDER PARAGRAPH (2) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That the State Department of Assessments and Taxation, in consultation with the Comptroller of the Treasury, shall initiate two studies of the implementation of the homestead property tax credit eligibility application process as provided under this Act. The studies shall provide information on:

- (1) the application required by the Department;
- (2) the education and outreach methods used by the Department to notify affected taxpayers about the required application;
- (3) the aggregate number of applications received from taxpayers by county and the methods by which applications have been submitted;
- (4) the methods used by the Department to collect, maintain, and analyze data collected from applications;
- (5) the application audit and postaudit process adopted by the Department; and

(6) any other pertinent issues related to the application process.

The first study shall be submitted, subject to § 2-1246 of the State Government Article, to the Senate Budget and Taxation Committee and the House Committee on Ways and Means on or before January 1, 2009, so that the committees may review the report during the 2009 legislative session. The second study shall be submitted, subject to § 2-1246 of the State Government Article, to the Senate Budget and Taxation Committee and the House Committee on Ways and Means on or before January 1, 2010, so that the committees may review the report during the 2010 legislative session.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 566

(Senate Bill 613)

AN ACT concerning

Maryland Heritage Structure Rehabilitation Tax Credit Program

FOR the purpose of requiring the Director of the Maryland Historical Trust to adopt certain regulations to establish certain criteria for plans of proposed rehabilitation for purposes of the Maryland heritage structure rehabilitation tax credits; ~~exempting certain commercial rehabilitations from a certain competitive award process; repealing~~ altering a certain limit on the award of initial credit certificates for projects in a single jurisdiction; altering certain preferences for the award of initial credit certificates to certain commercial rehabilitations; altering a certain limit on the amount of initial credit certificates that may be issued within a fiscal year; repealing a requirement that a certain percentage of tax credits be provided for certain nonprofit organizations; altering certain provisions relating to certain authority of the Director to charge certain fees to certify heritage structures and rehabilitations; ~~providing that certain related structures may qualify separately for tax credits under certain conditions;~~ altering a certain time period for completing commercial rehabilitations for purposes of the credit; ~~exempting certain commercial rehabilitations from a certain limit on the aggregate credit amounts for which the Director may issue initial credit amounts for any fiscal year;~~ ~~extending to certain fiscal years a requirement that the Governor include in the~~

~~budget bill a certain appropriation to a certain fund;~~ authorizing the Governor to include certain appropriations to a certain fund in the annual budget bill; defining a certain term; altering certain definitions; extending the termination date of the credit; providing for the application of this Act; and generally relating to the Maryland Heritage Structure Rehabilitation Tax Credit Program.

BY repealing and reenacting, with amendments,
 Article – State Finance and Procurement
 Section 5A–303
 Annotated Code of Maryland
 (2006 Replacement Volume and 2006 Supplement)

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

Article – State Finance and Procurement

5A–303.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Business entity” means:
- (i) a person conducting or operating a trade or business in the State; or
- (ii) an organization operating in Maryland that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.
- (3) “Certified heritage area” has the meaning stated in § 13–1101 of the Financial Institutions Article.
- (4) (i) “Certified heritage structure” means a structure that is located in the State and is:
1. listed in the National Register of Historic Places;
 2. designated as a historic property under local law and determined by the Director to be eligible for listing on the National Register of Historic Places;
 3. A. located in a historic district listed on the National Register of Historic Places or in a local historic district that the Director determines is eligible for listing on the National Register of Historic Places; and

B. certified by the Director as contributing to the significance of the district; or

4. located in a certified heritage area and certified by the Maryland Heritage Areas Authority as contributing to the significance of the certified heritage area.

(ii) "Certified heritage structure" does not include a structure that is owned by the State, a political subdivision of the State, or the federal government.

(5) "Certified rehabilitation" means a completed rehabilitation of a certified heritage structure that the Director certifies is a substantial rehabilitation in conformance with the rehabilitation standards of the United States Secretary of the Interior.

(6) "Commercial rehabilitation" means a rehabilitation of a structure other than a single-family, owner-occupied residence.

(7) "Director" means the Director of the Maryland Historical Trust.

(8) "Local historic district" means a district that the governing body of a county or municipal corporation, or the Mayor and City Council of Baltimore, has designated under local law as historic.

(9) "NATIONAL REGISTER STRUCTURE" MEANS A STRUCTURE THAT IS:

(I) LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES; OR

(II) LOCATED IN A HISTORIC DISTRICT LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES AND CERTIFIED BY THE DIRECTOR AS CONTRIBUTING TO THE SIGNIFICANCE OF THE DISTRICT.

[(9)] (10) "Qualified rehabilitation expenditure" means any amount that:

(i) is properly chargeable to a capital account;

(ii) is expended in the rehabilitation of a structure that by the end of the calendar year in which the certified rehabilitation is completed is a certified heritage structure;

(iii) is expended in compliance with a plan of proposed rehabilitation that has been approved by the Director; and

(iv) is not funded, financed, or otherwise reimbursed by any:

1. State or local grant;
2. grant made from the proceeds of tax-exempt bonds issued by the State, a political subdivision of the State, or an instrumentality of the State or of a political subdivision of the State;
3. State tax credit other than the tax credit under this section; or
4. other financial assistance from the State or a political subdivision of the State, other than a loan that must be repaid at an interest rate that is greater than the interest rate on general obligation bonds issued by the State at the most recent bond sale prior to the time the loan is made.

[(10)] (11) “Substantial rehabilitation” means rehabilitation of a structure for which the qualified rehabilitation expenditures, during the 24-month period selected by the individual or business entity ending with or within the taxable year, exceed:

- (i) for owner-occupied residential property, \$5,000; or
- (ii) for all other property, the greater of:
 1. the adjusted basis of the structure; or
 2. \$5,000.

(b) (1) The Director shall adopt regulations to:

- (i) establish procedures and standards for certifying heritage structures and rehabilitations under this section;
- (ii) for commercial rehabilitations, establish an application process for the award of initial credit certificates for Maryland heritage structure rehabilitation tax credits consistent with the requirements of this subsection; [and]

(III) FOR COMMERCIAL REHABILITATIONS, ESTABLISH CRITERIA, CONSISTENT WITH THE REQUIREMENTS OF THIS SUBSECTION, FOR EVALUATING, COMPARING, AND RATING PLANS OF PROPOSED REHABILITATION THAT HAVE BEEN DETERMINED BY THE DIRECTOR TO CONFORM WITH THE

REHABILITATION STANDARDS OF THE UNITED STATES SECRETARY OF THE INTERIOR; AND

~~[(iii)] (IV)~~ for commercial rehabilitations ~~WITH PROPOSED EXPENDITURES OF GREATER THAN \$500,000~~, establish a competitive award process for the award of initial credit certificates for Maryland heritage structure rehabilitation tax credits that:

1. [ensures tax credits are awarded in a manner that reflects the geographic diversity of the State] ~~FAVORS THE AWARD OF TAX CREDITS FOR REHABILITATION PROJECTS LOCATED IN JURISDICTIONS THAT HAVE BEEN HISTORICALLY UNDERREPRESENTED IN THE AWARD OF TAX CREDITS FOR COMMERCIAL REHABILITATIONS, BASED ON THE NUMBER OF NATIONAL REGISTER NATIONAL REGISTER STRUCTURES IN EACH JURISDICTION;~~

2. favors the award of tax credits for rehabilitation projects that are consistent with and promote current growth and development policies and programs of the State; and

3. ~~A.~~ favors the award of tax credits for structures that are listed in the National Register of Historic Places or are designated as historic properties under local law and determined by the Director to be eligible for listing in the National Register of Historic Places; or

B. favors the award of tax credits for structures that are contributing buildings with historic significance and are located in historic districts listed in the National Register of Historic Places] ~~ENSURES THAT INITIAL CREDIT CERTIFICATES ARE AWARDED FOR REHABILITATIONS FOR WHICH APPLICATIONS FOR APPROVAL FOR PLANS FOR PROPOSED REHABILITATION:~~

~~A. ARE RECEIVED AND RATED PRIOR TO THE DATE APPLICATIONS FOR APPROVAL OF PLANS FOR PROPOSED COMMERCIAL REHABILITATION ARE COMPETITIVELY RANKED; AND~~

~~B. UNDER CRITERIA ESTABLISHED FOR RATING COMMERCIAL REHABILITATIONS, ARE RATED AT LEAST AS HIGH AS COMMERCIAL REHABILITATIONS FOR WHICH INITIAL CREDIT CERTIFICATES HISTORICALLY HAVE BEEN AWARDED.~~

(2) The Director may not certify that a rehabilitation is a certified rehabilitation eligible for a tax credit provided under this section unless the individual or business entity seeking certification states under oath the amount of the individual's or business entity's qualified rehabilitation expenditures.

(3) [Between January 1 and March 31 each] **EACH** year, the Director may accept applications for approval of plans of proposed commercial rehabilitations and for the award of initial credit certificates for the fiscal year that begins July 1 of that year.

(4) For commercial rehabilitations, the Director may not accept an application for approval of plans of proposed rehabilitation if:

(i) any substantial part of the proposed rehabilitation work has begun; or

(ii) the applicant for a commercial rehabilitation has previously submitted three or more applications for commercial rehabilitations with total proposed rehabilitations exceeding \$500,000 in that year.

(5) ~~Not~~ **EXCEPT AS PROVIDED IN SUBSECTION (D)(3)(III) OF THIS SECTION, NOT** more than ~~50%~~ **75%** of the total credit amounts under initial credit certificates issued for any fiscal year may be issued for projects in a single county or Baltimore City.

(6) ~~(i) Except as provided in subparagraph (ii) of this paragraph, at least 10% of the total credit amounts under initial credit certificates issued for any fiscal year shall be issued for proposed rehabilitation projects submitted by organizations exempt from taxation under § 501(c)(3) of the Internal Revenue Code.~~

~~(ii) For any fiscal year, subparagraph (i) of this paragraph does not apply to the extent that the total credit amounts applied for by organizations exempt from taxation under § 501(c)(3) of the Internal Revenue Code for qualifying projects is less than 10% of the maximum authorized aggregate credit amounts for the fiscal year under subsection (d) of this section.~~

~~(7)~~ (i) The Director shall adopt regulations to charge a reasonable fee to certify heritage structures and rehabilitations under this section.

[(ii) A fee charged under this paragraph shall apply only to a certification for a commercial rehabilitation that is awarded an initial credit certificate under this section for a fiscal year that begins on or after July 1, 2005.]

[(iii) **(II)** The Director shall set the level of the fee so that the projected proceeds from the fee will cover the costs to the Trust of administering the credit under this section and the federal historic tax credit.

[(iv) **(III)** The fee charged [to any project] may not exceed 1% of the amount of the initial credit certificate issued for [the project] **A COMMERCIAL REHABILITATION PROJECT OR THE AMOUNT OF THE CREDIT FOR WHICH A**

SINGLE-FAMILY, OWNER-OCCUPIED REHABILITATION WOULD BE ELIGIBLE BASED ON THE GREATER OF THE ESTIMATED OR FINAL QUALIFIED REHABILITATION EXPENDITURES FOR THE REHABILITATION.

~~[(v)]~~ (IV) The proceeds from the fee shall be deposited in a special fund, to be used only for the purposes of paying the costs of administering the credit under this section and the federal historic tax credit.

~~[(vi)]~~ (V) Any unused balance of the fund at the end of each fiscal year shall be transferred to the Reserve Fund established under subsection (d) of this section and shall increase the amount of the initial credit certificates that the Trust may issue for the following fiscal year.

(c) (1) Except as otherwise provided in this section, for the taxable year in which a certified rehabilitation is completed, an individual or business entity may claim a tax credit in an amount equal to 20% of the individual's or business entity's qualified rehabilitation expenditures for the rehabilitation.

(2) (i) For any commercial rehabilitation, the State tax credit allowed under this section may not exceed the lesser of:

1. \$3,000,000; or
2. the maximum amount specified under the initial credit certificate issued for the rehabilitation.

(ii) For a rehabilitation other than a commercial rehabilitation, the State tax credit allowed under this section may not exceed \$50,000.

(iii) For the purposes of the limitation under subparagraph (i) of this paragraph, the following shall be treated as a single commercial rehabilitation:

1. the phased rehabilitation of the same structure or property;
2. the separate rehabilitation of different components of the same structure or property; or
3. ~~EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH,~~ the rehabilitation of multiple structures that are functionally related to serve an overall purpose.

~~(IV) SUBPARAGRAPH (III)3 OF THIS PARAGRAPH DOES NOT APPLY TO A COMMERCIAL REHABILITATION IF IT IS LOCATED IN A JURISDICTION THAT HAS BEEN HISTORICALLY UNDERREPRESENTED IN THE~~

~~AWARD OF TAX CREDITS FOR COMMERCIAL REHABILITATIONS, BASED ON THE NUMBER OF NATIONAL REGISTER STRUCTURES IN EACH JURISDICTION.~~

(3) (i) Subject to subparagraph (ii) of this paragraph, the initial credit certificate for a proposed commercial rehabilitation shall expire and the credit under this section may not be claimed if the commercial rehabilitation is not completed [by the end of the fiscal year following the fiscal year for which] **WITHIN 30 MONTHS AFTER** the initial credit certificate was issued.

(ii) For reasonable cause, the Director may postpone the expiration date for an initial credit certificate for a commercial rehabilitation.

(4) If the tax credit allowed under this section in any taxable year exceeds the total tax otherwise payable by the business entity or the individual for that taxable year, the individual or business entity may claim a refund in the amount of the excess.

(d) (1) In this subsection, "Reserve Fund" means the Heritage Structure Rehabilitation Tax Credit Reserve Fund established under paragraph (2) of this subsection.

(2) (i) There is a Heritage Structure Rehabilitation Tax Credit Reserve Fund that is a continuing, nonlapsing special fund that is not subject to § 7-302 of this article.

(ii) The money in the Fund shall be invested and reinvested by the Treasurer, and interest and earnings shall be credited to the General Fund.

(3) (i) Subject to the provisions of this subsection, the Director shall issue an initial credit certificate for each commercial rehabilitation for which a plan of proposed rehabilitation is approved.

(ii) An initial credit certificate issued under this subsection shall state the maximum amount of credit under this section for which the commercial rehabilitation may qualify.

(iii) 1. Except as otherwise provided in this subparagraph and in subsection [(b)(7)(vi)] ~~(B)(5)(v)~~ **(B)(6)(v)** of this section, for any fiscal year, the Director may not issue initial credit certificates for credit amounts in the aggregate totaling more than the amount appropriated to the Reserve Fund for that fiscal year in the State budget as approved by the General Assembly.

2. IF THE AGGREGATE CREDIT AMOUNTS UNDER INITIAL CREDIT CERTIFICATES ISSUED IN A FISCAL YEAR TOTAL LESS THAN THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR AS A

RESULT OF THE LIMITATION UNDER SUBSECTION (B)(5) OF THIS SECTION, ANY EXCESS AMOUNT MAY BE ISSUED UNDER INITIAL CREDIT CERTIFICATES FOR PROJECTS IN A COUNTY OR BALTIMORE CITY IN THE SAME FISCAL YEAR, WITHOUT REGARD TO THE LIMITATION UNDER SUBSECTION (B)(5) OF THIS SECTION.

~~2.~~ **3.** ~~IF~~ SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, IF the aggregate credit amounts under initial credit certificates issued in a fiscal year total less than the amount appropriated to the Reserve Fund for that fiscal year, any excess amount shall remain in the Reserve Fund and may be issued under initial credit certificates for the next fiscal year.

~~3.~~ **4.** For any fiscal year, if funds are transferred from the Reserve Fund under the authority of any provision of law other than paragraph (4) of this subsection, the maximum credit amounts in the aggregate for which the Director may issue initial credit certificates shall be reduced by the amount transferred.

~~4. THIS SUBPARAGRAPH DOES NOT APPLY TO INITIAL CREDIT CERTIFICATES AWARDED FOR COMMERCIAL REHABILITATIONS WITH EXPENDITURES OF \$500,000 OR LESS.~~

(iv) [1. For fiscal year 2006, the Governor shall include in the budget bill an appropriation to the Reserve Fund in an amount equal to at least \$20,000,000.

2.] For each of fiscal years [2007 and 2008] **2009 THROUGH 2012 AND 2010**, the Governor shall include in the budget bill an appropriation to the Reserve Fund ~~in an amount equal to at least \$30,000,000.~~

(v) Notwithstanding the provisions of § 7-213 of this article, the Governor may not reduce an appropriation to the Reserve Fund in the State budget as approved by the General Assembly.

(vi) The Director may not issue an initial credit certificate for any fiscal year after fiscal year [2008] ~~2012~~ **2010**.

(4) (i) Except as provided in this paragraph, money appropriated to the Reserve Fund shall remain in the Fund.

(ii) 1. Within 15 days after the end of each calendar quarter, the Trust shall notify the Comptroller as to each commercial rehabilitation completed and certified during the quarter:

A. the maximum credit amount stated in the initial credit certificate for the project; and

B. the final certified credit amount for the project.

2. On notification that a project has been certified, the Comptroller shall transfer an amount equal to the maximum credit amount stated in the initial credit certificate for the project from the Reserve Fund to the General Fund.

(iii) 1. On or before October 1 of each year, the Trust shall notify the Comptroller as to the maximum credit amount stated in the initial credit certificate for each commercial rehabilitation for which the initial credit certificate has expired under subsection (c)(3) of this section as of the end of the prior fiscal year.

2. On notification that the initial credit certificate for a project has expired under subsection (c)(3) of this section, the Comptroller shall transfer an amount equal to the maximum credit amount stated in the initial credit certificate for the project from the Reserve Fund to the General Fund.

(e) (1) In this subsection, "disqualifying work" means work that:

(i) is performed on a certified heritage structure for which a rehabilitation has been certified under this section; and

(ii) if performed as part of the rehabilitation certified under this section, would have made the rehabilitation ineligible for certification.

(2) The credit allowed under this section shall be recaptured as provided in paragraph (3) of this subsection if, during the taxable year in which a certified rehabilitation is completed or any of the 4 taxable years succeeding the taxable year in which the certified rehabilitation is completed, any disqualifying work is performed on the certified heritage structure for which the certified rehabilitation has been completed.

(3) (i) 1. If the disqualifying work is performed during the taxable year in which the certified rehabilitation was completed, 100% of the credit shall be recaptured.

2. If the disqualifying work is performed during the first full year succeeding the taxable year in which the certified rehabilitation was completed, 80% of the credit shall be recaptured.

3. If the disqualifying work is performed during the second full year succeeding the taxable year in which the certified rehabilitation was completed, 60% of the credit shall be recaptured.

4. If the disqualifying work is performed during the third full year succeeding the taxable year in which the certified rehabilitation was completed, 40% of the credit shall be recaptured.

5. If the disqualifying work is performed during the fourth full year succeeding the taxable year in which the certified rehabilitation was completed, 20% of the credit shall be recaptured.

(ii) The individual or business entity that claimed the tax credit shall pay the amount to be recaptured as determined under subparagraph (i) of this paragraph as taxes payable to the State for the taxable year in which the disqualifying work is performed.

(f) (1) The Comptroller may determine, under the process for return examination and audit under §§ 13-301 and 13-302 of the Tax – General Article:

(i) the amount of rehabilitation expenditures used in calculating the credit;

(ii) whether such expenditures are qualified rehabilitation expenditures under this section; and

(iii) whether the credit is allowable as claimed.

(2) The authority of the Comptroller to examine and audit a tax return does not limit the authority of the Director to determine whether a rehabilitation qualifies as a certified rehabilitation or whether a certificate of certified rehabilitation has been properly issued.

(3) The Comptroller may adopt regulations to require that an entity other than a corporation claim the tax credit on the tax return filed by that entity.

(4) (i) Except as otherwise provided in this paragraph, the credit under this section may be claimed for the year a certified rehabilitation is completed, only if the Director has, by the time the return is filed, issued a certificate of completion for the certified rehabilitation.

(ii) A taxpayer claiming the credit may amend a return for the year the certified rehabilitation was completed to account for a certificate issued subsequent to the filing of the original return.

(iii) An amended return shall be filed within the period allowed under the Tax – General Article for filing refund claims.

(iv) The provisions of this paragraph do not extend the period in which a certified rehabilitation must be completed to be eligible for a tax credit under this section.

(v) An amended return may account for an amended certification issued by the Director for a certified rehabilitation.

(g) A refund payable under subsection (c) of this section:

(1) operates to reduce the income tax revenue from corporations if the person entitled to the refund is a corporation subject to the income tax under Title 10 of the Tax – General Article;

(2) operates to reduce insurance premium tax revenues if the person entitled to the refund is subject to taxation under Title 6 of the Insurance Article; and

(3) operates to reduce the income tax revenue from individuals if the person entitled to the refund is:

(i) an individual subject to the income tax under Title 10 of the Tax – General Article; or

(ii) an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

(h) (1) On or before December 15 of each fiscal year, the Director shall report to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly, on:

(i) the initial credit certificates awarded for commercial rehabilitations under this section for that fiscal year; and

(ii) the tax credits awarded for certified rehabilitations completed in the preceding fiscal year.

(2) The report required under paragraph (1) of this subsection shall include for each initial credit certificate awarded for the fiscal year for a commercial rehabilitation:

(i) the name of the owner or developer of the commercial rehabilitation;

(ii) the name and address of the proposed or certified rehabilitation and the county where the project is located;

(iii) the dates of receipt and approval by the Director of all applications regarding the project, including applications:

1. for certification that a structure or property will qualify as a certified heritage structure; and

2. for approval of the proposed rehabilitation; and

(iv) the maximum amount of the credit stated in the initial credit certificate for the project and the estimated rehabilitation expenditures stated in the application for approval of the plan of proposed rehabilitation.

(3) The report required under paragraph (1) of this subsection shall include for each certified commercial rehabilitation completed during the preceding fiscal year:

(i) the name of the owner or developer of the commercial rehabilitation;

(ii) the name and address of the certified rehabilitation and the county where the project is located;

(iii) the dates of receipt and approval by the Director of all applications regarding the project; and

(iv) 1. the maximum amount of the credit stated in the initial credit certificate for the project and the estimated rehabilitation expenditures stated in the application for approval of the plan of proposed rehabilitation; and

2. the actual qualified rehabilitation expenditures and the final amount of the credit for which the project qualified.

(4) The report required under paragraph (1) of this subsection shall summarize for each category of certified rehabilitations:

(i) the total number of applicants for:

1. certification that a structure or property will qualify as a certified heritage structure;

2. approval of plans of proposed rehabilitations; or

3. certification of the completed rehabilitations;

(ii) the number of proposed projects for which plans of proposed rehabilitation were approved; and

(iii) the total estimated rehabilitation expenditures stated in approved applications for approval of plans of proposed rehabilitation and the total qualified rehabilitation expenditures for completed rehabilitations certified.

(5) The information required under paragraph (4) of this subsection shall be provided in the aggregate and separately for each of the following categories of certified rehabilitations:

(i) owner-occupied single family residential structures; and

(ii) commercial rehabilitations.

(i) (1) Subject to the provisions of this subsection, the provisions of this section and the tax credit authorized under this section shall terminate as of July 1, [2008] ~~2012~~ 2010.

(2) On and after July 1, [2008] ~~2012~~ 2010:

(i) the tax credit authorized under this section may be claimed for:

1. a rehabilitation project, other than a commercial rehabilitation, for which an application for approval of a plan of proposed rehabilitation was received by the Director on or before June 30, [2008] ~~2012~~ 2010; or

2. a commercial rehabilitation for which an initial credit certificate has been awarded under subsection (d) of this section; and

(ii) the Director shall continue to report to the Governor and the General Assembly as required under subsection (h) of this section for as long as any rehabilitation project for which the tax credit may be claimed remains incomplete.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007, and shall be applicable to all initial credit certificates issued on or after July 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 567

(House Bill 598)

AN ACT concerning

Maryland Heritage Structure Rehabilitation Tax Credit Program

FOR the purpose of requiring the Director of the Maryland Historical Trust to adopt certain regulations to establish certain criteria for plans of proposed rehabilitation for purposes of the Maryland heritage structure rehabilitation tax credits; altering a certain limit on the award of initial credit certificates for projects in a single jurisdiction; altering certain preferences for the award of initial credit certificates to certain commercial rehabilitations; altering a certain limit on the amount of initial credit certificates that may be issued within a fiscal year; repealing a requirement that a certain percentage of tax credits be provided for certain nonprofit organizations; altering certain provisions relating to certain authority of the Director to charge certain fees to certify heritage structures and rehabilitations; altering a certain time period for completing commercial rehabilitations for purposes of the credit; authorizing the Governor to include certain appropriations to a certain fund in the annual budget bill; defining a certain term; altering certain definitions; extending the termination date of the credit; providing for the application of this Act; and generally relating to the Maryland Heritage Structure Rehabilitation Tax Credit Program.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 5A–303
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – State Finance and Procurement

5A–303.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Business entity” means:

(i) a person conducting or operating a trade or business in the State; or

(ii) an organization operating in Maryland that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

(3) “Certified heritage area” has the meaning stated in § 13–1101 of the Financial Institutions Article.

(4) (i) “Certified heritage structure” means a structure that is located in the State and is:

1. listed in the National Register of Historic Places;

2. designated as a historic property under local law and determined by the Director to be eligible for listing on the National Register of Historic Places;

3. A. located in a historic district listed on the National Register of Historic Places or in a local historic district that the Director determines is eligible for listing on the National Register of Historic Places; and

B. certified by the Director as contributing to the significance of the district; or

4. located in a certified heritage area and certified by the Maryland Heritage Areas Authority as contributing to the significance of the certified heritage area.

(ii) “Certified heritage structure” does not include a structure that is owned by the State, a political subdivision of the State, or the federal government.

(5) “Certified rehabilitation” means a completed rehabilitation of a certified heritage structure that the Director certifies is a substantial rehabilitation in conformance with the rehabilitation standards of the United States Secretary of the Interior.

(6) “Commercial rehabilitation” means a rehabilitation of a structure other than a single–family, owner–occupied residence.

(7) “Director” means the Director of the Maryland Historical Trust.

(8) "Local historic district" means a district that the governing body of a county or municipal corporation, or the Mayor and City Council of Baltimore, has designated under local law as historic.

(9) "NATIONAL REGISTER STRUCTURE" MEANS A STRUCTURE THAT IS:

(I) LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES; OR

(II) LOCATED IN A HISTORIC DISTRICT LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES AND CERTIFIED BY THE DIRECTOR AS CONTRIBUTING TO THE SIGNIFICANCE OF THE DISTRICT.

[(9)] (10) "Qualified rehabilitation expenditure" means any amount that:

(i) is properly chargeable to a capital account;

(ii) is expended in the rehabilitation of a structure that by the end of the calendar year in which the certified rehabilitation is completed is a certified heritage structure;

(iii) is expended in compliance with a plan of proposed rehabilitation that has been approved by the Director; and

(iv) is not funded, financed, or otherwise reimbursed by any:

1. State or local grant;

2. grant made from the proceeds of tax-exempt bonds issued by the State, a political subdivision of the State, or an instrumentality of the State or of a political subdivision of the State;

3. State tax credit other than the tax credit under this section; or

4. other financial assistance from the State or a political subdivision of the State, other than a loan that must be repaid at an interest rate that is greater than the interest rate on general obligation bonds issued by the State at the most recent bond sale prior to the time the loan is made.

[(10)] (11) "Substantial rehabilitation" means rehabilitation of a structure for which the qualified rehabilitation expenditures, during the 24-month

period selected by the individual or business entity ending with or within the taxable year, exceed:

- (i) for owner-occupied residential property, \$5,000; or
- (ii) for all other property, the greater of:
 - 1. the adjusted basis of the structure; or
 - 2. \$5,000.

(b) (1) The Director shall adopt regulations to:

(i) establish procedures and standards for certifying heritage structures and rehabilitations under this section;

(ii) for commercial rehabilitations, establish an application process for the award of initial credit certificates for Maryland heritage structure rehabilitation tax credits consistent with the requirements of this subsection; [and]

(III) FOR COMMERCIAL REHABILITATIONS, ESTABLISH CRITERIA, CONSISTENT WITH THE REQUIREMENTS OF THIS SUBSECTION, FOR EVALUATING, COMPARING, AND RATING PLANS OF PROPOSED REHABILITATION THAT HAVE BEEN DETERMINED BY THE DIRECTOR TO CONFORM WITH THE REHABILITATION STANDARDS OF THE UNITED STATES SECRETARY OF THE INTERIOR; AND

~~[(iii)]~~ **(IV)** for commercial rehabilitations, establish a competitive award process for the award of initial credit certificates for Maryland heritage structure rehabilitation tax credits that:

1. [ensures tax credits are awarded in a manner that reflects the geographic diversity of the State] **FAVORS THE AWARD OF TAX CREDITS FOR REHABILITATION PROJECTS LOCATED IN JURISDICTIONS THAT HAVE BEEN HISTORICALLY UNDERREPRESENTED IN THE AWARD OF TAX CREDITS FOR COMMERCIAL REHABILITATIONS, BASED ON THE NUMBER OF NATIONAL REGISTER STRUCTURES IN EACH JURISDICTION;**

2. favors the award of tax credits for rehabilitation projects that are consistent with and promote current growth and development policies and programs of the State; and

3. A. favors the award of tax credits for structures that are listed in the National Register of Historic Places or are designated as historic

properties under local law and determined by the Director to be eligible for listing in the National Register of Historic Places; or

B. favors the award of tax credits for structures that are contributing buildings with historic significance and are located in historic districts listed in the National Register of Historic Places.

(2) The Director may not certify that a rehabilitation is a certified rehabilitation eligible for a tax credit provided under this section unless the individual or business entity seeking certification states under oath the amount of the individual's or business entity's qualified rehabilitation expenditures.

(3) ~~Between January 1 and March 31 each~~ **EACH** year, the Director may accept applications for approval of plans of proposed commercial rehabilitations and for the award of initial credit certificates for the fiscal year that begins July 1 of that year.

(4) For commercial rehabilitations, the Director may not accept an application for approval of plans of proposed rehabilitation if:

(i) any substantial part of the proposed rehabilitation work has begun; or

(ii) the applicant for a commercial rehabilitation has previously submitted three or more applications for commercial rehabilitations with total proposed rehabilitations exceeding \$500,000 in that year.

(5) ~~Not~~ **EXCEPT AS PROVIDED IN SUBSECTION (D)(3)(III) OF THIS SECTION, NOT** more than [50%] **75%** of the total credit amounts under initial credit certificates issued for any fiscal year may be issued for projects in a single county or Baltimore City.

(6) [(i) Except as provided in subparagraph (ii) of this paragraph, at least 10% of the total credit amounts under initial credit certificates issued for any fiscal year shall be issued for proposed rehabilitation projects submitted by organizations exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

(ii) For any fiscal year, subparagraph (i) of this paragraph does not apply to the extent that the total credit amounts applied for by organizations exempt from taxation under § 501(c)(3) of the Internal Revenue Code for qualifying projects is less than 10% of the maximum authorized aggregate credit amounts for the fiscal year under subsection (d) of this section.

(7)] (i) The Director shall adopt regulations to charge a reasonable fee to certify heritage structures and rehabilitations under this section.

[(ii)] A fee charged under this paragraph shall apply only to a certification for a commercial rehabilitation that is awarded an initial credit certificate under this section for a fiscal year that begins on or after July 1, 2005.]

[(iii)] (II) The Director shall set the level of the fee so that the projected proceeds from the fee will cover the costs to the Trust of administering the credit under this section and the federal historic tax credit.

[(iv)] (III) The fee charged [to any project] may not exceed 1% of the amount of the initial credit certificate issued for [the project] **A COMMERCIAL REHABILITATION PROJECT OR THE AMOUNT OF THE CREDIT FOR WHICH A SINGLE-FAMILY, OWNER-OCCUPIED REHABILITATION WOULD BE ELIGIBLE BASED ON THE GREATER OF THE ESTIMATED OR FINAL QUALIFIED REHABILITATION EXPENDITURES FOR THE REHABILITATION.**

[(v)] (IV) The proceeds from the fee shall be deposited in a special fund, to be used only for the purposes of paying the costs of administering the credit under this section and the federal historic tax credit.

[(vi)] (V) Any unused balance of the fund at the end of each fiscal year shall be transferred to the Reserve Fund established under subsection (d) of this section and shall increase the amount of the initial credit certificates that the Trust may issue for the following fiscal year.

(c) (1) Except as otherwise provided in this section, for the taxable year in which a certified rehabilitation is completed, an individual or business entity may claim a tax credit in an amount equal to 20% of the individual's or business entity's qualified rehabilitation expenditures for the rehabilitation.

(2) (i) For any commercial rehabilitation, the State tax credit allowed under this section may not exceed the lesser of:

1. \$3,000,000; or
2. the maximum amount specified under the initial credit certificate issued for the rehabilitation.

(ii) For a rehabilitation other than a commercial rehabilitation, the State tax credit allowed under this section may not exceed \$50,000.

(iii) For the purposes of the limitation under subparagraph (i) of this paragraph, the following shall be treated as a single commercial rehabilitation:

1. the phased rehabilitation of the same structure or property;
2. the separate rehabilitation of different components of the same structure or property; or
3. the rehabilitation of multiple structures that are functionally related to serve an overall purpose.

(3) (i) Subject to subparagraph (ii) of this paragraph, the initial credit certificate for a proposed commercial rehabilitation shall expire and the credit under this section may not be claimed if the commercial rehabilitation is not completed [by the end of the fiscal year following the fiscal year for which] **WITHIN 30 MONTHS AFTER** the initial credit certificate was issued.

(ii) For reasonable cause, the Director may postpone the expiration date for an initial credit certificate for a commercial rehabilitation.

(4) If the tax credit allowed under this section in any taxable year exceeds the total tax otherwise payable by the business entity or the individual for that taxable year, the individual or business entity may claim a refund in the amount of the excess.

(d) (1) In this subsection, "Reserve Fund" means the Heritage Structure Rehabilitation Tax Credit Reserve Fund established under paragraph (2) of this subsection.

(2) (i) There is a Heritage Structure Rehabilitation Tax Credit Reserve Fund that is a continuing, nonlapsing special fund that is not subject to § 7-302 of this article.

(ii) The money in the Fund shall be invested and reinvested by the Treasurer, and interest and earnings shall be credited to the General Fund.

(3) (i) Subject to the provisions of this subsection, the Director shall issue an initial credit certificate for each commercial rehabilitation for which a plan of proposed rehabilitation is approved.

(ii) An initial credit certificate issued under this subsection shall state the maximum amount of credit under this section for which the commercial rehabilitation may qualify.

(iii) 1. Except as otherwise provided in this subparagraph and in subsection [(b)(7)(vi)] **(B)(6)(v)** of this section, for any fiscal year, the Director may not issue initial credit certificates for credit amounts in the aggregate totaling

more than the amount appropriated to the Reserve Fund for that fiscal year in the State budget as approved by the General Assembly.

2. IF THE AGGREGATE CREDIT AMOUNTS UNDER INITIAL CREDIT CERTIFICATES ISSUED IN A FISCAL YEAR TOTAL LESS THAN THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR AS A RESULT OF THE LIMITATION UNDER SUBSECTION (B)(5) OF THIS SECTION, ANY EXCESS AMOUNT MAY BE ISSUED UNDER INITIAL CREDIT CERTIFICATES FOR PROJECTS IN A COUNTY OR BALTIMORE CITY IN THE SAME FISCAL YEAR, WITHOUT REGARD TO THE LIMITATION UNDER SUBSECTION (B)(5) OF THIS SECTION.

~~3.~~ **3. IF SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, IF** the aggregate credit amounts under initial credit certificates issued in a fiscal year total less than the amount appropriated to the Reserve Fund for that fiscal year, any excess amount shall remain in the Reserve Fund and may be issued under initial credit certificates for the next fiscal year.

~~4.~~ **4.** For any fiscal year, if funds are transferred from the Reserve Fund under the authority of any provision of law other than paragraph (4) of this subsection, the maximum credit amounts in the aggregate for which the Director may issue initial credit certificates shall be reduced by the amount transferred.

(iv) [1. For fiscal year 2006, the Governor shall include in the budget bill an appropriation to the Reserve Fund in an amount equal to at least \$20,000,000.

2.] For each of fiscal years [2007 and 2008] **2009 AND 2010**, the Governor shall include in the budget bill an appropriation to the Reserve Fund [in an amount equal to at least \$30,000,000].

(v) Notwithstanding the provisions of § 7-213 of this article, the Governor may not reduce an appropriation to the Reserve Fund in the State budget as approved by the General Assembly.

(vi) The Director may not issue an initial credit certificate for any fiscal year after fiscal year [2008] **2010**.

(4) (i) Except as provided in this paragraph, money appropriated to the Reserve Fund shall remain in the Fund.

(ii) 1. Within 15 days after the end of each calendar quarter, the Trust shall notify the Comptroller as to each commercial rehabilitation completed and certified during the quarter:

A. the maximum credit amount stated in the initial credit certificate for the project; and

B. the final certified credit amount for the project.

2. On notification that a project has been certified, the Comptroller shall transfer an amount equal to the maximum credit amount stated in the initial credit certificate for the project from the Reserve Fund to the General Fund.

(iii) 1. On or before October 1 of each year, the Trust shall notify the Comptroller as to the maximum credit amount stated in the initial credit certificate for each commercial rehabilitation for which the initial credit certificate has expired under subsection (c)(3) of this section as of the end of the prior fiscal year.

2. On notification that the initial credit certificate for a project has expired under subsection (c)(3) of this section, the Comptroller shall transfer an amount equal to the maximum credit amount stated in the initial credit certificate for the project from the Reserve Fund to the General Fund.

(e) (1) In this subsection, "disqualifying work" means work that:

(i) is performed on a certified heritage structure for which a rehabilitation has been certified under this section; and

(ii) if performed as part of the rehabilitation certified under this section, would have made the rehabilitation ineligible for certification.

(2) The credit allowed under this section shall be recaptured as provided in paragraph (3) of this subsection if, during the taxable year in which a certified rehabilitation is completed or any of the 4 taxable years succeeding the taxable year in which the certified rehabilitation is completed, any disqualifying work is performed on the certified heritage structure for which the certified rehabilitation has been completed.

(3) (i) 1. If the disqualifying work is performed during the taxable year in which the certified rehabilitation was completed, 100% of the credit shall be recaptured.

2. If the disqualifying work is performed during the first full year succeeding the taxable year in which the certified rehabilitation was completed, 80% of the credit shall be recaptured.

3. If the disqualifying work is performed during the second full year succeeding the taxable year in which the certified rehabilitation was completed, 60% of the credit shall be recaptured.

4. If the disqualifying work is performed during the third full year succeeding the taxable year in which the certified rehabilitation was completed, 40% of the credit shall be recaptured.

5. If the disqualifying work is performed during the fourth full year succeeding the taxable year in which the certified rehabilitation was completed, 20% of the credit shall be recaptured.

(ii) The individual or business entity that claimed the tax credit shall pay the amount to be recaptured as determined under subparagraph (i) of this paragraph as taxes payable to the State for the taxable year in which the disqualifying work is performed.

(f) (1) The Comptroller may determine, under the process for return examination and audit under §§ 13-301 and 13-302 of the Tax – General Article:

(i) the amount of rehabilitation expenditures used in calculating the credit;

(ii) whether such expenditures are qualified rehabilitation expenditures under this section; and

(iii) whether the credit is allowable as claimed.

(2) The authority of the Comptroller to examine and audit a tax return does not limit the authority of the Director to determine whether a rehabilitation qualifies as a certified rehabilitation or whether a certificate of certified rehabilitation has been properly issued.

(3) The Comptroller may adopt regulations to require that an entity other than a corporation claim the tax credit on the tax return filed by that entity.

(4) (i) Except as otherwise provided in this paragraph, the credit under this section may be claimed for the year a certified rehabilitation is completed, only if the Director has, by the time the return is filed, issued a certificate of completion for the certified rehabilitation.

(ii) A taxpayer claiming the credit may amend a return for the year the certified rehabilitation was completed to account for a certificate issued subsequent to the filing of the original return.

(iii) An amended return shall be filed within the period allowed under the Tax – General Article for filing refund claims.

(iv) The provisions of this paragraph do not extend the period in which a certified rehabilitation must be completed to be eligible for a tax credit under this section.

(v) An amended return may account for an amended certification issued by the Director for a certified rehabilitation.

(g) A refund payable under subsection (c) of this section:

(1) operates to reduce the income tax revenue from corporations if the person entitled to the refund is a corporation subject to the income tax under Title 10 of the Tax – General Article;

(2) operates to reduce insurance premium tax revenues if the person entitled to the refund is subject to taxation under Title 6 of the Insurance Article; and

(3) operates to reduce the income tax revenue from individuals if the person entitled to the refund is:

(i) an individual subject to the income tax under Title 10 of the Tax – General Article; or

(ii) an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

(h) (1) On or before December 15 of each fiscal year, the Director shall report to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly, on:

(i) the initial credit certificates awarded for commercial rehabilitations under this section for that fiscal year; and

(ii) the tax credits awarded for certified rehabilitations completed in the preceding fiscal year.

(2) The report required under paragraph (1) of this subsection shall include for each initial credit certificate awarded for the fiscal year for a commercial rehabilitation:

(i) the name of the owner or developer of the commercial rehabilitation;

(ii) the name and address of the proposed or certified rehabilitation and the county where the project is located;

(iii) the dates of receipt and approval by the Director of all applications regarding the project, including applications:

1. for certification that a structure or property will qualify as a certified heritage structure; and

2. for approval of the proposed rehabilitation; and

(iv) the maximum amount of the credit stated in the initial credit certificate for the project and the estimated rehabilitation expenditures stated in the application for approval of the plan of proposed rehabilitation.

(3) The report required under paragraph (1) of this subsection shall include for each certified commercial rehabilitation completed during the preceding fiscal year:

(i) the name of the owner or developer of the commercial rehabilitation;

(ii) the name and address of the certified rehabilitation and the county where the project is located;

(iii) the dates of receipt and approval by the Director of all applications regarding the project; and

(iv) 1. the maximum amount of the credit stated in the initial credit certificate for the project and the estimated rehabilitation expenditures stated in the application for approval of the plan of proposed rehabilitation; and

2. the actual qualified rehabilitation expenditures and the final amount of the credit for which the project qualified.

(4) The report required under paragraph (1) of this subsection shall summarize for each category of certified rehabilitations:

(i) the total number of applicants for:

1. certification that a structure or property will qualify as a certified heritage structure;

2. approval of plans of proposed rehabilitations; or

3. certification of the completed rehabilitations;

(ii) the number of proposed projects for which plans of proposed rehabilitation were approved; and

(iii) the total estimated rehabilitation expenditures stated in approved applications for approval of plans of proposed rehabilitation and the total qualified rehabilitation expenditures for completed rehabilitations certified.

(5) The information required under paragraph (4) of this subsection shall be provided in the aggregate and separately for each of the following categories of certified rehabilitations:

(i) owner-occupied single family residential structures; and

(ii) commercial rehabilitations.

(i) (1) Subject to the provisions of this subsection, the provisions of this section and the tax credit authorized under this section shall terminate as of July 1, [2008] **2010**.

(2) On and after July 1, [2008] **2010**:

(i) the tax credit authorized under this section may be claimed for:

1. a rehabilitation project, other than a commercial rehabilitation, for which an application for approval of a plan of proposed rehabilitation was received by the Director on or before June 30, [2008] **2010**; or

2. a commercial rehabilitation for which an initial credit certificate has been awarded under subsection (d) of this section; and

(ii) the Director shall continue to report to the Governor and the General Assembly as required under subsection (h) of this section for as long as any rehabilitation project for which the tax credit may be claimed remains incomplete.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007, and shall be applicable to all initial credit certificates issued on or after July 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 568

(Senate Bill 674)

AN ACT concerning

Maryland Energy Efficiency Standards Act of 2007

FOR the purpose of requiring the Public Service Commission to adopt certain regulations concerning the purchase of certain equipment by certain electric companies; authorizing the Commission to consider certain costs of certain electric companies as costs to be included in a certain life-cycle cost methodology for certain purposes; requiring the Maryland Energy Administration to adopt regulations by a certain date to establish certain minimum energy efficiency standards for certain new products sold in the State; prohibiting certain new products from being sold or offered for sale in the State on or after certain dates unless the products meet the minimum energy efficiency standards; authorizing the Administration to adopt regulations to exempt compliance with certain standards; requiring the Administration, in consultation with the Attorney General, to make certain determinations; requiring the Administration to apply for certain waivers of federal preemption under certain circumstances; authorizing the presiding officers of the General Assembly to direct certain committees to hold a hearing on a certain application by the Administration for a certain waiver of federal preemption; authorizing the Administration to adopt certain test methods under certain circumstances; prohibiting certain new products from being installed in the State on or after a certain date unless the products meet or exceed the minimum energy efficiency standards; authorizing the Administration to adopt regulations to establish increased energy efficiency standards for certain new products sold in the State under certain circumstances; ~~authorizing the Administration to adopt regulations to establish energy efficiency standards for certain other products under certain circumstances~~ requiring the Administration to consider and propose to the General Assembly every 2 years certain new or revised standards for certain products; defining certain terms; providing for the application of this Act; and generally relating to energy efficiency standards for certain products.

BY repealing and reenacting, without amendments,
 Article – Public Utility Companies
 Section 1-101(a)
 Annotated Code of Maryland
 (1998 Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
 Article – Public Utility Companies

Section 1-101(p) through (pp)
Annotated Code of Maryland
(1998 Volume and 2006 Supplement)

BY adding to

Article – Public Utility Companies
Section 1-101(p) and (oo) and 7-212
Annotated Code of Maryland
(1998 Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government
Section 9-2006
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

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

Article – Public Utility Companies

1-101.

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

(P) “LIQUID-IMMERSED DISTRIBUTION TRANSFORMER” MEANS A TRANSFORMER THAT:

- (1) HAS AN INPUT VOLTAGE OF 34,500 VOLTS OR LESS;**
- (2) HAS AN OUTPUT VOLTAGE OF 600 VOLTS OR LESS;**
- (3) USES OIL OR OTHER LIQUID AS A COOLANT; AND**
- (4) IS RATED FOR OPERATION AT A FREQUENCY OF 60 HERTZ.**

[(p)] (Q) “Marketer” means a person who purchases and takes title to electricity or gas as an intermediary for sale to a customer.

[(q)] (R) “Municipal electric utility” means a municipal corporation, or a division of a municipal corporation, that is in the business of transmitting or distributing electricity for purposes other than end use by the municipal corporation.

[(r)] (S) “On-site generated electricity” means electricity that:

(1) is not transmitted or distributed over an electric company's transmission or distribution system; or

(2) is generated at a facility owned or operated by an electric customer or operated by a designee of the owner who, with the other tenants of the facility, consumes at least 80% of the power generated by the facility each year.

[(s)] (T) "Own" includes own, operate, lease to or from, manage, or control.

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

[(u)] (V) "Plant" includes all material, equipment, and property owned by a public service company and used or to be used for or in connection with a public utility service.

[(v)] (W) "Proceeding" includes an action, complaint, hearing, investigation, trial, appeal, order, or similar matter pending before, made, or conducted by an official body.

[(w)] (X) "Public service company" means a common carrier company, electric company, gas company, sewage disposal company, telegraph company, telephone company, water company, or any combination of public service companies.

[(x)] (Y) (1) "Railroad" means a common carrier by rail powered in any manner.

(2) "Railroad" includes material, equipment, and property used on or in connection with a railroad.

[(y)] (Z) (1) "Rate" means a toll, fare, tariff, fee, price, or other charge, or a combination of these items, by a public service company for public utility service.

(2) "Rate" includes a schedule, regulation, classification, or practice of a public service company that affects:

(i) the amount of a charge; or

(ii) the nature and value of the service rendered for the charge.

[(z)] (AA) (1) "Record" means the original or a copy of any documentary material.

(2) "Record" includes an account, book, chart, contract, document, file, map, paper, profile, report, or schedule.

[(aa)] **(BB)** "Renewable energy resource" means one or more of the following sources of energy, energy technology, or related credit:

- (1) solar;
- (2) wind;
- (3) tidal;
- (4) geothermal;
- (5) biomass, including waste-to-energy and landfill gas recovery;
- (6) hydroelectric facilities;
- (7) digester gas; and
- (8) a manufacturing or commercial waste-to-energy system or facility.

[(bb)] **(CC)** (1) "Retail electric customer" means a purchaser of electricity for end use in the State.

(2) "Retail electric customer" excludes:

(i) an occupant of a building in which the owner/operator or lessee/operator manages the internal distribution system serving the building and supplies electricity and electricity supply services solely to occupants of the building for use by the occupants; and

(ii) a person who generates on-site generated electricity, to the extent the on-site generated electricity is consumed by that person or its tenants.

[(cc)] **(DD)** (1) "Retail gas customer" means a purchaser of gas for end use in the State.

(2) "Retail gas customer" excludes an occupant of a building in which the owner/operator or lessee/operator manages the internal distribution system serving the building and supplies gas and gas supply services solely to occupants of the building for use by the occupants.

[(dd)] **(EE)** "Sewage disposal company" means a privately-owned public service company that owns or maintains facilities for the disposal of sewage.

[(ee)] (FF) “Small rural electric cooperative” means an electric company that:

- (1) serves only the consumers that exclusively own and control the company;
- (2) conducts its business on a not-for-profit basis; and
- (3) supplies electricity to less than 1,000 electric meters in the State.

[(ff)] (GG) “State” means:

- (1) a state, possession, territory, or commonwealth of the United States; or
- (2) the District of Columbia.

[(gg)] (HH) “Street railroad” means a railroad:

- (1) that is not part of a trunk line railway system; and
- (2) whose routes are mainly within Baltimore City or a municipal corporation with a population of at least 2,000.

[(hh)] (II) (1) “Taxicab” means a motor vehicle for hire that:

- (i) is designed to carry seven or fewer individuals, including the driver; and
- (ii) is used to accept or solicit passengers for transportation between points along public streets as the passengers request.

(2) “Taxicab” does not include a motor vehicle operated on a regular schedule and between fixed points with the approval of the Commission as defined in Title 11 of the Transportation Article.

[(ii)] (JJ) “Telegraph company” means a public service company that:

- (1) owns telegraph lines to receive, transmit, or communicate telegraphic communications; or
- (2) leases, licenses, or sells telegraphic communications.

[(jj)] (KK) "Telegraph lines" means the material, equipment, and property owned by a telegraph company and used or to be used for or in connection with telegraph service.

[(kk)] (LL) (1) "Telephone company" means a public service company that:

(i) owns telephone lines to receive, transmit, or communicate telephone or teletype communications; or

(ii) leases, licenses, or sells telephone or teletype communications.

(2) "Telephone company" does not include a cellular telephone company.

[(ll)] (MM) "Telephone lines" means the material, equipment, and property owned by a telephone company and used or to be used for or in connection with telephone service.

[(mm)] (NN) "Toll bridge" means a bridge operated by a person authorized by the Commission to charge and collect toll from traffic using the bridge.

(OO) "TRANSFORMER" MEANS A DEVICE CONSISTING OF TWO OR MORE COILS OF INSULATED WIRE THAT IS DESIGNED TO TRANSFER ALTERNATING CURRENT BY ELECTROMAGNETIC INDUCTION FROM ONE COIL TO ANOTHER TO CHANGE THE ORIGINAL VOLTAGE OR CURRENT VALUE.

[(nn)] (PP) (1) "Transportation of persons for hire" means the transportation of persons by:

(i) regularly scheduled operations;

(ii) charter or contract operations; or

(iii) tour or sightseeing operations.

(2) "Transportation of persons for hire" includes the transportation of persons, whether on the cooperative plan, carried by a corporation, group, or association engaged in the transportation of its stockholders, shareholders, or members.

[(oo)] (QQ) "Water company" means a public service company that owns a water plant and sells or distributes water for gain.

[(pp)] (RR) "Water plant" means the material, equipment, and property owned by a water company and used or to be used for or in connection with water service.

7-212.

(A) ON OR BEFORE JULY 1, 2008, THE COMMISSION SHALL ADOPT REGULATIONS GOVERNING THE PURCHASE OF LIQUID-IMMERSED DISTRIBUTION TRANSFORMERS BY ELECTRIC COMPANIES.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE REGULATIONS SHALL BE CONSISTENT WITH THE REGULATIONS ADOPTED BY THE U.S. DEPARTMENT OF ENERGY.

(C) (1) THE SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE REGULATIONS SHALL ENSURE THAT, SUBJECT TO AVAILABILITY, PURCHASES OF LIQUID-IMMERSED DISTRIBUTION TRANSFORMERS BY ELECTRIC COMPANIES OCCURRING ON OR AFTER JANUARY 1, 2009, ARE BASED ON THE LIFE-CYCLE COST METHODOLOGY CONTAINED IN SECTION 2 OF STANDARD TP-1-2002 PUBLISHED BY THE NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION.

(2) THE REGULATIONS ADOPTED UNDER THIS SECTION MAY NOT APPLY TO AN ELECTRIC COOPERATIVE THAT SUPPLIES ELECTRICITY TO LESS THAN 60,000 ELECTRIC METERS IN THE STATE.

~~(C)~~ (D) FOR ELECTRIC COMPANIES THAT MAINTAIN INVENTORIES OF DISTRIBUTION TRANSFORMERS IN THE STATE FOR INSTALLATION IN ADJACENT SERVICE AREAS OUTSIDE OF THE STATE, THE COMMISSION MAY ALSO CONSIDER ADDITIONAL INVENTORY MANAGEMENT COSTS AS COSTS FOR INCLUSION WITHIN THE LIFE-CYCLE COST METHODOLOGY TO BE USED BY ELECTRIC COMPANIES FOR PURPOSES OF THIS SECTION.

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9-2006.

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

(2) "BALLAST" MEANS A DEVICE USED WITH AN ELECTRIC DISCHARGE LAMP TO OBTAIN NECESSARY CIRCUIT CONDITIONS, INCLUDING VOLTAGE, CURRENT, AND WAVEFORM, FOR STARTING AND OPERATING THE LAMP.

(3) “BOTTLE-TYPE WATER DISPENSER” MEANS A WATER DISPENSER THAT USES A BOTTLE OR RESERVOIR AS THE SOURCE OF POTABLE WATER.

[(2)] (4) “Ceiling fan” means a nonportable device that is suspended from a ceiling for the purpose of circulating air via the rotation of fan blades.

[(3)] (5) “Ceiling fan light kit” means equipment designed to provide light from a ceiling fan, which can be:

(i) integral, such that the equipment is hardwired to the ceiling fan; or

(ii) attachable, such that at the time of sale the equipment is not physically attached to the ceiling fan but may be included inside the ceiling fan package at the time of sale or sold separately for subsequent attachment to the fan.

[(4)] (6) “Commercial clothes washer” means a soft mount front-loading or soft mount top-loading clothes washer that is designed for use in:

(i) applications where the occupants of more than one household will be using it, including multifamily housing common areas and coin laundries; or

(ii) other commercial applications, if the clothes container compartment is not greater than:

1. 3.5 cubic feet for horizontal-axis clothes washers; or
2. 4.0 cubic feet for vertical-axis clothes washers.

(7) (I) “COMMERCIAL HOT FOOD HOLDING CABINET” MEANS A HEATED, FULLY ENCLOSED COMPARTMENT WITH ONE OR MORE SOLID OR GLASS DOORS THAT IS DESIGNED TO MAINTAIN THE TEMPERATURE OF HOT FOOD THAT HAS BEEN COOKED IN A SEPARATE APPLIANCE.

(II) “COMMERCIAL HOT FOOD HOLDING CABINET” DOES NOT INCLUDE A HEATED GLASS MERCHANDIZING CABINET, DRAWER WARMER, OR COOK-AND-HOLD APPLIANCE.

[(5)] (8) (i) “Commercial refrigeration cabinet” means a refrigerator, freezer, or refrigerator-freezer designed for use by commercial or institutional facilities for the purpose of storing food products, ice, or other perishable

items at specified temperatures and that may be configured with either solid or transparent doors as a:

1. reach-in cabinet;
2. pass-through cabinet;
3. roll-in cabinet; or
4. roll-through cabinet.

(ii) "Commercial refrigeration cabinet" does not include:

1. a product with 85 cubic feet or more of internal volume;
2. a walk-in refrigerator or walk-in freezer;
3. a consumer product regulated under the National Appliance Energy Conservation Act of 1987 (Public Law 100-12); or
4. any refrigerator, freezer, or refrigerator-freezer designed and marketed exclusively for medical, scientific, or research purposes.

~~(9) (i) "COMPACT AUDIO PRODUCT", ALSO KNOWN AS A MINI, MID, MICRO, OR SHELF AUDIO SYSTEM, MEANS AN INTEGRATED AUDIO SYSTEM ENCASED IN A SINGLE HOUSING THAT INCLUDES AN AMPLIFIER AND RADIO TUNER AND ATTACHED OR SEPARABLE SPEAKERS, THAT CAN REPRODUCE AUDIO FROM ONE OR MORE OF THE FOLLOWING MEDIA:~~

- ~~1. MAGNETIC TAPE;~~
- ~~2. COMPACT DISC (CD);~~
- ~~3. DIGITAL VERSATILE DISC (DVD); OR~~
- ~~4. FLASH MEMORY.~~

~~(ii) "COMPACT AUDIO PRODUCT" DOES NOT INCLUDE A PRODUCT THAT:~~

- ~~1. CAN BE INDEPENDENTLY POWERED BY INTERNAL BATTERIES;~~

~~2. HAS A POWERED EXTERNAL SATELLITE ANTENNA;~~
OR

~~3. CAN PROVIDE A VIDEO OUTPUT SIGNAL.~~

~~(10) "DIGITAL VERSATILE DISC" OR "DVD" MEANS A LASER ENCODED PLASTIC MEDIUM CAPABLE OF STORING A LARGE AMOUNT OF DIGITAL AUDIO, VIDEO, AND COMPUTER DATA.~~

~~(11) (i) "DIGITAL VERSATILE DISC PLAYER" AND "DIGITAL VERSATILE DISC RECORDER" MEAN COMMERCIALY AVAILABLE ELECTRONIC PRODUCTS ENCASED IN A SINGLE HOUSING THAT INCLUDE AN INTEGRAL POWER SUPPLY AND FOR WHICH THE SOLE PURPOSE IS THE DECODING AND PRODUCTION OR RECORDING OF DIGITIZED VIDEO SIGNAL ON A DVD.~~

~~(ii) "DIGITAL VERSATILE DISC RECORDER" DOES NOT INCLUDE A MODEL THAT HAS AN ELECTRONIC PROGRAMMING GUIDE FUNCTION THAT PROVIDES AN INTERACTIVE, ON-SCREEN MENU OF TELEVISION LISTINGS, AND THAT DOWNLOADS PROGRAM INFORMATION FROM THE VERTICAL BLANKING INTERVAL OF A REGULAR TELEVISION SIGNAL.~~

~~(12)~~ (9) (i) "ELECTRICITY RATIO" IS THE RATIO OF FURNACE ELECTRICITY USE TO TOTAL FURNACE ENERGY USE.

(ii) "ELECTRICITY RATIO" IS EQUAL TO A FRACTION:

1. THE NUMERATOR OF WHICH IS 3.412 TIMES THE AVERAGE ANNUAL AUXILIARY ELECTRICAL CONSUMPTION AS DEFINED IN APPENDIX N TO SUBPART B OF PART 430 OF TITLE 10 OF THE CODE OF FEDERAL REGULATIONS; AND

2. THE DENOMINATOR OF WHICH IS THE SUM OF:

A. 1,000 TIMES THE AVERAGE ANNUAL FUEL ENERGY CONSUMPTION AS DEFINED IN APPENDIX N TO SUBPART B OF PART 430 OF TITLE 10 OF THE CODE OF FEDERAL REGULATIONS, EXPRESSED IN MILLIONS OF B.T.U. PER YEAR; AND

B. THE AMOUNT CALCULATED FOR THE NUMERATOR.

~~(13)~~ (10) "HIGH-INTENSITY DISCHARGE LAMP" MEANS A LAMP IN WHICH:

(I) LIGHT IS PRODUCED BY THE PASSAGE OF AN ELECTRIC CURRENT THROUGH A VAPOR OR GAS;

(II) THE LIGHT-PRODUCING ARC IS STABILIZED BY BULB WALL TEMPERATURE; AND

(III) THE ARC TUBE HAS A BULB WALL LOADING IN EXCESS OF 3 WATTS PER SQUARE CENTIMETER.

[(6)] ~~(14)~~ (11) “Illuminated exit sign” means an internally illuminated sign that is designed to be permanently fixed in place to identify an exit and the background of which is not transparent.

[(7)] ~~(15)~~ (12) “Large packaged air-conditioning equipment” means packaged air-conditioning equipment with at least 20 tons but not more than 80 tons of cooling capacity.

[(8)] ~~(16)~~ (13) (i) “Low-voltage dry-type distribution transformer” means a distribution transformer that:

1. has an input voltage of 600 volts or less;
2. is air-cooled; and
3. does not use oil as a coolant.

(ii) “Low-voltage dry-type distribution transformer” does not include any of the following transformers:

1. an autotransformer in which the primary and secondary windings are not electronically isolated and at least a portion of the secondary voltage is derived from the primary winding;
2. a drive transformer designed only to provide power to operate an electronic variable speed motor drive;
3. a grounding transformer designed only to provide a system ground reference point;
4. a harmonic transformer designed to supply a load with a higher than normal harmonic current level and that has a k-rating of k-4 or greater;

5. an impedance transformer that has a specified impedance of less than 4% or greater than 8%;
6. a machine tool transformer designed only to provide power to machine tool equipment;
7. a rectifier transformer designed to provide power only to a rectifier circuit and that has a nameplate rating for both the fundamental frequency power rating and the RMS power rating;
8. a regulating transformer with automatic tap changers;
9. a sealed and nonventilating transformer designed to prevent airflow through the transformer;
10. a testing transformer designed only as part of, or to supply power to, electrical test equipment;
11. a UPS transformer designed only as an integral part of an uninterruptible power system; or
12. a welding transformer designed only to provide power to welding equipment.

~~(17)~~ **(14)** “METAL HALIDE LAMP” MEANS A HIGH INTENSITY DISCHARGE LAMP IN WHICH THE MAJOR PORTION OF THE LIGHT IS PRODUCED BY RADIATION OF METAL HALIDES AND THEIR PRODUCTS OF DISSOCIATION, AND POSSIBLY IN COMBINATION WITH METALLIC VAPORS.

~~(18)~~ **(15)** “METAL HALIDE LAMP FIXTURE” MEANS A LIGHT FIXTURE DESIGNED TO BE OPERATED WITH A METAL HALIDE LAMP AND A BALLAST FOR A METAL HALIDE LAMP.

~~[(9)]~~ ~~(19)~~ **(16)** “Packaged air-conditioning equipment” means air-conditioning equipment that is built as a package and shipped as a whole to end-user sites.

~~[(10)]~~ ~~(20)~~ **(17)** “Pass-through cabinet” means a commercial refrigerator or commercial freezer with hinged or sliding doors on both the front and rear of the refrigerator or freezer.

~~(21)~~ **(18)** “PROBE-START METAL HALIDE BALLAST” MEANS A BALLAST USED TO OPERATE METAL HALIDE LAMPS, THAT:

(I) DOES NOT CONTAIN AN IGNITER; AND

(II) STARTS LAMPS BY USING A THIRD STARTING ELECTRODE PROBE IN THE ARC TUBE.

[(11)] ~~(22)~~ **(19)** (i) “Reach-in cabinet” means a commercial refrigerator, commercial freezer, or commercial refrigerator-freezer with hinged or sliding doors or lids.

(ii) “Reach-in cabinet” does not include a roll-in or roll-through cabinet or a pass-through cabinet.

~~(23)~~ **(20)** **“RESIDENTIAL FURNACE” MEANS A SELF-CONTAINED SPACE HEATER THAT:**

(I) IS DESIGNED TO SUPPLY HEATED AIR THROUGH DUCTS OF MORE THAN 10 INCHES IN LENGTH;

(II) USES SINGLE-PHASE ELECTRIC CURRENT OR DC CURRENT IN CONJUNCTION WITH NATURAL GAS OR PROPANE; AND

(III) 1. IS DESIGNED TO BE THE PRINCIPAL HEATING SOURCE FOR THE LIVING SPACE OF ONE OR MORE RESIDENCES;

2. IS NOT CONTAINED WITHIN THE SAME CABINET WITH A CENTRAL AIR CONDITIONER WHOSE RATED COOLING CAPACITY IS ABOVE 65,000 B.T.U. PER HOUR; AND

3. HAS A HEAT INPUT RATE OF LESS THAN 225,000 B.T.U. PER HOUR.

[(12)] ~~(24)~~ **(21)** “Retailer” means a person engaged in the business of making retail sales within the State.

[(13)] ~~(25)~~ **(22)** “Roll-in cabinet” means a commercial refrigerator or commercial freezer with hinged or sliding doors that allow wheeled racks of product to be rolled into the refrigerator or freezer.

[(14)] ~~(26)~~ **(23)** “Roll-through cabinet” means a commercial refrigerator or commercial freezer with hinged or sliding doors that allow wheeled racks of product to be rolled through the refrigerator or freezer.

~~(27)~~ **(24)** **“SINGLE-VOLTAGE EXTERNAL AC TO DC POWER SUPPLY” MEANS A DEVICE THAT:**

(I) IS DESIGNED TO CONVERT LINE VOLTAGE AC INPUT INTO LOWER VOLTAGE DC OUTPUT;

(II) IS ABLE TO CONVERT TO ONLY ONE DC OUTPUT VOLTAGE AT A TIME;

(III) IS SOLD WITH, OR INTENDED TO BE USED WITH, A SEPARATE END-USE PRODUCT THAT CONSTITUTES THE PRIMARY POWER LOAD;

(IV) IS CONTAINED WITHIN A SEPARATE PHYSICAL ENCLOSURE FROM THE END-USE PRODUCT;

(V) IS CONNECTED TO THE END-USE PRODUCT THROUGH A REMOVABLE OR HARD-WIRED MALE/FEMALE ELECTRICAL CONNECTION, CABLE, CORD, OR OTHER WIRING;

(VI) DOES NOT HAVE A BATTERY OR BATTERY PACK, REMOVABLE OR OTHERWISE, THAT PHYSICALLY ATTACH DIRECTLY TO THE POWER SUPPLY UNIT;

(VII) DOES NOT HAVE A BATTERY CHEMISTRY OR TYPE SELECTOR SWITCH AND INDICATOR LIGHT OR DOES NOT HAVE A BATTERY CHEMISTRY OR TYPE SELECTOR SWITCH AND A STATE-OF-CHARGE METER; AND

(VIII) HAS A NAMEPLATE OUTPUT POWER NOT EXCEEDING 250 WATTS.

~~(28)~~ (25) "STATE-REGULATED INCANDESCENT REFLECTOR LAMP" MEANS A LAMP, NOT COLORED OR DESIGNED FOR ROUGH OR VIBRATION SERVICE APPLICATIONS:

(I) WITH AN INNER REFLECTIVE COATING ON THE OUTER BULB TO DIRECT THE LIGHT;

(II) WITH AN E26 MEDIUM SCREW BASE;

(III) WITH A RATED VOLTAGE OR VOLTAGE RANGE THAT LIES AT LEAST PARTIALLY WITHIN 115 TO 130 VOLTS; AND

(IV) THAT IS:

1. A BLOWN PAR (BPAR);

2. A BULGED REFLECTOR (BR);

3. AN ELLIPTICAL REFLECTOR (ER) OR SIMILAR BULB SHAPE WITH A DIAMETER EQUAL TO OR GREATER THAN 2.25 INCHES; OR

4. A REFLECTOR (R), PARABOLIC ALUMINIZED REFLECTOR (PAR), OR SIMILAR BULB SHAPE WITH A DIAMETER OF 2.25 TO 2.75 INCHES, INCLUSIVE.

[(15)] ~~(29)~~ **(26)** “Torchiere lighting fixture” means a portable electric lighting fixture with a reflector bowl giving light directed upward so as to give indirect illumination.

[(16)] ~~(30)~~ **(27)** “Traffic signal” means a device consisting of a set of signal lights operating in sequence and placed at intersections to regulate traffic.

[(17)] ~~(31)~~ **(28)** “Traffic signal module” means a standard 8-inch (200mm) or 12-inch (300mm) round traffic signal indication that:

(i) consists of a light source, lens, full-color ball, and all parts necessary for operation; and

(ii) communicates movement messages to drivers through red, amber, and green colors.

[(18)] ~~(32)~~ **(29)** “Transformer” means a device consisting essentially of two or more coils of insulated wire that transfers alternating current by electromagnetic induction from one coil to another in order to change the original voltage or current value.

[(19)] ~~(33)~~ **(30)** (i) “Unit heater” means a self-contained fan-type heater that:

1. is designed to be installed within the heated space;
and

2. includes an apparatus or appliance to supply heat and a fan for circulating air over a heat exchange surface, all enclosed in a common casing.

(ii) “Unit heater” does not include a “warm air furnace” as defined under the federal Energy Policy Act of 1992.

~~(34)~~ **(31)** (I) "WALK-IN REFRIGERATOR AND FREEZER" MEANS A REFRIGERATED SPACE THAT:

1. CAN BE WALKED INTO;
2. HAS A TOTAL CHILLED AND FROZEN STORAGE AREA OF LESS THAN 3,000 SQUARE FEET;
3. OPERATES AT CHILLED (ABOVE 32 DEGREES FAHRENHEIT) OR FROZEN (AT OR BELOW 32 DEGREES FAHRENHEIT) TEMPERATURE; AND
4. IS CONNECTED TO A SELF-CONTAINED OR REMOTE CONDENSING UNIT.

(II) "WALK-IN REFRIGERATOR AND FREEZER" DOES NOT INCLUDE:

1. A PRODUCT DESIGNED AND MARKETED EXCLUSIVELY FOR MEDICAL, SCIENTIFIC, OR RESEARCH PURPOSES; AND
2. A REFRIGERATED WAREHOUSE.

~~(35)~~ **(32)** "WATER DISPENSER" MEANS A FACTORY-MADE ASSEMBLY THAT:

- (I) MECHANICALLY COOLS AND HEATS POTABLE WATER;
AND
- (II) DISPENSES THE COOLED OR HEATED WATER BY INTEGRAL OR REMOTE MEANS.

[(20)] ~~(36)~~ **(33)** "Widely available in Maryland" means a conforming product available in the State from three or more manufacturers.

(b) (1) This section applies to the testing, certification, and enforcement of efficiency standards for the following types of new products sold, offered for sale, or installed in the State:

- (i) torchiere lighting fixtures;
- (ii) unit heaters;
- (iii) low-voltage dry-type distribution transformers;

- (iv) ceiling fan light kits;
- (v) red and green traffic signal modules;
- (vi) illuminated exit signs;
- (vii) commercial refrigeration cabinets;
- (viii) large packaged air-conditioning equipment; [and]
- (ix) commercial clothes washers;
- (X) BOTTLE-TYPE WATER DISPENSERS;
- (XI) COMMERCIAL HOT FOOD HOLDING CABINETS;
- ~~(XII) COMPACT AUDIO PRODUCTS;~~
- ~~(XIII) DIGITAL VERSATILE DISC PLAYERS AND DIGITAL VERSATILE DISC RECORDERS;~~
- ~~(XIV)~~ (XII) METAL HALIDE LAMP FIXTURES;
- ~~(XV)~~ (XIII) RESIDENTIAL FURNACES;
- ~~(XVI)~~ (XIV) SINGLE-VOLTAGE EXTERNAL AC TO DC POWER SUPPLIES;
- ~~(XVII)~~ (XV) STATE-REGULATED INCANDESCENT REFLECTOR LAMPS; AND
- ~~(XVIII)~~ (XVI) WALK-IN REFRIGERATORS AND FREEZERS; AND
- ~~(XIX) ANY OTHER PRODUCTS THAT THE ADMINISTRATION MAY DESIGNATE IN ACCORDANCE WITH SUBSECTION (II) OF THIS SECTION.~~

- (2) This section does not apply to:
- (i) new products manufactured in the State and sold outside the State;

(ii) new products manufactured outside the State and sold at wholesale inside the State for final retail sale and installation outside the State;

(iii) products installed in mobile manufactured homes at the time of construction; ~~or~~

(iv) products designed expressly for installation and use in recreational vehicles; **OR**

(V) RESIDENTIAL FURNACES THAT USE NATURAL GAS OR PROPANE AND THAT ARE INSTALLED AS A REPLACEMENT FOR A PREVIOUSLY INSTALLED FURNACE.

(c) (1) On or before January 1, 2004, the Administration shall adopt regulations establishing minimum efficiency standards for the types of new products set forth in subsection (b)(1)(**I THROUGH IX**) of this section.

(2) The regulations shall provide for the following minimum efficiency standards:

(i) torchiere fixtures may not consume more than 190 watts and may not be capable of operating with lamps that total more than 190 watts;

(ii) unit heaters shall be equipped with an intermittent ignition device and shall have either power venting or an automatic flue damper;

(iii) the efficiency of all low-voltage dry-type distribution transformers may not be less than the values shown in Table 4-2 of National Electrical Manufacturers Association Standard TP-1-2002;

(iv) ceiling fan light kits:

1. shall meet the Tier 1 lighting criteria of version 1.1 of the product specification contained in the "Energy Star Program Requirements for Residential Ceiling Fans", developed by the U.S. Environmental Protection Agency that took effect on January 1, 2002; and

2. may contain light sources that are not compact fluorescent lamps but that have lumen-per-watt performance at least equivalent to comparably configured compact fluorescent lamps meeting "Energy Star Program Requirements for CFLS: Energy Efficiency Criteria - Version 3.0";

(v) red and green traffic signal modules shall:

1. meet the requirements of the “Energy Star Program Requirements for Traffic Signals” developed by the U.S. Environmental Protection Agency that took effect in February 2001; and

2. be installed with compatible, electrically-connected signal control interface devices and conflict monitoring systems;

(vi) illuminated exit signs shall meet the requirements of the “Energy Star Program Requirements for Exit Signs – Version 2.0” developed by the U.S. Environmental Protection Agency that took effect on January 1, 1999;

(vii) commercial refrigeration cabinets shall meet the requirements shown in the following Table in which “V” means total volume in cubic feet and “AV” means adjusted volume which is the sum of the volume of refrigerated space and 1.63 times the volume of freezer space:

Equipment Type	Maximum Daily Energy Consumption (kilowatt hours)
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are refrigerators with solid doors	$0.125V + 2.76$
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are refrigerators with transparent doors	$0.172V + 4.77$
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are freezers with solid doors	$0.398V + 2.28$
Reach-in cabinets, pass-through	$0.940V + 5.10$

cabinets, and roll-in or roll-through cabinets that are freezers with transparent doors

Reach-in cabinets that are $0.273AV + 1.65$ refrigerator-freezers with solid doors

(viii) large packaged air-conditioning equipment shall meet the Tier II requirements of the "Minimum Equipment Efficiencies for Unitary Commercial Air Conditioners" or "Minimum Equipment Efficiencies for Heat Pumps", as appropriate, developed by the Consortium for Energy Efficiency, Boston, Massachusetts, as in effect on January 1, 2002; and

(ix) commercial clothes washers shall have a minimum modified energy factor of 1.26 and a maximum water consumption factor of 9.5, as measured in accordance with the federal test method for clothes washers as defined in 10 C.F.R. Section 430.23(j) (Appendix J1 to Subpart B of Part 430) (2001).

(D) (1) ON OR BEFORE JANUARY 1, 2008, THE ADMINISTRATION SHALL ADOPT REGULATIONS ESTABLISHING MINIMUM EFFICIENCY STANDARDS FOR THE TYPES OF NEW PRODUCTS SET FORTH IN SUBSECTION (B)(1)(X) THROUGH ~~(XVIII)~~ (XVI) OF THIS SECTION.

(2) THE REGULATIONS SHALL PROVIDE FOR THE FOLLOWING MINIMUM EFFICIENCY STANDARDS:

(I) EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH:

1. BOTTLE-TYPE WATER DISPENSERS DESIGNED FOR DISPENSING BOTH HOT AND COLD WATER MAY NOT HAVE STANDBY ENERGY CONSUMPTION GREATER THAN 1.2 KILOWATT-HOURS PER DAY, AS MEASURED IN ACCORDANCE WITH THE TEST CRITERIA CONTAINED IN VERSION 1.1 OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S "ENERGY STAR PROGRAM REQUIREMENTS FOR BOTTLED WATER COOLERS"; AND

2. BOTTLE-TYPE WATER DISPENSER UNITS WITH AN INTEGRAL, AUTOMATIC TIMER MAY NOT BE TESTED USING SECTION D, "TIMER USAGE" OF THE TEST CRITERIA;

(II) COMMERCIAL HOT FOOD HOLDING CABINETS SHALL HAVE A MAXIMUM IDLE ENERGY RATE NOT EXCEEDING 40 WATTS PER CUBIC FOOT OF INTERIOR VOLUME, AS DETERMINED BY THE "IDLE ENERGY RATE-DRY TEST" IN ASTM F2140-01, "STANDARD TEST METHOD FOR PERFORMANCE OF HOT FOOD HOLDING CABINETS" PUBLISHED BY ASTM INTERNATIONAL, AND INTERIOR VOLUME SHALL BE MEASURED IN ACCORDANCE WITH THE METHOD SHOWN IN THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S "ENERGY STAR PROGRAM REQUIREMENTS FOR COMMERCIAL HOT FOOD HOLDING CABINETS" EFFECTIVE AUGUST 15, 2003;

~~(III) COMPACT AUDIO PRODUCTS:~~

~~1. WITHOUT A PERMANENTLY ILLUMINATED CLOCK DISPLAY MAY NOT USE MORE THAN 2 WATTS IN STANDBY PASSIVE MODE;~~

~~2. WITH A PERMANENTLY ILLUMINATED CLOCK DISPLAY MAY NOT USE MORE THAN 4 WATTS IN STANDBY PASSIVE MODE; AND~~

~~3. SHALL BE MEASURED IN ACCORDANCE WITH INTERNATIONAL ELECTROTECHNICAL COMMISSION (IEC) TEST METHOD 62087:2002(E), "METHODS OF MEASUREMENT FOR THE POWER CONSUMPTION OF AUDIO, VIDEO, AND RELATED EQUIPMENT";~~

~~(IV) DIGITAL VERSATILE DISC PLAYERS AND DIGITAL VERSATILE DISC RECORDERS MAY NOT USE MORE THAN 3 WATTS IN STANDBY PASSIVE MODE, AS MEASURED IN ACCORDANCE WITH INTERNATIONAL ELECTROTECHNICAL COMMISSION (IEC) TEST METHOD 62087:2002(E), "METHODS OF MEASUREMENT FOR THE POWER CONSUMPTION OF AUDIO, VIDEO, AND RELATED EQUIPMENT";~~

~~(V) (III) METAL HALIDE LAMP FIXTURES DESIGNED TO BE OPERATED WITH LAMPS RATED AT LEAST 150 WATTS BUT NOT EXCEEDING 500 WATTS MAY NOT CONTAIN A PROBE-START METAL HALIDE BALLAST;~~

~~(VI) (IV) RESIDENTIAL FURNACES THAT USE NATURAL GAS OR PROPANE AND THAT ARE INSTALLED AS THE ORIGINAL FURNACE IN NEWLY CONSTRUCTED RESIDENTIAL BUILDINGS SHALL:~~

~~1. HAVE A MINIMUM ANNUAL FUEL UTILIZATION EFFICIENCY (AFUE) OF 90% AND A MAXIMUM ELECTRICITY RATIO OF 2%; AND~~

~~2. BE MEASURED IN ACCORDANCE WITH THE FEDERAL TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF~~

FURNACES AND BOILERS CONTAINED IN 10 C.F.R. PART 430 (APPENDIX N TO SUBPART B);

~~(VII)~~ (V) THE STANDARD FOR SINGLE-VOLTAGE EXTERNAL AC TO DC POWER SUPPLIES:

1. SHALL APPLY TO SINGLE VOLTAGE AC TO DC POWER SUPPLIES THAT ARE SOLD INDIVIDUALLY AND TO THOSE THAT ARE SOLD AS A COMPONENT OF OR IN CONJUNCTION WITH ANOTHER PRODUCT;

2. DOES NOT APPLY TO SINGLE VOLTAGE EXTERNAL AC TO DC POWER SUPPLIES THAT REQUIRE U.S. FOOD AND DRUG ADMINISTRATION LISTING AND APPROVAL AS A MEDICAL DEVICE;

3. SHALL MEET THE ENERGY EFFICIENCY REQUIREMENTS IN THE FOLLOWING TABLE:

NAMEPLATE OUTPUT POWER	MINIMUM EFFICIENCY IN ACTIVE MODE
FROM 0 TO LESS THAN 1 WATT	0.49 TIMES THE NAMEPLATE OUTPUT
FROM 1 WATT TO NOT MORE THAN 49 WATTS	THE SUM 0.09 TIMES THE NATURAL LOGARITHM OF THE NAMEPLATE OUTPUT POWER (EXPRESSED IN WATTS) AND 0.49
GREATER THAN 49 WATTS	0.84
NAMEPLATE OUTPUT POWER	MAXIMUM ENERGY CONSUMPTION IN NO-LOAD MODE
FROM 0 TO LESS THAN 10 WATTS	0.5 WATTS
FROM 10 WATTS TO NOT MORE THAN 250 WATTS	0.75 WATTS

4. SHALL BE MEASURED IN ACCORDANCE WITH THE TEST METHODOLOGY SPECIFIED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S ENERGY STAR PROGRAM, "TEST METHOD FOR CALCULATING THE ENERGY EFFICIENCY OF SINGLE-VOLTAGE EXTERNAL AC-DC AND AC-AC POWER SUPPLIES (AUGUST 11, 2004)", EXCEPT THAT TESTS SHALL BE CONDUCTED AT 115 VOLTS ONLY;

~~(VIII)~~ (VI) THE STANDARD FOR STATE-REGULATED INCANDESCENT REFLECTOR LAMPS:

1. SHALL MEET THE MINIMUM AVERAGE LAMP EFFICACY REQUIREMENTS FOR FEDERALLY REGULATED INCANDESCENT REFLECTOR LAMPS CONTAINED IN 42 U.S.C. § 6295 (I)(1)(A); AND

2. DOES NOT APPLY TO THE FOLLOWING TYPES OF INCANDESCENT REFLECTOR LAMPS:

A. LAMPS RATED AT 50 WATTS OR LESS OF THE FOLLOWING TYPES: BR30, ER30, BR40, AND ER40;

B. LAMPS RATED AT 65 WATTS OF THE FOLLOWING TYPES: BR30, BR40, AND ER40; AND

C. R20 LAMPS OF 45 WATTS OR LESS; AND

~~(IX)~~ (VII) WALK-IN REFRIGERATORS AND FREEZERS:

1. SHALL HAVE AUTOMATIC DOOR CLOSERS THAT FIRMLY CLOSE ALL REACH-IN DOORS AND THAT FIRMLY CLOSE WALK-IN DOORS NO WIDER THAN 3 FEET 9 INCHES AND NO HIGHER THAN 6 FEET 11 INCHES THAT HAVE BEEN CLOSED TO WITHIN 1 INCH OF FULL CLOSURE;

2. SHALL HAVE WALL, CEILING, AND DOOR INSULATION OF AT LEAST R-28 FOR REFRIGERATORS (DOOR INSULATION REQUIREMENTS DO NOT APPLY TO GLAZED PORTIONS OF DOORS, NOR TO STRUCTURAL MEMBERS);

3. SHALL HAVE WALL, CEILING, AND DOOR INSULATION OF AT LEAST R-32 FOR FREEZERS (DOOR INSULATION REQUIREMENTS DO NOT APPLY TO GLAZED PORTIONS OF DOORS, OR TO STRUCTURAL MEMBERS);

4. SHALL HAVE FLOOR INSULATION OF AT LEAST R-28 FOR FREEZERS;

5. SHALL HAVE, FOR SINGLE-PHASE EVAPORATOR FAN MOTORS OF UNDER ONE HORSEPOWER AND LESS THAN 460 VOLTS, ELECTRONICALLY COMMUTATED MOTORS;

6. SHALL HAVE, FOR CONDENSER FAN MOTORS OF UNDER ONE HORSEPOWER EITHER ELECTRONICALLY COMMUTATED MOTORS, PERMANENT SPLIT CAPACITOR-TYPE MOTORS, OR POLYPHASE MOTORS OF AT LEAST ONE-HALF HORSEPOWER;

7. SHALL HAVE LIGHT SOURCES WITH AN EFFICACY OF AT LEAST 40 LUMENS PER WATT, INCLUDING ANY BALLAST LOSSES, EXCEPT THAT LIGHT SOURCES WITH AN EFFICACY OF 40 LUMENS PER WATT OR LESS, INCLUDING ANY BALLAST LOSSES, MAY BE USED IN CONJUNCTION WITH A TIMER OR DEVICE THAT TURNS OFF THE LIGHTS WITHIN 15 MINUTES AFTER THE WALK-IN CEASES TO BE OCCUPIED; AND

8. WITH TRANSPARENT REACH-IN DOORS AND WALK-IN DOOR WINDOWS SHALL MEET THE FOLLOWING ADDITIONAL REQUIREMENTS:

A. TRANSPARENT REACH-IN DOORS AND WINDOWS IN WALK-IN DOORS FOR WALK-IN FREEZERS SHALL BE OF TRIPLE-PANE GLASS WITH EITHER HEAT-REFLECTIVE TREATED GLASS OR GAS FILL;

B. TRANSPARENT REACH-IN DOORS AND WINDOWS IN WALK-IN DOORS FOR WALK-IN REFRIGERATORS SHALL BE EITHER DOUBLE-PANE GLASS WITH HEAT-REFLECTIVE TREATED GLASS AND GAS FILL, OR TRIPLE PANE GLASS WITH EITHER HEAT-REFLECTIVE TREATED GLASS OR GAS FILL;

C. FOR APPLIANCES WITH AN ANTI-SWEAT HEATER WITHOUT ANTI-SWEAT HEAT CONTROLS, THE APPLIANCE SHALL HAVE A TOTAL DOOR RAIL, GLASS, AND FRAME HEATER POWER DRAW NOT EXCEEDING 7.1 WATTS PER SQUARE FOOT OF DOOR OPENING (FREEZERS) AND NOT EXCEEDING 3.0 WATTS PER SQUARE FOOT OF DOOR OPENING (REFRIGERATORS); AND

D. FOR APPLIANCES WITH AN ANTI-SWEAT HEATER WITH ANTI-SWEAT HEAT CONTROLS, AND A TOTAL DOOR RAIL, GLASS, AND FRAME HEATER POWER DRAW EXCEEDING 7.1 WATTS PER SQUARE FOOT OF

DOOR OPENING (FREEZERS) AND 3.0 WATTS PER SQUARE FOOT OF DOOR OPENING (REFRIGERATORS), THE ANTI-SWEAT HEAT CONTROLS SHALL REDUCE THE ENERGY USE OF THE ANTI-SWEAT HEATER IN AN AMOUNT CORRESPONDING TO THE RELATIVE HUMIDITY IN THE AIR OUTSIDE THE DOOR OR TO THE CONDENSATION ON THE INNER GLASS PANE.

[(d)] (E) (1) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, on or after March 1, 2005, a new product of any type set forth in subsection (b)(1)(**I THROUGH IX**) of this section may not be sold or offered for sale in the State unless the efficiency of the new product meets or exceeds the efficiency standards set forth in the regulations adopted under subsection (c) of this section.

(ii) With respect to ceiling fan light kits, energy efficiency standards may not take effect until March 1, 2007.

(iii) With respect to commercial clothes washers, efficiency standards may not take effect until March 1, 2007.

(2) (i) This paragraph does not apply to a product that is sold before the applicable date under paragraph (1) of this subsection.

(ii) Except as provided in subparagraphs (iii) and (iv) of this paragraph, on or after January 1, 2006, a new product of a type set forth in subsection (b)(1)(**I THROUGH IX**) of this section may not be installed in the State unless the efficiency of the new product meets or exceeds the efficiency standards set forth in the regulations adopted under subsection (c) of this section.

(iii) Ceiling fan light kits that do not meet the energy efficiency standards may be installed in the State until January 1, 2008.

(iv) Commercial clothes washers that do not meet the efficiency standards under subsection (c)(2)(ix) of this section may be installed in the State until January 1, 2008.

(F) (1) ON OR AFTER JANUARY 1, ~~2009~~ ~~2012~~ 2009, NO NEW BOTTLE-TYPE WATER DISPENSER, COMMERCIAL HOT FOOD HOLDING CABINET, METAL HALIDE LAMP FIXTURE, STATE-REGULATED INCANDESCENT REFLECTOR LAMP, OR WALK-IN REFRIGERATOR OR WALK-IN FREEZER MAY BE SOLD OR OFFERED FOR SALE IN THE STATE UNLESS THE EFFICIENCY OF THE NEW PRODUCT MEETS OR EXCEEDS THE EFFICIENCY STANDARDS SET FORTH IN THE REGULATIONS ADOPTED UNDER SUBSECTION (D) OF THIS SECTION.

(2) ON OR AFTER MARCH 1, ~~2009~~ 2012, NO NEW ~~COMPACT AUDIO PRODUCT, DIGITAL VERSATILE DISC PLAYER OR DIGITAL VERSATILE DISC~~

~~RECORDED, OR~~ SINGLE-VOLTAGE EXTERNAL AC TO DC POWER SUPPLY MAY BE SOLD OR OFFERED FOR SALE IN THE STATE UNLESS THE EFFICIENCY OF THE NEW PRODUCT MEETS OR EXCEEDS THE EFFICIENCY STANDARDS SET FORTH IN THE REGULATIONS ADOPTED UNDER SUBSECTION (D) OF THIS SECTION.

(3) (i) THE ADMINISTRATION MAY ADOPT REGULATIONS TO EXEMPT COMPLIANCE WITH THE RESIDENTIAL FURNACE AFUE STANDARDS UNDER SUBSECTION (D)(2)~~(VI)~~ (IV) OF THIS SECTION AT ANY BUILDING, SITE, OR LOCATION WHERE COMPLYING WITH THE STANDARDS WOULD CONFLICT WITH ANY LOCAL ZONING ORDINANCE, BUILDING OR PLUMBING CODE, OR OTHER RULE REGARDING INSTALLATION AND VENTING OF RESIDENTIAL FURNACES OR RESIDENTIAL BOILERS.

(ii) ON OR BEFORE JANUARY 1, 2008, THE ADMINISTRATION, IN CONSULTATION WITH THE ATTORNEY GENERAL, SHALL DETERMINE IF FEDERAL LAW PREEMPTS STATE IMPLEMENTATION OF THE RESIDENTIAL FURNACE STANDARDS.

(iii) THE ADMINISTRATION SHALL MAKE SEPARATE DETERMINATIONS WITH RESPECT TO MINIMUM AFUE AND MAXIMUM ELECTRICITY RATIO STANDARDS.

(iv) IF THE ADMINISTRATION DETERMINES THAT A WAIVER FROM FEDERAL PREEMPTION IS NOT NEEDED, THEN ON THE LATER OF JANUARY 1, 2009, OR 1 YEAR AFTER THE DATE OF THAT DETERMINATION, A NEW RESIDENTIAL FURNACE MAY NOT BE SOLD OR OFFERED FOR SALE IN THE STATE UNLESS THE EFFICIENCY OF THE NEW PRODUCT MEETS OR EXCEEDS THE APPLICABLE NONPREEMPTED EFFICIENCY STANDARDS SET FORTH IN THE REGULATIONS ADOPTED UNDER SUBSECTION (D) OF THIS SECTION.

(v) IF THE ADMINISTRATION DETERMINES THAT A WAIVER FROM FEDERAL PREEMPTION IS REQUIRED, THEN THE ADMINISTRATION SHALL APPLY FOR THE WAIVER WITHIN 1 YEAR AFTER THAT DETERMINATION. ON APPROVAL OF THE WAIVER APPLICATION, THE APPLICABLE STATE STANDARDS SHALL TAKE EFFECT AT THE EARLIEST DATE ALLOWED BY FEDERAL LAW.

(4) SINGLE-VOLTAGE EXTERNAL AC TO DC POWER SUPPLIES MADE AVAILABLE BY A MANUFACTURER DIRECTLY TO A CONSUMER OR TO A SERVICE OR REPAIR FACILITY AFTER AND SEPARATE FROM THE ORIGINAL SALE OF THE PRODUCT REQUIRING THE POWER SUPPLY AS A SERVICE PART OR SPARE PART MAY NOT BE REQUIRED TO MEET THE STANDARDS OF THIS SECTION BEFORE JANUARY 1, 2013.

(5) THE ADMINISTRATION MAY DELAY IMPLEMENTATION OF SUBSECTION (D)(2)(IX)5 OF THIS SECTION ON A DETERMINATION THAT THE MOTORS ARE ONLY AVAILABLE FROM ONE MANUFACTURER OR IN INSUFFICIENT QUANTITIES TO SERVE THE NEEDS OF THE WALK-IN INDUSTRY FOR EVAPORATOR-FAN APPLICATIONS.

(6) ONE YEAR AFTER THE SALE OR OFFERING FOR SALE OF A PRODUCT BECOMES SUBJECT TO THE REQUIREMENTS OF PARAGRAPHS (1), (2), AND (3) OF THIS SUBSECTION, THE PRODUCT MAY NOT BE INSTALLED FOR COMPENSATION IN THE STATE UNLESS THE EFFICIENCY OF THE NEW PRODUCT MEETS OR EXCEEDS THE EFFICIENCY STANDARDS SET FORTH IN THE REGULATIONS ADOPTED UNDER SUBSECTION (D) OF THIS SECTION.

[(e)] (G) (1) By regulation, the Administration may clarify but not expand the scope of the devices defined under [subsection (a)] SUBSECTIONS (A) AND (B) of this section.

(2) On request of a Maryland business or consumer and after public notice and comment, the Administration may delay the effective date of any standard under this section by not more than 1 year if the Administration determines that products conforming to the standard will not be widely available in Maryland by the applicable date stated in [subsection (d)(1)] SUBSECTIONS (E)(1) AND (F)(1), (2), AND (3) of this section.

(3) The Administration may limit a delay under paragraph (2) of this subsection to identifiable subcategories of any category of covered products.

(H) (1) THE ADMINISTRATION MAY ADOPT REGULATIONS TO INCREASE THE EFFICIENCY STANDARDS FOR THE PRODUCTS LISTED IN SUBSECTION (B)(1)(X) THROUGH ~~(XVIII)~~ (XVI) OF THIS SECTION.

~~(2) THE ADMINISTRATION MAY ALSO ADOPT REGULATIONS TO ESTABLISH STANDARDS FOR PRODUCTS NOT SPECIFICALLY LISTED IN SUBSECTION (B)(1)(I) THROUGH (XVIII) OF THIS SECTION~~ EVERY 2 YEARS, THE ADMINISTRATION SHALL CONSIDER AND PROPOSE TO THE GENERAL ASSEMBLY:

(I) NEW STANDARDS FOR PRODUCTS NOT SPECIFICALLY LISTED IN SUBSECTION (B)(1) OF THIS SECTION; AND

(II) REVISED, MORE STRINGENT STANDARDS FOR PRODUCTS LISTED IN SUBSECTION (B)(1) OF THIS SECTION.

(3) IN CONSIDERING ~~THE~~ NEW OR AMENDED STANDARDS, THE ADMINISTRATION SHALL ~~ADOPT THE~~ PROPOSE NEW OR AMENDED EFFICIENCY STANDARDS IF IT DETERMINES THAT ANY NEW OR INCREASED EFFICIENCY STANDARDS WOULD:

(I) SERVE TO PROMOTE ENERGY CONSERVATION IN THE STATE; ~~AND WOULD~~

(II) BE LIFE-CYCLE COST EFFECTIVE FOR CONSUMERS WHO PURCHASE AND USE THE NEW PRODUCTS; AND

(III) BE TECHNOLOGICALLY FEASIBLE AND ECONOMICALLY JUSTIFIED.

(4) A NEW OR INCREASED EFFICIENCY STANDARD MAY NOT BECOME EFFECTIVE LESS THAN 1 YEAR AFTER THE ADOPTION OF THAT STANDARD.

(5) ~~THE~~ SUBJECT TO PARAGRAPHS (6) AND (7) OF THIS SUBSECTION, THE ADMINISTRATION MAY APPLY FOR A WAIVER OF FEDERAL PREEMPTION IN ACCORDANCE WITH FEDERAL PROCEDURES (42 U.S.C. § 6297 (D)) FOR STATE EFFICIENCY STANDARDS FOR ANY PRODUCT REGULATED BY THE FEDERAL GOVERNMENT.

(6) THE ADMINISTRATION MAY APPLY FOR A WAIVER UNDER PARAGRAPH (5) OF THIS SUBSECTION, IF:

(I) AT LEAST 90 DAYS BEFORE THE DAY ON WHICH THE APPLICATION FOR THE WAIVER IS SUBMITTED TO THE FEDERAL GOVERNMENT, THE ADMINISTRATION ANNOUNCES ITS INTENTION TO SUBMIT THE APPLICATION BY PUBLICATION IN THE MARYLAND REGISTER AND WRITING TO THE PRESIDING OFFICERS OF THE GENERAL ASSEMBLY; AND

(II) AT LEAST 60 DAYS BEFORE THE DAY ON WHICH THE APPLICATION FOR THE WAIVER IS SUBMITTED TO THE FEDERAL GOVERNMENT, THE ADMINISTRATION, AFTER REASONABLE NOTICE OTHER THAN PUBLICATION IN THE MARYLAND REGISTER, SHALL HOLD A PUBLIC HEARING ON THE PROPOSED APPLICATION TO RECEIVE PUBLIC COMMENT.

(7) THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES MAY DIRECT THAT THE APPROPRIATE STANDING COMMITTEES OF THE GENERAL ASSEMBLY HOLD HEARINGS ON THE PROPOSED

APPLICATION FOR THE WAIVER AND PROVIDE COMMENTS TO THE ADMINISTRATION.

[(f)] (I) (1) After public notice and comment, the Administration shall adopt procedures by rule for testing the energy efficiency of the new products listed in subsection (b)(1) of this section if testing procedures are not provided for in the Maryland Building Performance Standards.

(2) THE ADMINISTRATION MAY ADOPT UPDATED TEST METHODS BY REGULATION WHEN NEW VERSIONS OF TEST METHODS BECOME AVAILABLE OR WHEN AN ALTERNATIVE TEST METHOD HAS BEEN ADOPTED BY ANOTHER STATE OR THE FEDERAL GOVERNMENT.

[(2)] (3) The Administration shall use appropriate nationally recognized test methods such as those approved by the United States Department of Energy.

[(3)] (4) The manufacturers of new products listed in subsection (b)(1) of this section shall cause samples of their products to be tested in accordance with the test procedures adopted under this subsection or those specified in the Maryland Building Performance Standards.

[(g)] (J) (1) **[Manufacturers] EXCEPT FOR THOSE PRODUCTS LISTED IN SUBSECTION (B)(1)(XVI) AND (XVIII) OF THIS SECTION, MANUFACTURERS** of new products listed in subsection (b)(1) of this section shall certify to the Administration that the products are in compliance with the provisions of this section.

(2) (i) The Administration shall adopt regulations governing the certification of new products and may coordinate with the certification programs of other states with similar standards.

(ii) Any manufacturer that has certified a product to another state or to the Federal Energy Star Program may provide the Administration with a copy of the certification that the manufacturer made to the other state or agency in place of a separate certification to the State of Maryland, provided that:

1. the other state's standards or the Energy Star specifications are equivalent to or more stringent than the standards of the State of Maryland; and

2. all information required by the regulations adopted under subparagraph (i) of this paragraph is included in the certification.

[(h)] (K) (1) Manufacturers of new products listed in subsection (b)(1) of this section shall identify each product offered through retailers for sale or installation in the State as in compliance with the minimum efficiency standards established under subsection (c) of this section by means of a mark, label, or tag on the product or packaging at the time of sale or installation.

(2) (i) The Administration shall adopt regulations governing the identification of such products or packaging which shall be coordinated to the greatest practical extent with the labeling programs and requirements of other states and federal agencies with equivalent efficiency standards.

(ii) If a national efficiency standard is established by federal law or regulation for a product listed in subsection (b) of this section, the labeling requirements set forth in COMAR 14.26.03.10 do not apply to that product.

(iii) In accordance with COMAR 14.26.03.10, all display models of products shall be displayed with a mark, label, or tag on the product.

[(i)] (L) (1) The Administration may test products listed in subsection (b)(1) of this section using an accredited testing facility.

(2) If products tested are found not to be in compliance with the minimum efficiency standards established under **[subsection (c)] SUBSECTIONS (C) AND (D)** of this section, the Administration shall:

(i) charge the manufacturer of the product for the cost of product purchase and testing; and

(ii) make information available to the public on products found not to be in compliance with the standards.

[(j)] (M) (1) With prior notice and at reasonable and convenient hours, the Administration may make periodic inspections of distributors or retailers of new products listed in subsection (b)(1) of this section in order to determine compliance with the provisions of this section.

(2) The Administration shall coordinate with the Department of Housing and Community Development regarding inspections, prior to occupancy, of newly constructed buildings containing new products that are also covered by the Maryland Building Performance Standards.

[(k)] (N) (1) The Administration may investigate complaints received concerning violations of this section and shall report the results of an investigation to the Attorney General.

(2) The Attorney General may institute proceedings to enforce the provisions of this section.

(3) A manufacturer, distributor, or retailer of new products listed in subsection (b)(1) of this section that violates any provision of this section shall be issued a warning by the Administration for a first violation.

(4) Repeat violators shall be subject to a civil penalty of not more than \$250.

(5) Each violation of this section shall constitute a separate offense and each day that a violation continues shall constitute a separate offense.

(6) Penalties assessed under this subsection are in addition to costs assessed under subsection [(i)(2)(i)] **(L)(2)(I)** of this section.

(7) Penalties assessed under this subsection shall be paid into the General Fund of the State.

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

Approved by the Governor, May 17, 2007.

CHAPTER 569

(Senate Bill 682)

AN ACT concerning

**Cecil County – Purchase of Development Rights Program – General
Obligation Installment Purchase Agreements**

FOR the purpose of authorizing and empowering the County Commissioners of Cecil County, from time to time, to enter into installment purchase agreements for an aggregate purchase price of not more than \$4,000,000, plus interest thereon, to acquire development rights in tracts or parcels of agricultural land located in Cecil County, Maryland as part of the County's Purchase of Development Rights Program; empowering the County to fix and determine by resolution, the tracts or parcels of land the ~~transfer~~ development rights of which are to be acquired and the form, content, terms and conditions of each installment purchase agreement, including, without limitation, the purchase price payable

thereunder, the maturity date of the installment purchase agreement, the interest rate and schedule of payments of the purchase price (or the method of determining such interest rate and payment schedule) and all other details incident to the acquisition of the development rights and the installment purchase agreements; providing that the County's obligation to make payments of the purchase price under the installment purchase agreements and to pay interest thereon shall be a general obligation of the County made upon its full faith and credit; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing purchase price of an interest on the installment purchase agreements; exempting the installment purchase agreements and the interest thereon and any income derived therefrom from all State, County, municipal, and other taxation in the State of Maryland; authorizing and empowering the County to purchase and set aside in a segregated fund or account U.S. Treasury STRIPs or other investments allowed under certain provisions of the law and the investment guidelines of Cecil County to pay the balance of the purchase price of the installment purchase agreements payable on their maturity dates; and generally relating to the County's entering into installment purchase agreements to acquire ~~transfer~~ development rights in agricultural lands in Cecil County.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term "County" means the body politic and corporate of the State of Maryland known as the County Commissioners of Cecil County; and the term "Installment Purchase Agreement" means an agreement pursuant to which the County will acquire development rights in one or more tracts or parcels of agricultural land located in Cecil County, Maryland from the owners thereof, will pay the purchase price for that land either in installments or at the maturity of the Installment Purchase Agreement and will pay interest on the unpaid balance of that purchase price.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized and empowered to enter into Installment Purchase Agreements for an aggregate purchase price of not more than \$4,000,000, plus interest thereon, to acquire ~~transfer~~ development rights in tracts or parcels of agricultural land located in Cecil County, Maryland as part of the County's Purchase of Development Rights Program. The County's obligation to make payments of the purchase price under each Installment Purchase Agreement and to pay interest on the unpaid balance of the purchase price under each Installment Purchase Agreement shall be a general obligation of the County and shall be made upon its full faith and credit, and shall be evidenced by the Installment Purchase Agreement.

SECTION 3. AND BE IT FURTHER ENACTED, That the County shall select the tracts or parcels of agricultural land for which development rights are to be acquired and shall negotiate the purchase price for such development rights and all

other terms and conditions of the Installment Purchase Agreement with the owner or owners of such property, all in accordance with the County's Purchase of Development Rights Program as in effect from time to time.

SECTION 4. AND BE IT FURTHER ENACTED, That each Installment Purchase Agreement shall be entered into in accordance with a resolution of the County, which shall provide for the acquisition of the ~~transfer~~ development rights in one or more specified particular tracts or parcels of agricultural property located in Cecil County, Maryland which is to be the subject of the Installment Purchase Agreement. The County shall have and is hereby granted full and complete authority and discretion in the resolution to specify the tracts or parcels of agricultural land the development rights of which are to be acquired and to provide and approve the form, tenor, and content of the Installment Purchase Agreement described in the resolution, including, without limitation, (a) the designation, (b) the date, (c) the purchase price thereunder (or the maximum purchase price and the method of determining the final purchase price subject to such limitation), (d) the maturity date of the Installment Purchase Agreement (not exceeding 30 years from the date of execution and delivery of the Installment Purchase Agreement) on which the final balance of the purchase price is payable, (e) whether any portion of the purchase price will be payable prior to the maturity date of the Installment Purchase Agreement, and, if so, the dates of payments of any installments of the purchase price and the amounts of such installments (or the methods or formula for determining such installment dates and amounts), (f) the interest rate per annum (or the method of determining such rate) payable on the Installment Purchase Agreement from time to time and the dates for payment of such interest, (g) the terms and conditions, if any, under which the Installment Purchase Agreement may or shall be redeemed prior to its maturity date, (h) provisions relating to the registration and transfer of the Installment Purchase Agreement, (i) the required signatures on the Installment Purchase Agreement and all related documents, (j) the appointment of a paying agent and registrar for the Installment Purchase Agreement, which may be the Budget Director of the County, any other employee of the County, any department of the County government or any bank or trust company within or without the State of Maryland having corporate trust powers, (k) covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate, and (l) generally all matters incident to the acquisition of the ~~transfer~~ development rights and the terms, conditions, execution, and delivery of the Installment Purchase Agreement.

Each Installment Purchase Agreement may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the execution and delivery of the Installment Purchase Agreement. The Installment Purchase Agreement shall be in registered form. In case any officer whose signature appears on any bond or on any coupon attached thereto ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if he or she had

remained in office until such delivery. Any Installment Purchase Agreements entered into from time to time under the authority of this Act shall be specifically exempt from provisions of Article 31, §§ 9, 10, and 11 of the Annotated Code of Maryland.

SECTION 5. AND BE IT FURTHER ENACTED, That the Installment Purchase Agreements hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing purchase price under the Installment Purchase Agreements and the interest on the unpaid balance of that purchase price as and when they become payable. In each and every year until all of the purchase price payable under the Installment Purchase Agreements and the interest thereon are paid in full, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient, together with any recordation tax revenues designated for such payments and other available funds, to provide for or assure the payment, when due, of the purchase price of all outstanding Installment Purchase Agreements and the interest thereon maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the purchase price of the outstanding Installment Purchase Agreements and interest payable thereon any funds received by it from the State of Maryland, the United States of America, or any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition of ~~transfer~~ development rights in agricultural land located in Cecil County, Maryland and to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is authorized and empowered to purchase and set aside in a segregated fund or account U.S. Treasury STRIPs or other obligations allowed under Article 95, §§ 22, 22F, and 22G of the Annotated Code of Maryland (or any successor provision of law) and the County's investment guidelines, as in effect from time to time. It is intended that investments in that segregated fund or account will be applied to the payment of the balance of the purchase price of the Installment Purchase Agreements on their respective maturity dates; but the investments shall not be pledged to the payment of the purchase price of any of the Installment Purchase Agreements or the interest thereon, and no person other than the County shall have any interest therein.

SECTION 7. AND BE IT FURTHER ENACTED, That any and all Installment Purchase Agreements entered into by the County pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the registered owners thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt

from State, County, municipal or other taxation of every kind and nature whatsoever within the State of Maryland.

SECTION 8. AND BE IT FURTHER ENACTED, That the authority conferred on the County by this Act to enter into Installment Purchase Agreements and create debt of the County shall be deemed to provide an additional and alternative authority for borrowing money and creating debt and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money and incur debt are hereby continued to the extent that the powers contained in those prior Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds or other obligations that may have been entered into by the County under the authority of any of said Acts, and the validity of the bonds or other obligations is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Cecil County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 9. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 570

(Senate Bill 696)

AN ACT concerning

Crimes - Leaving Dogs Outside and Unattended by Use of Restraints - Penalties

FOR the purpose of prohibiting a person from leaving a dog outside and unattended by use of a certain restraint ~~during certain time periods and~~ under certain circumstances; establishing penalties for a violation of this Act; defining certain terms; and generally relating to the unattended restraint of dogs.

BY adding to

Article - Criminal Law

Section 10-623

Annotated Code of Maryland

(2002 Volume and 2006 Supplement)

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

Article - Criminal Law

10-623.

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

(2) "COLLAR" MEANS A DEVICE CONSTRUCTED OF NYLON, LEATHER, OR SIMILAR MATERIAL SPECIFICALLY DESIGNED TO BE USED AROUND THE NECK OF A DOG.

(3) "RESTRAINT" MEANS A CHAIN, ROPE, TETHER, LEASH, CABLE, OR OTHER DEVICE THAT ATTACHES A DOG TO A STATIONARY OBJECT OR TROLLEY SYSTEM.

(B) A PERSON MAY NOT LEAVE A DOG OUTSIDE AND UNATTENDED BY USE OF A RESTRAINT:

(1) ~~BETWEEN THE HOURS OF MIDNIGHT AND 6 A.M., UNLESS THE PERSON HAS AN EXPRESS WAIVER FROM THE LOCAL ANIMAL CONTROL AUTHORITY;~~

(i) ~~BETWEEN THE HOURS OF MIDNIGHT AND 6 A.M.; OR~~

(ii) ~~THAT UNREASONABLY LIMITS THE MOVEMENT OF THE DOG;~~

~~(2) DURING PERIODS WHEN THE NATIONAL WEATHER SERVICE HAS ISSUED A HEAT ADVISORY OR HURRICANE OR TROPICAL STORM WARNING OR WHEN THE REAL OR EFFECTIVE TEMPERATURE IS BELOW 32 DEGREES FAHRENHEIT; OR;~~

~~(2)~~ THAT UNREASONABLY LIMITS THE MOVEMENT OF THE DOG;

~~(3)~~ (2) THAT USES A COLLAR THAT:

~~(I) IS A PINCH TYPE, PRONG TYPE, OR CHOKE TYPE COLLAR;~~

~~(H) (I) IS MADE PRIMARILY OF METAL; OR~~

~~(HH) (II) IS NOT AT LEAST AS LARGE AS THE CIRCUMFERENCE OF THE DOG'S NECK PLUS 1 INCH; OR~~

~~(IV) DOES NOT ALLOW THE INSERTION OF TWO FINGERS BETWEEN THE COLLAR AND THE NECK OF THE DOG;~~

~~(4) THAT IS LESS THAN FIVE TIMES THE LENGTH OF THE DOG, AS MEASURED FROM THE TIP OF THE DOG'S NOSE TO THE BASE OF THE DOG'S TAIL OR THAT IS LESS THAN 10 FEET LONG;~~

~~(5) (4) (3) THAT RESTRICTS THE ACCESS OF THE DOG TO SUITABLE AND SUFFICIENT FOOD, CLEAN WATER, CLEAN WATER OR APPROPRIATE SHELTER;~~

~~(6) (5) (4) IN UNSAFE OR UNSANITARY CONDITIONS; OR~~

~~(7) (6) (5) THAT CAUSES INJURY TO THE DOG.~~

(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

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

Approved by the Governor, May 17, 2007.

CHAPTER 571

(Senate Bill 699)

AN ACT concerning

State Highway Administration - Protection of Highway Construction and Maintenance Workers

FOR the purpose of requiring the State Highway Administration to develop certain procedures to ~~ensure~~ enhance the safety of highway construction and maintenance workers during construction or maintenance work on certain expressways and controlled access highways; requiring ~~the Administration or the appropriate local authority~~ a county, municipal corporation, the Administration, or the Maryland Transportation Authority to incorporate the procedures into the project planning and construction phases of certain proposed highway projects; requiring procedures developed under this Act to include certain methods of protecting highway construction and maintenance workers, including closure of certain highways in a certain manner; requiring a county, municipal corporation, the Administration, or the Maryland Transportation Authority to consider the use of certain barriers; ~~or~~; authorizing a county, municipal corporation, the Administration, or the Maryland Transportation Authority to provide maintenance of a law enforcement presence at or near the site of certain highway construction or maintenance projects; ~~prohibiting the use of speed monitoring systems to enforce speed limits at the site of certain highway construction or maintenance projects under certain circumstances~~; and generally relating to the protection of certain highway construction and maintenance workers.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 8–610(a), (b), (g), (h), and (i)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

BY adding to
Article – Transportation
Section 8–613.2
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 11–151 and 21–101(a) and (v)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Transportation

8–610.

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

(b) (1) “Construction phase” means the phase in which a highway project is advanced through detailed engineering, property acquisition, and construction to completion.

(2) This definition does not preclude the Administration from acquiring property during the project planning phase, and the completion of property acquisition does not constitute a commitment to the project’s alignment or construction.

(g) “Project planning phase” means the phase in which engineering and environmental studies and analyses are conducted with full participation of the public, in addition to local, State, and federal agencies, to determine the scope and location of a proposed highway project.

(h) “Initial project planning phase” means that portion of the project planning phase which includes:

- (1) Notification of local, State, and federal officials;
- (2) Initial interagency review;
- (3) Initial systems planning;
- (4) Identification of alternatives, as set forth in § 8–102 of this title, for the scope and the location of the project;
- (5) Estimates of right-of-way requirements, including available detail with respect to specific properties affected, and of cost;
- (6) Public meetings for discussion of the foregoing; and
- (7) Reports of consultants, if any have been retained for the analysis of preliminary alternatives.

(i) “Final project planning phase” means that portion of the project planning phase which follows the initial project planning phase. The final project planning phase includes:

- (1) Detailed review of alternatives;
- (2) Selection of final alignment and scope;
- (3) Preparation of final environmental impact documents;

- (4) Detailed design and engineering studies;
- (5) Any formal federal approval of design and location;
- (6) Full participation of the public; and
- (7) Full participation of local, State, and federal agencies.

8-613.2.

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

(2) "ROADWAY" HAS THE MEANING STATED IN § 11-151 OF THIS ARTICLE.

(3) "SHOULDER" HAS THE MEANING STATED IN § 21-101 OF THIS ARTICLE.

(B) THE ADMINISTRATION SHALL DEVELOP PROCEDURES IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION TO ~~ENSURE~~ ENHANCE THE SAFETY OF HIGHWAY ~~CONSTRUCTION AND MAINTENANCE~~ CONSTRUCTION, MAINTENANCE, UTILITY, AND OTHER HIGHWAY WORKERS DURING CONSTRUCTION OR MAINTENANCE WORK ON AN EXPRESSWAY OR CONTROLLED ACCESS HIGHWAY WITH A POSTED SPEED LIMIT OF ~~50~~ 45 MILES PER HOUR OR MORE.

(C) ~~THE ADMINISTRATION OR THE APPROPRIATE LOCAL AUTHORITY A COUNTY, MUNICIPAL CORPORATION, THE ADMINISTRATION, OR THE MARYLAND TRANSPORTATION AUTHORITY, WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION,~~ SHALL INCORPORATE THE PROCEDURES DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION INTO THE PROJECT PLANNING PHASE AND CONSTRUCTION PHASE OF A PROPOSED HIGHWAY PROJECT FOR AN EXPRESSWAY OR CONTROLLED ACCESS HIGHWAY WITH A POSTED SPEED LIMIT OF ~~50~~ 45 MILES PER HOUR OR MORE.

(D) (1) (I) THIS PARAGRAPH APPLIES TO WORK THAT IS:

- 1. PERFORMED IN A ROADWAY; AND
- 2. EXPECTED TO LAST AT LEAST ~~100 HOURS~~ TWO

WEEKS.

(ii) THE PROCEDURES DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION SHALL ENSURE THAT FOR EACH HIGHWAY CONSTRUCTION OR MAINTENANCE PROJECT, PRIORITY IS GIVEN TO PERFORMING THE PROPOSED HIGHWAY CONSTRUCTION OR MAINTENANCE WORK IN THE ABSENCE OF ADJACENT TRAFFIC THROUGH FULL OR ~~PARTIAL~~ TEMPORARY CLOSURE OF THE HIGHWAY AT THE LOCATION OF THE CONSTRUCTION OR MAINTENANCE WORK, IF THE CLOSURE IS DETERMINED TO BE FEASIBLE AFTER CONSIDERATION OF THE FOLLOWING:

1. SAFETY OF THE TRAVELING PUBLIC;
2. AVAILABILITY AND FEASIBILITY OF DETOURS;
3. ACCESS TO ABUTTING BUSINESSES, RESIDENCES, AND OTHER FACILITIES; AND
4. DELAYS THAT MAY RESULT FROM FULL OR ~~PARTIAL~~ TEMPORARY CLOSURE OF THE HIGHWAY.

(2) (i) THIS PARAGRAPH APPLIES TO WORK THAT IS:

1. PERFORMED IN A ROADWAY, IF ~~THE ADMINISTRATION OR THE APPROPRIATE LOCAL AUTHORITY~~ A COUNTY, MUNICIPAL CORPORATION, THE ADMINISTRATION, OR THE MARYLAND TRANSPORTATION AUTHORITY, WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION, DETERMINES THAT FULL OR ~~PARTIAL~~ TEMPORARY HIGHWAY CLOSURE UNDER PARAGRAPH (1) OF THIS SUBSECTION IS NOT FEASIBLE; OR
2. PERFORMED ON THE SHOULDER AND EXPECTED TO LAST AT LEAST ~~100 HOURS~~ TWO WEEKS.

(ii) ~~THE ADMINISTRATION OR THE APPROPRIATE LOCAL AUTHORITY~~ A COUNTY, MUNICIPAL CORPORATION, THE ADMINISTRATION, OR THE MARYLAND TRANSPORTATION AUTHORITY, WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION, SHALL CONSIDER PROTECTING HIGHWAY CONSTRUCTION AND MAINTENANCE WORKERS BY MEANS OF:

1. TEMPORARY TRAFFIC BARRIERS;
2. MOVABLE CONCRETE BARRIERS;
3. MOVABLE LINK-SYSTEM BARRIERS; OR

4. OTHER AVAILABLE BARRIER SYSTEMS.

(III) CONSIDERATION OF THE USE OF BARRIERS UNDER THIS PARAGRAPH SHALL INCLUDE CONSIDERATION OF THE FEASIBILITY OF TEMPORARILY WIDENING A HIGHWAY TO ALLOW FOR THE INSTALLATION OF THE BARRIERS.

(IV) FOR A HIGHWAY CONSTRUCTION OR MAINTENANCE PROJECT THAT UTILIZES BARRIERS UNDER THIS PARAGRAPH, ~~THE ADMINISTRATION OR THE APPROPRIATE LOCAL AUTHORITY~~ A COUNTY, MUNICIPAL CORPORATION, THE ADMINISTRATION, OR THE MARYLAND TRANSPORTATION AUTHORITY, WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION, MAY PROVIDE FOR A LAW ENFORCEMENT PRESENCE AT OR NEAR THE SITE OF THE CONSTRUCTION OR MAINTENANCE WORK IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.

(3) (I) THIS PARAGRAPH APPLIES TO WORK THAT IS:

~~1. A. PERFORMED IN A ROADWAY; OR~~

~~B. PERFORMED ON THE SHOULDER; AND~~

1. PERFORMED IN A ROADWAY OR PERFORMED ON THE SHOULDER; AND

2. EXPECTED TO LAST AT LEAST TWO WEEKS.

~~2. EXPECTED TO LAST AT LEAST 3 HOURS.~~

(II) IF ~~THE ADMINISTRATION OR THE APPROPRIATE LOCAL AUTHORITY~~ A COUNTY, MUNICIPAL CORPORATION, THE ADMINISTRATION, OR THE MARYLAND TRANSPORTATION AUTHORITY, WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION, DETERMINES THAT HIGHWAY CLOSURE UNDER PARAGRAPH (1) OF THIS SUBSECTION AND INSTALLATION OF BARRIERS UNDER PARAGRAPH (2) OF THIS SUBSECTION ARE NOT FEASIBLE, ~~THE ADMINISTRATION OR THE APPROPRIATE LOCAL AUTHORITY~~ A COUNTY, MUNICIPAL CORPORATION, THE ADMINISTRATION, OR THE MARYLAND TRANSPORTATION AUTHORITY, WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION, MAY PROVIDE FOR AT LEAST ONE LAW ENFORCEMENT OFFICER TO BE PRESENT AT OR NEAR THE SITE OF THE CONSTRUCTION OR MAINTENANCE WORK WHEN WORKERS ARE PRESENT.

(III) A LAW ENFORCEMENT OFFICER PRESENT AT OR NEAR THE SITE OF A HIGHWAY CONSTRUCTION OR MAINTENANCE PROJECT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY:

- 1. BE IN UNIFORM;**
- 2. BE IN A MARKED LAW ENFORCEMENT VEHICLE;**
- 3. DISPLAY THE VISUAL LIGHTS OR SIGNAL DEVICES INSTALLED ON THE LAW ENFORCEMENT VEHICLE; AND**
- 4. BE LOCATED AT OR NEAR THE SITE OF THE HIGHWAY CONSTRUCTION OR MAINTENANCE PROJECT IN A MANNER TO:**
 - A. ENHANCE WORKER SAFETY; AND**
 - B. FACILITATE THE ENFORCEMENT OF TRAFFIC LAWS.**

(IV) A LAW ENFORCEMENT OFFICER PRESENT AT OR NEAR THE SITE OF A HIGHWAY CONSTRUCTION OR MAINTENANCE PROJECT UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH MAY TAKE ANY AUTHORIZED ACTION TO ENFORCE TRAFFIC LAWS AT OR NEAR THE PROJECT.

~~**(V) EXCEPT AS AUTHORIZED UNDER § 21-809 OF THIS ARTICLE, A SPEED LIMIT ESTABLISHED UNDER THIS SECTION MAY NOT BE ENFORCED THROUGH THE USE OF SPEED MONITORING SYSTEMS.**~~

11-151.

(a) “Roadway” means that part of a highway that is improved, designed, or ordinarily used for vehicular travel, other than the shoulder.

(b) If a highway includes two or more separate roadways, the term “roadway” as used in the Maryland Vehicle Law refers to any one roadway separately, and not to all of the roadways collectively.

21-101.

(a) In this title and Title 25 of this article the following words have the meanings indicated.

(v) "Shoulder" means that portion of a highway contiguous with the roadway for the accommodation of stopped vehicles, for emergency use, and for the lateral support of the base and surface courses of the roadway.

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

Approved by the Governor, May 17, 2007.

CHAPTER 572

(Senate Bill 705)

AN ACT concerning

Property Tax - ~~Exemption~~ Credit for Property Used as a Publicly Sponsored Business Incubator

FOR the purpose of ~~exempting from the State and local property tax~~ authorizing the Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation to grant, by law, a property tax credit for certain property that is used as a business incubator; authorizing the county or municipal corporation to provide, by law, for the amount and duration of the credit and for certain provisions necessary to carry out this Act; defining a certain term; providing for the application of this Act; and generally relating to a State and local property tax exemption credit for certain property that is used as a business incubator.

BY adding to

Article - Tax - Property

Section ~~7-242~~ 9-246

Annotated Code of Maryland

(2001 Replacement Volume and 2006 Supplement)

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

Article - Tax - Property

~~7-242.~~ 9-246.

(A) IN THIS SECTION, "BUSINESS INCUBATOR" MEANS A PROGRAM IN WHICH UNITS OF SPACE ARE LEASED BY MULTIPLE EARLY-STAGE BUSINESSES THAT SHARE PHYSICAL COMMON SPACE, ADMINISTRATIVE SERVICES AND EQUIPMENT, BUSINESS MANAGEMENT TRAINING, MENTORING, AND TECHNICAL SUPPORT.

(B) ~~PROPERTY THAT IS USED AS A BUSINESS INCUBATOR IS NOT SUBJECT TO PROPERTY TAX~~ THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY OR MUNICIPAL PROPERTY TAX IMPOSED ON PROPERTY THAT IS USED AS A BUSINESS INCUBATOR IF THE STATE, A COUNTY, A MUNICIPAL CORPORATION, AN ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE, A PUBLIC INSTITUTION OF HIGHER EDUCATION, OR AN AGENCY OR INSTRUMENTALITY OF THE STATE, A COUNTY, A MUNICIPAL CORPORATION, OR A PUBLIC INSTITUTION OF HIGHER EDUCATION:

(1) OWNS, CONTROLS, OR LEASES THE SPACE THAT IS USED AS A BUSINESS INCUBATOR;

(2) PROVIDES AT LEAST 50% OF THE TOTAL FUNDING RECEIVED BY THE BUSINESS INCUBATOR FROM ALL SOURCES, NOT INCLUDING RENTS RECEIVED FROM INCUBATOR TENANT FIRMS; OR

(3) IS REPRESENTED ON THE GOVERNANCE BOARD THAT AUTHORIZES THE ANNUAL BUDGET OF THE BUSINESS INCUBATOR.

(C) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY PROVIDE, BY LAW, FOR:

(1) THE AMOUNT AND DURATION OF THE PROPERTY TAX CREDIT UNDER THIS SECTION;

(2) ADDITIONAL ELIGIBILITY CRITERIA FOR THE TAX CREDIT UNDER THIS SECTION;

(3) REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE TAX CREDIT; AND

(4) ANY OTHER PROVISION NECESSARY TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007, and shall be applicable to all taxable years beginning after June 30, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 573

(House Bill 327)

AN ACT concerning

Property Tax - ~~Exemption~~ Credit for Property Used as a Publicly Sponsored Business Incubator

FOR the purpose of ~~exempting from the State and local property tax~~ authorizing the Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation to grant, by law, a property tax credit for certain property that is used as a business incubator; authorizing the county or municipal corporation to provide, by law, for the amount and duration of the credit and for certain provisions necessary to carry out this Act; defining a certain term; providing for the application of this Act; and generally relating to a State and local property tax exemption credit for certain property that is used as a business incubator.

BY adding to

Article - Tax - Property

Section ~~7-242~~ 9-246

Annotated Code of Maryland

(2001 Replacement Volume and 2006 Supplement)

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

Article - Tax - Property

~~7-242.~~ 9-246.

(A) IN THIS SECTION, "BUSINESS INCUBATOR" MEANS A PROGRAM IN WHICH UNITS OF SPACE ARE LEASED BY MULTIPLE EARLY-STAGE BUSINESSES THAT SHARE PHYSICAL COMMON SPACE, ADMINISTRATIVE SERVICES AND

EQUIPMENT, BUSINESS MANAGEMENT TRAINING, MENTORING, AND TECHNICAL SUPPORT.

~~(B) PROPERTY THAT IS USED AS A BUSINESS INCUBATOR IS NOT SUBJECT TO PROPERTY TAX~~ THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY OR MUNICIPAL PROPERTY TAX IMPOSED ON PROPERTY THAT IS USED AS A BUSINESS INCUBATOR IF THE STATE, A COUNTY, A MUNICIPAL CORPORATION, AN ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE, A PUBLIC INSTITUTION OF HIGHER EDUCATION, OR AN AGENCY OR INSTRUMENTALITY OF THE STATE, A COUNTY, A MUNICIPAL CORPORATION, OR A PUBLIC INSTITUTION OF HIGHER EDUCATION:

(1) OWNS, CONTROLS, OR LEASES THE SPACE THAT IS USED AS A BUSINESS INCUBATOR;

(2) PROVIDES AT LEAST 50% OF THE TOTAL FUNDING RECEIVED BY THE BUSINESS INCUBATOR FROM ALL SOURCES, NOT INCLUDING RENTS RECEIVED FROM INCUBATOR TENANT FIRMS; OR

(3) IS REPRESENTED ON THE GOVERNANCE BOARD THAT AUTHORIZES THE ANNUAL BUDGET OF THE BUSINESS INCUBATOR.

(C) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY PROVIDE, BY LAW, FOR:

(1) THE AMOUNT AND DURATION OF THE PROPERTY TAX CREDIT UNDER THIS SECTION;

(2) ADDITIONAL ELIGIBILITY CRITERIA FOR THE TAX CREDIT UNDER THIS SECTION;

(3) REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE TAX CREDIT; AND

(4) ANY OTHER PROVISION NECESSARY TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007, and shall be applicable to all taxable years beginning after June 30, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 574

(Senate Bill 750)

AN ACT concerning

Queen Anne's County - Health Care Facilities Regulation - Licensing of Freestanding Medical Facilities

FOR the purpose of ~~providing that a freestanding medical facility located in Queen Anne's County is exempt from a certain review process under certain circumstances; defining a certain term; establishing a freestanding medical facility pilot project in Queen Anne's County; requiring the Department of Health and Mental Hygiene to issue a freestanding medical facility license to a certain freestanding medical facility pilot project under certain circumstances; requiring that a certain freestanding medical facility pilot project meet certain requirements; requiring a certain freestanding medical facility pilot project to provide certain information to the Maryland Health Care Commission; requiring certain claims submitted by a certain freestanding medical facility pilot project to be paid at certain rates; requiring certain provisions of law to apply to a certain freestanding medical facility pilot project; making this Act an emergency measure; and generally relating to regulation of health care facilities in Queen Anne's County.~~

BY repealing and reenacting, without amendments,
Article - Health - General
Section ~~19-3A-01~~ 19-131, 19-3A-01, and 19-3A-03
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article - Health - General
Section ~~19-131 and 19-3A-03~~ 19-3A-07
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article - Health - General

19-131.

(a) On or before July 1, 2008, the Commission, in consultation with the Health Services Cost Review Commission and the Department of Health and Mental Hygiene, shall propose emergency regulations to establish a review process to approve facilities in the State that may seek licensure as a freestanding medical facility, as provided in Subtitle 3A of this title.

(b) The regulations shall include:

(1) A process to identify areas of the State in which a freestanding medical facility could meet health care service delivery needs;

(2) A process for submitting and acting on applications;

(3) Criteria for evaluating and approving applications, including:

(i) Documentation that the proposed freestanding medical facility will meet the licensure requirements of Subtitle 3A of this title;

(ii) The efficiency and effectiveness of the proposed freestanding medical facility in meeting the health care needs of the health planning region;

(iii) The types of equipment and level of staffing specified, in relation to the services the freestanding medical facility proposes to provide; and

(iv) Costs to both public and private payers; and

(4) Appropriate notice and opportunity for a hearing and judicial review, in accordance with the Administrative Procedure Act.

(c) A facility that is approved under this section to seek licensure as a freestanding medical facility shall provide to the Commission information, as specified by the Commission, on the configuration, location, operation, and utilization, including patient-level utilization, of the freestanding medical facility.

(d) A freestanding medical facility pilot project is exempt from the review process in subsections (a) and (b) of this section.

~~(e) A freestanding medical facility located in Queen Anne's County is exempt from the review process in subsections (a) and (b) of this section if:~~

~~(1) THE FREESTANDING MEDICAL FACILITY AND THE HOSPITAL OF WHICH THE FACILITY IS AN ADMINISTRATIVE PART ARE LOCATED IN THE SAME COUNTY; OR~~

~~(2) (i) THE FREESTANDING MEDICAL FACILITY AND THE HOSPITAL OF WHICH THE FACILITY IS AN ADMINISTRATIVE PART ARE LOCATED IN CONTIGUOUS COUNTIES; AND~~

~~(ii) THE FREESTANDING MEDICAL FACILITY IS LOCATED WITHIN 20 MILES OF THE COUNTY LINE OF THE COUNTY WHERE THE HOSPITAL OF WHICH THE FACILITY IS AN ADMINISTRATIVE PART IS LOCATED.~~

19-3A-01.

In this subtitle, "freestanding medical facility" means a facility:

- (1) In which medical and health services are provided;
 - (2) That is physically separate from a hospital or hospital grounds;
- and
- (3) That is an administrative part of a hospital or related institution, as defined in § 19-301 of this title.

19-3A-03.

(a) The Department shall issue a license to a freestanding medical facility that:

- (1) Meets the licensure requirements under this subtitle; and
- (2) Receives approval from the Maryland Health Care Commission under the regulations required under § 19-131 of this title.

(b) A freestanding medical facility that uses in its title or advertising the word "emergency" or other language indicating to the public that medical treatment for immediately life-threatening medical conditions exist at that facility shall be licensed by the Department before it may operate in this State.

(c) Notwithstanding subsection (a)(2) of this section, the Department may not require a freestanding medical facility pilot project to be approved by the Maryland Health Care Commission as a condition of licensure.

~~(d) NOTWITHSTANDING SUBSECTION (A)(2) OF THIS SECTION, THE DEPARTMENT MAY NOT REQUIRE A FREESTANDING MEDICAL FACILITY THAT IS~~

~~LOCATED IN QUEEN ANNE'S COUNTY TO BE APPROVED BY THE MARYLAND HEALTH CARE COMMISSION AS A CONDITION OF LICENSURE IF:~~

~~(1) THE FREESTANDING MEDICAL FACILITY AND THE HOSPITAL OF WHICH THE FACILITY IS AN ADMINISTRATIVE PART ARE LOCATED IN THE SAME COUNTY; OR~~

~~(2) (i) THE FREESTANDING MEDICAL FACILITY AND THE HOSPITAL OF WHICH THE FACILITY IS AN ADMINISTRATIVE PART ARE LOCATED IN CONTIGUOUS COUNTIES; AND~~

~~(ii) THE FREESTANDING MEDICAL FACILITY IS LOCATED WITHIN 20 MILES OF THE COUNTY LINE OF THE COUNTY WHERE THE HOSPITAL OF WHICH THE FACILITY IS AN ADMINISTRATIVE PART IS LOCATED.~~

19-3A-07.

(a) There [is a] ARE TWO freestanding medical facility pilot [project] PROJECTS THAT SHALL OPERATE IN TWO JURISDICTIONS IN THE STATE.

(b) The Department shall issue a freestanding medical facility license to:

(1) [one] ONE freestanding medical facility pilot project if:

[(1)] (I) The freestanding medical facility pilot project is established by, and will operate administratively as part of, an acute care general hospital;

[(2)] (II) The acute care general hospital is part of a merged asset system with all of its existing Maryland acute care general hospitals located in a single jurisdiction;

[(3)] (III) There are not more than 5 acute care general hospitals in the jurisdiction;

[(4)] (IV) One or more of the existing acute care general hospitals in the merged asset system has an emergency department volume of 75,000 or more visits for the 12 months ending June 30, 2004;

[(5)] (V) The freestanding medical facility pilot project will operate in Montgomery County;

[(6)] (VI) The capital expenditure to implement the freestanding medical facility pilot project otherwise meets the requirements of § 19-120(k)(6)(viii) of this title; and

[(7)] (VII) The freestanding medical facility pilot project meets the requirements under § 19-3A-02(b) of this subtitle; AND

(2) ONE FREESTANDING MEDICAL FACILITY PILOT PROJECT IF:

(I) THE FREESTANDING MEDICAL FACILITY PILOT PROJECT IS ESTABLISHED BY, AND WILL OPERATE ADMINISTRATIVELY AS PART OF, AN ACUTE CARE GENERAL HOSPITAL LOCATED IN TALBOT COUNTY;

(II) THE FREESTANDING MEDICAL FACILITY PILOT PROJECT WILL OPERATE IN QUEEN ANNE'S COUNTY;

(III) THE CAPITAL EXPENDITURE TO IMPLEMENT THE FREESTANDING MEDICAL FACILITY PILOT PROJECT OTHERWISE MEETS THE REQUIREMENTS OF § 19-120(K)(6)(VIII) OF THIS TITLE; AND

(IV) THE FREESTANDING MEDICAL FACILITY PILOT PROJECT MEETS THE REQUIREMENTS UNDER § 19-3A-02(B) OF THIS SUBTITLE.

(c) (1) A freestanding medical facility pilot project shall provide to the Maryland Health Care Commission information, as specified by the Commission, on the configuration, location, operation, and utilization, including patient-level utilization, of the pilot project.

(2) A certificate of need is not required for a freestanding medical facility pilot project.

(d) (1) This subsection applies to:

(i) Individual, group, or blanket health insurance policies and contracts delivered or issued for delivery in the State by insurers, nonprofit health service plans, health maintenance organizations; and

(ii) Medicaid managed care organizations.

(2) An entity subject to this subsection shall pay the claim for covered services submitted by a freestanding medical facility pilot project at rates consistent with the contract between the entity and the freestanding medical facility pilot project.

(e) The Maryland Medical Assistance Program shall pay a fee-for-service claim submitted by a freestanding medical facility pilot project at a rate at least equal to the rate paid by Medicare.

(f) The provisions of §§ 19-3A-01 through 19-3A-06 shall apply to a freestanding medical facility pilot project.

SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act shall:

(1) exempt a health care facility in Talbot County from the provisions of §§ 19-114 through 19-131 of the Health – General Article; or

(2) authorize a health care facility or service to be relocated from Talbot County to Queen Anne’s County.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 17, 2007.

CHAPTER 575

(Senate Bill 765)

AN ACT concerning

Workers’ Compensation Insurance – Notice – Premiums

FOR the purpose of establishing certain requirements for notice relating to premium amounts for renewal of workers’ compensation insurance policies; ~~altering certain requirements relating to the renewal of workers’ compensation and commercial insurance policies; altering the circumstances under which an insurer must provide a reasonable estimate of a renewal policy premium;~~ making this Act an emergency measure; providing for the application of this Act; and generally relating to certain requirements relating to notice and renewal of workers’ compensation ~~and commercial~~ insurance policies.

BY repealing and reenacting, with amendments,
 Article – Insurance
 Section 27-608
 Annotated Code of Maryland
 (2006 Replacement Volume and 2006 Supplement)

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

Article - Insurance

27-608.

(a) This section applies [only to policies of commercial insurance] **TO:**

(1) POLICIES OF COMMERCIAL INSURANCE; AND

(2) POLICIES OF WORKERS' COMPENSATION INSURANCE.

(b) Unless an insurer has given notice of its intention not to renew a policy subject to this section, ~~if~~ the insurer seeks to increase the renewal policy premium by 20% or more,~~]~~ the insurer shall send a notice to the named insured and insurance producer, if any, not less than 45 days prior to the renewal date of the policy.

(c) A notice under this section shall include:

(1) both the expiring policy premium and the renewal policy premium;
and

(2) the telephone number for the insurer or insurance producer, if any, together with a statement that the insured may call to request additional information about the premium increase.

(d) (1) If ~~[an] THE INSURER SEEKS TO INCREASE THE RENEWAL POLICY PREMIUM BY 20% OR MORE AND THE~~ insurer's rating methodology requires the insured to provide information to calculate the renewal policy premium, an insurer shall provide a reasonable estimate of the renewal policy premium if:

(i) the insurer has requested the required information from the insured; and

(ii) the insurer has not received the requested information.

(2) A reasonable estimate under this subsection shall be based upon the information available to the insurer at the time the notice is sent.

(e) In determining the amount of a premium increase under this section, the insurer is not required to include premium resulting from:

(1) an increase in the units of exposure;

- (2) the application of an experience rating plan;
- (3) the application of a retrospective rating plan;
- (4) a change made by the insured that increases the insurer's exposure; or
- (5) an audit of the insured.

(f) A notice required by this section shall be sent by first-class mail and may be sent together with the renewal policy.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply to all ~~commercial and workers' compensation lines of property and casualty~~ insurance policies issued, delivered, or renewed on or after the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 17, 2007.

CHAPTER 576

(Senate Bill 790)

AN ACT concerning

**Homeowner's Insurance – Insurance Producers – Notice of Coverage for
Flood Loss – Statement of Additional Optional Coverage**

FOR the purpose of repealing a requirement for an insurance producer at a certain time and in a certain manner to provide an applicant for homeowner's insurance with a certain notice about homeowner's insurance coverage for losses from flood; repealing certain provisions that deem an insurance producer to be in compliance with the notice requirement under certain circumstances; repealing a requirement for an insurance producer at a certain time and in a certain manner to provide an applicant for homeowner's insurance with a certain statement about additional optional coverage; repealing certain provisions that

deem an insurance producer to be in compliance with the statement requirement under certain circumstances; providing that a certain statement does not create a private right of action; providing for the application of this Act; and generally relating to notices of coverage under homeowner's insurance.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 19–206 and 19–207
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Insurance

19–206.

(a) (1) An insurer [or an insurance producer] that sells or negotiates homeowner's insurance in the State shall provide an applicant, at the time a policy of homeowner's insurance is initially purchased, with a written notice that states that a standard homeowner's insurance policy does not cover losses from flood.

(2) If an application is made by telephone, the insurer [or insurance producer] is deemed to be in compliance with this section if, within 7 calendar days after the date of application, the insurer [or insurance producer] sends by certificate of mailing the notice to the applicant or insured.

(3) If an application is made using the Internet, the insurer [or insurance producer] is deemed to be in compliance with this section if the insurer [or insurance producer] provides the notice to the applicant prior to the submission of the application.

(b) The notice shall:

(1) state that flood insurance may be available through the National Flood Insurance Program or other sources;

(2) provide the applicant with the contact information for the National Flood Insurance Program;

(3) advise the applicant to confirm the need for flood insurance with the National Flood Insurance Program or the applicant's mortgage lender;

(4) advise the applicant to contact the National Flood Insurance Program, the applicant's insurer, or the applicant's insurance producer for information about flood insurance;

(5) advise the applicant that flood insurance may be available for covered structures and their contents;

(6) advise the applicant that a claim under a flood insurance policy may be adjusted and paid on a different basis than a claim under a homeowner's insurance policy; and

(7) advise the applicant that a separate application must be completed to purchase flood insurance.

(c) A notice required to be sent by certificate of mailing under this section may be sent with the statement required under § 19-207 of this article.

(d) A notice provided under this section does not create a private right of action.

19-207.

(a) (1) An insurer [or an insurance producer] that sells or negotiates homeowner's insurance in the State shall provide an applicant, at the time of application for homeowner's insurance, with a written statement that lists all additional optional coverage available from the insurer to the applicant.

(2) If an application is made by telephone, the insurer [or insurance producer] is deemed to be in compliance with this section if, within 7 calendar days after the date of application, the insurer [or insurance producer] sends by certificate of mailing the statement to the applicant or insured.

(3) If an application is made using the Internet, the insurer [or insurance producer] is deemed to be in compliance with this section if the insurer [or insurance producer] provides the statement to the applicant prior to submission of the application.

(b) The statement shall:

(1) be on a separate form;

(2) be titled, in at least 12 point type, "Additional Optional Coverage Not Included in the Standard Homeowner's Insurance Policy";

(3) contain the following disclosure in at least 10 point type:

“Your standard homeowner’s insurance policy does not cover all risks. You may need to obtain additional insurance to cover loss or damage to your home, property, and the contents of your home or to cover risks related to business or personal activities on your property.

This statement provides a list of the types of additional insurance coverage that are available. Contact your insurance company, insurance producer, or insurance agent to discuss these additional coverages.”; and

(4) contain a list of additional optional coverage.

(c) A statement required to be sent by certificate of mailing under this section may be sent with the notice required under § 19–206 of this article.

(D) A STATEMENT PROVIDED UNDER THIS SECTION DOES NOT CREATE A PRIVATE RIGHT OF ACTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to personal lines homeowner’s insurance policies and contracts issued, delivered, or renewed in the State on or after October 1, 2007.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 577

(Senate Bill 810)

AN ACT concerning

Public Service Commission – Authorization of Stock and Debt Transactions

FOR the purpose of providing that, under certain circumstances, certain prior authorization by the Public Service Commission is not required for certain public service companies to assume or guarantee certain obligations or liabilities with respect to certain stocks, bonds, securities, notes, or other evidence of indebtedness, or to issue certain stocks, bonds, securities, notes, or other evidence of indebtedness; providing for the effective date of this Act; and

generally relating to the authorization of stock and debt transactions by the Public Service Commission.

BY repealing and reenacting, with amendments,

Article – Public Utility Companies

Section 5–203(b) and 6–101(a)

Annotated Code of Maryland

(1998 Volume and 2006 Supplement)

(As enacted by Chapter 5 of the Acts of the General Assembly of the First Special Session of 2006)

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

Article – Public Utility Companies

5–203.

(b) (1) This subsection applies to corporations that operate in Maryland.

(2) [Without] **EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION, WITHOUT** prior authorization of the Commission, a public service company may not:

(i) assume or guarantee an obligation or liability with respect to stocks, bonds, securities, notes, or other evidence of indebtedness that is payable as a whole or in part to any person more than 12 months after the date of issuance; or

(ii) issue stocks, bonds, securities, notes, or other evidence of indebtedness payable as a whole or in part more than 12 months after the date of issuance.

(3) Stocks, bonds, securities, notes, or other evidence of indebtedness described under paragraph (2)(ii) of this subsection shall be issued in accordance with §§ 6–102 and 6–103 of this article.

(4) The Commission shall take action on an application for authorization under this section within a reasonable time after receipt.

(5) PRIOR AUTHORIZATION OF THE COMMISSION IS NOT REQUIRED FOR AN ASSUMPTION OR GUARANTEE UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION OR AN ISSUANCE UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION MADE BY A GAS COMPANY, ELECTRIC COMPANY, OR TELEPHONE COMPANY WHOSE GROSS ANNUAL REVENUES, FOR THE MOST RECENT CALENDAR YEAR FOR WHICH DATA ARE AVAILABLE, ARE LESS THAN 3% OF THE

TOTAL GROSS ANNUAL REVENUES OF ALL PUBLIC SERVICE COMPANIES IN THE STATE DURING THE SAME CALENDAR YEAR, IF THE GAS COMPANY, ELECTRIC COMPANY, OR TELEPHONE COMPANY:

(I) PROVIDES PRIOR WRITTEN NOTICE TO THE COMMISSION OF THE TRANSACTION; AND

(II) OBTAINS APPROVAL OF THE TRANSACTION FROM THE ENTITY IN ANOTHER STATE THAT REGULATES THE GAS COMPANY, ELECTRIC COMPANY, OR TELEPHONE COMPANY.

6-101.

(a) (1) This subsection applies only to corporations that operate in Maryland.

(2) [A] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A public service company shall obtain authorization from the Commission before the public service company:

(i) assumes or guarantees an obligation or liability with respect to stocks, bonds, securities, notes, or other evidence of indebtedness of any person that is payable wholly or partly more than 12 months after the date of the assumption or guarantee;

(ii) issues stocks, bonds, securities, notes, or other evidence of indebtedness that is payable wholly or partly more than 12 months after the date issued; or

(iii) lends money to an affiliate, as defined in § 7-501 of this article, at rates or on terms that are significantly more favorable to the affiliate than the rates or terms that are otherwise commercially available to the affiliate.

(3) An issuance under paragraph (2)(ii) of this subsection shall conform to §§ 6-102 and 6-103 of this subtitle.

(4) PRIOR AUTHORIZATION OF THE COMMISSION IS NOT REQUIRED FOR AN ASSUMPTION OR GUARANTEE UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION OR AN ISSUANCE UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION MADE BY A GAS COMPANY, ELECTRIC COMPANY, OR TELEPHONE COMPANY WHOSE GROSS ANNUAL REVENUES, FOR THE MOST RECENT CALENDAR YEAR FOR WHICH DATA ARE AVAILABLE, ARE LESS THAN 3% OF THE TOTAL GROSS ANNUAL REVENUES OF ALL PUBLIC SERVICE COMPANIES IN THE

STATE DURING THE SAME CALENDAR YEAR, IF THE GAS COMPANY, ELECTRIC COMPANY, OR TELEPHONE COMPANY:

(I) PROVIDES PRIOR WRITTEN NOTICE TO THE COMMISSION OF THE TRANSACTION; AND

(II) OBTAINS APPROVAL OF THE TRANSACTION FROM THE ENTITY IN ANOTHER STATE THAT REGULATES THE GAS COMPANY, ELECTRIC COMPANY, OR TELEPHONE COMPANY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007, the effective date of §§ 5-203 and 6-101 of the Public Utility Companies Article as provided in Section 24 of Chapter 5 of the Acts of the General Assembly of the First Special Session of 2006. If the effective date of §§ 5-203 and 6-101 of the Public Utility Companies Article as provided in Section 24 of Chapter 5 is amended, this Act shall take effect on the taking effect of §§ 5-203 and 6-101 of the Public Utility Companies Article as provided in Chapter 5 as amended.

Approved by the Governor, May 17, 2007.

CHAPTER 578

(Senate Bill 827)

AN ACT concerning

Baltimore City - Property Tax Credit - Exemption - Affordable and Inclusionary Housing

FOR the purpose of ~~authorizing the Mayor and City Council of Baltimore City to grant, by law, a property tax credit against the county property tax imposed on mixed-income rental residential developments~~ providing for certain exemptions from the Baltimore City property tax under certain circumstances for certain development projects that offer affordable residential units and are owned by certain owners; prohibiting the Baltimore City Board of Estimates from entering into certain agreements if the agreements would result in a certain reduction in property tax revenues for a taxable year; authorizing the Mayor and City Council of Baltimore City to provide, by law, for ~~eligibility criteria for the tax credit, the amount and duration of the tax credit,~~ certain regulations, requirements, limitations, criteria, and procedures, and any other provision necessary to carry out the tax ~~credit~~ exemption; providing for the application and termination of this Act; defining certain terms; and generally relating to

property tax ~~credits for~~ exemptions for affordable and inclusionary housing in Baltimore City.

BY adding to

Article – Tax – Property

Section ~~9-304(g)~~ 7-504.1

Annotated Code of Maryland

(2001 Replacement Volume and 2006 Supplement)

Preamble

WHEREAS, Economic diversity in Baltimore City, anchored by a strong and stable middle class and including homes for the full range of Baltimore City's workforce, as well as for seniors and others on fixed incomes, will stimulate economic investment, promote neighborhood stability, and increase public safety for all; and

WHEREAS, The private sector, as the primary source of housing and economic development activity in Baltimore City, is not solely, through its individual development actions, able to create economically diverse neighborhoods or developments or to develop housing for the broad range of incomes that will lead to economic diversity; and

WHEREAS, In an effort to spur the development of affordable and inclusionary housing, Baltimore City Council Bill 06-0558 would grant the owners of ~~rental residential~~ developments that offer inclusionary housing a property tax ~~credit exemption~~ on the enactment by the Maryland General Assembly of enabling legislation to authorize the property tax ~~credit exemption~~; now, therefore,

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

Article - Tax - Property

~~9-304.~~

~~(g) (1) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT UNDER THIS SUBSECTION AGAINST THE COUNTY PROPERTY TAX IMPOSED ON MIXED INCOME RENTAL RESIDENTIAL DEVELOPMENTS THAT:~~

~~(i) OFFER AFFORDABLE UNITS; AND~~

~~(ii) ARE OWNED BY QUALIFYING OWNERS.~~

~~(2) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY PROVIDE, BY LAW, FOR THE FOLLOWING PROVISIONS RELATING TO THE TAX CREDIT AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION:~~

~~(I) ELIGIBILITY CRITERIA FOR THE TAX CREDIT;~~

~~(II) THE AMOUNT AND DURATION OF THE TAX CREDIT;~~

~~(III) REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE TAX CREDIT; AND~~

~~(IV) ANY OTHER PROVISIONS NECESSARY TO CARRY OUT THE CREDIT AUTHORIZED BY THIS SUBSECTION.~~

7-504.1.

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

(2) "AFFORDABLE RENT" MEANS RENT THAT DOES NOT EXCEED 30% OF A HOUSEHOLD'S INCOME.

(3) "AREA MEDIAN INCOME" MEANS THE MEDIAN HOUSEHOLD INCOME FOR AN AREA ADJUSTED FOR HOUSEHOLD SIZE AS PUBLISHED AND ANNUALLY UPDATED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(4) "QUALIFYING DEVELOPMENT" MEANS:

(I) A REDEVELOPMENT PROJECT OF 30 OR MORE RESIDENTIAL RENTAL UNITS THAT WILL SET ASIDE 10% OR MORE OF THE DEVELOPMENT'S TOTAL UNITS TO BE RENTED AT AN AFFORDABLE RENT TO A HOUSEHOLD EARNING NOT MORE THAN 60% OF THE AREA MEDIAN INCOME; OR

(II) A NEW RESIDENTIAL RENTAL DEVELOPMENT PROJECT THAT:

1. IS NEW CONSTRUCTION OR IS A CONVERSION OF A NONRESIDENTIAL STRUCTURE THAT WILL PROVIDE 30 OR MORE UNITS OF HOUSING;

2. HAS A COMBINED PRIVATE CAPITAL INVESTMENT OF EQUITY AND DEBT OF AT LEAST \$10,000,000;

3. SETS ASIDE AT LEAST 10% OF THE DEVELOPMENT'S TOTAL UNITS TO BE RENTED AT AN AFFORDABLE RENT TO A HOUSEHOLD EARNING NOT MORE THAN 60% OF THE AREA MEDIAN INCOME;

4. HAS NOT OBTAINED SITE PLAN APPROVAL ON OR BEFORE JUNE 30, 2007; AND

5. SATISFIES ADDITIONAL REQUIREMENTS AS DETERMINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY.

(5) "SITE PLAN APPROVAL" MEANS APPROVAL FROM THE BALTIMORE CITY PLANNING COMMISSION OF THE LAND DEVELOPMENT PROPOSAL OF A QUALIFIED DEVELOPMENT TO ENSURE ITS CONSISTENCY WITH LAND DEVELOPMENT POLICIES AND REGULATIONS AND ACCEPTED LAND DESIGN PRACTICES.

(B) A REDEVELOPMENT PROJECT OR NEW RESIDENTIAL RENTAL DEVELOPMENT PROJECT IS EXEMPT OR PARTIALLY EXEMPT FROM BALTIMORE CITY REAL PROPERTY TAXES IF:

(1) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY DETERMINE THAT THE PROJECT:

(i) IS A QUALIFYING DEVELOPMENT MEETING THE REQUIREMENTS OF THIS SECTION; AND

(ii) MEETS THE REQUIREMENT OF ANY OTHER RELEVANT ANALYSIS;

(2) THE OWNER OR OWNERS OF THE QUALIFYING DEVELOPMENT SATISFY A FINANCIAL REVIEW ADMINISTERED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY THAT PROVIDES:

(i) A DETAILED DESCRIPTION OF THE PROJECT AND THE DEVELOPMENT BUDGET FOR THE PROJECT, INCLUDING THE IDENTIFICATION OF ALL SOURCES OF DEBT AND EQUITY FINANCING;

(ii) A MULTIYEAR PRO FORMA CASH FLOW ANALYSIS OF THE PROJECT DETAILING ALL INCOMING AND OUTGOING CASH FLOW INCLUDING

REVENUES, OPERATING EXPENSES, DEBT SERVICE, TAXES, CAPITAL EXPENDITURES, AND ANY OTHER CASH OUTLAYS;

(III) THE PROJECTED RETURN ON INVESTMENT FOR THE OWNER; AND

(IV) THE AMOUNT OF POTENTIAL REVENUE THAT MAY BE LOST THROUGH THE PROVISION OF AFFORDABLE HOUSING; AND

(3) THE OWNER OR OWNERS OF THE QUALIFYING DEVELOPMENT AND THE BALTIMORE CITY BOARD OF ESTIMATES ENTER INTO AN AGREEMENT THAT:

(I) PROVIDES THAT THE OWNER OR OWNERS OF THE QUALIFYING DEVELOPMENT SHALL PAY TO BALTIMORE CITY A NEGOTIATED AMOUNT IN LIEU OF THE PAYMENT OF CITY REAL PROPERTY TAXES;

(II) SPECIFIES AN AMOUNT THAT THE OWNER OR OWNERS SHALL PAY TO BALTIMORE CITY EACH YEAR IN LIEU OF THE PAYMENT OF CITY REAL PROPERTY TAXES DURING THE TERM OF THE AGREEMENT THAT IS NOT LESS THAN 75% OF THE ANNUAL PROPERTY TAXES THAT WOULD OTHERWISE BE DUE TO THE CITY FOR THE QUALIFYING DEVELOPMENT IN THE INITIAL YEAR OF THE AGREEMENT; AND

(III) IS LIMITED TO A TERM OF NOT MORE THAN 10 YEARS.

(C) AT THE COMPLETION OF THE TERM OF THE AGREEMENT, THE QUALIFYING DEVELOPMENT MAY SEEK TO RENEW THE AGREEMENT FOR ADDITIONAL TERMS BUT SUBSEQUENT TERMS SHALL EACH BE LIMITED TO A TERM OF NOT MORE THAN 10 YEARS.

(D) THE BALTIMORE CITY BOARD OF ESTIMATES MAY NOT ENTER INTO AN AGREEMENT FOR PAYMENT OF A NEGOTIATED AMOUNT IN LIEU OF TAXES UNDER THIS SECTION IF THE AGREEMENT WOULD CAUSE THE TOTAL REDUCTION IN PROPERTY TAX REVENUES FROM ALL AGREEMENTS ENTERED INTO UNDER THIS SECTION TO EXCEED \$2,000,000 IN ANY TAXABLE YEAR.

(E) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY PROVIDE, BY LAW, FOR:

(1) THE CRITERIA TO BE MET FOR A PROJECT TO BE CONSIDERED A REDEVELOPMENT PROJECT FOR PURPOSES OF THIS SECTION;

(2) ADDITIONAL LIMITATIONS, CRITERIA, AND REGULATIONS REGARDING QUALIFYING DEVELOPMENTS AUTHORIZED TO ENTER INTO AN AGREEMENT FOR PAYMENT IN LIEU OF TAXES UNDER THIS SECTION;

(3) ADDITIONAL PROCEDURES AND REQUIREMENTS REGARDING THE AMOUNT AND DURATION OF THE PAYMENT IN LIEU OF TAXES AGREEMENT AUTHORIZED UNDER THIS SECTION;

(4) REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF THE TAX EXEMPTIONS AND PAYMENT IN LIEU OF TAXES AGREEMENTS AUTHORIZED UNDER THIS SECTION; AND

(5) ANY OTHER PROVISION NECESSARY TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007, and shall be applicable to all taxable years beginning after June 30, 2007 but before July 1, 2010. It shall remain effective for a period of 3 years and 1 month and, at the end of June 30, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 579

(Senate Bill 842)

AN ACT concerning

Property Tax Credit - Carroll County - Gateway Renovation

FOR the purpose of authorizing the governing body of Carroll County to grant, by law, a tax credit against the county property tax imposed on certain real property that is renovated, upgraded, or rehabilitated in designated areas of the county; authorizing the governing body of Carroll County, by law, to specify the geographic areas of the county, classes of owners, and types of improvements eligible for the credit, to establish the amount and duration of and eligibility criteria for the credit, and to provide for any other provision necessary to carry out the tax credit; providing for the application of this Act; and generally relating to authorization for a property tax credit in Carroll County for certain

real property that is renovated, upgraded, or rehabilitated in designated areas of the county.

BY adding to

Article – Tax – Property

Section 9–308(d)

Annotated Code of Maryland

(2001 Replacement Volume and 2006 Supplement)

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

Article – Tax – Property

9–308.

(D) (1) THE GOVERNING BODY OF CARROLL COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY PROPERTY TAX IMPOSED ON REAL PROPERTY THAT IS:

(I) LOCATED IN DESIGNATED GEOGRAPHIC REGIONS OF THE COUNTY;

(II) OWNED BY SPECIFIED CLASSES OF PERSONS; AND

(III) RENOVATED, UPGRADED, OR REHABILITATED IN ACCORDANCE WITH ELIGIBILITY CRITERIA ESTABLISHED BY THE COUNTY.

(2) THE GOVERNING BODY OF CARROLL COUNTY, BY LAW, MAY:

(I) SPECIFY THE GEOGRAPHIC AREAS OF THE COUNTY, CLASSES OF OWNERS, AND TYPES OF IMPROVEMENTS TO PROPERTY ELIGIBLE FOR THE TAX CREDIT;

(II) ESTABLISH THE AMOUNT AND DURATION OF THE TAX CREDIT;

(III) ESTABLISH ELIGIBILITY CRITERIA FOR THE TAX CREDIT; AND

(IV) PROVIDE FOR ANY OTHER PROVISION NECESSARY TO CARRY OUT THE TAX CREDIT UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007, and shall be applicable to all taxable years beginning after June 30, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 580

(Senate Bill 864)

AN ACT concerning

Voice Over Internet Protocol Service ~~and Internet Protocol-Enabled Service~~

FOR the purpose of providing that the Public Service Commission does not have jurisdiction over certain voice over Internet protocol services ~~and Internet protocol-enabled services~~; requiring a certain company that moves a customer from a certain service to a voice over Internet protocol service to provide the ~~consumer~~ customer with a certain notification; requiring the Department of Business and Economic Development and the Commission, with input from certain agencies, to report to the General Assembly by a certain date on the status of a certain deployment; requiring the Commission, with input from certain agencies, to track certain consumer complaints; authorizing the Commission, under certain circumstances, to report certain findings and recommendations to the General Assembly; providing for the construction of this Act; defining ~~certain terms~~ a certain term; and generally relating to voice over Internet protocol service ~~and Internet protocol-enabled service~~.

BY adding to

Article – Public Utility Companies

Section 8-601 and 8-602 to be under the new subtitle “Subtitle 6. Voice over Internet Protocol Service ~~and Internet Protocol-Enabled Service~~”

Annotated Code of Maryland

(1998 Volume and 2006 Supplement)

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

Article – Public Utility Companies

SUBTITLE 6. VOICE OVER INTERNET PROTOCOL SERVICE ~~AND INTERNET PROTOCOL-ENABLED SERVICE~~.

8-601.

~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(B) "INTERNET PROTOCOL ENABLED SERVICE" OR "IP ENABLED SERVICE" MEANS ANY SERVICE, CAPABILITY, FUNCTIONALITY, OR APPLICATION PROVIDED USING INTERNET PROTOCOL OR ANY SUCCESSOR PROTOCOL THAT ENABLES AN END USER TO SEND OR RECEIVE A COMMUNICATION IN IP FORMAT OR ANY SUCCESSOR FORMAT, REGARDLESS OF WHETHER THE COMMUNICATION IS VOICE, DATA, OR VIDEO. IN THIS SUBTITLE:~~

~~(C) (1) "VOICE VOICE OVER INTERNET PROTOCOL SERVICE" OR "VOIP SERVICE" MEANS ANY SERVICE THAT:~~

~~(I) ENABLES REAL-TIME TWO-WAY VOICE COMMUNICATIONS THAT ORIGINATE FROM OR TERMINATE USING TO THE SUBSCRIBER END USER'S LOCATION REQUIRING INTERNET PROTOCOL OR A ANY SUCCESSOR FORMAT PROTOCOL TO INTERNET PROTOCOL; AND~~

~~(II) USES REQUIRES A BROADBAND CONNECTION FROM THE USER'S LOCATION; AND~~

~~(2) "VOICE VOICE OVER INTERNET PROTOCOL SERVICE" OR "VOIP SERVICE" INCLUDES ANY SUCH SERVICE THAT PERMITS USERS GENERALLY TO RECEIVE CALLS THAT ORIGINATE ON THE PUBLIC SWITCHED TELEPHONE NETWORK AND TO TERMINATE CALLS TO THE PUBLIC SWITCHED TELEPHONE NETWORK.~~

8-602.

(A) THE COMMISSION DOES NOT HAVE JURISDICTION OVER THE REGULATION OF VOIP SERVICE ~~OR IP ENABLED SERVICE~~, INCLUDING THE IMPOSITION OF REGULATORY FEES, CERTIFICATION REQUIREMENTS, AND THE FILING OR APPROVAL OF TARIFFS.

(B) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO:

(1) REQUIRE OR PROHIBIT THE ASSESSMENT OF 9-1-1 FEES IN ACCORDANCE WITH § 1-310 OF THE PUBLIC SAFETY ARTICLE ON VOIP ~~OR IP ENABLED SERVICE~~;

(2) REQUIRE OR PROHIBIT THE ASSESSMENT OF FEES FOR TELECOMMUNICATIONS RELAY SERVICE UNDER TITLE 3, SUBTITLE 8 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

~~(2)~~ (3) REQUIRE OR PROHIBIT THE PAYMENT OF ANY SWITCHED NETWORK ACCESS RATES OR OTHER INTERCARRIER COMPENSATION RATES THAT MAY BE DETERMINED TO APPLY; OR

~~(3)~~ (4) RELIEVE A COMPANY THAT IS OTHERWISE SUBJECT TO § 8-201 OF THIS TITLE OF ITS OBLIGATION TO PROVIDE TELEPHONE LIFELINE SERVICE OVER LOCAL EXCHANGE ACCESS LINES THAT ARE SUBJECT TO THE COMMISSION'S JURISDICTION;

(5) EXEMPT VOIP SERVICE FROM GENERALLY APPLICABLE STATE AND FEDERAL LAWS RELATING TO PUBLIC SAFETY, CONSUMER PROTECTION, AND UNFAIR AND DECEPTIVE TRADE PRACTICES, OR TO EXEMPT VOIP SERVICE FROM THE ~~PURVIEW~~ AUTHORITY OF THE DIVISION OF CONSUMER PROTECTION IN THE OFFICE OF THE ATTORNEY GENERAL; OR

(6) REMOVE THE COMMISSION'S JURISDICTION OVER CIRCUIT SWITCHED LOCAL EXCHANGE ACCESS SERVICE.

(C) A COMPANY THAT MOVES A CUSTOMER FROM A COMMISSION-APPROVED TARIFF SERVICE TO VOIP SERVICE SHALL NOTIFY THE CUSTOMER THAT THE COMMISSION DOES NOT HAVE JURISDICTION OVER THE REGULATION OF VOIP SERVICE AND THAT *COMPLAINTS ABOUT VOIP SERVICE IS UNDER THE PURVIEW OF* MAY BE FILED WITH THE DIVISION OF CONSUMER PROTECTION IN THE OFFICE OF THE ATTORNEY GENERAL.

SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act authorizes a company to move a customer from a service the customer ordered under a tariff approved by the Public Service Commission to another service that may be tariffed or nontariffed unless:

(1) the customer consents; or

(2) the service the customer ordered under a Commission-approved tariff is discontinued with the approval of the Commission.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1, 2010, the Department of Business and Economic Development and the Public Service Commission, with input from the Office of the Attorney General and other appropriate agencies as necessary, shall report to the General Assembly, in accordance with §

2-1246 of the State Government Article, on the status of the deployment of Internet Protocol-enabled services, including VoIP services, in Maryland and the status of any federal legislation or regulatory proceedings before the Federal Communications Commission relating to Internet Protocol-enabled services.

SECTION 4. AND BE IT FURTHER ENACTED, That, the Public Service Commission, with input from the Office of the Attorney General and the Office of People's Counsel, shall track the number of consumer complaints received by those State agencies regarding the provision of VoIP services in Maryland, including consumer complaints related to service outages, terminations without consumer consent, poor service, or billing disputes. If, at any time, the Commission determines that additional consumer protections may be necessary for the public interest based on consumer complaints or that a substantial number of consumers lack alternatives for voice service, including regulated voice services offered under Commission-approved tariffs or VoIP service offered by other providers, the Commission on its own initiative may report its findings and recommendations to the General Assembly, in accordance with § 2-1246 of the State Government Article.

SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 581

(House Bill 1379)

AN ACT concerning

Voice Over Internet Protocol Service ~~and Internet Protocol-Enabled Service~~

FOR the purpose of providing that the Public Service Commission does not have jurisdiction over certain voice over Internet protocol services ~~and Internet protocol-enabled services~~; requiring a certain company that moves a customer from a certain service to a voice over Internet protocol service to provide the customer with a certain notification; requiring the Department of Business and Economic Development and the Commission, with input from certain agencies, to report to the General Assembly by a certain date on the status of a certain deployment; requiring the Commission, with input from certain agencies, to track certain consumer complaints; authorizing the Commission, under certain circumstances, to report certain findings and recommendations to the General Assembly; providing for the construction of this Act; defining ~~certain terms a~~

~~certain term; and generally relating to voice over Internet protocol service and Internet protocol-enabled service.~~

BY adding to

Article – Public Utility Companies

Section 8-601 and 8-602 to be under the new subtitle “Subtitle 6. Voice over Internet Protocol Service ~~and Internet Protocol-Enabled Service~~”

Annotated Code of Maryland

(1998 Volume and 2006 Supplement)

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

Article – Public Utility Companies

SUBTITLE 6. VOICE OVER INTERNET PROTOCOL SERVICE ~~AND INTERNET PROTOCOL-ENABLED SERVICE.~~

8-601.

~~(A) IN THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(B) “INTERNET PROTOCOL-ENABLED SERVICE” OR “IP-ENABLED SERVICE” MEANS ANY SERVICE, CAPABILITY, FUNCTIONALITY, OR APPLICATION PROVIDED USING INTERNET PROTOCOL OR ANY SUCCESSOR PROTOCOL THAT ENABLES AN END USER TO SEND OR RECEIVE A COMMUNICATION IN IP FORMAT OR ANY SUCCESSOR FORMAT, REGARDLESS OF WHETHER THE COMMUNICATION IS VOICE, DATA, OR VIDEO.~~

IN THIS SUBTITLE:

~~(C)~~ (1) **“VOICE OVER INTERNET PROTOCOL SERVICE” OR “VOIP SERVICE” MEANS ANY SERVICE THAT:**

(I) **ENABLES REAL-TIME TWO-WAY VOICE COMMUNICATIONS THAT ORIGINATE FROM OR TERMINATE USING TO THE SUBSCRIBER END USER’S LOCATION REQUIRING INTERNET PROTOCOL OR A ANY SUCCESSOR FORMAT PROTOCOL TO INTERNET PROTOCOL; AND**

(II) **USES REQUIRES A BROADBAND CONNECTION FROM THE USER’S LOCATION; AND**

(2) ~~“VOICE~~ VOICE OVER INTERNET PROTOCOL SERVICE” OR “VOIP SERVICE” INCLUDES ANY SUCH SERVICE THAT PERMITS USERS GENERALLY TO RECEIVE CALLS THAT ORIGINATE ON THE PUBLIC SWITCHED TELEPHONE NETWORK AND TO TERMINATE CALLS TO THE PUBLIC SWITCHED TELEPHONE NETWORK.

8-602.

(A) THE COMMISSION DOES NOT HAVE JURISDICTION OVER THE REGULATION OF VOIP SERVICE ~~OR IP-ENABLED SERVICE~~, INCLUDING THE IMPOSITION OF REGULATORY FEES, CERTIFICATION REQUIREMENTS, AND THE FILING OR APPROVAL OF TARIFFS.

(B) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO:

(1) REQUIRE OR PROHIBIT THE ASSESSMENT OF 9-1-1 FEES IN ACCORDANCE WITH § 1-310 OF THE PUBLIC SAFETY ARTICLE ON VOIP ~~OR IP-ENABLED SERVICE~~;

(2) REQUIRE OR PROHIBIT THE ASSESSMENT OF FEES FOR TELECOMMUNICATIONS RELAY SERVICE UNDER TITLE 3, SUBTITLE 8 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

~~(2)~~ (3) REQUIRE OR PROHIBIT THE PAYMENT OF ANY SWITCHED NETWORK ACCESS RATES OR OTHER INTERCARRIER COMPENSATION RATES THAT MAY BE DETERMINED TO APPLY; ~~OR~~

~~(3)~~ (4) RELIEVE A COMPANY THAT IS OTHERWISE SUBJECT TO § 8-201 OF THIS TITLE OF ITS OBLIGATION TO PROVIDE TELEPHONE LIFELINE SERVICE OVER LOCAL EXCHANGE ACCESS LINES THAT ARE SUBJECT TO THE COMMISSION’S JURISDICTION;

(5) EXEMPT VOIP SERVICE FROM GENERALLY APPLICABLE STATE AND FEDERAL LAWS RELATING TO PUBLIC SAFETY, CONSUMER PROTECTION, AND UNFAIR AND DECEPTIVE TRADE PRACTICES, OR TO EXEMPT VOIP SERVICE FROM THE AUTHORITY OF THE DIVISION OF CONSUMER PROTECTION IN THE OFFICE OF THE ATTORNEY GENERAL; OR

(6) REMOVE THE COMMISSION’S JURISDICTION OVER CIRCUIT SWITCHED LOCAL EXCHANGE ACCESS SERVICE.

(C) A COMPANY THAT MOVES A CUSTOMER FROM A COMMISSION-APPROVED TARIFF SERVICE TO VOIP SERVICE SHALL NOTIFY

THE CUSTOMER THAT THE COMMISSION DOES NOT HAVE JURISDICTION OVER THE REGULATION OF VOIP SERVICE AND THAT COMPLAINTS ABOUT VOIP SERVICE MAY BE FILED WITH THE DIVISION OF CONSUMER PROTECTION IN THE OFFICE OF THE ATTORNEY GENERAL.

SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act authorizes a company to move a customer from a service the customer ordered under a tariff approved by the Public Service Commission to another service that may be tariffed or nontariffed unless:

- (1) the customer consents; or
- (2) the service the customer ordered under a Commission-approved tariff is discontinued with the approval of the Commission.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1, 2010, the Department of Business and Economic Development and the Public Service Commission, with input from the Office of the Attorney General and other appropriate agencies as necessary, shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the status of the deployment of Internet Protocol-enabled services, including VoIP services, in Maryland and the status of any federal legislation or regulatory proceedings before the Federal Communications Commission relating to Internet Protocol-enabled services.

SECTION 4. AND BE IT FURTHER ENACTED, That, the Public Service Commission, with input from the Office of the Attorney General and the Office of People's Counsel, shall track the number of consumer complaints received by those State agencies regarding the provision of VoIP services in Maryland, including consumer complaints related to service outages, terminations without consumer consent, poor service, or billing disputes. If, at any time, the Commission determines that additional consumer protections may be necessary for the public interest based on consumer complaints or that a substantial number of consumers lack alternatives for voice service, including regulated voice services offered under Commission-approved tariffs or VoIP service offered by other providers, the Commission on its own initiative may report its findings and recommendations to the General Assembly, in accordance with § 2-1246 of the State Government Article.

SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 582

(Senate Bill 935)

AN ACT concerning

Vehicle Laws – Traffic Control Signals – Exit Ramps

FOR the purpose of requiring vehicular traffic approaching a highway from an exit ramp from an expressway and facing a nonfunctioning traffic control signal to stop at a certain location and to remain stopped until it is safe to continue onto the highway; providing for the assessment of certain points for a violation of this Act; establishing that a certain penalty applies to a violation of this Act; and generally relating to traffic signals.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 16–402(a)(9)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY adding to
Article – Transportation
Section 21–209
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 27–101(b)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Transportation

16–402.

(a) After the conviction of an individual for a violation of Title 2, Subtitle 5, § 2–209, or § 3–211 of the Criminal Law Article, or of the vehicle laws or regulations of this State or of any local authority, points shall be assessed against the individual as of the date of violation and as follows:

(9) Failure to stop a vehicle for a steady red traffic signal in violation of § 21-202 of this article OR A NONFUNCTIONING TRAFFIC CONTROL SIGNAL IN VIOLATION OF § 21-209 OF THIS ARTICLE 2 points

21-209.

VEHICULAR TRAFFIC APPROACHING A HIGHWAY FROM AN EXIT RAMP FROM AN EXPRESSWAY, AS DEFINED IN § 21-101(K) OF THIS TITLE, AND FACING A NONFUNCTIONING TRAFFIC CONTROL SIGNAL AT THE INTERSECTION OF THE EXIT RAMP AND THE HIGHWAY SHALL:

(1) STOP:

(I) AT A CLEARLY MARKED STOP LINE;

(II) IF THERE IS NO CLEARLY MARKED STOP LINE, BEFORE ENTERING ANY CROSSWALK; OR

(III) IF THERE IS NO CROSSWALK, BEFORE ENTERING THE HIGHWAY; AND

(2) REMAIN STOPPED UNTIL IT IS SAFE TO CONTINUE ONTO THE HIGHWAY.

27-101.

(b) Except as otherwise provided in this section, any person convicted of a misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is subject to a fine of not more than \$500.

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

Approved by the Governor, May 17, 2007.

CHAPTER 583

(Senate Bill 945)

AN ACT concerning

Income Tax – Captive Real Estate Investment Trusts

FOR the purpose of requiring that a certain deduction for dividends paid be added to federal taxable income to determine Maryland modified income of certain real estate investment trusts for Maryland income tax purposes; defining a certain term; providing for the application of this Act; and generally relating to a Maryland income tax addition modification in the amount of the dividends paid deduction for certain real estate investment trusts.

BY adding to

Article – Tax – General

Section 10-306.2

Annotated Code of Maryland

(2004 Replacement Volume and 2006 Supplement)

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

Article – Tax – General

10-306.2.

(A) IN THIS SECTION:

(1) “CAPTIVE REIT” MEANS A CORPORATION, TRUST, OR ASSOCIATION:

~~(1) (I)~~ **THAT IS CONSIDERED A REAL ESTATE INVESTMENT TRUST FOR THE TAXABLE YEAR UNDER § 856 OF THE INTERNAL REVENUE CODE;**

~~(2) (II)~~ **THAT IS NOT PUBLICLY TRADED REGULARLY TRADED ON AN ESTABLISHED SECURITIES MARKET; AND**

~~(3) (III)~~ **MORE THAN 50% OF THE VOTING POWER OR VALUE OF THE BENEFICIAL INTERESTS OR SHARES OF WHICH ARE, AT ANY TIME DURING THE LAST HALF OF THE TAXABLE YEAR, IS OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY A SINGLE PERSON OTHER THAN; ENTITY THAT IS SUBJECT TO THE PROVISIONS OF SUBCHAPTER C OF CHAPTER 1 OF THE INTERNAL REVENUE CODE; AND**

(2) “CAPTIVE REIT” DOES NOT INCLUDE:

(I) A CORPORATION, TRUST, OR ASSOCIATION MORE THAN 50% OF THE VOTING POWER OR VALUE OF THE BENEFICIAL INTEREST OR SHARES OF WHICH, AT ANY TIME DURING WHICH THE CORPORATION, TRUST, OR ASSOCIATION SATISFIES ITEM (1)(III) OF THIS SUBSECTION, IS OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY:

~~(H) 1. A REAL ESTATE INVESTMENT TRUST OTHER THAN A REAL ESTATE INVESTMENT TRUST DESCRIBED IN ITEM (1) OF THIS SUBSECTION; OR~~

~~(H) A QUALIFIED REAL ESTATE INVESTMENT TRUST SUBSIDIARY UNDER § 856(i) OF THE INTERNAL REVENUE CODE.~~

2. A PERSON EXEMPT FROM TAXATION UNDER § 501 OF THE INTERNAL REVENUE CODE; OR

3. A LISTED AUSTRALIAN PROPERTY TRUST; OR

(II) SUBJECT TO REGULATIONS THAT THE COMPTROLLER ADOPTS, A REAL ESTATE INVESTMENT TRUST THAT IS INTENDED TO BECOME REGULARLY TRADED ON AN ESTABLISHED SECURITIES MARKET AND THAT SATISFIES THE REQUIREMENTS OF § 856(A)(5) AND (6) OF THE INTERNAL REVENUE CODE BY REASON OF § 856(H)(2) OF THE INTERNAL REVENUE CODE.

(B) IN ADDITION TO THE MODIFICATIONS UNDER §§ 10-305 THROUGH 10-306.1 OF THIS SUBTITLE, AN AMOUNT EQUAL TO THE AMOUNT OF THE DIVIDENDS PAID DEDUCTION ALLOWED UNDER THE INTERNAL REVENUE CODE FOR THE TAXABLE YEAR IS ADDED TO FEDERAL TAXABLE INCOME TO DETERMINE THE MARYLAND MODIFIED INCOME OF A CAPTIVE REIT.

(C) FOR PURPOSES OF THIS SECTION, THE CONSTRUCTIVE OWNERSHIP RULES PRESCRIBED UNDER § 318(A) OF THE INTERNAL REVENUE CODE, AS MODIFIED BY § 856(D)(5) OF THE INTERNAL REVENUE CODE, SHALL APPLY IN DETERMINING THE OWNERSHIP OF STOCK, ASSETS, OR NET PROFITS OF ANY PERSON.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007, and shall be applicable to all taxable years beginning after December 31, 2006.

Approved by the Governor, May 17, 2007.

CHAPTER 584

(House Bill 1257)

AN ACT concerning

Income Tax – Captive Real Estate Investment Trusts

FOR the purpose of requiring that a certain deduction for dividends paid be added to federal taxable income to determine Maryland modified income of certain real estate investment trusts for Maryland income tax purposes; defining a certain term; providing for the application of this Act; and generally relating to a Maryland income tax addition modification in the amount of the dividends paid deduction for certain real estate investment trusts.

BY adding to

Article – Tax – General

Section 10–306.2

Annotated Code of Maryland

(2004 Replacement Volume and 2006 Supplement)

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

Article – Tax – General

10–306.2.

(A) IN THIS SECTION:

(1) “CAPTIVE REIT” MEANS A CORPORATION, TRUST, OR ASSOCIATION:

~~(1)~~ (I) THAT IS CONSIDERED A REAL ESTATE INVESTMENT TRUST FOR THE TAXABLE YEAR UNDER § 856 OF THE INTERNAL REVENUE CODE;

~~(2)~~ (II) THAT IS NOT ~~PUBLICLY TRADED~~ REGULARLY TRADED ON AN ESTABLISHED SECURITIES MARKET; AND

~~(3)~~ (III) MORE THAN 50% OF THE VOTING POWER OR VALUE OF THE BENEFICIAL INTERESTS OR SHARES OF WHICH ~~ARE~~, AT ANY TIME DURING THE LAST HALF OF THE TAXABLE YEAR, IS OWNED OR CONTROLLED, DIRECTLY

OR INDIRECTLY, BY A SINGLE ~~PERSON OTHER THAN~~ ENTITY THAT IS SUBJECT TO THE PROVISIONS OF SUBCHAPTER C OF CHAPTER 1 OF THE INTERNAL REVENUE CODE; AND

(2) "CAPTIVE REIT" DOES NOT INCLUDE:

(I) A CORPORATION, TRUST, OR ASSOCIATION MORE THAN 50% OF THE VOTING POWER OR VALUE OF THE BENEFICIAL INTERESTS OR SHARES OF WHICH, AT ANY TIME DURING WHICH THE CORPORATION, TRUST, OR ASSOCIATION SATISFIES ITEM (1)(III) OF THIS SUBSECTION, IS OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY:

~~(I) 1. A REAL ESTATE INVESTMENT TRUST OTHER THAN A REAL ESTATE INVESTMENT TRUST DESCRIBED IN ITEM (1) OF THIS SUBSECTION; OR~~

~~(II) A QUALIFIED REAL ESTATE INVESTMENT TRUST SUBSIDIARY UNDER § 856(i) OF THE INTERNAL REVENUE CODE.~~

2. A PERSON EXEMPT FROM TAXATION UNDER § 501 OF THE INTERNAL REVENUE CODE; OR

3. A LISTED AUSTRALIAN PROPERTY TRUST; OR

(II) SUBJECT TO REGULATIONS THAT THE COMPTROLLER ADOPTS, A REAL ESTATE INVESTMENT TRUST THAT IS INTENDED TO BECOME REGULARLY TRADED ON AN ESTABLISHED SECURITIES MARKET AND THAT SATISFIES THE REQUIREMENTS OF § 856(A)(5) AND (6) OF THE INTERNAL REVENUE CODE BY REASON OF § 856(H)(2) OF THE INTERNAL REVENUE CODE.

(B) IN ADDITION TO THE MODIFICATIONS UNDER §§ 10-305 THROUGH 10-306.1 OF THIS SUBTITLE, AN AMOUNT EQUAL TO THE AMOUNT OF THE DIVIDENDS PAID DEDUCTION ALLOWED UNDER THE INTERNAL REVENUE CODE FOR THE TAXABLE YEAR IS ADDED TO FEDERAL TAXABLE INCOME TO DETERMINE THE MARYLAND MODIFIED INCOME OF A CAPTIVE REIT.

(C) FOR PURPOSES OF THIS SECTION, THE CONSTRUCTIVE OWNERSHIP RULES PRESCRIBED UNDER § 318(A) OF THE INTERNAL REVENUE CODE, AS MODIFIED BY § 856(D)(5) OF THE INTERNAL REVENUE CODE, SHALL APPLY IN DETERMINING THE OWNERSHIP OF STOCK, ASSETS, OR NET PROFITS OF ANY PERSON.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007, and shall be applicable to all taxable years beginning after December 31, 2006.

Approved by the Governor, May 17, 2007.

CHAPTER 585

(Senate Bill 986)

AN ACT concerning

Creation of a State Debt - Aging School Program - Qualified Zone Academy Bonds

FOR the purpose of authorizing the creation of a State Debt in the amount of \$11,126,000, the proceeds to be used as a grant to the Interagency Committee on School Construction for certain development or improvement purposes; providing for disbursement of the loan proceeds and the allocation of funds to eligible school systems, subject to a requirement that the grantee document the provision of a required federal matching fund; authorizing the Board of Public Works to sell certain bonds at certain sales; providing that a certain amount from certain bonds that is to be distributed under a certain program shall be allocated in accordance with a certain statutory provision; and providing generally for the issuance and sale of bonds evidencing the loan.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Aging School Program - Qualified Zone Academy Bonds Loan of 2007 in a total principal amount of \$11,126,000. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation qualified zone academy bonds, as defined in § 1397E(d)(1) of the Internal Revenue Code of the United States, as amended, authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8-117 through 8-124 of the State Finance and Procurement Article and Article 31, § 22 of the Annotated Code of Maryland, and § 1397E of the Internal Revenue Code, as amended.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds

under § 8–122 of the State Finance and Procurement Article. Notwithstanding § 8–123 of the State Finance and Procurement Article, the Board of Public Works may sell the 3 bonds authorized herein at one or more private sales that best meet the terms and conditions of sale set by the Board.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller, and held separately in a qualified zone academy bond account, and expended, on approval by the Board of Public Works, for the following public purposes: as a grant to the Interagency Committee on School Construction (referred to hereafter in this Act as “the grantee”) for the allocation to eligible school systems under the Aging School Program for the renovation, repair, and capital improvements of qualified zone academies, as defined in § 1397E(d)(4)(A) of the Internal Revenue Code, as amended, and in accordance with the Aging School Program of the Interagency Committee on School Construction, as provided under § 5–303 of the Education Article of the Annotated Code of Maryland.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest, if any, on the bonds as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) (a) The grantee shall document the provision of a matching fund as provided in this paragraph.

(b) No part of the matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of real property. The fund shall consist of private business contributions, which may consist of funds or in kind contributions, as required under § 1397E(d)(2) of the Internal Revenue Code, as amended. In case of any dispute as to what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board’s decision is final.

(c) The grantee shall present evidence to the satisfaction of the Board of Public Works of the provision and documentation of the matching fund, and the Board of Public Works shall authorize the disbursement of the proceeds of the grant under the provisions of this Act for the purposes set forth in Section 1(3) above.

(d) As the grantee documents the provision of the matching fund and meets other requirements of § 1397E of the Internal Revenue Code, as amended, the Board of Public Works shall authorize the disbursement of an installment of the proceeds of the grant in proportion to the matching fund documented at that time by the grantee.

(e) This method of documentation of the matching fund shall continue until the first to occur of the disbursement of the total amount of the grant or June 1, 2009.

(f) The grantee has until June 1, 2009, to present the final evidence satisfactory to the Board of Public Works that the total matching fund will be provided and documented. If satisfactory evidence is presented, the Board shall certify this fact to the State Treasurer, and the final proceeds of the loan proportional to the final installment of the matching fund shall be expended for the purposes provided in this Act. After June 1, 2009, any amount of the loan that has not been authorized by the Board of Public Works for disbursement shall be canceled and be of no further effect.

SECTION 2. AND BE IT FURTHER ENACTED, That from the bonds authorized in Section 1 of this Act, \$5,500,000 that is to be distributed under the Aging Schools Program shall be allocated to local education agencies in accordance with § 5-206(f) of the Education Article.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 586

(Senate Bill 1022)

AN ACT concerning

Group Life Insurance – Additional Insureds – Domestic Partners

FOR the purpose of authorizing insurers that issue certain policies of group life insurance to extend coverage to the domestic partner of the employee or member who is covered under a policy of group life insurance; providing that the term “domestic partner” has the meaning stated in the policy; prohibiting the insurance on the life of the domestic partner from exceeding the amount of insurance on the life of the insured employee or member; requiring the policyholder to pay the premium for the insurance on the domestic partner from certain funds; providing that the domestic partner insured under the policy is entitled to certain rights of conversion under certain circumstances; and generally relating to coverage for domestic partners under policies of group life insurance.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 17–209
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Insurance

17–209.

(a) (1) Insurance under a policy of group life insurance issued in accordance with §§ 17–201 through 17–205 of this subtitle may be extended to cover the spouse[and], **DOMESTIC PARTNER, OR** dependent children of each insured employee or member who elects to obtain the coverage.

(2) The policy may provide that the term “dependent children” includes:

(i) an insured employee’s or member’s child under 18 years of age; and

(ii) an insured employee’s or member’s child 18 years of age or older who attends an educational institution and relies on the insured employee or member for financial support.

(3) THE TERM “DOMESTIC PARTNER” HAS THE MEANING STATED IN THE POLICY.

[(3)] (4) The insurance on the life of a spouse, **DOMESTIC PARTNER,** or child may not exceed the amount of the insurance on the life of the insured employee or member.

(b) The policyholder shall pay the premium for the insurance on the spouse, **DOMESTIC PARTNER,** or child:

(1) wholly from the funds of the policyholder or funds contributed by the policyholder;

(2) wholly from funds contributed by the insured employees or members; or

(3) partly from the funds of the policyholder or funds contributed by the policyholder and partly from funds contributed by the insured employees or members.

(c) A spouse, **DOMESTIC PARTNER**, or dependent child insured under this section is entitled to:

(1) the rights of conversion under § 17-309 of this title, if employment of the employee or membership in the class or classes eligible for insurance under the policy is terminated; and

(2) the rights of conversion under § 17-310 of this title, if the policy of group life insurance terminates or is amended to terminate the insurance of the spouse, **DOMESTIC PARTNER**, or dependent child.

(d) Notwithstanding § 17-308 of this title, only one certificate must be issued for each family unit if a statement about a dependent's coverage is included in the certificate.

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

Approved by the Governor, May 17, 2007.

CHAPTER 587

(House Bill 35)

AN ACT concerning

Income Tax – Expensing of Section 179 Property

FOR the purpose of clarifying a certain modification under the Maryland income tax relating to certain federal tax changes; providing for the application of this Act; and generally relating to clarification of a certain income tax modification relating to certain federal tax changes.

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10-210.1(b)(3)

Annotated Code of Maryland

(2004 Replacement Volume and 2006 Supplement)

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

Article - Tax - General

10-210.1.

(b) In addition to the modifications under §§ 10-204 through 10-210 of this subtitle, to determine Maryland adjusted gross income of an individual:

(3) an amount is added to or subtracted from federal adjusted gross income to reflect the determination of the maximum aggregate costs that the taxpayer may treat as an expense under § 179 of the Internal Revenue Code for any taxable year without regard to the changes made to that section by the [federal] Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27) [or by], the American Jobs Creation Act of 2004 (P.L. 108-357), **OR THE TAX INCREASE PREVENTION AND RECONCILIATION ACT OF 2005 (P.L. 109-222)**; and

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007, and shall be applicable to all taxable years beginning after December 31, 2006.

Approved by the Governor, May 17, 2007.

CHAPTER 588

(House Bill 54)

AN ACT concerning

Somerset and Queen Anne's Counties - Authorization to Harvest Seafood and Engage in the Seafood Industry

FOR the purpose of authorizing the governing bodies of Somerset County and Queen Anne's County to adopt an ordinance, resolution, or regulation or take other action to authorize a person to engage in certain activities related to the seafood industry and to harvest seafood; clarifying that the governing body of the county in which the ordinance, resolution, or regulation will apply is required to hold a public hearing and obtain the written consent of the Secretary of Natural Resources before adopting a certain ordinance, resolution, or regulation; providing that an ordinance, resolution, or regulation, adopted by a governing

body under this Act without written consent of the Secretary, is void; providing that in the event of a certain conflict, federal law, State law, or a certain written program guidance preempts a certain ordinance, resolution, or regulation adopted by a governing body under this Act; making conforming changes; and generally relating to the authority of the governing bodies of certain counties to authorize a person to engage in certain activities related to the seafood industry and to harvest seafood.

BY repealing and reenacting, with amendments,
 Article 25 – County Commissioners
 Section 232
 Annotated Code of Maryland
 (2005 Replacement Volume and 2006 Supplement)

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

Article 25 – County Commissioners

232.

(a) Subject to subsection (b) of this section, the [County Council] **GOVERNING BODY** of Dorchester County, **QUEEN ANNE’S COUNTY, OR SOMERSET COUNTY** may adopt an ordinance, resolution, or regulation or take any other action that the [County Council] **GOVERNING BODY** considers necessary to authorize a person to:

- (1) Use the person’s personal property or real estate to operate a seafood business;
- (2) Buy or sell seafood;
- (3) Store equipment used in the person’s seafood business;
- (4) Enjoy the quiet conduct of the person’s seafood business in conformance with county and State requirements; and
- (5) Harvest seafood.

(b) (1) Before adopting an ordinance, resolution, or regulation under subsection (a) of this section, the [County Council] **GOVERNING BODY OF THE COUNTY IN WHICH THE ORDINANCE, RESOLUTION, OR REGULATION WILL APPLY** shall:

(i) Hold a public hearing and provide reasonable notice of the hearing; and

(ii) Obtain the written consent of the Secretary of Natural Resources.

(2) An ordinance, resolution, or regulation adopted without the written consent of the Secretary of Natural Resources is void and without legal effect.

(c) In the event of a conflict, federal law, State law, or written program guidance issued by a federal or State agency shall preempt any ordinance, resolution, or regulation adopted or any action taken by the [County Council] GOVERNING BODY OF DORCHESTER COUNTY, QUEEN ANNE'S COUNTY, OR SOMERSET COUNTY under this section.

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

Approved by the Governor, May 17, 2007.

CHAPTER 589

(House Bill 68)

AN ACT concerning

~~Wicomico County~~ **Alcoholic Beverages - Places of Public Entertainment and Unlicensed Establishments**

FOR the purpose of prohibiting a person in Caroline County, Dorchester County, Kent County, Queen Anne's County, Somerset County, Talbot County, Wicomico County, or Worcester County from serving or dispensing certain items or serving, dispensing, keeping, or allowing to be consumed alcoholic beverages or other component parts of mixed alcoholic drinks in certain places of public entertainment; prohibiting a person who operates a certain business establishment for profit in ~~Wicomico County~~ certain counties from knowingly allowing customers to bring alcoholic beverages for consumption into the establishment; defining certain terms; establishing ~~a certain penalty~~ certain penalties; and generally relating to alcoholic beverages in places of public entertainment and unlicensed establishments in Caroline County, Dorchester County, Kent County, Queen Anne's County, Somerset County, Talbot County, Wicomico County, and Worcester County.

BY adding to

Article 2B – Alcoholic Beverages

Section 20-103.1, 20-107.1, 20-108.2, 20-110, 20-111, 20-112, and 20-113

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 20-105.1

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

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

Article 2B – Alcoholic Beverages

20-103.1.

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

(2) “PLACE OF PUBLIC ENTERTAINMENT” MEANS A BUSINESS ESTABLISHMENT THAT DOES NOT HOLD A LICENSE UNDER THIS ARTICLE AND THAT ALLOWS ON ITS PREMISES ANY FORM OF ATTIRE OR SEXUAL DISPLAY LISTED UNDER § 10-405(C) THROUGH (F) OF THIS ARTICLE.

(3) “SETUPS” INCLUDES DRINKING CONTAINERS AND ICE.

(B) THIS SECTION APPLIES ONLY IN CAROLINE COUNTY.

(C) (1) A PERSON MAY NOT SERVE OR DISPENSE SETUPS OR SERVE, DISPENSE, KEEP, OR ALLOW TO BE CONSUMED ANY ALCOHOLIC BEVERAGES OR OTHER COMPONENT PARTS OF MIXED ALCOHOLIC DRINKS IN A PLACE OF PUBLIC ENTERTAINMENT.

(2) A PERSON WHO OPERATES A BUSINESS ESTABLISHMENT FOR PROFIT THAT IS NOT LICENSED UNDER THIS ARTICLE MAY NOT KNOWINGLY ALLOW CUSTOMERS TO BRING ALCOHOLIC BEVERAGES FOR CONSUMPTION INTO THE ESTABLISHMENT.

(D) 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 \$10,000 OR BOTH.

20-105.1.

(a) (1) In this [section,] SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) [“bottle] “BOTTLE club” means a club, room, or premises:

[(1)] (I) That serves, sells, gives, or dispenses alcoholic beverages to its members or guests;

[(2)] (II) That keeps for its members or guests any alcoholic beverages;

[(3)] (III) That allows to be consumed by its members or guests on its premises any alcoholic beverages that have been reserved or purchased by the members or guests;

[(4)] (IV) At which patrons are served, given, or allowed to consume alcoholic beverages after legal closing hours from the supplies that the patrons have previously purchased or reserved; or

[(5)] (V) That sells, dispenses, or serves to, keeps for, or allows to be consumed any setups or other component parts of mixed alcoholic drinks by its members or guests.

(3) “PLACE OF PUBLIC ENTERTAINMENT” MEANS A BUSINESS ESTABLISHMENT THAT DOES NOT HOLD A LICENSE UNDER THIS ARTICLE AND THAT ALLOWS ON ITS PREMISES ANY FORM OF ATTIRE OR SEXUAL DISPLAY LISTED UNDER § 10-405(C) THROUGH (F) OF THIS ARTICLE.

(4) “SETUPS” INCLUDES DRINKING CONTAINERS AND ICE.

(b) This section applies only in Dorchester County.

(c) A bottle club may not evade the alcoholic beverage license laws, including those laws relating to hours of operation and the sale, giving, serving, dispensing, keeping, and allowing to be consumed on the premises of the club or on premises under its control or in its possession any alcoholic beverage, setups, or other component parts of mixed alcoholic drinks.

(d) (1) A person who operates a business establishment for profit that is not licensed under this article may not knowingly allow customers to bring alcoholic beverages for consumption into an unlicensed building.

(2) A PERSON MAY NOT SERVE OR DISPENSE SETUPS OR SERVE, DISPENSE, KEEP, OR ALLOW TO BE CONSUMED ANY ALCOHOLIC BEVERAGES OR OTHER COMPONENT PARTS OF MIXED ALCOHOLIC DRINKS IN A PLACE OF PUBLIC ENTERTAINMENT.

(e) On the filing of an application for a waiver of this section, the Board of License Commissioners may grant the waiver.

(f) The Board of License Commissioners shall adopt regulations to implement this section.

(g) 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 \$10,000 OR BOTH.

20-107.1.

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

(2) "PLACE OF PUBLIC ENTERTAINMENT" MEANS A BUSINESS ESTABLISHMENT THAT DOES NOT HOLD A LICENSE UNDER THIS ARTICLE AND THAT ALLOWS ON ITS PREMISES ANY FORM OF ATTIRE OR SEXUAL DISPLAY LISTED UNDER § 10-405(C) THROUGH (F) OF THIS ARTICLE.

(3) "SETUPS" INCLUDES DRINKING CONTAINERS AND ICE.

(B) THIS SECTION APPLIES ONLY IN KENT COUNTY.

(C) (1) A PERSON MAY NOT SERVE OR DISPENSE SETUPS OR SERVE, DISPENSE, KEEP, OR ALLOW TO BE CONSUMED ANY ALCOHOLIC BEVERAGES OR OTHER COMPONENT PARTS OF MIXED ALCOHOLIC DRINKS IN A PLACE OF PUBLIC ENTERTAINMENT.

(2) A PERSON WHO OPERATES A BUSINESS ESTABLISHMENT FOR PROFIT THAT IS NOT LICENSED UNDER THIS ARTICLE MAY NOT KNOWINGLY ALLOW CUSTOMERS TO BRING ALCOHOLIC BEVERAGES FOR CONSUMPTION INTO THE ESTABLISHMENT.

(D) 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 \$10,000 OR BOTH.

20-108.2.

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

(2) "PLACE OF PUBLIC ENTERTAINMENT" MEANS A BUSINESS ESTABLISHMENT THAT DOES NOT HOLD A LICENSE UNDER THIS ARTICLE AND THAT ALLOWS ON ITS PREMISES ANY FORM OF ATTIRE OR SEXUAL DISPLAY LISTED UNDER § 10-405(C) THROUGH (F) OF THIS ARTICLE.

(3) "SETUPS" INCLUDES DRINKING CONTAINERS AND ICE.

(B) THIS SECTION APPLIES ONLY IN QUEEN ANNE'S COUNTY.

(C) (1) A PERSON MAY NOT SERVE OR DISPENSE SETUPS OR SERVE, DISPENSE, KEEP, OR ALLOW TO BE CONSUMED ANY ALCOHOLIC BEVERAGES OR OTHER COMPONENT PARTS OF MIXED ALCOHOLIC DRINKS IN A PLACE OF PUBLIC ENTERTAINMENT.

(2) A PERSON WHO OPERATES A BUSINESS ESTABLISHMENT FOR PROFIT THAT IS NOT LICENSED UNDER THIS ARTICLE MAY NOT KNOWINGLY ALLOW CUSTOMERS TO BRING ALCOHOLIC BEVERAGES FOR CONSUMPTION INTO THE ESTABLISHMENT.

(D) 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 \$10,000 OR BOTH.

20-110.

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

(2) "PLACE OF PUBLIC ENTERTAINMENT" MEANS A BUSINESS ESTABLISHMENT THAT DOES NOT HOLD A LICENSE UNDER THIS ARTICLE AND THAT ALLOWS ON ITS PREMISES ANY FORM OF ATTIRE OR SEXUAL DISPLAY LISTED UNDER § 10-405(C) THROUGH (F) OF THIS ARTICLE.

(3) "SETUPS" INCLUDES DRINKING CONTAINERS AND ICE.

(B) THIS SECTION APPLIES ONLY IN SOMERSET COUNTY.

(C) (1) A PERSON MAY NOT SERVE OR DISPENSE SETUPS OR SERVE, DISPENSE, KEEP, OR ALLOW TO BE CONSUMED ANY ALCOHOLIC BEVERAGES OR OTHER COMPONENT PARTS OF MIXED ALCOHOLIC DRINKS IN A PLACE OF PUBLIC ENTERTAINMENT.

(2) A PERSON WHO OPERATES A BUSINESS ESTABLISHMENT FOR PROFIT THAT IS NOT LICENSED UNDER THIS ARTICLE MAY NOT KNOWINGLY ALLOW CUSTOMERS TO BRING ALCOHOLIC BEVERAGES FOR CONSUMPTION INTO THE ESTABLISHMENT.

(D) 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 \$10,000 OR BOTH.

20-111.

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

(2) "PLACE OF PUBLIC ENTERTAINMENT" MEANS A BUSINESS ESTABLISHMENT THAT DOES NOT HOLD A LICENSE UNDER THIS ARTICLE AND THAT ALLOWS ON ITS PREMISES ANY FORM OF ATTIRE OR SEXUAL DISPLAY LISTED UNDER § 10-405(C) THROUGH (F) OF THIS ARTICLE.

(3) "SETUPS" INCLUDES DRINKING CONTAINERS AND ICE.

(B) THIS SECTION APPLIES ONLY IN TALBOT COUNTY.

(C) (1) A PERSON MAY NOT SERVE OR DISPENSE SETUPS OR SERVE, DISPENSE, KEEP, OR ALLOW TO BE CONSUMED ANY ALCOHOLIC BEVERAGES OR OTHER COMPONENT PARTS OF MIXED ALCOHOLIC DRINKS IN A PLACE OF PUBLIC ENTERTAINMENT.

(2) A PERSON WHO OPERATES A BUSINESS ESTABLISHMENT FOR PROFIT THAT IS NOT LICENSED UNDER THIS ARTICLE MAY NOT KNOWINGLY ALLOW CUSTOMERS TO BRING ALCOHOLIC BEVERAGES FOR CONSUMPTION INTO THE ESTABLISHMENT.

(D) 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 \$10,000 OR BOTH.

~~20-110.~~ 20-112.

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

(2) "PLACE OF PUBLIC ENTERTAINMENT" MEANS A BUSINESS ESTABLISHMENT THAT DOES NOT HOLD A LICENSE UNDER THIS ARTICLE AND THAT ALLOWS ON ITS PREMISES ANY FORM OF ATTIRE OR SEXUAL DISPLAY LISTED UNDER § 10-405(C) THROUGH (F) OF THIS ARTICLE.

(3) "SETUPS" INCLUDES DRINKING CONTAINERS AND ICE.

(B) THIS SECTION APPLIES ONLY IN WICOMICO COUNTY.

(C) (1) A PERSON MAY NOT SERVE OR DISPENSE SETUPS OR SERVE, DISPENSE, KEEP, OR ALLOW TO BE CONSUMED ANY ALCOHOLIC BEVERAGES OR OTHER COMPONENT PARTS OF MIXED ALCOHOLIC DRINKS IN A PLACE OF PUBLIC ENTERTAINMENT.

(2) A PERSON WHO OPERATES A BUSINESS ESTABLISHMENT FOR PROFIT THAT IS NOT LICENSED UNDER THIS ARTICLE MAY NOT KNOWINGLY ALLOW CUSTOMERS TO BRING ALCOHOLIC BEVERAGES FOR CONSUMPTION INTO THE ESTABLISHMENT.

(D) 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 \$10,000 OR BOTH.

20-113.

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

(2) "PLACE OF PUBLIC ENTERTAINMENT" MEANS A BUSINESS ESTABLISHMENT THAT DOES NOT HOLD A LICENSE UNDER THIS ARTICLE AND THAT ALLOWS ON ITS PREMISES ANY FORM OF ATTIRE OR SEXUAL DISPLAY LISTED UNDER § 10-405(C) THROUGH (F) OF THIS ARTICLE.

(3) "SETUPS" INCLUDES DRINKING CONTAINERS AND ICE.

(B) THIS SECTION APPLIES ONLY IN WORCESTER COUNTY.

(C) (1) A PERSON MAY NOT SERVE OR DISPENSE SETUPS OR SERVE, DISPENSE, KEEP, OR ALLOW TO BE CONSUMED ANY ALCOHOLIC BEVERAGES OR OTHER COMPONENT PARTS OF MIXED ALCOHOLIC DRINKS IN A PLACE OF PUBLIC ENTERTAINMENT.

(2) A PERSON WHO OPERATES A BUSINESS ESTABLISHMENT FOR PROFIT THAT IS NOT LICENSED UNDER THIS ARTICLE MAY NOT KNOWINGLY ALLOW CUSTOMERS TO BRING ALCOHOLIC BEVERAGES FOR CONSUMPTION INTO THE ESTABLISHMENT.

(D) 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 \$10,000 OR BOTH.

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

Approved by the Governor, May 17, 2007.

CHAPTER 590

(House Bill 103)

AN ACT concerning

Public Safety - Eyewitness Identification - Written Policies

FOR the purpose of requiring each law enforcement agency in the State to adopt written policies relating to eyewitness identification that comply with certain standards by a certain date; requiring each law enforcement agency to file a copy of a certain policy with the Department of State Police by a certain date; requiring the Department to compile certain policies and allow public inspection of certain policies by a certain date; and generally relating to eyewitness identification in a criminal proceeding.

BY adding to
Article - Public Safety

Section 3-505
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

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

Article - Public Safety

3-505.

(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.

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

Approved by the Governor, May 17, 2007.

CHAPTER 591

(House Bill 157)

AN ACT concerning

Health Insurance – Prohibited Discrimination and Rebates – Incentives for Participation in Wellness Programs and Other Exceptions

FOR the purpose of providing that it is not discrimination or a rebate under certain insurance laws for an insurer, nonprofit health service plan, ~~or~~ health maintenance organization, or dental plan organization to provide reasonable incentives to an individual who is an insured, subscriber, or member for participation in a bona fide wellness program offered by the insurer, nonprofit health service plan, ~~or~~ health maintenance organization, or dental plan organization under certain circumstances; requiring any incentive offered for participation in a bona fide wellness program to be reasonably related to the program; prohibiting the value of the incentive from exceeding a certain limit; requiring the Maryland Insurance Commissioner to adopt certain regulations; applying certain exceptions to certain prohibitions against certain discrimination and rebates to health maintenance organizations; defining certain terms; and generally relating to exceptions to prohibitions against discrimination and rebates under insurance laws.

BY adding to

Article – Health – General
Section 19–706(jjj)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance
Section 27–210
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Health – General

19–706.

(JJJ) THE PROVISIONS OF § 27–210 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

27–210.

(a) Sections 27-208 and 27-209 of this subtitle may not be construed to include within the definition of discrimination or rebates any of the practices set forth in this section.

(b) For a contract of life insurance or an annuity contract, it is not discrimination or a rebate to pay bonuses to policyholders or otherwise abate their premiums wholly or partly out of the surplus accumulated from nonparticipating insurance, if the bonuses or abatement of premiums is fair, equitable to, and in the best interest of policyholders.

(c) For policies of life insurance or health insurance issued on the industrial debit, preauthorized check, bank draft, or similar plans, it is not discrimination or a rebate to make an allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer or by preauthorized check, bank draft, or similar plans in an amount that fairly represents the savings in collection expense.

(d) It is not discrimination or a rebate to readjust the rate of premium for a group policy based on the loss or expense experience under the policy, at the end of any policy year, retroactive only for that policy year.

(e) It is not discrimination or a rebate to reduce the premium rate for policies of large amount, if the reduction does not exceed savings in issuance and administrative expenses reasonably attributable to policies of large amount as compared with policies of similar plan issued in smaller amounts.

(f) It is not discrimination or a rebate to issue policies of life insurance or health insurance or annuity contracts on a salary savings or payroll deduction plan or other distribution plan at a reduced rate reasonably commensurate with the savings made by use of the plan.

(g) It is not discrimination or a rebate to issue policies of health insurance that provide for increases in benefits to policyholders who maintain their policies continuously in force without lapse for specified periods.

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

(II) "BONA FIDE WELLNESS PROGRAM" MEANS A PROGRAM THAT IS DESIGNED TO:

- 1. PREVENT OR DETECT DISEASE OR ILLNESS;**
- 2. REDUCE OR AVOID POOR CLINICAL OUTCOMES;**

3. PREVENT COMPLICATIONS FROM MEDICAL CONDITIONS; OR

4. PROMOTE HEALTHY BEHAVIORS AND LIFESTYLE CHOICES.

(III) "CARRIER" MEANS:

1. AN INSURER;
2. A NONPROFIT HEALTH SERVICE PLAN; ~~OR~~
3. A HEALTH MAINTENANCE ORGANIZATION; OR
4. A DENTAL PLAN ORGANIZATION.

(2) IT IS NOT DISCRIMINATION OR A REBATE FOR A CARRIER TO PROVIDE REASONABLE INCENTIVES TO AN INDIVIDUAL WHO IS AN INSURED, A SUBSCRIBER, OR A MEMBER FOR PARTICIPATION IN A BONA FIDE WELLNESS PROGRAM OFFERED BY THE CARRIER IF:

(I) THE CARRIER DOES NOT MAKE PARTICIPATION IN THE BONA FIDE WELLNESS PROGRAM A CONDITION OF COVERAGE UNDER A POLICY OR CONTRACT;

(II) PARTICIPATION IN THE BONA FIDE WELLNESS PROGRAM IS VOLUNTARY AND A PENALTY IS NOT IMPOSED ON AN INSURED, SUBSCRIBER, OR MEMBER FOR NONPARTICIPATION;

(III) AN INSURED, SUBSCRIBER, OR MEMBER IS NOT REQUIRED TO ACHIEVE ANY SPECIFIC OUTCOME IN ORDER TO RECEIVE AN INCENTIVE FOR PARTICIPATION IN THE BONA FIDE WELLNESS PROGRAM; AND

(IV) THE CARRIER DOES NOT MARKET THE BONA FIDE WELLNESS PROGRAM IN A MANNER THAT REASONABLY COULD BE CONSTRUED TO HAVE AS ITS PRIMARY PURPOSE THE PROVISION OF AN INCENTIVE OR INDUCEMENT TO PURCHASE COVERAGE FROM THE CARRIER.

(3) ANY INCENTIVE OFFERED FOR PARTICIPATION IN A BONA FIDE WELLNESS PROGRAM:

(I) SHALL BE REASONABLY RELATED TO THE BONA FIDE WELLNESS PROGRAM; AND

(II) MAY NOT HAVE A VALUE THAT EXCEEDS ANY LIMIT ESTABLISHED IN REGULATIONS ADOPTED BY THE COMMISSIONER.

(4) THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION.

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

Approved by the Governor, May 17, 2007.

CHAPTER 592

(House Bill 162)

AN ACT concerning

State Employees' Rights and Protections Act of 2007

FOR the purpose of requiring the Secretary of Budget and Management to designate certain positions in State government as special appointment positions based on certain criteria; requiring the Secretary to provide certain information on special appointments; providing that certain personnel actions regarding certain special appointments in State government be made under certain circumstances; providing a certain exception; providing that certain special appointment positions may be filled with regard to certain criteria; extending current provisions to require special appointees in the skilled, professional, and management services to be given a certain written job description and an annual performance evaluation; ~~clarifying that certain disciplinary appeals by certain employees may only be based on the grounds that an action is arbitrary or capricious~~; clarifying that only employees in the executive or management services or under a special appointment in the State Personnel Management System may be terminated for any reason that is not illegal or unconstitutional, solely within the discretion of the employee's appointing authority; providing that certain employees may not be terminated under certain circumstances; ~~providing that terminated management service employees be given the reason for a termination in writing; allowing a court to allow certain fees and costs as a result of an action by certain employees~~; requiring the Secretary of Transportation to designate certain positions in the Human Resources Management System that must be filled without regard to certain criteria and that may be filled with regard to certain criteria; requiring the Secretary of

Transportation to report certain information to the Governor and the General Assembly on an annual basis; requiring the Department of Legislative Services, with assistance from the Department of Budget and Management, the Department of Transportation, and certain labor organizations, to undertake a review of the current State Personnel Management System and other State laws, and the extent to which changes to the laws may be needed particularly with respect to at-will and special appointment positions; requiring the Secretary of Budget and Management to develop certain processes through regulation for notifying certain employees of a certain status; requiring the Chancellor of the University System of Maryland and the Presidents of Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College to identify certain nonmerit and at-will positions in certain personnel systems and report certain information to the Governor and the General Assembly on an annual basis; and generally relating to State personnel in the Executive Branch of State government.

BY repealing and reenacting, without amendments,
 Article – State Personnel and Pensions
 Section 1-101(c) and 11-113
 Annotated Code of Maryland
 (2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
 Article – State Personnel and Pensions
 Section 4-201, 4-302, 5-208, 6-405, 7-102, 7-501, ~~11-113~~, and 11-305
 Annotated Code of Maryland
 (2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 2-103.4(b)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

Preamble

WHEREAS, The State personnel system has been in existence since 1920 and, between 1920 and 1995, had been operating with minor changes but was considered to be rigid, inflexible, centralized, and overly bureaucratic; and

WHEREAS, In 1995, the Task Force to Reform the State Personnel Management System was assigned the task of reforming the State personnel system and reported its findings and recommendations to the Governor in January 1996; and

WHEREAS, The State enacted the "State Personnel Management Reform Act of 1996" to establish a decentralized personnel management system in which State departments and agencies were given significant responsibility over the management of their workforce; and

WHEREAS, Personnel reform eliminated the classified and unclassified services and established the skilled, professional, management, and executive services; and

WHEREAS, The unclassified service consisted mostly of "at-will" employees, and after 1996, most of these at-will employees were placed in the management or executive services or were identified as "special appointments" in the State Personnel Management System; and

WHEREAS, The intent of the General Assembly with the enactment of the 1996 personnel reform law was not to create a higher number of at-will employees; and

WHEREAS, The General Assembly recognizes that an effective State personnel system is essential for effective provision of State services and that most State employees should not be concerned over job security because of political changes or inappropriate management practices; and

WHEREAS, The General Assembly established the Special Committee on State Employee Rights and Protections in August 2005 to examine whether Maryland law provides sufficient protections for State employees, particularly at-will employees, against involuntary separations for illegal and unconstitutional reasons; and

WHEREAS, The Special Committee on State Employee Rights and Protections completed its work in October 2006 with several recommendations to alter the laws governing at-will State employment, now, therefore,

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

Article - State Personnel and Pensions

1-101.

(c) "Class" means a category of one or more similar positions, as established by the Secretary in accordance with this article.

4-201.

(a) ~~{This} EXCEPT AS PROVIDED IN SUBSECTION (C)(2) OF THIS SECTION, THIS~~ section does not apply to those units of State government with an independent personnel system.

(b) In the State Personnel Management System the Secretary shall:

- (1) establish classes;
- (2) assign a rate of pay to each class;
- (3) ensure that each class comprises one or more positions:
 - (i) that are similar in their duties and responsibilities;
 - (ii) that are similar in the general qualifications required to perform those duties and responsibilities;
 - (iii) to which the same standards and, if required, tests of fitness can be applied; and
 - (iv) to which the same rates of pay can be applied;
- (4) give each class a descriptive classification title;
- (5) prepare a description of each class; and
- (6)
 - (i) create additional classes; and
 - (ii) abolish, combine, or modify existing classes.

(c) The Secretary shall:

(1) assign a class to the skilled service, professional service, management service, or executive service, as appropriate; and

(2) designate **SPECIAL APPOINTMENT** positions [that are filled by special appointment] **IN THE STATE PERSONNEL MANAGEMENT SYSTEM OR COMPARABLE POSITIONS IN AN INDEPENDENT PERSONNEL SYSTEM IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT THAT:**

(I) MUST BE FILLED WITHOUT REGARD TO POLITICAL AFFILIATION, BELIEF, OR OPINION; OR

~~(II) IN ACCORDANCE WITH THE PREVAILING CASE LAW OF THE UNITED STATES SUPREME COURT § 6-405(B) OF THIS ARTICLE, MAY BE FILLED WITH REGARD TO POLITICAL AFFILIATION, BELIEF, OR OPINION.~~

4-302.

(a) The Secretary shall submit to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly an annual report for each fiscal year that:

(1) provides information about the various personnel areas under the Secretary's jurisdiction, including:

(i) employee performance and efficiency;

(ii) use of leave by State employees;

(iii) incentive awards;

(iv) whistleblower proceedings;

(v) each denial of a pay increase, each disciplinary suspension, each grievance, each involuntary demotion, and each rejection on probation; and

(vi) a summary of the equal employment opportunity report required under § 5-204 of this article, including hiring, firing, promotions, terminations, and rejections on probation, by race, sex, and age;

(2) provides statistics and rankings that compare minority group State employees to all State employees in all job categories;

(3) provides information about part-time work and, in the Secretary's discretion, alternate work schedules, work days, and work locations; [and]

(4) PROVIDES INFORMATION ON THE TOTAL NUMBER OF POSITIONS DESIGNATED AS SPECIAL APPOINTMENTS, INCLUDING SPECIAL APPOINTMENTS DESIGNATED WITH REGARD TO POLITICAL AFFILIATION, BELIEF, OR OPINION; AND

~~[(4)]~~ **(5)** makes any recommendations about conditions in State employment that the Secretary considers advisable.

(b) The report required by this section shall be submitted on or before January 1 following the fiscal year to which it applies.

5-208.

(a) All personnel actions concerning an employee in the Executive Branch of State government shall be made in accordance with § 2-302 of this article.

(b) [Except for special appointments or applicants for special appointment, personnel] **PERSONNEL** actions concerning an employee or applicant for employment in the skilled service or professional service of the State Personnel Management System or comparable position in an independent personnel system in the Executive Branch of State government shall also be made without regard to:

- (1) political affiliation, belief, or opinion; or
- (2) any other nonmerit factor.

(c) All personnel actions concerning an employee or applicant in the management service shall also be made without regard to the employee's political affiliation, belief, or opinion, ~~OR ANY OTHER NONMERIT FACTOR.~~

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, PERSONNEL ACTIONS CONCERNING SPECIAL APPOINTMENTS OR APPLICANTS FOR SPECIAL APPOINTMENT IN THE STATE PERSONNEL MANAGEMENT SYSTEM OR COMPARABLE POSITIONS IN AN INDEPENDENT PERSONNEL SYSTEM IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT SHALL BE MADE WITHOUT REGARD TO:

- ~~(I) POLITICAL AFFILIATION, BELIEF, OR OPINION; OR~~
- ~~(II) ANY OTHER NONMERIT FACTOR.~~

(2) FOR THE POSITIONS THAT ARE DESIGNATED BY THE SECRETARY UNDER § 4-201(C)(2)(II) OF THIS ARTICLE OR BY THE SECRETARY OF TRANSPORTATION UNDER § 2-103.4(B)(2) OF THE TRANSPORTATION ARTICLE, PERSONNEL ACTIONS CONCERNING SPECIAL APPOINTMENTS OR APPLICANTS FOR SPECIAL APPOINTMENT IN THE STATE PERSONNEL MANAGEMENT SYSTEM OR COMPARABLE POSITIONS IN AN INDEPENDENT PERSONNEL SYSTEM IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT MAY BE MADE WITH REGARD TO POLITICAL AFFILIATION, BELIEF, OR OPINION.

[(d)] (E) The protections of this section are in addition to whatever legal or constitutional protections an employee or applicant has.

6-405.

(A) Except as otherwise provided by law, individuals in the following positions in the skilled service, professional service, management service, or executive service are considered special appointments:

(1) a position to which an individual is directly appointed by the Governor by an appointment that is not provided for by the Maryland Constitution;

(2) a position to which an individual is directly appointed by the Board of Public Works;

(3) as determined by the Secretary, a position which performs a significant policy role or provides direct support to a member of the executive service;

(4) a position that is assigned to the Government House;

(5) a position that is assigned to the Governor's Office; and

(6) any other position that is specified by law to be a special appointment.

(B) A POSITION THAT IS A SPECIAL APPOINTMENT MAY BE FILLED WITH REGARD TO POLITICAL AFFILIATION, BELIEF, OR OPINION IF THE SECRETARY DETERMINES THAT THE POSITION:

(1) RELATES TO POLITICAL INTERESTS OR CONCERNS SO AS TO WARRANT THAT POLITICAL AFFILIATION BE A REQUIREMENT FOR THE POSITION; AND

(2) (i) REQUIRES THE PROVISION OF MEANINGFUL DIRECT OR INDIRECT INPUT INTO THE POLICY-MAKING PROCESS; OR

(ii) PROVIDES ACCESS TO CONFIDENTIAL INFORMATION
AND:

1. REQUIRES SUBSTANTIAL INTERVENTION OR COLLABORATION IN THE FORMULATION OF PUBLIC POLICY; OR

2. REQUIRES THE PROVISION OF DIRECT ADVICE OR THE RENDERING OF DIRECT SERVICES TO AN APPOINTING AUTHORITY.

7-102.

(a) (1) Each employee in the skilled service, professional service, and management service, **INCLUDING SPECIAL APPOINTMENTS IN EACH**

CLASSIFICATION OF EACH OF THOSE SERVICES, shall be provided with a written position description which describes the essential duties and responsibilities the employee is expected to perform and the standards for satisfactory performance on a form approved by the Secretary.

(2) A successful applicant for a position in the skilled service, professional service, or management service shall be provided with a position description for review before accepting appointment to the position.

(b) The appointing authority or designee shall approve position descriptions and revised position descriptions for the positions in the unit.

(c) (1) A supervisor shall:

(i) ensure the preparation of a position description for each position over which the supervisor has primary direct responsibility;

(ii) maintain position descriptions for the positions under the supervisor's jurisdiction; and

(iii) give each supervised employee a copy of the position description for the employee's position.

(2) The supervisor and employee shall review the position description for the employee's position and make any necessary revision:

(i) whenever there is a change in the essential functions of the position; and

(ii) as part of the employee's performance appraisal.

(3) When there is no position description for a new or vacant position, the primary direct supervisor of the position shall:

(i) prepare a position description for the position; and

(ii) submit it as part of the selection plan to fill the position.

(d) A position description shall contain information required by the Secretary, including a description of the essential functions of the position.

(e) (1) The duties and responsibilities assigned to a position shall be consistent with the duties and responsibilities for the position's assigned class.

(2) An employee may grieve the assignment of duties and responsibilities only if those assigned duties and responsibilities clearly are applicable to a different class.

7-501.

(a) The performance of each employee in the skilled service, professional service, and management service, **INCLUDING SPECIAL APPOINTMENTS IN EACH CLASSIFICATION OF EACH OF THOSE SERVICES**, shall be evaluated in accordance with this subtitle.

(b) The appointing authority shall ensure that each of the unit's employees who is subject to this subtitle has performance evaluations in accordance with this subtitle and procedures established by the Secretary.

(c) Each supervisor of an employee subject to this subtitle shall attend mandatory training by the Department on the methods and procedures required in the performance appraisal process.

(d) Factors in evaluating a manager's or supervisor's performance shall include:

(1) attendance at any required performance appraisal training;

(2) adherence to established methods and procedures in conducting performance appraisals;

(3) the timely completion of performance appraisals for employees assigned to the supervisor; and

(4) except as provided in subsection (e) of this section, the results of an anonymous survey of employees assigned to the supervisor in accordance with procedures established by the Secretary.

(e) The anonymous survey requirement under subsection (d)(4) of this section shall not be a factor in evaluating a manager's or supervisor's performance if fewer than five employees are assigned to the manager or supervisor.

11-113.

(a) This section only applies to an employee:

(1) in the management service;

(2) in executive service; or

(3) under a special appointment described in § 6-405 of this article.

(b) (1) An employee or an employee's representative may file a written appeal of a disciplinary action with the head of the principal unit.

(2) An appeal:

(i) must be filed within 15 days after the employee receives notice of the disciplinary action; and

(ii) may only be based on the grounds that the disciplinary action is ~~ARBITRARY, CAPRICIOUS,~~ illegal, or unconstitutional.

(3) The employee has the burden of proof in an appeal under this section.

(c) The head of the principal unit may confer with the employee before making a decision.

(d) (1) The head of the principal unit may:

(i) uphold the disciplinary action; or

(ii) rescind or modify the disciplinary action and restore to the employee any lost time, compensation, status, or benefits.

(2) Within 15 days after receiving an appeal, the head of the principal unit shall issue the employee a written decision.

(3) The decision of the head of the principal unit is the final administrative decision.

(e) Within 15 days after issuance of a decision to rescind a disciplinary action, the disciplinary action shall be expunged from the employee's personnel records.

11-305.

(a) This section only applies to an employee who is in a position:

(1) under a special appointment;

(2) in the management service; or

(3) in the executive service.

(b) Each employee subject to this section:

(1) serves at the pleasure of the employee's appointing authority; and

(2) may be terminated from employment for any reason THAT IS NOT ILLEGAL OR UNCONSTITUTIONAL, solely in the discretion of the appointing authority.

(C) A MANAGEMENT SERVICE EMPLOYEE OR A SPECIAL APPOINTMENT EMPLOYEE DESIGNATED BY THE SECRETARY UNDER § 4-201(C)(2)(I) OF THIS ARTICLE MAY NOT BE TERMINATED FOR THE PURPOSE OF CREATING A NEW POSITION FOR ANOTHER INDIVIDUAL'S APPOINTMENT BECAUSE OF THAT INDIVIDUAL'S POLITICAL AFFILIATION, BELIEF, OR OPINION.

~~(D) A MANAGEMENT SERVICE EMPLOYEE OR A SPECIAL APPOINTMENT EMPLOYEE WHO IS TERMINATED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE GIVEN, IN WRITING, THE REASONS FOR THE TERMINATION BY THE EMPLOYEE'S APPOINTING AUTHORITY.~~

[(c)] ~~(E)~~ (D) An employee or an employee's representative may file a written appeal of an employment termination under this section as described under § 11-113 of this title.

~~(F) AN EMPLOYEE SUBJECT TO THIS SECTION MAY INITIATE A CAUSE OF ACTION BASED ON THE EMPLOYEE'S TERMINATION WITHOUT FIRST EXHAUSTING THE EMPLOYEE'S ADMINISTRATIVE REMEDIES.~~

~~(G) IF A COURT DETERMINES THAT AN EMPLOYEE IS ENTITLED TO JUDGMENT IN AN ACTION, THE COURT SHALL ALLOW THE EMPLOYEE REASONABLE COUNSEL FEES AND OTHER COSTS OF THE ACTION.~~

Article - Transportation

2-103.4.

(b) (1) In the exercise of the Secretary's powers under this section, the Secretary may:

[(1)] (I) Create and abolish any position other than positions specifically provided for in this article; and

[(2)] (II) Determine the qualifications, appointment, removal, tenure, terms of employment, and compensation of employees unless otherwise prohibited by law.

(2) THE SECRETARY SHALL DESIGNATE EXECUTIVE SERVICE EMPLOYEE AND COMMISSION PLAN EMPLOYEE POSITIONS IN THE HUMAN RESOURCES MANAGEMENT SYSTEM THAT:

(I) MUST BE FILLED WITHOUT REGARD TO POLITICAL AFFILIATION, BELIEF, OR OPINION; OR

(II) IN ACCORDANCE WITH THE CRITERIA ESTABLISHED UNDER § 6-405(B) OF THE STATE PERSONNEL AND PENSIONS ARTICLE, MAY BE FILLED WITH REGARD TO POLITICAL AFFILIATION, BELIEF, OR OPINION.

(3) ON AN ANNUAL BASIS, THE SECRETARY SHALL REPORT ON THE TOTAL NUMBER OF POSITIONS DESIGNATED UNDER PARAGRAPH (2) OF THIS SUBSECTION TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Department of Legislative Services, with the assistance of the Department of Budget and Management, the Department of Transportation, and labor organizations that represent State employees, shall review the State Personnel Management System law and regulations and other relevant State laws and regulations, including the Department of Transportation's Human Resources Management System, to determine:

(1) the number of at-will employees, special appointments, and management service employees in the Executive Branch agencies of State government;

(2) the rationale for designating the majority of, or all, employees in an agency as at-will employees; and

(3) the possibility of providing additional merit system protections to management service employees up to a certain grade level or depending on the job description of the employee.

(b) The Department of Legislative Services shall make recommendations as to appropriate and effective legislative and administrative changes in the State's personnel systems that will help strike a better balance between the need to provide

flexibility in hiring and terminating employees and maintaining the dignity, worth, and morale of the State's workforce.

(c) On or before ~~December 31, 2007~~ December 1, 2008, the Department of Legislative Services shall report its findings and recommendations to the President of the Senate and the Speaker of the House of Delegates.

SECTION 3. AND BE IT FURTHER ENACTED, That the Secretary of the Department of Budget and Management shall develop processes through regulation that provide that all new employees, including at-will employees, receive written notification of their position and classification, and that all employees in the State Personnel Management System and in the Department of Transportation, including at-will employees, be ~~periodically~~ notified at 6-month intervals in writing of their employment status in State government, including any changes in the employment classification of an employee and the employee rights associated with the position and classification.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The Chancellor of the University System of Maryland and the Presidents of Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College shall identify all nonmerit and at-will positions in the personnel systems of the University System of Maryland and its constituent institutions, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College.

(b) On an annual basis, the Chancellor of the University System of Maryland and the Presidents of Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College shall report the information on nonmerit and at-will positions required under subsection (a) of this section to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 593

(House Bill 183)

AN ACT concerning

**Real Property – Maryland Homeowners Association Act – Enforcement
Authority of Division of Consumer Protection**

FOR the purpose of providing that violation of any provision of the Maryland Homeowners Association Act is within the scope of the enforcement duties and powers of the Division of Consumer Protection of the Office of the Attorney General; authorizing a county or municipal corporation to adopt a law, ordinance, or regulation for a certain purpose in a certain manner; requiring a county or municipal corporation to forward a copy of a certain law, ordinance, or regulation to a certain depository; defining a certain term; and generally relating to the authority of the Division of Consumer Protection to enforce the Maryland Homeowners Association Act.

BY renumbering

Article – Real Property

Section 11B–115

to be Section 11B–116

Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

BY adding to

Article – Real Property

Section 11B–115

Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 11B–115 of Article – Real Property of the Annotated Code of Maryland be renumbered to be Section(s) 11B–116.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Real Property

11B–115.

(A) (1) IN THIS SECTION, “CONSUMER” MEANS AN ACTUAL OR PROSPECTIVE PURCHASER, LESSEE, ASSIGNEE, OR RECIPIENT OF A LOT IN A DEVELOPMENT.

(2) “CONSUMER” INCLUDES A CO–OBLIGOR OR SURETY FOR A CONSUMER.

(B) THIS SECTION IS INTENDED TO PROVIDE MINIMUM STANDARDS FOR PROTECTION OF CONSUMERS IN THE STATE.

(c) (1) TO THE EXTENT THAT A VIOLATION OF ANY PROVISION OF THIS TITLE AFFECTS A CONSUMER, THAT VIOLATION SHALL BE WITHIN THE SCOPE OF THE ENFORCEMENT DUTIES AND POWERS OF THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL, AS DESCRIBED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

(2) THE PROVISIONS OF THIS TITLE SHALL OTHERWISE BE ENFORCED BY EACH UNIT OF STATE GOVERNMENT WITHIN THE SCOPE OF THE AUTHORITY OF THE UNIT.

(D) (1) A COUNTY OR MUNICIPAL CORPORATION MAY ADOPT A LAW, ORDINANCE, OR REGULATION FOR THE PROTECTION OF A CONSUMER TO THE EXTENT AND IN THE MANNER PROVIDED FOR UNDER § 13-103 OF THE COMMERCIAL LAW ARTICLE.

(2) WITHIN 30 DAYS OF THE EFFECTIVE DATE OF A LAW, ORDINANCE, OR REGULATION ADOPTED UNDER THIS SUBSECTION THAT IS EXPRESSLY APPLICABLE TO A DEVELOPMENT, THE COUNTY OR MUNICIPAL CORPORATION SHALL FORWARD A COPY OF THE LAW, ORDINANCE, OR REGULATION TO THE HOMEOWNERS ASSOCIATION DEPOSITORY IN THE OFFICE OF THE CLERK OF THE COURT IN THE COUNTY WHERE THE DEVELOPMENT IS LOCATED.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 594

(House Bill 279)

AN ACT concerning

**Higher Education – Workforce Shortage Student Assistance Grants –
~~Eligibility~~**

FOR the purpose of ~~specifying that a grant recipient under the Workforce Shortage Student Assistance grant program may be enrolled at an eligible institution during a fall, spring, or summer term; defining certain terms requiring the Advisory Council on Workforce Shortage to make a certain recommendation to the Maryland Higher Education Commission relating to a certain determination;~~ requiring a recipient of a Workforce Shortage Assistance grant to earn a certain number of credit hours in an academic year; requiring the Commission to distribute certain grant awards in certain amounts for a student taking courses during a summer session; authorizing a certain student who is enrolled in a certain program that requires a mandatory summer academic session to receive an additional award in a certain amount; requiring a grant recipient to repay certain funds to the Commission if the grant recipient does not earn a certain minimum number of credit hours in a certain academic year; ~~prohibiting the Commission from designating new workforce shortage fields under the program of Workforce Shortage Student Assistance grants unless the Governor includes certain funds in the annual budget; requiring the Commission to give priority under the program to existing workforce shortage fields unless certain contingencies are met;~~ defining a certain term; making stylistic changes; and generally relating to the Workforce Shortage Student Assistance grant program.

BY repealing and reenacting, with amendments,

Article – Education

Section ~~18-708(a) and (h)~~ 18-708(a), ~~(e)(3)~~, (h), (i), and (l)(1)

Annotated Code of Maryland

(2006 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Education

Section 18-708(b) ~~and (e)(2)~~

Annotated Code of Maryland

(2006 Replacement Volume)

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

Article – Education

18-708.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Advisory Council” means the Advisory Council on Workforce Shortage.

(3) "Eligible institution" means a public or private institution of higher education in this State that possesses a certificate of approval from the Commission.

(4) "Grant" means the Workforce Shortage Student Assistance grant.

~~(5) "PART-TIME STUDENT" MEANS A STUDENT WHO MAINTAINS A COURSE CREDIT LOAD OF BETWEEN 3 AND 6 CREDIT HOURS.~~

~~(6) "STUDENT" INCLUDES:~~

~~(i) A STUDENT IN AN UNDERGRADUATE LEVEL COURSE OF STUDY;~~

~~(ii) A STUDENT IN A GRADUATE LEVEL COURSE OF STUDY;~~
AND

~~(iii) A MEMBER OF THE FACULTY OF AN INSTITUTION OF HIGHER EDUCATION IN THE STATE.~~

(5) "PUBLIC GOOD OR BENEFIT" MEANS SERVICE TO LOW-INCOME OR UNDERSERVED RESIDENTS OR AREAS OF THE STATE IN AN OCCUPATION IN THE PUBLIC SECTOR OR IN AN ORGANIZATION, INSTITUTION, ASSOCIATION, SOCIETY, OR CORPORATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE OF 1986.

(b) There is a program of Workforce Shortage Student Assistance grants under this section for students who pledge to work in fields of critical shortage in the State on completion of their studies.

~~(c) (2) The Secretary shall appoint an Advisory Council on Workforce Shortage to:~~

~~(i) Identify workforce shortage fields in the State; and~~

~~(ii) Recommend to the Commission:~~

~~1. Priority workforce shortage fields to be included in the grant program; and~~

~~2. The removal of fields that in the Advisory Council's judgment no longer qualify as workforce shortage fields.~~

~~(3) In making recommendations to the Commission, the Advisory Council shall:~~

~~(I) [consider] CONSIDER whether a workforce shortage field provides a public good or benefit to the citizens of Maryland; AND~~

~~(II) ON DETERMINATION THAT A WORKFORCE SHORTAGE FIELD PROVIDES A PUBLIC GOOD OR BENEFIT, GIVE PRIORITY TO THE WORKFORCE SHORTAGE FIELD WHEN MAKING RECOMMENDATIONS TO THE COMMISSION UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION.~~

(h) ~~(1)~~ A grant recipient:

~~(1)~~ ~~may~~ MAY be enrolled at an eligible ~~institution;~~ INSTITUTION

~~(I)~~ ~~[on]~~ ON a part-time or full-time basis; ~~AND~~

~~(II)~~ DURING A FALL, SPRING, OR SUMMER TERM.

~~(2)~~ SHALL EARN AT LEAST 12 UNDERGRADUATE OR 9 GRADUATE CREDIT HOURS IN EACH ACADEMIC YEAR, INCLUDING SUMMER SESSIONS;

~~(2)~~ ~~(3)~~ Except as provided in paragraph ~~(3)~~ ~~(4)~~ of this subsection, ~~a grant recipient~~ shall be an undergraduate student at an eligible institution; ~~AND~~

~~(3)~~ ~~A grant recipient may~~

~~(4)~~ MAY be a graduate student if the Office determines that the shortage field requires employees with a graduate level education.

~~(i)~~ ~~(1)~~ In this subsection, "cost of attendance" means the equivalent annual tuition and mandatory fees of a resident undergraduate student at the 4-year public institution of higher education within the University System of Maryland, other than the University of Maryland University College and University of Maryland, Baltimore, with the highest annual expenses for a full-time resident undergraduate.

~~(2)~~ Subject to [paragraph (3)] PARAGRAPHS (3), (4), AND (5) of this subsection, the Commission shall establish in guidelines the annual grant awards under this section.

~~(3)~~ Annual grant awards shall be within the following ranges:

~~(i)~~ For a part-time student attending a 2-year eligible institution – \$1,000 and 12.5% of cost of attendance;

(ii) For a full-time student attending a 2-year eligible institution – \$2,000 and 25% of cost of attendance;

(iii) For a part-time student attending a 4-year eligible institution – \$2,000 and 25% of cost of attendance; and

(iv) For a full-time student attending a 4-year eligible institution – \$4,000 and 50% of cost of attendance.

(4) FOR A STUDENT TAKING COURSES DURING A SUMMER SESSION TO MEET THE MINIMUM NUMBER OF CREDIT HOURS FOR FULL-TIME OR PART-TIME STATUS, THE COMMISSION SHALL DISTRIBUTE GRANT AWARDS TO THE STUDENT IN THE SPRING AND SUMMER SESSIONS IN AMOUNTS IT DETERMINES TO BE APPROPRIATE.

(5) A STUDENT WHO IS ENROLLED IN AN ACADEMIC PROGRAM THAT INCLUDES A MANDATORY SUMMER ACADEMIC SESSION AS PART OF THE APPROVED CURRICULUM MAY RECEIVE AN ADDITIONAL AWARD NOT TO EXCEED \$1,000 PER CALENDAR YEAR.

(l) (1) A grant recipient shall repay the Commission the funds received as set forth in § 18-112 of this title if the recipient does not:

(i) EARN AT LEAST 12 UNDERGRADUATE OR 9 GRADUATE CREDIT HOURS IN EACH ACADEMIC YEAR IN WHICH THE STUDENT RECEIVES ASSISTANCE, INCLUDING SUMMER SESSIONS;

(II) Complete the specified degree, attain the licensure or certification required, or fulfill other requirements as provided in this section; or

[(ii)] (III) Perform the service obligation required under subsection (k) of this section.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, unless the Governor includes in the annual budget additional funds in excess of those budgeted for existing workforce shortage fields, the Maryland Higher Education Commission may not designate new workforce shortage fields under the program of Workforce Shortage Student Assistance grants.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That unless data suggests otherwise and until such a time that the Governor includes additional funds for awards under new workforce shortage fields under the program of Workforce Shortage Student Assistance grants, the Maryland Higher Education Commission shall give priority under the program to existing workforce shortage fields.~~

SECTION ~~2~~ 4 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 595

(House Bill 281)

AN ACT concerning

Mental Health – Incarcerated Individuals with Mental Illness

FOR the purpose of requiring the Mental Hygiene Administration to reimburse certain mental health providers for certain services; requiring the Department of Public Safety and Correctional Services to provide certain access to a certain amount of medication to certain individuals under certain circumstances; establishing certain immunity from civil liability for certain persons; ~~requiring the Governor to provide a certain appropriation in a certain fiscal year for hiring and training certain individuals for certain purposes~~; ~~requiring the Department of Human Resources and the Department of Public Safety and Correctional Services to submit a certain report to certain committees of the General Assembly on or before a certain date~~; requiring the Mental Hygiene Administration to develop an implementation plan to require each core service agency in the State to develop a certain forensic alternative services team a certain plan to divert certain individuals with a serious mental illness to certain types of services; requiring the Mental Hygiene Administration to ~~develop an implementation plan requiring~~ work with each core service agency in the State to develop a plan to enter into memoranda of understanding with local detention centers to establish a certain data sharing initiative; requiring the Mental Hygiene Administration to submit certain reports to certain committees of the General Assembly and to a certain workgroup on or before a certain date; requiring the Department of Public Safety and Correctional Services, in collaboration with the Motor Vehicle Administration, to develop a plan to provide departing inmates with a certain identification card; expressing the intent of the General Assembly that the Mental Hygiene Administration expend no more than a certain amount of money in a certain year to implement the provisions of this Act; requiring the Department of Public Safety and Correctional Services to submit a certain report to certain committees of the General Assembly on or before a certain date; and generally relating to mental health treatment for incarcerated individuals.

BY adding to
Article – Correctional Services
Section 9-612
Annotated Code of Maryland
(1999 Volume and 2006 Supplement)

BY adding to
Article – Health – General
Section 10-814 ~~and 15-104.1~~
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Correctional Services

9-612.

(A) ~~ON THE RECOMMENDATION OF A HEALTH CARE PROVIDER, THE~~
THE DEPARTMENT SHALL PROVIDE AN INMATE WHO HAS BEEN SENTENCED TO A TERM OF INCARCERATION IN THE DIVISION OF CORRECTION AND WHO HAS BEEN DIAGNOSED WITH A MENTAL ILLNESS WITH ACCESS TO A 30-DAY SUPPLY OF MEDICATION FOR THE MENTAL ILLNESS ON THE RELEASE OF THE INMATE.

(B) ~~SUBJECT TO SUBSECTION (C) OF THIS SECTION, PART~~ PART OF THE 30-DAY SUPPLY OF MEDICATION PROVIDED UNDER SUBSECTION (A) OF THIS SECTION MAY BE PROVIDED BY PRESCRIPTION IF THE INMATE IS PROVIDED SUFFICIENT MEDICATION ON RELEASE THAT ENABLES THE INMATE TO REMAIN MEDICATION-COMPLIANT UNTIL ADDITIONAL MEDICATION BECOMES AVAILABLE FROM FILLING THE PRESCRIPTION.

~~(C) THE DEPARTMENT SHALL ENSURE THAT AN INMATE WITH A MENTAL ILLNESS WHO RECEIVES MEDICATION UNDER SUBSECTION (A) OF THIS SECTION RECEIVES AN ACTUAL SUPPLY OF THE MEDICATION ON RELEASE.~~

(C) THIS SECTION SHALL APPLY ONLY IF A TREATING PHYSICIAN DETERMINES THAT:

(1) THE RELEASED INMATE'S POSSESSION OF MEDICATION IN THE QUANTITY PRESCRIBED IS IN THE BEST INTEREST OF THE INMATE; AND

(2) POSSESSION OF THE PRESCRIBED MEDICATION WILL NOT CONSTITUTE A DANGER TO THE RELEASED INMATE.

(D) THE DEPARTMENT, AN EMPLOYEE OF THE DEPARTMENT, OR AN AGENT OF THE DEPARTMENT, INCLUDING A PHYSICIAN OR CORPORATE ENTITY PROVIDING MEDICAL SERVICES TO INMATES ON BEHALF OF THE DEPARTMENT, MAY NOT BE HELD LIABLE UNDER THIS SECTION FOR ISSUING MEDICATION OR A PRESCRIPTION FOR MEDICATION TO AN INMATE ON THE INMATE'S RELEASE NOTWITHSTANDING THAT THE RELEASED INMATE:

(1) IS NO LONGER UNDER THE CARE OR SUPERVISION OF THE PRESCRIBING PHYSICIAN; AND

(2) MAY NOT BE UNDER ANY WITHOUT MEDICAL SUPERVISION FOR THE PERIOD DURING WHICH THE MEDICATION HAS BEEN ADMINISTERED.

Article - Health - General

10-814.

~~THE ADMINISTRATION SHALL REIMBURSE COMPENSATE CASE MANAGERS OR OTHER APPROPRIATE COMMUNITY MENTAL HEALTH PROVIDERS FOR CONDUCTING INITIAL ASSESSMENTS WITH PRISONERS WITH A SERIOUS MENTAL ILLNESS WHO ARE WITHIN 3 MONTHS OF RELEASE OF INMATES WHO ARE:~~

(1) IDENTIFIED BY THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES AS HAVING A SERIOUS MENTAL ILLNESS; AND

(2) EXPECTED TO BE WITHIN 3 MONTHS OF RELEASE.

~~15-104.1.~~

~~(A) THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL FOR FISCAL YEAR 2009 AT LEAST \$250,000 IN GENERAL FUND STATE SUPPORT FOR HIRING AND TRAINING PROGRAM BENEFITS COORDINATORS WITHIN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES FOR THE PRISON SYSTEM AND CASEWORKERS WITHIN THE DEPARTMENT OF HUMAN RESOURCES TO PROCESS APPLICATIONS FOR PROGRAM BENEFITS FOR INDIVIDUALS WITH A SERIOUS MENTAL ILLNESS WHO ARE EXPECTED TO BE RELEASED WITHIN 3 MONTHS.~~

~~(B) ON OR BEFORE JANUARY 1, 2012, THE DEPARTMENT OF HUMAN RESOURCES AND THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL~~

~~SERVICES SHALL REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE ON THE EFFECT OF THE INCREASED STAFF PROVIDED UNDER SUBSECTION (A) OF THIS SECTION ON:~~

~~(1) THE NUMBER OF APPLICATIONS FOR PROGRAM BENEFITS COMPLETED PRIOR TO THE RELEASE OF INMATES WITH A SERIOUS MENTAL ILLNESS AND RATES OF APPROVAL FOR THESE APPLICATIONS;~~

~~(2) CHANGES IN RECIDIVISM RATES FOR INMATES WITH A SERIOUS MENTAL ILLNESS AS A RESULT OF IMPROVED ACCESS TO MEDICAL ASSISTANCE BENEFITS; AND~~

~~(3) RECOMMENDATIONS TO EXPAND BENEFITS COORDINATION SUPPORT FOR INMATES IN PRISONS AND JAILS.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

~~(a) The Mental Hygiene Administration shall develop an implementation plan requiring each core service agency in the State to develop a forensic alternative services team:~~

~~(1) that is staffed by mental health professionals to serve each district court, jail, and booking facility in the jurisdiction of the core service agency;~~

~~(2) that is able to divert arrested individuals with a serious mental illness or trauma related disorder from incarceration by arranging needed community services, including outpatient or inpatient services prior to bail review hearings or within 30 days of incarceration; and~~

~~(3) that may advocate before the court for release to the community with a plan agreed to by the defendant that may include ongoing treatment, housing, and monitoring if the charges made against the individual are not dismissed.~~

(a) (1) The Mental Hygiene Administration shall develop a plan for the State to divert individuals with serious mental illnesses who come in contact with the criminal justice system to inpatient or outpatient mental health services if such services are more appropriate than confinement of the individual in a correctional facility.

(2) If determined to be feasible and appropriate, the plan required under this section shall include:

(i) coordination with and expansion of community mental health crisis response services; and

(ii) the expansion of the Forensic Alternative Services Team or the Maryland Community Criminal Justice Treatment Program, with due consideration given to the unique needs and existing programs operating in local jurisdictions.

(b) On or before January 1, 2008, the Mental Hygiene Administration shall report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee, the House Health and Government Operations Committee, and the Transformation Grant workgroup on the ~~implementation~~ plan developed under subsection (a) of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Mental Hygiene Administration shall ~~develop an implementation plan requiring each core service agency in the State~~ work with each core service agency to develop a plan to enter into memoranda of understanding with local detention centers to establish a data sharing initiative that:

(1) promotes the continuity of treatment for individuals with a serious mental illness who have received services in the public mental health system and who become involved in the criminal justice system;

(2) ~~requires the local detention center to electronically submit~~ implements electronic submission by the local detention center of information on each arrestee for each 24-hour period to the public mental health system's administrative services organization;

(3) requires the administrative services organization to cross reference the information received from the detention center in order to identify residents within the jurisdiction who are public mental health system enrollees with a serious mental illness and provide the names of the enrollees to the core service agency for the jurisdiction; and

~~(4) requires a core service agency representative on receipt of the names of the enrollees, to:~~

~~(i) interview the enrollee;~~

~~(ii) obtain written consent from the enrollee to release treatment information to the detention center health care provider; and~~

~~(iii) make necessary linkages within the detention center and the community service provider network to ensure that treatment information is available to mental health staff in the detention center and to staff responsible for discharge planning.~~

(4) provides a mechanism for a core service agency, with the arrestee's consent, to:

(i) share treatment information with the detention center health care provider; and

(ii) make necessary linkages to the community service provider network to ensure that treatment information is available to appropriate detention center staff.

(b) On or before January 1, 2008, the Mental Hygiene Administration shall report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee, the House Health and Government Operations Committee, and the Transformation Grant workgroup on the implementation plan developed under subsection (a) of this section.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The Department of Public Safety and Correctional Services, in collaboration with the Motor Vehicle Administration, shall develop a plan to provide departing inmates with an identification card that includes the information required ~~under the federal REAL ID Act of 2005 and complies~~ to comply with the Motor Vehicle Administration's requirements for the issuance of a State identification card.

(b) On or before January 1, 2008, the Department of Public Safety and Correctional Services shall report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee on the ~~implementation of the~~ plan developed under subsection (a) of this section.

SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Mental Hygiene Administration expend no more than \$150,000 in fiscal 2008 to implement the provisions of this Act.

SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 596

(House Bill 285)

AN ACT concerning

Criminal Law - Possession of Child Pornography - Penalty

FOR the purpose of altering ~~the age of an individual relating to~~ a provision of law to make the offense of knowingly possessing a film, videotape, photograph, or other visual representation showing ~~a certain depiction of an individual under a certain age; altering the penalty for the offense of knowingly possessing a film, videotape, photograph, or other visual representation showing~~ apply only to a certain depiction of an individual actual child under a certain age; *providing for a certain affirmative defense to a charge under this Act*; altering a certain criminal penalty; and generally relating to child pornography.

BY repealing and reenacting, with amendments,

Article - Criminal Law

Section 11-208

Annotated Code of Maryland

(2002 Volume and 2006 Supplement)

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

Article - Criminal Law

11-208.

(a) A person may not knowingly possess AND INTENTIONALLY RETAIN a film, videotape, photograph, or other visual representation ~~depicting~~ SHOWING an ~~individual~~ ACTUAL CHILD under the age of ~~[16]~~ 17 years:

- (1) engaged as a subject of sadomasochistic abuse;
- (2) engaged in sexual conduct; or
- (3) in a state of sexual excitement.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

(1) for a first violation, imprisonment not exceeding [1 year] ~~5~~ 2 YEARS or a fine not exceeding \$2,500 or both; and

(2) for each subsequent violation, imprisonment not exceeding [2] ~~10~~ 5 years or a fine not exceeding [\$5,000] ~~\$5,000~~ **\$10,000** or both.

(c) Nothing in this section may be construed to prohibit a parent from possessing visual representations of the parent's own child in the nude unless the visual representations ~~depict~~ **SHOW** the child engaged:

- (1) as a subject of sadomasochistic abuse; or
- (2) in sexual conduct and in a state of sexual excitement.

(D) IT IS AN AFFIRMATIVE DEFENSE TO A CHARGE OF VIOLATING THIS SECTION THAT THE PERSON PROMPTLY AND IN GOOD FAITH:

(1) TOOK REASONABLE STEPS TO DESTROY EACH VISUAL REPRESENTATION; OR

(2) REPORTED THE MATTER TO A LAW ENFORCEMENT AGENCY.

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

Approved by the Governor, May 17, 2007.

CHAPTER 597

(House Bill 286)

AN ACT concerning

Calvert County - Public Facilities Bonds

FOR the purpose of authorizing and empowering the County Commissioners of Calvert County, from time to time, to borrow not more than \$53,110,000 to finance the construction, improvement, or development of certain public facilities in Calvert County, as herein defined, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution,

the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, county, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; and generally relating to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term "County" means the body politic and corporate of the State of Maryland known as the County Commissioners of Calvert County, and the term "construction, improvement, or development of public facilities" means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities, and issuance costs together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the public facilities described in Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at one time or from time to time, in an amount not exceeding, in the aggregate, \$53,110,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only

that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Calvert County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in a bond order pursuant to the bond resolution. The bonds may be issued in registered form and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as amended.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Treasurer of Calvert County or such other official of Calvert County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceed the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity

or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County in such an amount as shall be necessary for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, county, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the

authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Calvert County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 598

(House Bill 315)

AN ACT concerning

State Board of Nursing - Licensing, Certification, and Reinstatement Requirements

FOR the purpose of ~~repealing certain authorization for~~ altering certain supervision provisions concerning the authority of certain unlicensed individuals to perform performing certain acts of registered nursing and licensed practical nursing; requiring the State Board of Nursing to begin a process of requiring certain criminal history records checks as a condition of certain licensure reinstatement and certain certificate reinstatement; altering certain grounds for revoking certain temporary licenses or temporary certificates if a criminal history records check reveals certain information; authorizing the Board to reinstate certain licenses or certain certificates if the licensee or certificate holder meets certain requirements for reinstatement and submits to a certain criminal history records check; providing that a certain subtitle does not apply to certain individuals who perform certain nursing assistant tasks while enrolled in certain nursing assistant training programs and practicing under certain supervision; requiring certain certified medicine aides and certain certified medication technicians who are renewing certain certificates to provide certain evidence of completion of a certain amount of practice within a certain time period; and generally relating to licensing, certification, and reinstatement requirements for nurses, nursing assistants, medicine aides, and medication technicians.

BY repealing and reenacting, with amendments,
Article - Health Occupations

Section 8-102, 8-312(g), 8-315(e), 8-319, 8-6A-02, 8-6A-10(e), and 8-705
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 8-313
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 8-6A-08
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)
(As enacted by Chapter 390 of the Acts of the General Assembly of 2006)

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

Article – Health Occupations

8-102.

(a) In this section, “Christian Science nurse” means an individual who is registered as a Christian Science nurse in the Christian Science Journal of the Christian Science Publishing Society.

(b) Except as specifically provided in this title, this title does not limit the right of:

(1) An individual to practice a health occupation that the individual is authorized to practice under this article; ~~OR~~

(2) A Christian Science nurse to care for an individual who is ill, injured, or infirm, if the Christian Science nurse does not administer any drug or medicine; ~~or~~

(3) An unlicensed individual to perform acts of registered nursing or acts of licensed practical nursing:

(i) While supervised by an individual who is authorized by this State to practice ~~medicine, dentistry,~~ registered nursing, or licensed practical nursing; and

(ii) If the unlicensed individual performs only acts that are in the area of responsibility of the supervisor and under the instruction of the supervisor.

8-312.

(g) (1) (i) Beginning January 2008, the Board shall begin a process requiring criminal history records checks **IN ACCORDANCE WITH § 8-303 OF THIS SUBTITLE** on [selected]:

1. SELECTED annual renewal applicants as determined by regulations adopted by the Board [in accordance with § 8-303 of this subtitle]; **AND**

2. EACH FORMER LICENSEE WHO FILES FOR REINSTATEMENT UNDER § 8-313 OF THIS SUBTITLE AFTER FAILING TO RENEW THE LICENSE FOR A PERIOD OF 1 YEAR OR MORE.

(ii) An additional criminal history records check shall be performed every 10 years thereafter.

(2) On receipt of the criminal history record information of a licensee forwarded to the Board in accordance with § 8-303 of this subtitle, in determining whether to renew a license, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates that the licensee does not pose a threat to the public health or safety.

(3) The Board may not renew a license if the criminal history record information required under § 8-303 of this subtitle has not been received.

8-313.

The Board shall reinstate the license of a former licensee who has failed to renew the license for any reason if the former licensee meets the renewal requirements of § 8-312 of this subtitle.

8-315.

(e) The Board shall revoke a temporary license or temporary certificate if the criminal history record information forwarded to the Board in accordance with § 8-303 of this subtitle reveals that the applicant, certificate holder, or licensee [pleaded] **HAS BEEN CONVICTED OR PLED** guilty or [pleaded] nolo contendere to [an act that, if committed in this State, would be a violation under § 8-316(a) of this subtitle or to an act that, if committed in this State, would be a violation under § 8-6A-10(a) or § 8-6B-18(a) of this title] **A FELONY OR TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE.**

8-319.

If a license is suspended or revoked for a period of more than 1 year, the Board may reinstate the license after 1 year **IF THE LICENSEE:**

(1) MEETS THE REQUIREMENTS FOR REINSTATEMENT AS ESTABLISHED BY THE BOARD; AND

(2) SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 8-303 OF THIS SUBTITLE.

8-6A-02.

(a) Except as otherwise provided in this subtitle, an individual shall be certified by the Board to practice as a nursing assistant or medication technician before the individual may practice as a nursing assistant or medication technician in the State.

(b) This subtitle does not apply to an individual who:

(1) Practices a health occupation that the individual is authorized to practice under this article;

(2) Provides for the gratuitous care of friends or family members;

(3) Performs nursing assistant tasks while a nursing student enrolled in an accredited nursing program and practicing under the direct supervision of qualified faculty or preceptors;

(4) Performs nursing assistant tasks as a student while:

(i) Enrolled in a Board–approved nursing assistant training program; [or] AND

(ii) Practicing under the direct supervision of qualified faculty or preceptors;

(5) Performs medication technician tasks as a student while practicing under the direct supervision of qualified faculty; or

(6) Works as a principal or school secretary, does not administer medication as a routine part of the position, and has completed training by the delegating nurse for the occasion where the individual may need to administer medication in the absence of the nurse or medication technician.

(c) Nothing in this section shall preclude a registered nurse or licensed practical nurse from delegating a nursing task to an unlicensed individual provided that acceptance of delegated nursing tasks does not become a routine part of the unlicensed individual's job duties.

8–6A–08.

(a) A certificate expires on the 28th day of the birth month of the nursing assistant or medication technician, unless the certificate is renewed for a 2–year term as provided in this section.

(b) At least 3 months before the certificate expires, the Board shall send to the nursing assistant or medication technician a renewal notice that states:

(1) The date on which the current certificate expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the certificate expires; and

(3) The amount of the renewal fee.

(c) Before a certificate expires, a nursing assistant periodically may renew it for an additional term, if the certificate holder:

(1) Otherwise is entitled to be certified;

(2) Submits to the Board a renewal application on the form that the Board requires;

(3) Pays to the Board a renewal fee set by the Board; and

(4) Provides satisfactory evidence of completion of:

(i) 16 hours of active nursing assistant practice within the 2-year period immediately preceding the date of renewal; or

(ii) An approved nursing assistant training program.

(d) In addition to the requirements in subsection (c)(1), (2), and (3) of this section, a skilled nursing assistant shall:

(1) Provide satisfactory evidence of completion of 1,000 hours of practice as a skilled nursing assistant within the individual's specific category of nursing assistant, in the 2-year period preceding the date of renewal; and

(2) Successfully complete a Board-approved refresher course within the individual's specific category of nursing assistant.

(E) IN ADDITION TO THE REQUIREMENTS IN SUBSECTION (C)(1), (2), AND (3) OF THIS SECTION, A CERTIFIED MEDICINE AIDE SHALL:

(1) PROVIDE SATISFACTORY EVIDENCE OF COMPLETION OF ~~200~~ 100 HOURS OF PRACTICE AS A CERTIFIED MEDICINE AIDE IN THE 2-YEAR PERIOD PRECEDING THE DATE OF RENEWAL; AND

(2) SUCCESSFULLY COMPLETE A BOARD-APPROVED MEDICINE AIDE CONTINUING EDUCATION PROGRAM.

[(e)](F) Before a certificate expires, a medication technician periodically may renew it for an additional term, if the certificate holder:

(1) Otherwise is entitled to be certified;

(2) Submits to the Board a renewal application on the form that the Board requires;

(3) Pays to the Board a renewal fee set by the Board; [and]

(4) Every 2 years, provides satisfactory evidence of completion of a Board-approved clinical refresher course; **AND**

(5) PROVIDES SATISFACTORY EVIDENCE OF COMPLETION OF ~~200~~ 100 HOURS OF PRACTICE AS A CERTIFIED MEDICATION TECHNICIAN WITHIN THE 2-YEAR PERIOD PRECEDING THE DATE OF RENEWAL.

[(f)](G) The Board may grant a 30-day extension, beyond a certificate's expiration date, to a certificate holder so that the certificate holder may renew the certificate before it expires.

(H) THE BOARD SHALL REINSTATE THE CERTIFICATE OF A FORMER CERTIFICATE HOLDER WHO HAS FAILED TO RENEW THE CERTIFICATE FOR ANY REASON IF THE FORMER CERTIFICATE HOLDER MEETS THE APPLICABLE RENEWAL REQUIREMENTS OF SUBSECTIONS (C) THROUGH (F) AND (L)(1)(I)2 OF THIS SECTION.

[(g)](I) Subject to subsection (j) of this section, the Board shall renew the certificate of each nursing assistant or medication technician who meets the requirements of this section.

[(h)](J) (1) Within 30 days after a change has occurred, each certificate holder shall notify the Board in writing of any change in a name or address.

(2) If the certificate holder fails to notify the Board within the time required under this subsection, the Board may impose an administrative penalty of \$25 on the certificate holder.

[(i)](K) The Board shall pay any penalty collected under this subsection to the General Fund of the State.

[(j)](L) (1) (i) Beginning January 2008, the Board shall begin a process requiring criminal history records checks **IN ACCORDANCE WITH § 8-303 OF THIS TITLE** on [selected]:

1. SELECTED applicants for certification as a certified nursing assistant who renew their certificates every 2 years as determined by regulations adopted by the Board [in accordance with § 8-303 of this title]; **AND**

2. EACH FORMER CERTIFIED NURSING ASSISTANT WHO FILES FOR REINSTATEMENT UNDER SUBSECTION (H) OF THIS SECTION AFTER FAILING TO RENEW THE LICENSE FOR A PERIOD OF 1 YEAR OR MORE.

(ii) An additional criminal history records check shall be performed every 10 years thereafter.

(2) On receipt of the criminal history record information of a certificate holder forwarded to the Board in accordance with § 8-303 of this title, in determining whether to renew the certificate, the Board shall consider:

(i) The age at which the crime was committed;

- (ii) The circumstances surrounding the crime;
- (iii) The length of time that has passed since the crime;
- (iv) Subsequent work history;
- (v) Employment and character references; and
- (vi) Other evidence that demonstrates that the certificate holder does not pose a threat to the public health or safety.

(3) The Board may not renew a certificate if the criminal history record information required under § 8-303 of this title has not been received.

8-6A-10.

(e) If a certificate issued under this subtitle is suspended or revoked for a period of more than 1 year, the Board may reinstate the certificate after 1 year if the certificate holder [meets]:

(1) MEETS the requirements for reinstatement as established by the Board in regulations; **AND**

(2) SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 8-303 OF THIS ~~SUBTITLE~~ TITLE.

8-705.

(a) A person may not practice registered nursing under color of any diploma, license, or record that is:

- (1) Illegally or fraudulently obtained; or
- (2) Signed or issued unlawfully or by fraudulent representation.

(b) A person may not practice licensed practical nursing under color of any diploma, license, or record that is:

- (1) Illegally or fraudulently obtained; or
- (2) Signed or issued unlawfully or by fraudulent representation.

(c) An individual may not practice as a nursing assistant under color of any diploma, license, record, or certificate that is:

- (1) Illegally or fraudulently obtained; or
- (2) Signed or issued unlawfully or by fraudulent representation.

(d) An individual may not practice as a **CERTIFIED** medication technician under color of any diploma, license, record, or certificate that is:

- (1) Illegally or fraudulently obtained; or
- (2) Signed or issued unlawfully or by fraudulent representation.

(e) An individual may not practice as a **CERTIFIED** medicine aide under color of any diploma, license, record, or certificate that is:

- (1) Illegally or fraudulently obtained; or
- (2) Signed or issued unlawfully or by fraudulent representation.

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

Approved by the Governor, May 17, 2007.

CHAPTER 599

(House Bill 320)

AN ACT concerning

Frederick County – Alcoholic Beverages – Tables and Chairs at Wineries

FOR the purpose of allowing in Frederick County a holder of a limited winery license to provide tables and chairs on the premises of the licensed facility for the sale, by the glass, of wine and pomace brandy made at the facility to a person who participates in a guided tour of the facility or attends a certain activity at the licensed premises; and generally relating to alcoholic beverages in Frederick County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 8-211(a)

Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 8–211(f)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article 2B – Alcoholic Beverages

8–211.

(a) The provisions of this section apply only in Frederick County.

(f) (1) Notwithstanding any other provisions of this [section] SECTION, wine may be sold as provided under a winery license, a limited winery license, or a Class A light wine license in any election district.

(2) **A HOLDER OF A LIMITED WINERY LICENSE MAY PROVIDE TABLES AND CHAIRS ON THE PREMISES OF THE LICENSED FACILITY FOR THE SALE, BY THE GLASS, OF WINE AND POMACE BRANDY MADE AT THE FACILITY TO A PERSON WHO PARTICIPATES IN A GUIDED TOUR OF THE FACILITY OR ATTENDS A SCHEDULED PROMOTIONAL EVENT OR OTHER ORGANIZED ACTIVITY AT THE LICENSED PREMISES.**

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

Approved by the Governor, May 17, 2007.

CHAPTER 600

(House Bill 339)

AN ACT concerning

Health Insurance – Small Group Market – Health Benefit Plans – Rates

FOR the purpose of ~~altering the factors a carrier may use to adjust the community rate for certain health benefit plans offered in the small group market;~~ altering a certain limit on the rate a carrier may charge based on adjustments to the community rate for certain health benefit plans offered in the small group market; authorizing a carrier to offer a ~~discounted rate~~ discount to a small employer for ~~eligible employees of the small employer who are nonsmokers or participate~~ participation in a certain wellness program; requiring the discount to be applied to reduce a certain rate, actuarially justified, offered uniformly to all small employers, and approved by the Maryland Insurance Commissioner; requiring the Maryland Health Care Commission, on or before a certain date, to adopt regulations to require carriers to collect and report certain participation data; requiring the Commission, on or before a certain date, to report to the Governor and certain legislative committees regarding the effect of a certain rate adjustment on participation in certain health benefit plans; providing for the termination of this Act; defining a certain term; ~~providing for the application of this Act;~~ and generally relating to rates for health benefit plans offered in the small group market.

BY repealing and reenacting, without amendments,
 Article – Insurance
 Section 15–1201(a) and (d)
 Annotated Code of Maryland
 (2006 Replacement Volume and 2006 Supplement)

BY adding to
 Article – Insurance
 Section 15–1201(r)
 Annotated Code of Maryland
 (2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
 Article – Insurance
 Section 15–1205
 Annotated Code of Maryland
 (2006 Replacement Volume and 2006 Supplement)

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

Article – Insurance

15–1201.

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

(d) "Commission" means the Maryland Health Care Commission established under Title 19, Subtitle 1 of the Health – General Article.

(R) (1) "WELLNESS PROGRAM" MEANS A PROGRAM OR ACTIVITY THAT:

(I) IS DESIGNED TO IMPROVE HEALTH STATUS AND REDUCE HEALTH CARE COSTS; AND

(II) COMPLIES WITH GUIDELINES DEVELOPED BY THE COMMISSION.

(2) "WELLNESS PROGRAM" INCLUDES PROGRAMS AND ACTIVITIES FOR:

(I) SMOKING CESSATION;

(II) REDUCTION OF ALCOHOL MISUSE;

(III) WEIGHT REDUCTION;

(IV) NUTRITION EDUCATION; AND

(V) AUTOMOBILE AND MOTORCYCLE SAFETY.

15-1205.

(a) (1) In establishing a community rate for a health benefit plan, a carrier shall use a rating methodology that is based on the experience of all risks covered by that health benefit plan without regard to health status or occupation or any other factor not specifically authorized under this subsection.

(2) A carrier may adjust the community rate only for:

(i) age; and

(ii) geography based on the following contiguous areas of the

State:

1. the Baltimore metropolitan area;

2. the District of Columbia metropolitan area;

3. Western Maryland; and

4. Eastern and Southern Maryland~~].~~

(3) Rates for a health benefit plan may vary based on family composition as approved by the Commissioner.

(4) (I) ~~A~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AFTER APPLYING THE RISK ADJUSTMENT FACTORS UNDER PARAGRAPH (2) OF THIS SUBSECTION, A CARRIER MAY OFFER A DISCOUNTED RATE DISCOUNT NOT TO EXCEED 20% TO A SMALL EMPLOYER FOR ~~ELIGIBLE EMPLOYEES OF THE SMALL EMPLOYER WHO:~~

~~(I) ARE NONSMOKERS; OR~~

~~(II) PARTICIPATE~~ PARTICIPATION IN A WELLNESS PROGRAM.

(II) A DISCOUNT OFFERED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE:

1. APPLIED TO REDUCE THE RATE OTHERWISE PAYABLE BY THE SMALL EMPLOYER;

2. ACTUARIALLY JUSTIFIED;

3. OFFERED UNIFORMLY TO ALL SMALL EMPLOYERS;

AND

4. APPROVED BY THE COMMISSIONER.

(b) A carrier shall apply all risk adjustment factors under subsection (a) of this section consistently with respect to all health benefit plans that are issued, delivered, or renewed in the State.

(c) **(1)** Based on the ~~[adjustments]~~ ~~ADJUSTMENT~~ allowed under subsection (a)(2) of this section, a carrier may charge a rate that is ~~[40%]~~ **50%** above or **50%** below the community rate.

(2) (I) ON OR BEFORE OCTOBER 1, 2007, THE COMMISSION SHALL ADOPT REGULATIONS THAT REQUIRE CARRIERS TO COLLECT AND REPORT TO THE COMMISSION DATA ON PARTICIPATION, BY RATE BAND, IN HEALTH BENEFIT PLANS ISSUED, DELIVERED, OR RENEWED UNDER THIS SUBTITLE.

(II) ON OR BEFORE JANUARY 1, 2011, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE REGARDING THE EFFECT OF THE 50% RATE ADJUSTMENT AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION ON PARTICIPATION IN HEALTH BENEFIT PLANS ISSUED, DELIVERED, OR RENEWED UNDER THIS SUBTITLE.

(d) (1) A carrier shall base its rating methods and practices on commonly accepted actuarial assumptions and sound actuarial principles.

(2) A carrier that is a health maintenance organization and that includes a subrogation provision in its contract as authorized under § 19-713.1(d) of the Health – General Article shall:

(i) use in its rating methodology an adjustment that reflects the subrogation; and

(ii) identify in its rate filing with the Administration, and annually in a form approved by the Commissioner, all amounts recovered through subrogation.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all health benefit plans issued, delivered, or renewed in the State on or after October 1, 2007.~~

SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2007. It shall remain effective for a period of 4 years and, at the end of June 30, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 601

(House Bill 390)

AN ACT concerning

Sexual Offenders – Evaluation Before Sentencing

FOR the purpose of requiring a court, unless there is a certain waiver, before sentencing a certain defendant under certain circumstances, to order that the defendant submit to a presentence investigation conducted by the Division of Parole and Probation and a mental health evaluation conducted by a certain individual employed or engaged by the Department of Health and Mental Hygiene; requiring a court to consider the presentence investigation and mental health evaluation when sentencing the defendant; and generally relating to evaluation and sentencing of sexual offenders.

BY adding to

Article – Criminal Procedure

Section 11-727

Annotated Code of Maryland

(2001 Volume and 2006 Supplement)

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

Article – Criminal Procedure

11-727.

(A) UNLESS WAIVED BY THE STATE’S ATTORNEY AND DEFENSE COUNSEL, BEFORE SENTENCING A DEFENDANT WHO ~~HAS BEEN CONVICTED OF A CRIME FOR WHICH THE DEFENDANT~~ IS REQUIRED TO REGISTER UNDER § 11-704 OF THIS SUBTITLE FOR A VIOLATION OF § 3-602 OF THE CRIMINAL LAW ARTICLE, THE COURT SHALL ORDER THE DEFENDANT TO SUBMIT TO:

(1) A PRESENTENCE INVESTIGATION CONDUCTED BY THE DIVISION OF PAROLE AND PROBATION; AND

(2) A MENTAL HEALTH ASSESSMENT, INCLUDING WHETHER THE DEFENDANT IS A DANGER TO SELF OR OTHERS, CONDUCTED BY A QUALIFIED MENTAL HEALTH PROFESSIONAL EMPLOYED OR ENGAGED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

(B) THE COURT SHALL CONSIDER THE PRESENTENCE INVESTIGATION AND MENTAL HEALTH EVALUATION WHEN SENTENCING THE DEFENDANT.

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

Approved by the Governor, May 17, 2007.

CHAPTER 602

(House Bill 416)

AN ACT concerning

Maryland Agricultural Commission - Biofuel Industry Member

FOR the purpose of altering the membership of the Maryland Agricultural Commission by requiring the Governor to appoint a member from a list of a certain number of nominees representing the biofuel industry; and generally relating to the Maryland Agricultural Commission.

BY repealing and reenacting, with amendments,

Article - Agriculture

Section 2-203(a)

Annotated Code of Maryland

(1999 Replacement Volume and 2006 Supplement)

(As enacted by Chapter 350 of the Acts of the General Assembly of 2005)

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

Article - Agriculture

2-203.

(a) The Commission has ~~29~~ **30** members. One member is ex officio and is the principal administrative official for agricultural affairs at the University System of Maryland as designated by the Chancellor of the University. The Governor appoints the remaining [28] **29** members as follows:

(1) Two from a list of at least four nominees representing the dairy industry;

(2) Two from a list of at least four nominees representing the poultry industry;

(3) One from a list of at least two nominees representing the livestock industry;

(4) One from a list of at least two nominees representing the tobacco industry;

- (5) Two from a list of at least four nominees representing the nursery industry;
- (6) One from a list of at least two nominees representing the horticulture industry;
- (7) One from a list of at least two nominees representing the field crops industry;
- (8) One from a list of at least two nominees representing the vegetable industry;
- (9) One from a list of at least two nominees representing the veterinary profession;
- (10) One from a list of at least two nominees of the Maryland State Grange;
- (11) One from a list of at least two nominees of the Maryland Farm Bureau;
- (12) Two without nomination appointed at large from services related to agriculture;
- (13) One from a list of at least two nominees representing the turf industry;
- (14) One from a list of at least two nominees representing the horse-breeding industry;
- (15) One from a list of at least two nominees representing the food processing industry;
- (16) One without nomination appointed at large from the general public to be the consumer member;
- (17) One from a list of at least two nominees representing the organic farming industry;
- (18) One from a list of at least two nominees representing direct farm marketing;
- (19) One from a list of at least two nominees representing viticulture;

(20) One from a list of at least two nominees representing agriculture education in primary or secondary schools;

(21) One from a list of at least two nominees representing agri-business;

(22) One from a list of at least two nominees representing the forestry industry;

(23) One from a list of at least two nominees representing the aquaculture industry; [and]

(24) One from a list of at least two nominees representing agri-tourism;
AND

(25) ONE FROM A LIST OF TWO NOMINEES REPRESENTING THE BIOFUEL INDUSTRY.

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

Approved by the Governor, May 17, 2007.

CHAPTER 603

(House Bill 423)

AN ACT concerning

Workforce Housing Grant Program - Fund Establishment - Administrative Clarifications

FOR the purpose of creating the Workforce Housing Fund in the Department of Housing and Community Development to provide certain funds for the operation of the Workforce Housing Grant Program; altering the factors that the Department may consider in determining whether a local government has met a certain match requirement under the Program; clarifying that the Department may redistribute Program funds among qualifying local governments under certain circumstances; altering the maximum amount of funds that a local government may use to develop a workforce housing unit; altering the amount that an original buyer of a homeownership workforce housing unit is required to pay to the Department if the original buyer transfers

title to the unit under certain circumstances; clarifying certain disclosure requirements in a contract of sale to an original buyer of a workforce housing unit; repealing a certain requirement that the deed to an initial buyer of a workforce housing unit include certain disclosures and create a certain lien under certain circumstances; requiring amounts owed to the Department when an original buyer transfers title to a homeownership workforce housing unit be secured by a certain recorded lien; defining a certain term; making stylistic changes; and generally relating to the Workforce Housing Grant Program.

BY adding to

Article – Housing and Community Development
Section 4-506
Annotated Code of Maryland
(2006 Volume)

BY repealing and reenacting, with amendments,

Article – Housing and Community Development
Section 4-1801, 4-1802, 4-1804, 4-1807, 4-1808, 4-1810, and 4-1811
Annotated Code of Maryland
(2006 Volume)

BY repealing and reenacting, without amendments,

Article – Housing and Community Development
Section 4-1803, 4-1805, 4-1806, 4-1809, 4-1812, and 4-1813
Annotated Code of Maryland
(2006 Volume)

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

Article – Housing and Community Development

4-506.

(A) IN THIS SECTION, “FUND” MEANS THE WORKFORCE HOUSING FUND.

(B) THERE IS A WORKFORCE HOUSING FUND.

(C) AS PROVIDED IN THE STATE BUDGET, THE DEPARTMENT SHALL USE THE FUND TO OPERATE AND PROVIDE FUNDS UNDER THE WORKFORCE HOUSING GRANT PROGRAM.

(D) THE FUND CONSISTS OF:

- (1) MONEY APPROPRIATED BY THE STATE;**
- (2) REPAYMENTS OF PRINCIPAL AND PAYMENTS OF INTEREST ON LOANS MADE UNDER THE WORKFORCE HOUSING GRANT PROGRAM;**
- (3) AMOUNTS PAID IN CONNECTION WITH TRANSFERS OF HOMEOWNERSHIP WORKFORCE HOUSING UNITS;**
- (4) MONEY TRANSFERRED TO THE FUND IN ACCORDANCE WITH THIS SUBTITLE; AND**
- (5) INVESTMENT EARNINGS OF THE FUND.**

4-1801.

- (a) In this subtitle the following words have the meanings indicated.
- (b) "Affordable" means that housing costs do not exceed 30% of a household's income.
- (c) "Area median income" means the median household income for the area adjusted for household size as published and annually updated by the United States Department of Housing and Urban Development.
- (d) "Development costs" means costs related to acquisition, site clearance and preparation, relocation, construction, renovation, financing, refinancing, engineering, or architectural plans.

(E) "FUND" MEANS THE WORKFORCE HOUSING FUND.

[(e)] (F) "Household of low or moderate income" means a household that a qualifying local government determines cannot afford a sales price or rent sufficient to induce private enterprise in the area of the qualifying local government to develop enough adequate and safe housing without the assistance of a program.

[(f)] (G) "Housing costs" means:

- (1) rent for a rental housing unit; or
- (2) mortgage principal and interest, real property taxes, and insurance for a housing unit that is for sale.

[(g)] (H) “Net proceeds of transfer” means all amounts paid to the original buyer or obligations of the original buyer assumed by a purchaser of a workforce housing unit minus:

- (1) reasonable [transaction] costs **PAID BY THE ORIGINAL BUYER**;
- (2) [the sales price paid by the original buyer;
- (3) costs incurred by the original buyer for capital improvements to the workforce housing unit; and
- (4)] the combined amount of Program funds and qualifying local government matching funds used to develop the workforce housing unit; **AND**

(3) OTHER LIENS AS PERMITTED BY REGULATION BY THE DEPARTMENT.

[(h)] (I) “Priority funding area” has the meaning stated in § 5-7B-02 of the State Finance and Procurement Article.

[(i)] (J) “Program” means the Workforce Housing Grant Program.

[(j)] (K) “Qualifying local government” means a county or municipal corporation that qualifies for participation in the Program under § 4-1803 of this subtitle.

[(k)] (L) “Workforce housing” means:

(1) rental housing that is affordable for a household with an aggregate annual income between 50% and 100% of the area median income; or

(2) homeownership housing that:

(i) except as provided in item (ii) of this item, is affordable to a household with an aggregate annual income between 60% and 120% of the area median income; or

(ii) in target areas that are recognized by the Secretary for purposes of administering the Maryland Mortgage Program, is affordable to a household with an aggregate annual income between 60% and 150% of the area median income.

4-1802.

(a) There is a Workforce Housing Grant Program.

(b) The Program provides flexible [capital] funds to qualifying local governments for [development costs of] workforce housing **PROGRAMS, INCLUDING PROGRAMS THAT FINANCE DEVELOPMENT COSTS.**

(c) [Funding for the] **THE** Program shall be [as provided in the State budget] **OPERATED WITH MONEY IN THE FUND.**

4-1803.

(a) A local government qualifies for participation in the Program if:

(1) the local government has:

(i) a 5-year consolidated plan approved by the United States Department of Housing and Urban Development; or

(ii) a comprehensive plan;

(2) the plans listed in item (1) of this subsection:

(i) have a workforce housing element;

(ii) assess workforce housing needs; and

(iii) contain goals, objectives, and policies to preserve or develop workforce housing; and

(3) the local government provides a statement to the Department indicating:

(i) a desire to participate in the Program; and

(ii) a reasonable expectation of the local government's ability to provide the matching funds required under § 4-1804 of this subtitle.

(b) The workforce housing element in the 5-year consolidated plan or the comprehensive plan of a qualifying local government may include:

(1) preservation and renovation of existing housing stock;

(2) redevelopment of existing residential areas;

(3) streamlined regulatory processes and reduced regulatory fees for construction or renovation;

(4) financial incentives for construction and renovation including local property tax credits;

(5) special zoning regulations for construction and renovation including inclusionary zoning;

(6) efforts to preserve workforce housing stock for subsequent first-time homebuyers and renters;

(7) coordination with neighboring jurisdictions;

(8) coordination with private sector employers; and

(9) leveraging of federal financial assistance.

4-1804.

(A) A qualifying local government shall provide a dollar-for-dollar match for Program funds used to develop workforce housing units under this subtitle.

(B) IN DETERMINING WHETHER A LOCAL GOVERNMENT HAS MET THE MATCH REQUIREMENT UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT MAY CONSIDER THE LOCAL GOVERNMENT'S:

(1) COSTS TO ADMINISTER A PROGRAM UNDER THIS SUBTITLE;

AND

(2) FINANCIAL COMMITMENTS TO OTHER AFFORDABLE OR WORKFORCE HOUSING INITIATIVES.

4-1805.

The Department shall proportionately distribute the annual appropriation of Program funds as follows:

(1) if a county is a qualifying local government, and no municipal corporation in the county is a qualifying local government, the Department shall distribute Program funds to the county based on the county's share of the State population;

(2) if a county is a qualifying local government, and a municipal corporation in the county is also a qualifying local government, the Department shall:

(i) determine the county's proportionate share of Program funds based on the county's share of the State population; and

(ii) from the amount of Program funds determined under item (i) of this item, distribute:

1. to each qualifying local government in the county that is a municipal corporation, an amount of Program funds based on the municipal corporation's share of the county population; and

2. to the county, the balance of the county's share of Program funds; or

(3) if a county is not a qualifying local government, but a municipal corporation in the county is a qualifying local government, the Department shall:

(i) determine the county's proportionate share of Program funds based on the county's share of the State population; and

(ii) distribute to each qualifying local government in the county that is a municipal corporation, a proportionate share of the amount of Program funds determined under item (i) of this item based on the municipal corporation's share of the county's population.

4-1806.

Before drawing down any Program funds, a qualifying local government shall:

(1) provide evidence satisfactory to the Department that the Program funds will be matched by the qualifying local government on a dollar-for-dollar basis; and

(2) meet other Program criteria adopted by the Secretary.

4-1807.

The Department shall redistribute among qualifying local governments the Program funds that have not been drawn down by [a qualifying] **OTHER** local [government] **GOVERNMENTS** within a 2-year period.

4-1808.

(A) A qualifying local government shall use Program funds for development costs associated with a workforce housing development located in a priority funding area in accordance with the 5-year consolidated plan or comprehensive plan of the qualifying local government.

(B) A QUALIFYING LOCAL GOVERNMENT MAY REQUEST THAT ITS PROGRAM FUNDS OR MATCH BE EXPENDED BY THE DEPARTMENT THROUGH THE DEPARTMENT'S EXISTING HOUSING PROGRAMS.

4-1809.

With the consent of the Department, in appropriate circumstances, a qualifying local government may extend the income eligibility limits for a workforce housing unit developed with Program funds to include a household of low or moderate income.

4-1810.

(a) The Secretary shall establish annually the maximum amount of Program funds that a qualifying local government may use to develop a workforce housing unit.

(b) The per unit maximum established by the Secretary shall [be equal to approximately 10% of] **TAKE INTO ACCOUNT** the regional average construction costs applicable to the qualifying local government for a comparable workforce housing unit.

4-1811.

(a) Rental units developed under this subtitle shall remain affordable as workforce housing for a period of at least 25 years.

(b) If an [initial] **ORIGINAL** buyer of a homeownership workforce housing unit developed through the Program transfers title to the unit at any time, the [initial] **ORIGINAL** buyer shall [assign] **PAY** to the Department 100% of the combined amount of Program funds and qualifying local government matching funds used to develop the unit.

(c) If an [initial] **ORIGINAL** buyer of a homeownership workforce housing unit developed through the Program transfers title to the unit:

(1) within 5 years of the date of purchase, the [initial] **ORIGINAL** buyer shall [assign] **PAY THE LESSER OF 20%** of the net proceeds of transfer to the Department **OR A 5% ANNUAL RETURN ON THE PROGRAM FUNDS PROVIDED FOR THE UNIT;**

(2) during the period that is more than 5 years but less than 15 years from the date of purchase, the [initial] **ORIGINAL** buyer shall [assign] **PAY** to the Department **THE LESSER OF** a percentage of the net proceeds of transfer that begins at 20% and declines by 2% for each subsequent year of ownership **OR A 5% ANNUAL RETURN ON THE PROGRAM FUNDS PROVIDED FOR THE UNIT**; and

(3) during the period that is 15 years or more from the date of purchase, the [initial] **ORIGINAL** buyer is not required to [assign] **PAY** any portion of the net proceeds of transfer to the Department.

(d) [Of the funds assigned to the Department under subsections (b) and (c) of this section, the] **THE** Department shall distribute to the qualifying local government:

(1) **OF THE FUNDS PAID BY THE ORIGINAL BUYER TO THE DEPARTMENT UNDER SUBSECTION (B) OF THIS SECTION, AN AMOUNT EQUAL TO** the matching funds provided by the qualifying local government for the homeownership workforce housing unit [that generated the net proceeds of transfer]; and

(2) **OF THE FUNDS PAID BY THE ORIGINAL BUYER TO THE DEPARTMENT UNDER SUBSECTION (C) OF THIS SECTION,** a proportionate share [of the net proceeds of transfer] based on the amount of matching funds provided by the qualifying local government for the homeownership workforce housing unit [that generated the net proceeds of transfer].

(e) The Department and the qualifying local governments shall use the funds received under this section to develop workforce housing under the Program.

(f) The contract of sale to the [initial] **ORIGINAL** buyer shall disclose **ALL THE REQUIREMENTS FOR REPAYMENT TO THE DEPARTMENT UNDER THIS SECTION IN THE EVENT OF A TRANSFER OF TITLE, INCLUDING** the combined amount of Program funds and qualifying local government matching funds [that must be assigned to the Department in the event of a transfer of title].

(g) [The deed to the initial buyer of a homeownership workforce housing unit and a deed to a transferee for no consideration of a homeownership workforce housing unit shall include:

(1) the requirements for repayment set forth in this section; and

(2) a provision creating a lien in favor of the Department against the homeownership workforce housing unit for the amounts due upon sale as set forth in this section.]

(1) THE AMOUNTS OWED TO THE DEPARTMENT IN THE EVENT OF A TRANSFER OF TITLE OF A HOMEOWNERSHIP WORKFORCE HOUSING UNIT UNDER THIS SECTION SHALL BE SECURED BY A RECORDED LIEN ON THE HOMEOWNERSHIP WORKFORCE HOUSING UNIT.

(2) THE LIEN CREATED UNDER THIS SUBSECTION MAY BE A SUBORDINATE LIEN.

(3) THE DEPARTMENT MAY CHARGE A FEE FOR SERVICING A LIEN CREATED UNDER THIS SUBSECTION.

4-1812.

A qualifying local government shall report annually to the Department on or before January 1 of each year on the use of Program funds.

4-1813.

The Secretary shall adopt regulations to carry out the purposes of the Program.

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

Approved by the Governor, May 17, 2007.

CHAPTER 604

(House Bill 447)

AN ACT concerning

St. Mary's County - Distribution of Tobacco Products to Minors - Prohibition and Penalties

FOR the purpose of prohibiting the distribution of certain tobacco products, cigarette rolling papers, and tobacco-related coupons to minors in St. Mary's County; creating certain defenses to a violation of this Act; establishing certain civil penalties; granting jurisdiction to the District Court to adjudicate violations of this Act; defining certain terms; making certain conforming and clarifying changes; and generally relating to the illegal distribution of tobacco and tobacco-related products to minors in St. Mary's County.

BY repealing

Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 15–101
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY adding to

Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 15–101 and 15–102.1
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 15–102 and 15–103
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 15–104
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings
Section 4–401(10)(xiii)
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article 24 – Political Subdivisions – Miscellaneous Provisions

[15–101.

This title applies only in:

- (1) Carroll County; and
- (2) Garrett County.]

15–101.

IN THIS TITLE, “TOBACCO PRODUCT” MEANS CIGARETTES, CIGARS, SMOKING TOBACCO, SNUFF, SMOKELESS TOBACCO, OR ANY SIMILAR PRODUCT CONTAINING TOBACCO.

15–102.

(a) [In this section, “tobacco product” means cigarettes, cigars, smoking tobacco, snuff, smokeless tobacco, or any similar product containing tobacco.] **THIS SECTION APPLIES ONLY IN:**

(1) CARROLL COUNTY; AND

(2) GARRETT COUNTY.

(b) This section does not apply to:

(1) The sale of a tobacco product from a vending machine that complies with the requirements of State law;

(2) A tobacconist establishment that engages primarily in the sale of tobacco products other than cigarettes, as defined in § 16–101 of the Business Regulation Article; or

(3) A business that engages primarily in the sale of beer, wine, and liquor for retail.

(c) A person who owns or operates a business that engages in the retail sale of a tobacco product may not store or display a tobacco product unless the tobacco product:

(1) Is not immediately accessible to customers; and

(2) Is accessible only to the owner or operator of the business or an agent or employee of the owner or operator.

(d) A person who violates subsection (c) of this section is committing a civil infraction and is subject to a civil penalty of:

(1) \$100 for the first violation; and

(2) \$300 for any subsequent violation.

(e) A citation for a second violation may not be issued within 30 days after the date of the first citation.

(f) After a citation is issued for a second violation, a citation may be issued each day that the violation continues after the date of the second citation.

15-102.1.

(A) IN THIS SECTION, "DISTRIBUTE" MEANS TO:

(1) GIVE, SELL, DELIVER, DISPENSE, OR ISSUE;

(2) OFFER TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE; OR

(3) CAUSE OR HIRE ANY PERSON TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE OR OFFER TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE.

(B) THIS SECTION APPLIES ONLY IN ST. MARY'S COUNTY.

(C) A PERSON MAY NOT:

(1) DISTRIBUTE ANY TOBACCO PRODUCT TO A MINOR, UNLESS THE MINOR IS ACTING SOLELY AS THE AGENT OF THE MINOR'S EMPLOYER WHO IS ENGAGED IN THE BUSINESS OF DISTRIBUTING TOBACCO PRODUCTS;

(2) DISTRIBUTE CIGARETTE ROLLING PAPERS TO A MINOR; OR

(3) SUBJECT TO SUBSECTION (D) OF THIS SECTION, DISTRIBUTE TO A MINOR A COUPON REDEEMABLE FOR A TOBACCO PRODUCT.

(D) SUBSECTION (C)(3) OF THIS SECTION DOES NOT APPLY TO THE DISTRIBUTION OF A COUPON THAT IS REDEEMABLE FOR A TOBACCO PRODUCT IF THE COUPON:

(1) IS CONTAINED IN A NEWSPAPER, MAGAZINE, OR OTHER TYPE OF PUBLICATION AND THE COUPON IS INCIDENTAL TO THE PRIMARY PURPOSE OF THE PUBLICATION; OR

(2) IS SENT THROUGH THE MAIL.

(E) A PERSON HAS NOT VIOLATED THIS SECTION IF:

(1) THE PERSON EXAMINED THE DRIVER'S LICENSE OR OTHER VALID GOVERNMENT-ISSUED IDENTIFICATION PRESENTED BY THE RECIPIENT

OF A TOBACCO PRODUCT, CIGARETTE ROLLING PAPER, OR COUPON REDEEMABLE FOR A TOBACCO PRODUCT; AND

(2) THE LICENSE OR OTHER IDENTIFICATION POSITIVELY IDENTIFIED THE RECIPIENT AS BEING AT LEAST 18 YEARS OLD.

(F) A PERSON WHO VIOLATES THIS SECTION IS COMMITTING A CIVIL INFRACTION AND IS SUBJECT TO A CIVIL PENALTY OF:

(1) \$300 FOR THE FIRST VIOLATION; AND

(2) \$500 FOR ANY SUBSEQUENT VIOLATION WITHIN A 24-MONTH PERIOD FROM THE PREVIOUS CITATION.

15-103.

(a) A county health officer or a designee of a county health officer may issue a civil citation to a person who violates [§ 15-102] **ANY PROVISION** of this title.

(b) A citation issued under this title shall include:

(1) The name and address of the person charged;

(2) The nature of the violation;

(3) The location and time of the violation;

(4) The amount of the civil penalty;

(5) The manner, location, and time in which the civil penalty may be paid;

(6) The cited person's right to elect to stand trial for the violation; and

(7) A warning that failure to pay the civil penalty or to contest liability in a timely manner in accordance with the citation:

(i) Is an admission of liability; and

(ii) May result in an entry of a default judgment that may include the civil penalty, court costs, and administrative expenses.

(c) The county health officer shall retain a copy of the citation.

15-104.

(a) A person who receives a citation under this title may elect to stand trial for the offense by filing with the county health officer a notice of intention to stand trial.

(b) The person electing to stand trial shall give notice at least 5 days before the date set forth in the citation for the payment of the civil penalty.

(c) After receiving a notice of intention to stand trial, the county health officer shall forward the notice to the District Court having venue, with a copy of the citation.

(d) After receiving the citation and notice, the District Court shall schedule the case for trial and notify the defendant of the trial date.

(e) All penalties and forfeitures collected by the District Court for violations of this title shall be remitted to the county in which the violation occurred.

(f) In a proceeding before the District Court, a violation shall be prosecuted in the same manner and to the same extent as a municipal infraction under Article 23A, § 3(b)(7) through (15) of the Code.

(g) The county commissioners of the county in which the violation occurred may authorize the county attorney to prosecute a civil infraction under this title.

(h) If the District Court finds that a person has committed a civil infraction under this title, the person shall be liable for the costs of the court proceedings.

(i) The finding by the District Court of a violation under this title is not a criminal conviction and does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

Article - Courts and Judicial Proceedings

4-401.

Except as provided in § 4-402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(10) A proceeding for adjudication of:

(xiii) A civil infraction relating to the storage **OR DISTRIBUTION** of tobacco products under Article 24, Title 15 of the Code;

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

Approved by the Governor, May 17, 2007.

CHAPTER 605

(House Bill 459)

AN ACT concerning

District Court – Citations

FOR the purpose of requiring the Chief Judge of the District Court to authorize the use of a single document for issuance of certain multiple, separately numbered, citations; requiring the Chief Judge of the District Court to specify certain means used to execute certain citations by a police officer issuing a citation and by a person to whom a citation is issued; requiring the Chief Judge of the District Court to authorize certain citations to include a summons; allowing a police officer to dispense with the acknowledgment of a person receiving a certain citation containing a summons in accordance with certain regulations; requiring a police officer to execute certain citations under penalties of perjury; providing for notice of certain trial dates; repealing certain references to appearance in court as specified in certain citations; repealing certain requirements as to signatures; authorizing the initial filing electronically of certain citations with the District Court; altering the duty of the District Court with regard to providing certain traffic citation forms; providing for consultation with the Chief Judge of the District Court by the Motor Vehicle Administration with regard to distribution and disposition of certain citation forms; making certain technical and stylistic changes; providing for the effect of this Act on pending citations; and generally relating to certain citations filed with the District Court.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 1-605(d)(4)
Annotated Code of Maryland
(2006 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings

Section 1-605(d)(8) and (9)
Annotated Code of Maryland
(2006 Replacement Volume)

BY adding to
Article – Courts and Judicial Proceedings
Section 1-605(d)(9), (10), and (11) and (e)
Annotated Code of Maryland
(2006 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 5-212
Annotated Code of Maryland
(2001 Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 12-104.1(b)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 24-304(b), 26-201, 26-203, 26-204, 26-402, 26-407, and 26-409(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Courts and Judicial Proceedings

1-605.

(d) In addition to the powers and duties granted and imposed in subsections (a), (b), and (c) of this section, or elsewhere by law or rule, the Chief Judge of the District Court shall:

(4) In conjunction with the Motor Vehicle Administrator, establish uniform procedures for reporting traffic cases in the District Court, including procedures for promptly notifying the Motor Vehicle Administration of each citation within the jurisdiction of the District Court that is issued to a minor licensed in the State charging the minor with driving a motor vehicle at least 20 miles per hour above the maximum lawful speed;

(8) After consultation with police administrators and the Motor Vehicle Administrator, design arrest – citation forms that:

(i) Shall be used by all law enforcement agencies in the State when charging a person with a criminal, civil, or traffic offense, excepting:

1. Violations by juveniles listed in § 3–8A–33(a) of this article;

2. Violations of parking ordinances or regulations adopted under Title 26, Subtitle 3 of the Transportation Article; and

3. Other violations as expressly provided by law; and

(ii) Shall include a line on which to add the \$7.50 surcharge assessed under § 27–101.2 of the Transportation Article; [and]

(9) AUTHORIZE THE USE OF A SINGLE DOCUMENT FOR ISSUANCE OF MORE THAN ONE, SEPARATELY NUMBERED, CITATION;

(10) SPECIFY APPROPRIATE MEANS, SUCH AS A SIGNATURE ON A CITATION, ELECTRONIC SIGNATURE, OR DATA ENCODED IN A DRIVER’S LICENSE OR IDENTITY CARD ISSUED BY THE MOTOR VEHICLE ADMINISTRATION, TO BE USED BY:

(I) THE POLICE OFFICER ISSUING A CITATION TO EXECUTE IT BY CERTIFYING UNDER PENALTIES OF PERJURY THAT THE FACTS STATED IN THE CITATION ARE TRUE; AND

(II) THE PERSON TO WHOM A CITATION IS BEING ISSUED TO ACKNOWLEDGE ITS RECEIPT;

(11) AUTHORIZE A CITATION TO INCLUDE A SUMMONS TO APPEAR; AND

[(9)] (12) Cause the District Court to print OR OTHERWISE MAKE AVAILABLE uniform motor vehicle citation forms and any other uniform statewide citation forms for offenses triable in the District Court.

(E) NOTWITHSTANDING ANY PROVISION OF THE TRANSPORTATION ARTICLE, A POLICE OFFICER MAY DISPENSE WITH THE ACKNOWLEDGMENT OF A PERSON RECEIVING A CITATION THAT CONTAINS A SUMMONS AS PROVIDED IN

SUBSECTION (D)(11) OF THIS SECTION AND REGULATIONS ADOPTED BY THE POLICE OFFICER'S AGENCY.

Article - Criminal Procedure

5-212.

(a) This section does not apply to a citation:

(1) for a violation of a parking ordinance or regulation adopted under Title 26, Subtitle 3 of the Transportation Article;

(2) adopted by the Chief Judge of the District Court under [§ 1-605(d)(8)] **§ 1-605(D)** of the Courts Article, for use in traffic offenses; or

(3) issued by a Natural Resources police officer under § 1-205 of the Natural Resources Article.

(b) A bench warrant may be issued for the arrest of a defendant who fails to appear in court in response to a citation.

(c) A person who fails to appear in court in response to a citation is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 90 days or both.

Article - Transportation

12-104.1.

(b) (1) An employee appointed under this section may issue citations to the extent authorized by the Administration for violations of:

(i) Those provisions of Title 13 of this article relating to:

1. The vehicle excise tax;
2. Vehicle titling and registration;
3. Special registration plates for individuals with disabilities; and
4. Parking permits for individuals with disabilities;

(ii) Those provisions of Title 17 of this article relating to required security;

(iii) Those provisions of Title 14 of this article relating to falsified, altered, or forged documents and plates;

(iv) Those provisions of Title 16 of this article relating to unlawful application for a license and vehicle operation during periods of cancellation, revocation, and suspension of a driver's license;

(v) Those provisions of Title 21 of this article relating to special residential parking permits issued by the Administration;

(vi) Those provisions of §§ 15–113 and 15–113.1 of this article relating to maintenance of and access to required business records;

(vii) Those provisions of Title 15 of this article relating to unlicensed business activity; and

(viii) Those provisions of this title relating to the issuance of an identification card.

(2) The issuance of citations under this section shall comply with the requirements of § 26–201 of this article.

24–304.

(b) The charging of a person with a violation of this subtitle shall be by means of a traffic citation in the form determined under [§ 1–605(d)(8)] **§ 1–605(D)** of the Courts Article.

26–201.

(a) A police officer may charge a person with a violation of any of the following, if the officer has probable cause to believe that the person has committed or is committing the violation:

(1) The Maryland Vehicle Law, including any [rule or] regulation adopted under any of its provisions;

(2) A traffic law or ordinance of any local authority;

(3) Title 9, Subtitle 2 of the Tax – General Article;

(4) Title 9, Subtitle 3 of the Tax – General Article;

(5) Title 10, Subtitle 4 of the Business Regulation Article;

- (6) § 10-323 of the Business Regulation Article; or
- (7) § 10-323.2 of the Business Regulation Article.

(b) A police officer who charges a person under this section shall issue a [written] traffic citation, **AND PROVIDE A COPY**, to the person charged.

(c) A traffic citation issued to a person under this section shall contain:

(1) A notice to appear in court, including a notice that, if the offense is not punishable by incarceration, the person may request a hearing regarding sentencing and disposition in lieu of a trial as provided in § 26-204(b)(2) of this subtitle;

(2) A NOTICE THAT:

(i) THE CITATION IS A SUMMONS TO APPEAR AS NOTIFIED BY A CIRCUIT COURT OR THE DISTRICT COURT THROUGH A TRIAL NOTICE SETTING THE DATE, TIME, AND PLACE FOR THE PERSON TO APPEAR; OR

(ii) A CIRCUIT COURT OR THE DISTRICT COURT WILL ISSUE A WRIT SETTING THE DATE, TIME, AND PLACE FOR THE PERSON TO APPEAR;

[(2)](3) The name and address of the person;

[(3)](4) The number of the person's license to drive, if applicable;

[(4)] (5) The State registration number of the vehicle, if applicable;

[(5)] (6) The violation **OR VIOLATIONS** charged;

[(6) Unless otherwise to be determined by the court, the time when and place where the person is required to appear in court;]

(7) [A statement acknowledging] **AN ACKNOWLEDGMENT OF** receipt of the citation, to be [signed] **EXECUTED** by the person **AS REQUIRED UNDER § 1-605 OF THE COURTS ARTICLE;**

(8) [On the side of the citation to be signed by the person] **NEAR THE ACKNOWLEDGMENT**, a clear and conspicuous statement that:

(i) [The signing] **ACKNOWLEDGMENT** of the citation by the person does not constitute an admission of guilt; and

(ii) The failure to [sign] **ACKNOWLEDGE RECEIPT OF THE CITATION** may subject the person to arrest; and

(9) Any other necessary information.

[(d) Unless the person charged demands an earlier hearing, a time specified in the notice to appear shall be at least 5 days after the alleged violation.

(e) A place specified in the notice to appear shall be before a judge of the District Court, as specified in § 26–401 of this title.]

[(f)] **(D)** [An] **A POLICE** officer who discovers a vehicle stopped, standing, or parked in violation of § 21–1003 of this article shall:

(1) Deliver a **COPY OF A** citation to the driver or, if the vehicle is unattended, attach a **COPY OF A** citation to the vehicle in a conspicuous place; and

(2) Keep a **WRITTEN OR ELECTRONIC** copy of the citation, bearing [his] **THE POLICE OFFICER’S** certification under penalty of perjury that the facts stated in the citation are true.

[(g)] **(E)** (1) A [law enforcement] **POLICE** officer who discovers a motor vehicle parked in violation of § 13–402 of this article shall:

(i) Deliver a **COPY OF A** citation to the driver or, if the motor vehicle is unattended, attach a **COPY OF A** citation to the motor vehicle in a conspicuous place; and

(ii) Keep a **WRITTEN OR ELECTRONIC** copy of the citation, bearing the law enforcement officer’s certification under penalty of perjury that the facts stated in the citation are true.

(2) In the absence of the driver, the owner of the motor vehicle is presumed to be the person receiving the **COPY OF A** citation or warning.

26–203.

(a) This section applies to all traffic citations issued under this subtitle, unless:

(1) The person otherwise is being arrested under § 26–202(a)(1), (2), (3), or (4) of this subtitle;

(2) The person is incapacitated or otherwise unable to comply with the provisions of this section;

(3) The citation is being issued to an unattended vehicle in violation of § 21-1003 of this article; or

(4) The citation is being issued to an unattended motor vehicle in violation of § 13-402 of this article.

(b) On issuing a traffic citation, the police officer [shall request the person to sign the statement on the citation acknowledging its receipt.]:

(1) SHALL ASK THE PERSON TO ACKNOWLEDGE RECEIPT OF A COPY OF THE CITATION, AS REQUIRED UNDER § 1-605 OF THE COURTS ARTICLE; AND

(2) If the person refuses to [sign, the police officer] **DO SO**, shall advise the person that failure to [sign] **ACKNOWLEDGE RECEIPT** may lead to the person's arrest.

(c) **(1)** On being advised that failure to [sign] **ACKNOWLEDGE RECEIPT OF A COPY OF A CITATION** may lead to [his] arrest, the person may not refuse to [sign] **ACKNOWLEDGE RECEIPT**.

(2) If the person continues to refuse to [sign] **DO SO**, the police officer may arrest the person for violation of this section or, as provided in § 26-202(a)(5) of this subtitle, for the original charge, or both.

26-204.

(a) **(1)** A person shall comply with the notice to appear contained[:

(1) In a traffic citation issued to the person under this subtitle; or

(2) In a summons, other writ,] **IN A WRIT** or a trial notice issued by either the District Court or a circuit court in an action on a traffic citation.

(2) UNLESS THE PERSON CHARGED DEMANDS AN EARLIER HEARING, A TIME SPECIFIED TO APPEAR SHALL BE AT LEAST 5 DAYS AFTER THE ALLEGED VIOLATION.

(b) **(1)** For purposes of this section, the person may comply with the notice to appear by:

(i) Appearance in person;

(ii) Appearance by counsel; or

(iii) Payment of the fine **FOR A PARTICULAR OFFENSE**, if provided for in the citation **FOR THAT OFFENSE**.

(2) (i) Subject to the provisions of subparagraph (iii) of this paragraph, a person who intends to comply with the notice to appear contained in a traffic citation by appearance in person or by counsel may return a copy of the citation to the District Court within the time allowed for payment of the fine indicating in the appropriate space on the citation that the person:

1. Does not dispute the truth of the facts as alleged in the citation; and

2. Requests, in lieu of a trial, a hearing before the Court regarding sentencing and disposition.

(ii) A person who requests a hearing under the provisions of subparagraph (i) of this paragraph waives:

1. Any right to a trial of the facts as alleged in the citation; and

2. Any right to compel the appearance of the [law enforcement] **POLICE** officer who issued the citation.

(iii) A person may request a hearing under the provisions of subparagraph (i) of this paragraph only if the traffic citation is for an offense that is not punishable by incarceration.

(c) If a person fails to comply with the notice to appear, the District Court or a circuit court may:

(1) Except as provided in subsection (f) of this section, issue a warrant for the person's arrest; or

(2) After 5 days, notify the Administration of the person's noncompliance.

(d) On receipt of a notice of noncompliance from the District Court or a circuit court, the Administration shall notify the person that the person's driving privileges shall be suspended unless, by the end of the 15th day after the date on which the notice is mailed, the person:

(1) Pays the fine on the original charge as provided for in the original citations; or

(2) Posts bond or a penalty deposit and requests a new date for a trial or a hearing on sentencing and disposition.

(e) If a person fails to pay the fine or post the bond or penalty deposit under subsection (d) of this section, the Administration may suspend the driving privileges of the person.

(f) When the offense is not punishable by incarceration, if the court notifies the Administration of the person's noncompliance under subsection (c) of this section, a warrant may not be issued for the person under this section until 20 days after the original trial date.

(g) With the cooperation of the District Court and circuit courts, the Administration shall develop procedures to carry out those provisions of this section that relate to the suspension of driving privileges.

26-402.

(a) This section does not apply if the alleged offense is any of the offenses enumerated in § 26-202(a)(3)(i), (ii), (iii), and (iv) of this title.

(b) If a police officer arrests a person and takes [him] **THE PERSON** before a District Court commissioner as provided in this title, the person shall be released on issuance of a [written] citation if:

(1) A commissioner is not available;

(2) A judge, clerk, or other public officer, authorized to accept bail for the court is not available; and

(3) The person charged gives [his] **THE PERSON'S** written promise to appear in court.

26-407.

(a) This section does not affect or modify the procedures established under Subtitle 3 of this title as to violations of parking ordinances or regulations adopted under that subtitle.

(b) Each police officer who issues a traffic citation to an alleged violator of any State or local law [shall]:

(1) [File the original] **SHALL FILE AN ELECTRONIC OR WRITTEN** copy of the citation promptly with the District Court; [and]

(2) IF THE PERSON CHARGED ACKNOWLEDGES RECEIPT ON A WRITTEN COPY OF THE CITATION, SHALL KEEP THAT COPY TO PRODUCE AS EVIDENCE IN COURT IF REQUIRED; AND

[(2)] (3) [Dispose] SHALL DISPOSE of the other copies of the citation in accordance with the [rules and] regulations adopted by the Administration.

(c) After the [original] copy of a traffic citation is filed with the District Court, the citation may be disposed of only by:

- (1) Trial, dismissal of the charges, or other official action by a judge of the court;
- (2) Forfeiture of the collateral, if authorized by the court; or
- (3) Payment of a fine by the person to whom the traffic citation has been issued.

(d) This section does not prohibit the entry of a “nol pros” or “stet”.

(e) For each traffic citation issued by a police officer under [his] **THE POLICE OFFICER’S** jurisdiction, the chief executive officer of each traffic enforcement agency shall keep a record of the disposition of the charge by the District Court.

(f) (1) Subject to the requirements of this section **AND IN CONSULTATION WITH THE CHIEF JUDGE OF THE DISTRICT COURT**, the Administration shall adopt [rules and] regulations:

(i) To govern the distribution and disposition of **WRITTEN AND ELECTRONIC** traffic citation forms; and

(ii) To specify the records and reports required to be made of the disposition of charges.

(2) These [rules and] regulations apply to each traffic enforcement agency and police officer with authority to issue traffic citations for a violation of a State or local law.

(3) Each police officer and the chief executive officer of each traffic enforcement agency shall make the records and reports required by these [rules and] regulations.

(g) (1) No police officer or other public employee may dispose of a traffic citation, its copies, or the record of the issuance of a traffic citation in any manner other than as required by this section and the [rules and] regulations adopted by the Administration.

(2) In addition to being unlawful, a violation of this subsection constitutes official misconduct.

26-409.

(a) The form of traffic citation provided for under [§ 1-605(d)(8)] **§ 1-605** of the Courts Article is a sufficient charging document for the prosecution of any offense for which a traffic citation may be issued under this title if:

(1) It includes the information required under the laws of this State;

(2) It is [signed] **EXECUTED** by the police officer issuing the citation **AS REQUIRED UNDER § 1-605 OF THE COURTS ARTICLE**; and

(3) It is filed with the District Court **AS REQUIRED UNDER § 1-605 OF THE COURTS ARTICLE**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act has no effect on any citation issued before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 606

(House Bill 465)

AN ACT concerning

**Real Property - ~~Sale of Property Encumbered by a Conservation Easements~~
~~Notification of Buyers Easement~~**

FOR the purpose of ~~requiring a seller of real property to provide copies of any conservation easements encumbering the property to the buyer within a certain time; requiring a contract for the sale of real property encumbered by a conservation easement~~ establishing that a purchaser has the right to rescind a contract for the sale of property encumbered by a conservation easement if the seller fails to give the purchaser a copy of certain conservation easements within a certain time and the contract of sale fails to contain a certain notice under certain circumstances; requiring the ~~buyer~~ purchaser of certain real property to provide certain notice to the owner of a conservation easement; providing that the seller and ~~buyer~~ purchaser are entitled to rely on a conservation easement recorded in the land records in satisfying certain requirements; ~~providing for certain exceptions~~; defining certain terms; and generally relating to the sale of real property encumbered by a conservation easement.

BY adding to

Article – Real Property

Section 10–705

Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

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

Article – Real Property

10–705.

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

(2) “CONSERVATION EASEMENT” MEANS AN EASEMENT, COVENANT, RESTRICTION, OR CONDITION ON REAL PROPERTY, INCLUDING AN AMENDMENT TO AN EASEMENT, COVENANT, RESTRICTION, OR CONDITION AS PROVIDED FOR IN § 2–118 OF THIS ARTICLE AND OWNED BY:

- (I) THE MARYLAND ENVIRONMENTAL TRUST;
- (II) THE MARYLAND HISTORICAL TRUST;
- (III) THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION;

(IV) THE MARYLAND DEPARTMENT OF NATURAL RESOURCES; OR

(V) A LAND TRUST.

(3) "LAND TRUST" MEANS AN ORGANIZATION THAT:

(I) IS A QUALIFIED ORGANIZATION UNDER § 170(H)(3) OF THE INTERNAL REVENUE CODE AND REGULATIONS ADOPTED UNDER THAT SECTION; AND

(II) HAS EXECUTED A COOPERATIVE AGREEMENT WITH THE MARYLAND ENVIRONMENTAL TRUST.

(B) (1) ~~A CONTRACT FOR THIS SECTION APPLIES TO THE SALE OF PROPERTY ENCUMBERED BY A CONSERVATION EASEMENT IS NOT ENFORCEABLE BY THE SELLER UNLESS:~~

(2) THIS SECTION DOES NOT APPLY TO THE SALE OF PROPERTY IN AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST.

(C) A PURCHASER HAS THE RIGHT TO RESCIND A CONTRACT FOR THE SALE OF PROPERTY IF:

(1) ~~THE PURCHASER IS GIVEN~~ THE SELLER FAILS TO GIVE THE PURCHASER, ON OR BEFORE ENTERING INTO THE CONTRACT FOR THE SALE OF THE PROPERTY, OR WITHIN 20 CALENDAR DAYS AFTER ENTERING INTO THE CONTRACT, A COPY OF ALL CONSERVATION EASEMENTS ENCUMBERING THE PROPERTY; AND

(2) THE CONTRACT OF SALE ~~CONTAINS~~ FAILS TO CONTAIN A STATEMENT IN CONSPICUOUS TYPE, IN A FORM SUBSTANTIALLY THE SAME AS THE FOLLOWING:

"THIS PROPERTY IS ENCUMBERED BY ONE OR MORE CONSERVATION EASEMENTS OR OTHER RESTRICTIONS LIMITING OR AFFECTING USES OF THE PROPERTY AND OWNED BY THE MARYLAND ENVIRONMENTAL TRUST, THE MARYLAND HISTORICAL TRUST, THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION, THE MARYLAND DEPARTMENT OF NATURAL RESOURCES, OR A LAND TRUST (THE "CONSERVATION EASEMENTS"). MARYLAND LAW REQUIRES THAT THE SELLER DELIVER TO THE ~~BUYER~~ PURCHASER COPIES OF ALL CONSERVATION EASEMENTS ON OR BEFORE THE DAY THE CONTRACT IS ENTERED INTO, OR WITHIN 20 CALENDAR DAYS AFTER

~~ENTERING INTO THE CONTRACT. IF THE BUYER HAS NOT RECEIVED ALL CONSERVATION EASEMENTS AT LEAST 5 CALENDAR DAYS BEFORE ENTERING INTO THE CONTRACT, THE BUYER HAS 5 CALENDAR DAYS TO CANCEL THE CONTRACT AFTER RECEIVING ALL OF THE CONSERVATION EASEMENTS. THE BUYER MUST CANCEL THE CONTRACT IN WRITING. THE BUYER IS NOT REQUIRED TO STATE A REASON FOR CANCELLATION. THE BUYER PURCHASER SHOULD REVIEW ALL CONSERVATION EASEMENTS CAREFULLY TO ASCERTAIN THE BUYER'S PURCHASER'S RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS UNDER EACH CONSERVATION EASEMENT, INCLUDING ANY REQUIREMENT THAT AFTER THE TRANSFER SALE THE BUYER PURCHASER MUST INFORM THE OWNER OF THE CONSERVATION EASEMENT OF THE TRANSFER SALE OF THE PROPERTY."~~

~~(c)~~ (D) (1) WITHIN 30 CALENDAR DAYS AFTER A TRANSFER SALE OF PROPERTY ENCUMBERED BY A CONSERVATION EASEMENT, THE PURCHASER SHALL NOTIFY THE OWNER OF A CONSERVATION EASEMENT OF THE TRANSFER SALE.

(2) THE NOTIFICATION SHALL INCLUDE, TO THE EXTENT REASONABLY AVAILABLE:

(I) THE NAME AND ADDRESS OF THE PURCHASER;

(II) THE NAME AND FORWARDING ADDRESS OF THE SELLER;

AND

(III) THE DATE OF THE TRANSFER SALE.

~~(D)~~ (E) IN SATISFYING THE REQUIREMENTS OF SUBSECTIONS ~~(B) AND (C)~~ (C) AND (D) OF THIS SECTION, THE SELLER AND PURCHASER SHALL BE ENTITLED TO RELY ON THE CONSERVATION EASEMENT RECORDED IN THE LAND RECORDS OF THE COUNTY WHERE THE PROPERTY IS LOCATED.

~~(E) THE PROVISIONS OF SUBSECTIONS (B) AND (C) OF THIS SECTION DO NOT APPLY TO THE SALE OF PROPERTY IN AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST.~~

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

Approved by the Governor, May 17, 2007.

CHAPTER 607

(House Bill 473)

AN ACT concerning

Natural Resources – Soft Crabs – Bycatch

FOR the purpose of requiring certain regulations adopted by the Department of Natural Resources to establish a permissible bycatch for soft crabs to be no more restrictive than the permissible bycatch for hard crabs and peeler crabs; creating a certain exception to the prohibition against possessing a bycatch of undersized soft crabs; requiring the Department of Natural Resources to adopt certain regulations relating to a bycatch for soft crabs; making this Act an emergency measure; and generally relating to catching or possessing soft crabs.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–809
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Natural Resources

4–809.

(a) A person may not catch or possess more than 10 hard crabs per bushel or 25 hard crabs per barrel which measure less than 5 inches across the shell from tip to tip of spike.

(b) (1) Except as provided in paragraph (2) of this subsection, a person may not catch or possess peeler crabs measuring less than 3 inches across the shell from tip to tip of spike.

(2) A person may possess a bycatch of peeler crabs measuring less than 3 inches across the shell from tip to tip of spike if the bycatch is not greater than:

- (i) 30 per bushel; or
- (ii) 60 per float.

(3) In determining the number of peelers measuring less than 3 inches across the shell from tip to tip of the spike, the Department shall select the minimum number of bushels or floats necessary to be representative of the person's catch.

(c) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A person may not catch or possess soft crabs measuring less than three and one-half inches across the shell from tip to tip of the spike.

(2) (I) THIS PARAGRAPH APPLIES UNTIL THE DEPARTMENT ADOPTS REGULATIONS UNDER PARAGRAPH (3) OF THIS SUBSECTION.

(II) A PERSON MAY POSSESS A BYCATCH OF SOFT CRABS MEASURING LESS THAN THREE AND ONE-HALF INCHES ACROSS THE SHELL FROM TIP TO TIP OF THE SPIKE ~~IF THE BYCATCH IS NOT GREATER THAN ONE UNDERSIZED SOFT CRAB PER DOZEN SOFT CRABS POSSESSED IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT~~ IF THE BYCATCH IS NOT GREATER THAN ONE UNDERSIZED SOFT CRAB PER DOZEN SOFT CRABS POSSESSED.

(3) (I) THE DEPARTMENT SHALL ADOPT REGULATIONS ESTABLISHING AND GOVERNING A PERMISSIBLE BYCATCH FOR SOFT CRABS UNDER THIS SUBSECTION.

(II) THE REGULATIONS THAT THE DEPARTMENT ADOPTS UNDER THIS PARAGRAPH MAY NOT BE MORE RESTRICTIVE THAN THE APPLICABLE RESTRICTIONS ON THE PERMISSIBLE BYCATCH FOR HARD CRABS AND PEELER CRABS.

(d) In the waters of Worcester County, a person may not catch, possess, or keep in floats any fat crabs, or any crab known as snot crab, green crab, or buckram crab.

(e) The minimum size of crabs does not apply to mature female crabs, identified by the rounded apron.

(f) The provisions of subsection (a) do not apply to crabs imported into Maryland during the closed season for catching crabs if the person possessing the imported crabs has a certificate of origin.

(g) Once taken, peelers shall be kept separate from other crabs.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2007, the Department of Natural Resources shall adopt regulations establishing and

governing a permissible bycatch for soft crabs under § 4-809(c) of the Natural Resources Article as enacted by Section 1 of this Act.

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 17, 2007.

CHAPTER 608

(House Bill 483)

AN ACT concerning

Prince George's County - Alcoholic Beverages Licenses - Advisory Commission to Study Luxury Type Restaurants

PG 313-07

FOR the purpose of establishing an Advisory Commission to Study Luxury Type Restaurants in Prince George's County; providing for the membership, chair, compensation, staff, and duties of the Advisory Commission; requiring the Advisory Commission to issue a certain report with recommendations by a certain date to certain legislative delegations and the Prince George's County Executive; providing for the termination of this Act; and generally relating to the establishment of an Advisory Commission to Study Luxury Type Restaurants in Prince George's County.

Preamble

WHEREAS, A restaurant in Prince George's County that qualifies as a luxury type restaurant is entitled to be issued a Class BLX license by the Board of License Commissioners for Prince George's County and may provide alcoholic beverages for consumption on the licensed premises only; and

WHEREAS, To qualify as a luxury type restaurant, a restaurant must have a minimum seating capacity of 100 persons and a minimum capital investment of \$800,000 for dining room facilities and kitchen equipment, excluding the cost of land, buildings, or a lease; and

WHEREAS, The General Assembly finds it beneficial to create an Advisory Commission to study the demand in the County for luxury type restaurants, whether more luxury type restaurants are needed, and how an increase in the number of luxury type restaurants would affect existing premises licensed to sell alcoholic beverages in the County; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is an Advisory Commission to Study Luxury Type Restaurants in Prince George's County.

(b) The Advisory Commission consists of the following ~~11~~ 12 members:

(1) one member of the Prince George's County House delegation, appointed by the chair of the delegation;

(2) one member of the Prince George's County Senate delegation, appointed by the chair of the delegation;

(3) one representative of the Prince George's County Executive;

(4) one representative of the Prince George's County Municipal Association;

(5) one representative of the Prince George's County Economic Development Corporation;

(6) ~~one representative~~ three representatives of the restaurant industry, appointed by the Prince George's County Executive;

(7) ~~four representatives~~ one representative of the retail alcoholic beverages industry in the County, appointed by the Prince George's County Executive; ~~and~~

(8) one representative of the Prince George's County Chamber of Commerce, appointed by the president of the Chamber of Commerce;

(9) one representative of the Prince George's Black Chamber of Commerce, appointed by the president of the Black Chamber of Commerce; and

(10) one member of the Board of License Commissioners for Prince George's County, to be designated by the chair of the Board.

(c) The Advisory Commission shall designate a chair from among its members.

(d) A member of the Advisory Commission:

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

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

(e) The Advisory Commission shall study:

(1) the level of demand by residents and visitors in various parts of Prince George's County for luxury type restaurants;

(2) whether more luxury type restaurants should be encouraged to locate in certain parts of the County and, if so, ways that this might be done; and

(3) how an increase in the number of luxury type restaurants would affect existing premises licensed to sell alcoholic beverages in the County.

(f) The Board of License Commissioners shall provide staff for the Advisory Commission.

(g) On or before September 1, 2008, the Advisory Commission shall submit a report of its findings and recommendations to the Office of the County Executive and, in accordance with § 2-1246 of the State Government Article, the Prince George's County Senate and House delegations of the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007. It shall remain effective for a period of 2 years and, at the end of May 31, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 609

(House Bill 487)

AN ACT concerning

Nonprofit Health Service Plans – Boards of Directors – Term Limits and Compensation

FOR the purpose of altering the number of terms and the total number of years that may be served by a member of the board of directors of a nonprofit health service plan; altering the amount and type of compensation that may be received by a board member; ~~requiring the Maryland Insurance Commissioner to make a certain review in a certain manner about the amount of compensation to be paid to board members; requiring the Commissioner to submit a certain report to certain committees of the General Assembly on or before a certain date each year;~~ altering the requirement that a certain corporation report certain information to the Maryland Insurance Commissioner; requiring a certain compensation committee to develop certain guidelines for certain compensation for board members; requiring the board of a nonprofit health service plan to provide a copy of certain guidelines to each member of the board; requiring the board of a nonprofit health service plan to adhere to certain guidelines in compensating the board members of the nonprofit health service plan; requiring the Commissioner to review certain compensation paid to board members; and generally relating to the boards of directors of nonprofit health service plans.

BY repealing and reenacting, with amendments,
 Article – Insurance
 Section 14–115(e)(6) and (g) and 14–139(d)
 Annotated Code of Maryland
 (2006 Replacement Volume and 2006 Supplement)

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

Article – Insurance

14–115.

- (e) (6) A member may not serve for more than:
- (i) [two] **THREE** full terms; or
 - (ii) a total of more than [6] **9** years.

(g) (1) [Excluding reimbursement for ordinary and necessary expenses, a board member, in any calendar year, may receive compensation not to exceed:

(i) \$15,000 for the chairman of the board or a board member who is the chairman of a committee; or

(ii) \$12,000 for a board member who is not the chairman of the board or a board committee.]

~~(H)~~ **BOARD MEMBERS MAY RECEIVE THE FOLLOWING COMPENSATION:**

~~1. (I)~~ **REIMBURSEMENT FOR ORDINARY AND NECESSARY EXPENSES; AND**

~~2. (II)~~ **AN AMOUNT OF BASE COMPENSATION AND COMPENSATION FOR ATTENDANCE AT MEETINGS DETERMINED BY THE COMMISSIONER IN ACCORDANCE WITH SUBPARAGRAPH (H) OF THIS PARAGRAPH § 14-139 OF THIS SUBTITLE.**

~~(H) THE COMMISSIONER AT LEAST ANNUALLY SHALL REVIEW THE AMOUNT OF BASE COMPENSATION AND COMPENSATION FOR ATTENDANCE AT MEETINGS TO BE PAID TO BOARD MEMBERS.~~

~~(III) IN EVALUATING THE FAIRNESS AND REASONABLENESS OF THE PROPOSED COMPENSATION, THE COMMISSIONER SHALL TAKE INTO ACCOUNT THE COMPENSATION PAID TO MEMBERS OF THE BOARDS OF OTHER NONPROFIT HEALTH SERVICE PLANS, INSURERS, AND BLUECROSS BLUESHIELD PLANS OF A SIMILAR SIZE.~~

~~(IV) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE COMMISSIONER SHALL REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE RESULTS OF THE REVIEW UNDER SUBPARAGRAPH (H) OF THIS PARAGRAPH TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE.~~

(2) A board member may not receive more than the amount specified in paragraph (1) of this subsection for serving on more than one board of a corporation subject to this section.

(3) (i) This paragraph applies to a corporation that is:

1. issued a certificate of authority as a nonprofit health service plan; and

2. the sole member of a corporation issued a certificate of authority as a nonprofit health service plan.

(ii) [On or before March 1, 2004, and annually thereafter, a corporation subject to this paragraph shall report to the Commissioner on the amount of the ordinary and necessary expenses paid to each board member in the preceding calendar year.] **ON OR BEFORE JUNE 30 OF EACH CALENDAR YEAR, A CORPORATION SUBJECT TO THIS PARAGRAPH SHALL REPORT TO THE COMMISSIONER ON:**

1. THE TOTAL AMOUNT OF BASE COMPENSATION, COMPENSATION FOR ATTENDANCE AT MEETINGS, AND REIMBURSEMENT FOR ORDINARY AND NECESSARY EXPENSES PAID TO EACH BOARD MEMBER IN THE PRECEDING CALENDAR YEAR; AND

2. THE PROPOSED ANNUAL COMPENSATION, TOGETHER WITH NECESSARY SUPPORTING DOCUMENTATION, TO BE PAID TO BOARD MEMBERS FOR THE NEXT CALENDAR YEAR.

14-139.

(d) (1) The compensation committee of the board shall:

(i) identify nonprofit health service plans in the United States that are similar in size and scope to the nonprofit health service plan managed by the board; and

(ii) develop proposed guidelines, for approval by the board[.]:

1. for compensation, including salary, bonuses, and perquisites, of all officers and executives that is reasonable in comparison to compensation for officers and executives of similar nonprofit health service plans; AND

2. FOR COMPENSATION FOR BOARD MEMBERS THAT IS REASONABLE IN COMPARISON TO COMPENSATION FOR BOARD MEMBERS OF SIMILAR NONPROFIT HEALTH SERVICE PLANS.

(2) The board shall review the proposed guidelines at least annually.

(3) The board shall:

(i) provide a copy of the approved guidelines:

1. to each officer and executive of the nonprofit health service plan;

2. to each candidate for an officer or executive position with the nonprofit health service plan; [and]

3. TO EACH BOARD MEMBER OF THE NONPROFIT HEALTH SERVICE PLAN; AND

4. on or before September 1, 2004, and annually thereafter, to the Commissioner; and

(ii) adhere to the approved guidelines in compensating the officers, [and] executives, AND BOARD MEMBERS of the nonprofit health service plan.

(4) On an annual basis, the Commissioner shall review:

(I) the compensation paid by the nonprofit health service plan to each officer and executive; AND

(II) THE BASE COMPENSATION AND COMPENSATION FOR ATTENDANCE AT MEETINGS PAID BY THE NONPROFIT HEALTH SERVICE PLAN TO BOARD MEMBERS.

(5) If the Commissioner finds that the compensation exceeds the amount authorized under the approved guidelines, the Commissioner shall issue an order prohibiting payment of the excess amount.

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

Approved by the Governor, May 17, 2007.

CHAPTER 610

(House Bill 492)

AN ACT concerning

Prince George's County - Board of License Commissioners - Attorney Compensation

PG 306-07

FOR the purpose of requiring the County Council of Prince George's County to pay the attorney for the Board of License Commissioners of Prince George's County certain legal fees for representing the Board in court; requiring the Board to establish the rate for those fees; specifying that the salary of and certain additional compensation for the attorney for the Board be included in the annual budget; making certain stylistic changes; and generally relating to the Board of License Commissioners of Prince George's County.

BY repealing and reenacting, without amendments,
 Article 2B – Alcoholic Beverages
 Section 15-109(r)(1)
 Annotated Code of Maryland
 (2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
 Article 2B – Alcoholic Beverages
 Section 15-109(r)(5) and (6)
 Annotated Code of Maryland
 (2005 Replacement Volume and 2006 Supplement)

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

Article 2B – Alcoholic Beverages

15-109.

(r) (1) This subsection applies only in Prince George's County.

(5) (i) The attorney for the Board shall be appointed by, and serve at the will of, the Board.

(ii) The attorney shall receive an annual salary of \$15,500.

(iii) [and the] ~~THE~~ ***IN ADDITION TO THE ANNUAL SALARY DESIGNATED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE*** County Council shall pay **TO THE ATTORNEY FOR THE BOARD:**

1. [all] **ALL** court costs and expenses incurred therein by the attorney to the Board; **AND**

2. LEGAL FEES THAT THE BOARD APPROVES FOR REPRESENTING THE BOARD IN COURT, INCLUDING FEES APPROVED BY THE BOARD BUT NOT PAID IN PRIOR FISCAL YEARS.

(IV) THE BOARD SHALL ESTABLISH THE FEE RATE FOR REPRESENTING THE BOARD IN COURT.

(6) (I) The County Council shall pay for all expenses of the Board of License Commissioners upon the submission of an annual budget.

(II) In that budget, the salary of the members of the Board, **THE SALARY OF THE ATTORNEY FOR THE BOARD, AND ANY ADDITIONAL COMPENSATION FOR LEGAL FEES FOR THE ATTORNEY FOR THE BOARD**, shall be approved as hereinbefore set forth[; all].

(III) **ALL** other expenses, including, but not restricted to, the compensation of the inspectors, the salary of the administrator as limited herein, compensation of other personnel, who shall be qualified and employed under the county merit system, printing, supplies, and office space, shall be at the discretion of the County Council.

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

Approved by the Governor, May 17, 2007.

CHAPTER 611

(House Bill 513)

AN ACT concerning

Howard County - Board of Education - Qualifications and Election of Student Member

Ho. Co. 12-07

FOR the purpose of providing for a student member on the Howard County Board of Education; specifying qualifications for the student member; specifying the term of office for the student member; providing for the election of the student member by certain Howard County students and requiring that the process for

the election be approved by the County Board; specifying certain rights and privileges of the student member; prohibiting the student member from voting on certain matters; specifying that the student member is not entitled to compensation but may be reimbursed for certain expenses; specifying the number of votes required for passage of certain motions by the County Board; and generally relating to a student member for the Howard County Board of Education.

BY repealing and reenacting, with amendments,

Article – Education

Section 3–701

Annotated Code of Maryland

(2006 Replacement Volume)

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

Article – Education

3–701.

(a) The Howard County Board consists of:

(1) [seven] SEVEN ELECTED members; AND

(2) ONE STUDENT MEMBER.

(b) A candidate **WHO BECOMES AN** elected [to] **MEMBER OF** the County Board shall be a resident and registered voter of Howard County. Any **ELECTED** member who no longer resides in Howard County may not continue as a member of the Board.

(c) [Members] **THE SEVEN ELECTED MEMBERS** of the Howard County Board shall be elected:

(1) At the general election every 2 years as required by subsection (d) of this section; and

(2) From Howard County at large.

(d) (1) (i) The terms of the **ELECTED** members are staggered as provided in this subsection.

(ii) Each term of office begins on the first Monday in December after the election of a member and until a successor is elected and qualifies.

(2) (i) The term of office of the member elected at the 2002 election is 4 years.

(ii) The successor to this office shall serve for a term of 4 years.

(3) (i) Two members shall be elected at the 2004 election.

(ii) The successors to these offices elected at the 2008 election shall serve a term of 4 years.

(4) (i) Five members shall be elected at the 2006 election.

(ii) Subject to paragraph (5) of this subsection, the successors to these offices shall be elected at the 2010 election and shall serve for a term of 4 years.

(5) (i) Except as provided in subparagraph (ii) of this paragraph, as of the 2006 election, the term of each office is 4 years.

(ii) 1. At the 2006 election, the individual elected as a member who receives the lowest number of votes among the five members elected in that election shall serve for a term of 2 years.

2. The successor to the office for the member elected at the 2006 election who receives the lowest number of votes among the five members elected in that election shall be elected at the 2008 election and shall serve for a term of 4 years.

(6) Except as provided in paragraph (7) of this subsection and subject to the confirmation of the County Council, the County Executive of Howard County shall appoint a qualified individual to fill any vacancy on the County Board for the remainder of that term and until a successor is appointed and qualifies.

(7) If a vacancy occurs before the date that is 1 year following the date of the member's election, the individual appointed under paragraph (6) of this subsection shall serve only until a successor is elected by the voters at the next general election.

(8) Candidates for the vacated office may be nominated at a primary election in the same manner as for any other position on the Howard County Board.

(9) When more than two members of the County Board are to be elected at an election and the terms of the offices to be filled at the election vary, the elected candidates receiving the greater number of votes shall fill the offices with the longer terms.

(10) The candidate receiving the vacated position shall take office on the first Monday in December after the election and shall continue to serve for the remainder of the vacated term and until a successor is elected and qualifies.

(11) Except as provided in this subsection, an election to fill a vacancy on the Howard County Board of Education shall be governed by §§ 8-801 through 8-806 of the Election Law Article.

(E) (1) THE STUDENT MEMBER SHALL BE A BONA FIDE RESIDENT OF HOWARD COUNTY AND A REGULARLY ENROLLED JUNIOR OR SENIOR YEAR STUDENT FROM A HOWARD COUNTY PUBLIC HIGH SCHOOL.

(2) THE STUDENT MEMBER SHALL SERVE FOR A TERM OF 1 YEAR BEGINNING ON JULY 1 AFTER THE MEMBER'S ELECTION, SUBJECT TO CONFIRMATION OF THE ELECTION RESULTS BY THE COUNTY BOARD.

(3) THE NOMINATION AND ELECTION PROCESS FOR THE STUDENT MEMBER:

(I) SHALL BE APPROVED BY THE HOWARD COUNTY BOARD OF EDUCATION;

(II) SHALL INCLUDE A PROVISION THAT PROVIDES FOR THE REPLACEMENT OF ONE OR BOTH OF THE FINAL CANDIDATES IF ONE OR BOTH OF THEM ARE UNABLE, INELIGIBLE, OR DISQUALIFIED TO PROCEED IN THE ELECTION; AND

(III) SHALL ALLOW FOR ANY STUDENT IN GRADES 6 THROUGH 11 ENROLLED IN A HOWARD COUNTY PUBLIC SCHOOL TO VOTE DIRECTLY FOR ONE OF THE TWO STUDENT MEMBER CANDIDATES.

(4) THE STUDENT MEMBER CANDIDATE WHO RECEIVES THE SECOND HIGHEST NUMBER OF VOTES IN THE DIRECT ELECTION:

**(I) SHALL BECOME THE ALTERNATE STUDENT MEMBER;
AND**

(II) SHALL SERVE IF THE STUDENT MEMBER WHO IS ELECTED IS UNABLE, INELIGIBLE, OR DISQUALIFIED TO COMPLETE THE STUDENT MEMBER'S TERM OF OFFICE.

(5) EXCEPT AS PROVIDED IN PARAGRAPHS (6) AND (7) OF THIS SUBSECTION, THE STUDENT MEMBER HAS THE SAME RIGHTS AND PRIVILEGES AS AN ELECTED MEMBER.

(6) UNLESS INVITED TO ATTEND BY THE AFFIRMATIVE VOTE OF A MAJORITY OF THE COUNTY BOARD, THE STUDENT MEMBER MAY NOT ATTEND A CLOSED SESSION ADDRESSING A MATTER ON WHICH A STUDENT MEMBER IS PROHIBITED FROM VOTING UNDER PARAGRAPH (7) OF THIS SUBSECTION.

(7) THE STUDENT MEMBER SHALL VOTE ON ALL MATTERS EXCEPT THOSE RELATING TO:

(I) GEOGRAPHICAL ATTENDANCE AREAS UNDER § 4-109 OF THIS ARTICLE;

(II) ACQUISITION AND DISPOSITION OF REAL PROPERTY AND MATTERS PERTAINING TO SCHOOL CONSTRUCTION UNDER § 4-115 OF THIS ARTICLE;

(III) EMPLOYMENT OF ARCHITECTS UNDER § 4-117 OF THIS ARTICLE;

(IV) DONATIONS UNDER § 4-118 OF THIS ARTICLE;

(V) CONDEMNATION UNDER § 4-119 OF THIS ARTICLE;

(VI) CONSOLIDATION OF SCHOOLS AND TRANSPORTATION OF STUDENTS UNDER § 4-120 OF THIS ARTICLE;

(VII) APPOINTMENT AND SALARY OF A COUNTY SUPERINTENDENT UNDER §§ 4-201 AND 4-202 OF THIS ARTICLE;

(VIII) EMPLOYEE DISCIPLINE AND OTHER APPEALS UNDER § 4-205(C) OF THIS ARTICLE;

(IX) BUDGETARY MATTERS UNDER TITLE 5 OF THIS ARTICLE;

(X) APPOINTMENT AND PROMOTION OF STAFF UNDER § 6-201 OF THIS ARTICLE;

(XI) DISCIPLINE OF CERTIFICATED STAFF UNDER § 6-202 OF THIS ARTICLE;

(XII) COLLECTIVE BARGAINING FOR CERTIFICATED EMPLOYEES UNDER TITLE 6, SUBTITLE 4 OF THIS ARTICLE;

(XIII) COLLECTIVE BARGAINING FOR NONCERTIFICATED EMPLOYEES UNDER TITLE 6, SUBTITLE 5 OF THIS ARTICLE; AND

(XIV) STUDENT SUSPENSION AND EXPULSION UNDER § 7-305 OF THIS ARTICLE.

(8) THE STUDENT MEMBER MAY NOT RECEIVE COMPENSATION BUT, AFTER SUBMITTING EXPENSE VOUCHERS, SHALL BE REIMBURSED FOR OUT-OF-POCKET EXPENSES INCURRED IN CONNECTION WITH OFFICIAL DUTIES, IN ACCORDANCE WITH THE PROCEDURES AND REGULATIONS ESTABLISHED BY THE COUNTY BOARD.

(F) PASSAGE OF A MOTION BY THE COUNTY BOARD REQUIRES THE AFFIRMATIVE VOTE OF:

(1) FIVE MEMBERS IF THE STUDENT MEMBER IS AUTHORIZED TO VOTE; OR

(2) FOUR MEMBERS IF THE STUDENT MEMBER IS NOT AUTHORIZED TO VOTE.

[(e)] (G) (1) The State Board may remove a member of the County Board for:

- (i) Immorality;**
- (ii) Misconduct in office;**
- (iii) Incompetency; or**
- (iv) Willful neglect of duty.**

(2) Before removing a member, the State Board shall send the member a copy of the charges against the member and give the member an opportunity within 10 days to request a hearing.

(3) If the member requests a hearing within the 10-day period:

(i) The State Board promptly shall hold a hearing, but a hearing may not be set within 10 days after the State Board sends the member a notice of the hearing; and

(ii) The member shall have an opportunity to be heard publicly before the State Board in the member's own defense, in person or by counsel.

(4) A member removed under this subsection has the right to a de novo review of the removal by the Circuit Court for Howard County.

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

Approved by the Governor, May 17, 2007.

CHAPTER 612

(House Bill 515)

AN ACT concerning

Health Insurance - Credentialing Intermediaries - ~~Exemptions~~ and Uniform Credentialing Form

FOR the purpose of providing that certain carriers are exempt from providing certain information within a certain time frame to a provider under certain circumstances; exempting certain credentialing intermediaries from certain requirements regarding the uniform credentialing form; repealing a requirement that the Insurance Commissioner designate the uniform credentialing form through regulation; authorizing, rather than requiring, the Commissioner to adopt regulations to implement provisions of law relating to credentialing; altering a certain definition; defining a certain term; and generally relating to credentialing intermediaries ~~for health insurance carriers and the uniform credentialing form.~~

BY repealing and reenacting, with amendments,
Article - Insurance
Section 15-112(a) and (d) and 15-112.1
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY adding to

Article – Insurance

Section 15–112(o)

Annotated Code of Maryland

(2006 Replacement Volume and 2006 Supplement)

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

Article – Insurance

15–112.

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

(2) “Ambulatory surgical facility” has the meaning stated in § 19–3B–01 of the Health – General Article.

(3) (i) “Carrier” means:

1. an insurer;
2. a nonprofit health service plan;
3. a health maintenance organization;
4. a dental plan organization; or
5. any other person that provides health benefit plans

subject to regulation by the State.

(ii) “Carrier” includes an entity that arranges a provider panel for a carrier.

(4) **“CREDENTIALING INTERMEDIARY” MEANS A PERSON TO WHOM A CARRIER HAS DELEGATED CREDENTIALING OR RECREDENTIALING AUTHORITY AND RESPONSIBILITY.**

(5) “Enrollee” means a person entitled to health care benefits from a carrier.

~~(5)~~ (6) “Hospital” has the meaning stated in § 19–301 of the Health – General Article.

[(6)] (7) "Provider" means a health care practitioner or group of health care practitioners licensed, certified, or otherwise authorized by law to provide health care services.

[(7)] (8) (i) "Provider panel" means the providers that contract either directly or through a subcontracting entity with a carrier to provide health care services to the carrier's enrollees under the carrier's health benefit plan.

(ii) "Provider panel" does not include an arrangement in which any provider may participate solely by contracting with the carrier to provide health care services at a discounted fee-for-service rate.

(d) (1) A provider that seeks to participate on a provider panel of a carrier shall submit an application to the carrier.

(2) (i) Subject to paragraph (3) of this subsection, the carrier, after reviewing the application, shall accept or reject the provider for participation on the carrier's provider panel.

(ii) If the carrier rejects the provider for participation on the carrier's provider panel, the carrier shall send to the provider at the address listed in the application written notice of the rejection.

(3) (i) Except as provided in paragraph (4) of this subsection, within 30 days after the date a carrier receives a completed application, the carrier shall send to the provider at the address listed in the application written notice of:

1. the carrier's intent to continue to process the provider's application to obtain necessary credentialing information; or

2. the carrier's rejection of the provider for participation on the carrier's provider panel.

(ii) The failure of a carrier to provide the notice required under subparagraph (i) of this paragraph is a violation of this article and the carrier is subject to the penalties provided by § 4-113(d) of this article.

(iii) [If,] **EXCEPT AS PROVIDED IN SUBSECTION (O) OF THIS SECTION, IF,** under subparagraph (i)1 of this paragraph, a carrier provides notice to the provider of its intent to continue to process the provider's application to obtain necessary credentialing information, the carrier, within 120 days after the date the notice is provided, shall:

1. accept or reject the provider for participation on the carrier's provider panel; and

2. send written notice of the acceptance or rejection to the provider at the address listed in the application.

(iv) The failure of a carrier to provide the notice required under subparagraph (iii)2 of this paragraph is a violation of this article and the carrier is subject to the provisions of and penalties provided by §§ 4-113 and 4-114 of this article.

(4) (i) A carrier that receives an incomplete application shall return the application to the provider at the address listed in the application within 10 days after the date the application is received.

(ii) The carrier shall indicate to the provider what information is needed to make the application complete.

(iii) The provider may return the completed application to the carrier.

(iv) After the carrier receives the completed application, the carrier is subject to the time periods established in paragraph (3) of this subsection.

(5) A carrier may charge a reasonable fee for an application submitted to the carrier under this section.

(O) THE PROVISIONS OF SUBSECTION (D)(3)(III) OF THIS SECTION DO NOT APPLY TO A CARRIER THAT USES A CREDENTIALING INTERMEDIARY THAT:

(1) IS A HOSPITAL OR ACADEMIC MEDICAL CENTER;

(2) IS A PARTICIPATING PROVIDER ON THE CARRIER'S PROVIDER PANEL; AND

(3) ACTS AS A CREDENTIALING INTERMEDIARY FOR THAT CARRIER FOR HEALTH CARE PRACTITIONERS THAT:

(I) PARTICIPATE ON THE CARRIER'S PROVIDER PANEL; AND

(II) HAVE PRIVILEGES AT THE HOSPITAL OR ACADEMIC ~~HEALTH~~ MEDICAL CENTER.

15-112.1.

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

(2) (i) "Carrier" means:

1. an insurer;
2. a nonprofit health service plan;
3. a health maintenance organization;
4. a dental plan organization; or
5. any other person that provides health benefit plans subject to regulation by the State.

(ii) "Carrier" includes an entity that arranges a provider panel for a carrier.

(3) "Credentialing intermediary" means a person to whom a carrier has delegated credentialing or recredentialing authority and responsibility.

(4) "Health care provider" means an individual who is licensed, certified, or otherwise authorized under the Health Occupations Article to provide health care services.

(5) "Provider panel" means the providers that contract with a carrier to provide health care services to the enrollees under a health benefit plan of the carrier.

(6) "Uniform credentialing form" means the form designated by the Commissioner ~~through regulation~~ for use by a carrier or its credentialing intermediary for credentialing and recredentialing a health care provider for participation on a provider panel.

(b) (1) **[A] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A** carrier or its credentialing intermediary shall accept the uniform credentialing form as the sole application for a health care provider to become credentialed or recredentialed for a provider panel of the carrier.

(2) A carrier or its credentialing intermediary shall make the uniform credentialing form available to any health care provider that is to be credentialed or recredentialed by that carrier or credentialing intermediary.

(C) THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY TO A HOSPITAL OR ACADEMIC MEDICAL CENTER THAT:

(1) IS A PARTICIPATING PROVIDER ON THE CARRIER’S PROVIDER PANEL; AND

(2) ACTS AS A CREDENTIALING INTERMEDIARY FOR THAT CARRIER FOR HEALTH CARE PRACTITIONERS THAT:

(I) PARTICIPATE ON THE CARRIER’S PROVIDER PANEL; AND

(II) HAVE PRIVILEGES AT THE HOSPITAL OR ACADEMIC MEDICAL CENTER.

[(c)] (D) The Commissioner may impose a penalty not to exceed \$500 against any carrier for each violation of this section by the carrier or its credentialing intermediary.

[(d)] (E) (1) The Commissioner ~~shall~~ MAY adopt regulations to implement the provisions of this section.

(2) In adopting the regulations required under paragraph (1) of this subsection, the Commissioner shall consider the use of an electronic format for the uniform credentialing form and the filing of the uniform credentialing form by electronic means.

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

Approved by the Governor, May 17, 2007.

CHAPTER 613

(House Bill 572)

AN ACT concerning

Health Insurance - ~~Expansion of Coverage~~ Personal Responsibility - Study

~~FOR the purpose of establishing a Health Insurance Premium Subsidy Program in the Department of Health and Mental Hygiene; establishing the purposes, eligibility requirements, and subsidy qualifications of the Program; specifying the responsibilities of the Department under the Program; establishing a Health Insurance Premium Subsidy Fund; establishing the sources and uses of~~

~~funds in the Health Insurance Premium Subsidy Fund; requiring the State Treasurer to invest the money in the Fund in a certain manner; providing that any investment earnings of the Fund shall be retained to the credit of the Fund; requiring expenditures from the Fund to be made only in accordance with the State budget; providing that the Fund is subject to audit by the Office of Legislative Audits; imposing a surcharge on the income tax of certain individuals with income above a certain level; providing that the surcharge does not apply if certain individuals had certain health care coverage or did not reside in the State; providing for certain exceptions; requiring the revenues from the surcharge to be distributed to the Health Insurance Premium Subsidy Fund; requiring an employer to base withholding for certain employees on a certain number of exemptions under certain circumstances; requiring the Secretary of Health and Mental Hygiene, on or before a certain date, to develop and implement an Internet portal to provide coordinated access to health and human services programs and benefits; requiring the Internet portal to include certain elements; requiring the Secretary, on or before a certain date, to make a certain report; requiring the Comptroller to widely publicize the requirements of this Act for a certain purpose; defining certain terms; providing for the application of certain provisions of this Act; providing for a delayed effective date for certain provisions of this Act; and generally relating to expansion of health insurance coverage through a Health Insurance Premium Subsidy Program, an income tax surcharge, and an Internet portal.~~

FOR the purpose of requiring the Maryland Health Care Commission, in consultation with certain other State agencies, to study the issue of personal responsibility for obtaining health care coverage; requiring the study to include certain elements; requiring the Commission to report the results of its study, together with any recommendations, to certain legislative committees; and generally relating to a study of personal responsibility for obtaining health care coverage.

~~BY adding to~~

~~Article Health General~~

~~Section 15 701 through 15 705 to be under the new subtitle "Subtitle 7. Health Insurance Premium Subsidy Program"; and Section 15 801 to be under the new subtitle "Subtitle 8. Internet Portal for Coordinated Access to Health and Human Services Programs and Benefits"~~

~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2006 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article Insurance~~

~~Section 15 1301(f)(1)~~

~~Annotated Code of Maryland~~

~~(2006 Replacement Volume and 2006 Supplement)~~

~~BY adding to~~

~~Article Tax General~~

~~Section 10-106.2~~

~~Annotated Code of Maryland~~

~~(2004 Replacement Volume and 2006 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article Tax General~~

~~Section 10-910(b)~~

~~Annotated Code of Maryland~~

~~(2004 Replacement Volume and 2006 Supplement)~~

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

~~Article Health General~~

~~SUBTITLE 7. HEALTH INSURANCE PREMIUM SUBSIDY PROGRAM.~~

~~15-701.~~

~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(B) "FUND" MEANS THE HEALTH INSURANCE PREMIUM SUBSIDY FUND.~~

~~(C) "PROGRAM" MEANS THE HEALTH INSURANCE PREMIUM SUBSIDY PROGRAM.~~

~~15-702.~~

~~(A) THERE IS A HEALTH INSURANCE PREMIUM SUBSIDY PROGRAM IN THE DEPARTMENT.~~

~~(B) THE PURPOSES OF THE PROGRAM ARE TO:~~

~~(1) PROVIDE AN INCENTIVE FOR INDIVIDUALS AND FAMILIES WITH MODERATE INCOME TO PURCHASE HEALTH INSURANCE;~~

~~(2) ASSIST INDIVIDUALS AND FAMILIES WITH MODERATE INCOME TO AFFORD HEALTH INSURANCE;~~

~~(3) PROMOTE ACCESS TO HEALTH CARE SERVICES, PARTICULARLY PREVENTIVE HEALTH CARE SERVICES THAT MIGHT REDUCE THE NEED FOR EMERGENCY ROOM CARE AND OTHER ACUTE CARE SERVICES; AND~~

~~(4) REDUCE UNCOMPENSATED CARE IN HOSPITALS AND OTHER HEALTH CARE SETTINGS.~~

~~(C) FUNDING FOR THE PROGRAM SHALL BE PROVIDED FROM THE HEALTH INSURANCE PREMIUM SUBSIDY FUND ESTABLISHED UNDER THIS SUBTITLE.~~

~~15-703.~~

~~(A) TO BE ELIGIBLE FOR THE PROGRAM, AN INDIVIDUAL:~~

~~(1) SHALL HAVE HOUSEHOLD INCOME AT OR BELOW 300% OF THE FEDERAL POVERTY GUIDELINES;~~

~~(2) MAY NOT HAVE ACCESS TO AN EMPLOYER SPONSORED PLAN OR GROUP HEALTH INSURANCE PLAN, EXCEPT UNDER A CONTINUATION OF BENEFITS PROVISION;~~

~~(3) MAY NOT HAVE BEEN COVERED BY HEALTH INSURANCE, EXCEPT AS A DEPENDENT, FOR AT LEAST 6 CONSECUTIVE MONTHS AT THE TIME OF APPLICATION FOR THE PROGRAM;~~

~~(4) SHALL BE A RESIDENT OF THE STATE;~~

~~(5) SHALL AGREE TO PAY INSURANCE PREMIUMS AND ADHERE TO OTHER REQUIRED PROVISIONS OF A HEALTH INSURANCE POLICY; AND~~

~~(6) SHALL SATISFY ANY OTHER ELIGIBILITY REQUIREMENTS ESTABLISHED BY THE DEPARTMENT.~~

~~(B) AN INDIVIDUAL SHALL REMAIN ELIGIBLE TO PARTICIPATE IN THE PROGRAM, AS LONG AS THE INDIVIDUAL CONTINUES TO MEET THE REQUIREMENTS UNDER SUBSECTION (A) OF THIS SECTION.~~

~~15-704.~~

~~(A) BEGINNING IN JANUARY 2008, THE DEPARTMENT SHALL PROVIDE A SUBSIDY FOR A HEALTH INSURANCE POLICY PURCHASED BY AN INDIVIDUAL WHO MEETS THE ELIGIBILITY REQUIREMENTS OF THIS SUBTITLE.~~

~~(B) THE SUBSIDY SHALL BE PROVIDED THROUGH A VOUCHER ON A MONTHLY BASIS AND:~~

~~(1) FOR AN INDIVIDUAL WITH HOUSEHOLD INCOME AT OR BELOW 225% OF THE FEDERAL POVERTY GUIDELINES, SHALL EQUAL THE LESSER OF:~~

~~(i) 50% OF THE PREMIUM FOR THE HEALTH INSURANCE POLICY; OR~~

~~(ii) 1. \$150 FOR INDIVIDUAL COVERAGE; OR~~

~~2. \$300 FOR INDIVIDUAL PLUS SPOUSE, INDIVIDUAL PLUS CHILDREN, OR FAMILY COVERAGE;~~

~~(2) FOR AN INDIVIDUAL WITH HOUSEHOLD INCOME OVER 225% BUT NOT OVER 250% OF THE FEDERAL POVERTY GUIDELINES, SHALL EQUAL THE LESSER OF:~~

~~(i) 40% OF THE PREMIUM FOR THE HEALTH INSURANCE POLICY; OR~~

~~(ii) 1. \$125 FOR INDIVIDUAL COVERAGE; OR~~

~~2. \$250 FOR INDIVIDUAL PLUS SPOUSE, INDIVIDUAL PLUS CHILDREN, OR FAMILY COVERAGE;~~

~~(3) FOR AN INDIVIDUAL WITH HOUSEHOLD INCOME OVER 225% BUT NOT OVER 275% OF THE FEDERAL POVERTY GUIDELINES, SHALL EQUAL THE LESSER OF:~~

~~(i) 30% OF THE PREMIUM FOR THE HEALTH INSURANCE POLICY; OR~~

~~(ii) 1. \$100 FOR INDIVIDUAL COVERAGE; OR~~

~~2. \$200 FOR INDIVIDUAL PLUS SPOUSE, INDIVIDUAL PLUS CHILDREN, OR FAMILY COVERAGE; AND~~

~~(4) FOR AN INDIVIDUAL WITH HOUSEHOLD INCOME OVER 275% BUT NOT OVER 300% OF THE FEDERAL POVERTY GUIDELINES, SHALL EQUAL THE LESSER OF:~~

~~(i) 20% OF THE PREMIUM FOR THE HEALTH INSURANCE POLICY; OR~~

~~(ii) 1. \$75 FOR INDIVIDUAL COVERAGE; OR~~

~~2. \$150 FOR INDIVIDUAL PLUS SPOUSE, INDIVIDUAL PLUS CHILDREN, OR FAMILY COVERAGE.~~

~~(c) THE DEPARTMENT SHALL ENROLL THE CHILDREN OF ELIGIBLE INDIVIDUALS IN THE MARYLAND CHILDREN'S HEALTH PROGRAM, TO THE EXTENT THAT THE CHILDREN MEET ELIGIBILITY REQUIREMENTS AND RESOURCES ARE AVAILABLE THROUGH THE ANNUAL STATE BUDGET.~~

~~(d) TO QUALIFY FOR A SUBSIDY UNDER THE PROGRAM, A HEALTH INSURANCE POLICY MUST BE EITHER:~~

~~(1) AN INDIVIDUAL HEALTH BENEFIT PLAN; OR~~

~~(2) A POLICY OR CONTRACT PROVIDED UNDER A CONTINUATION OF BENEFITS PROVISION.~~

~~15-705.~~

~~(a) THERE IS A HEALTH INSURANCE PREMIUM SUBSIDY FUND.~~

~~(b) THE PURPOSE OF THE FUND IS TO SUPPORT THE PROGRAM.~~

~~(c) THE DEPARTMENT 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.~~

~~(e) THE FUND CONSISTS OF:~~

~~(1) REVENUE DISTRIBUTED TO THE FUND UNDER § 10-106.2 OF THE TAX GENERAL ARTICLE;~~

- ~~(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;~~
- ~~(3) INVESTMENT EARNINGS; AND~~
- ~~(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.~~

~~(F) THE FUND MAY BE USED ONLY FOR:~~

~~(1) HEALTH INSURANCE PREMIUM SUBSIDIES PROVIDED UNDER § 15-704 OF THIS SUBTITLE; AND~~

~~(2) THE DIRECT COSTS OF ADMINISTERING THE PROGRAM.~~

~~(G) (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.~~

~~(H) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.~~

~~(I) THE FUND IS SUBJECT TO AUDIT BY THE OFFICE OF LEGISLATIVE AUDITS.~~

~~Article — Insurance~~

~~15-1301.~~

- ~~(f) (1) “Creditable coverage” means coverage of an individual under:~~
- ~~(i) an employer sponsored plan;~~
 - ~~(ii) a health benefit plan;~~
 - ~~(iii) Part A or Part B of Title XVIII of the Social Security Act;~~
 - ~~(iv) Title XIX OR TITLE XXI of the Social Security Act, other than coverage consisting solely of benefits under § 1028 of that Act;~~
 - ~~(v) Chapter 55 of Title 10 of the United States Code;~~

~~(vi) a medical care program of the Indian Health Service or of a tribal organization;~~

~~(vii) a State health benefits risk pool;~~

~~(viii) a health plan offered under the Federal Employees Health Benefits Program (FEHBP), Title 5, Chapter 89 of the United States Code;~~

~~(ix) a public health plan as defined by federal regulations authorized by the Public Health Service Act, § 2701(c)(1)(i), as amended by P.L. 104-191; or~~

~~(x) a health benefit plan under § 5(c) of the Peace Corps Act, 22 U.S.C. 2504(e).~~

~~Article Tax General~~

~~10-106.2.~~

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

~~(2) "APPLICABLE POVERTY INCOME LEVEL" MEANS THE AMOUNT SPECIFIED IN THE POVERTY INCOME STANDARD THAT CORRESPONDS TO THE NUMBER OF EXEMPTIONS THAT THE INDIVIDUAL IS ALLOWED AND CLAIMS UNDER § 10-211(1) OF THIS TITLE.~~

~~(3) "HEALTH CARE COVERAGE" MEANS CREDITABLE COVERAGE AS DEFINED IN § 15-1301 OF THE INSURANCE ARTICLE.~~

~~(4) "POVERTY INCOME STANDARD" MEANS THE MOST RECENT POVERTY INCOME GUIDELINES PUBLISHED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, AVAILABLE AS OF JULY 1 OF THE TAXABLE YEAR.~~

~~(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND SUBSECTIONS (C) AND (D) OF THIS SECTION, IN ADDITION TO THE STATE INCOME TAX UNDER § 10-105(A) OF THIS SUBTITLE, IF THE FEDERAL ADJUSTED GROSS INCOME OF AN INDIVIDUAL EXCEEDS 500% OF THE APPLICABLE POVERTY INCOME LEVEL, THE INDIVIDUAL IS SUBJECT TO A SURCHARGE OF \$1,000, UNLESS THE INDIVIDUAL AND EACH DEPENDENT CHILD OF THE INDIVIDUAL HAD HEALTH CARE COVERAGE.~~

~~(I) FOR AT LEAST 6 MONTHS OF THE TAXABLE YEAR; AND~~

~~(II) ON DECEMBER 31 OF THE TAXABLE YEAR.~~

~~(2) FOR A MARRIED COUPLE FILING A JOINT RETURN, THE SURCHARGE UNDER THIS SECTION:~~

~~(I) IS IMPOSED IF THE JOINT FEDERAL ADJUSTED GROSS INCOME OF THE MARRIED COUPLE EXCEEDS 500% OF THE APPLICABLE POVERTY INCOME LEVEL; AND~~

~~(II) EQUALS:~~

~~1. \$2,000 UNLESS AT LEAST ONE SPOUSE AND EACH DEPENDENT CHILD OF THE MARRIED COUPLE HAD HEALTH CARE COVERAGE; OR~~

~~2. \$1,000 IF EACH DEPENDENT CHILD OF THE MARRIED COUPLE AND EITHER THE HUSBAND OR WIFE, BUT NOT BOTH, HAD HEALTH CARE COVERAGE.~~

~~(C) THIS SECTION DOES NOT APPLY TO A NONRESIDENT, INCLUDING A NONRESIDENT SPOUSE OR A NONRESIDENT DEPENDENT.~~

~~(D) THE COMPTROLLER SHALL PROVIDE FOR EXCEPTIONS TO SUBSECTION (B) OF THIS SECTION FOR INDIVIDUALS:~~

~~(1) JUST ENTERING THE WORKFORCE;~~

~~(2) RECENTLY MOVING INTO THE STATE; OR~~

~~(3) WHO ARE UNEMPLOYED FOR 4 OR MORE CONSECUTIVE WEEKS.~~

~~(E) THE TAXPAYER SHALL INDICATE ON THE INCOME TAX RETURN, IN THE FORM REQUIRED BY THE COMPTROLLER, THE PRESENCE OF HEALTH CARE COVERAGE THAT MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION FOR THE INDIVIDUAL, EACH SPOUSE IN THE CASE OF A MARRIED COUPLE, AND EACH DEPENDENT CHILD.~~

~~(F) NOTWITHSTANDING § 2-609 OF THIS ARTICLE, AFTER DEDUCTING A REASONABLE AMOUNT FOR ADMINISTRATIVE COSTS, THE COMPTROLLER SHALL DISTRIBUTE THE REVENUES FROM THE SURCHARGE TO THE HEALTH~~

~~INSURANCE PREMIUM SUBSIDY FUND ESTABLISHED IN § 15-705 OF THE HEALTH GENERAL ARTICLE.~~

~~10-910.~~

~~(b) (1) Except as provided in [paragraph (2)] PARAGRAPHS (2) AND (3) of this subsection, an employer shall base withholding for an employee:~~

~~(i) on the number of exemptions stated in the exemption certificate that the employee files; or~~

~~(ii) if the employee fails to file an exemption certificate or files an invalid certificate under subsection (c) of this section, on 1 exemption.~~

~~(2) If the Comptroller notifies an employer that an employee has an unpaid tax liability, that the employee failed to file a required Maryland income tax return, or that an employee is subject to a tax refund interception request, the employer shall base withholding for the employee:~~

~~(i) on a number of exemptions not exceeding the actual number of exemptions allowed on the employee's prior year's income tax return, as specified by the Comptroller; or~~

~~(ii) if the employee failed to file a required Maryland income tax return, on 1 exemption.~~

~~(3) (i) IN THIS PARAGRAPH, "APPLICABLE POVERTY INCOME LEVEL", "HEALTH CARE COVERAGE", AND "POVERTY INCOME STANDARD" HAVE THE MEANINGS STATED IN § 10-106.2 OF THIS TITLE.~~

~~(ii) AN EMPLOYER SHALL BASE WITHHOLDING FOR AN EMPLOYEE ON ZERO EXEMPTIONS IF THE COMPENSATION OF THE EMPLOYEE IS EXPECTED TO EXCEED 500% OF THE APPLICABLE POVERTY INCOME LEVEL IN ANY TAX YEAR AND THE EMPLOYEE DOES NOT HAVE HEALTH CARE COVERAGE FROM THE EMPLOYER OR HAS NOT PRESENTED THE EMPLOYER WITH A CERTIFICATION OF OTHER HEALTH CARE COVERAGE.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article Health General~~

~~SUBTITLE 8. INTERNET PORTAL FOR COORDINATED ACCESS TO HEALTH AND HUMAN SERVICES PROGRAMS AND BENEFITS.~~

~~15-801.~~

~~(A) ON OR BEFORE JANUARY 1, 2009, THE SECRETARY SHALL DEVELOP AND IMPLEMENT AN INTERNET PORTAL TO PROVIDE COORDINATED ACCESS TO HEALTH AND HUMAN SERVICES PROGRAMS AND BENEFITS.~~

~~(B) THE INTERNET PORTAL SHALL INCLUDE:~~

~~(1) A SEARCHABLE CATALOG WITH DESCRIPTIONS OF HEALTH AND HUMAN SERVICES PROGRAMS;~~

~~(2) A SCREENING TOOL TO DETERMINE POTENTIAL ELIGIBILITY FOR MULTIPLE PROGRAMS AND SERVICES;~~

~~(3) AN ON-LINE COMMON INTAKE DATA COLLECTION TOOL FOR REGISTERED PROVIDERS THAT CAN GENERATE APPLICATIONS FOR MULTIPLE PROGRAMS AND SERVICES; AND~~

~~(4) TOOLS TO HELP SERVICE PROVIDERS LOCATE, TRACK, AND MANAGE APPLICATIONS.~~

~~(C) ON OR BEFORE JANUARY 1, 2009, THE SECRETARY SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, REGARDING THE DEVELOPMENT AND IMPLEMENTATION OF THE INTERNET PORTAL.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That the Comptroller shall widely publicize the requirements of this Act to provide an adequate opportunity for individuals to obtain health care coverage and avoid a surcharge.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect January 1, 2008, and shall be applicable to all taxable years beginning after December 31, 2007.~~

(a) The Maryland Health Care Commission, in consultation with the Department of Health and Mental Hygiene, the Maryland Insurance Administration, the Health Services Cost Review Commission, and the Office of the Comptroller, shall study the issue of personal responsibility for obtaining health care coverage.

(b) The study shall address:

(1) the affordability of health insurance, particularly for individuals without employer-sponsored coverage;

(2) the need to subsidize health insurance for individuals with low income, in other financially difficult situations, or with health conditions that hinder the purchase of insurance in the commercial market;

(3) the use of incentives, such as a child and dependent care tax credit or an income tax surcharge, to encourage individuals to purchase health insurance, and what the level of the incentives would have to be to result in the increased purchase of health insurance;

(4) public and private strategies to educate individuals and employers about the importance of health coverage;

(5) whether individual responsibility should be accompanied by some form of employer responsibility;

(6) enforcement issues, including alternative approaches to the reporting and verification of health care coverage;

(7) potential reductions in inpatient and outpatient uncompensated care and government expenditures that may result from various personal responsibility provisions; and

(8) the need for religious exemptions from any proposed health care coverage requirement.

(c) On or before December 1, 2007, the Commission shall report the findings of its study, together with any recommendations, to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Finance Committee and the House Health and Government Operations Committee.

SECTION ~~5~~ 2. AND BE IT FURTHER ENACTED, That, ~~except as provided in Section 4 of this Act,~~ this Act shall take effect July 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 614

(House Bill 588)

AN ACT concerning

Natural Resources – Forest Conservation – Net Tract Area

FOR the purpose of altering the definition of “net tract area” for forest conservation requirements and forest mitigation bank credits to include certain forested areas of certain tracts of land partially within 100-year floodplains or wetlands under certain circumstances; including in the definition of “net tract area” a nontidal wetland, stream buffer, and the forested area of a 100-year floodplain or wetland under certain circumstances; providing for the application of this Act; providing for the termination of this Act; and generally relating to the forest conservation program.

~~BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5-1601(z) and (aa)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)~~

~~BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 5-1601(bb), (ff), and (jj) and 5-1607(c)(1) through (3) and (d)(1) through (4)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That ~~the Laws of Maryland read as follows:~~ for purposes of the application of Title 5, Subtitle 16 of the Natural Resources Article to a tract of land of at least 350 acres of which at least 15% is within the boundaries of a 100-year floodplain or wetland, the term “net tract area” includes the forested areas within the floodplain or wetland if a perpetual conservation easement is placed on the forested areas at the time the plat of the tract is recorded.

~~Article – Natural Resources~~

~~5-1601.~~

~~(z)~~ **(1)** “Net tract area” means:

~~[(1)] (i)~~ Except in agriculture and resource areas or linear project areas, the total area of a site, including both forested and nonforested areas, to the nearest one-tenth acre reduced by that area where forest clearing is restricted by another local ordinance or program, ~~INCLUDING THE FORESTED AREA WITHIN THE BOUNDARIES OF A 100-YEAR FLOODPLAIN OR WETLAND;~~

~~[(2)] (ii)~~ In agriculture and resource areas, the portion of the total tract for which land use will be changed or will no longer be used for primarily

~~agricultural activities reduced by that area where forest clearing is restricted by another local ordinance or program, INCLUDING THE FORESTED AREA WITHIN THE BOUNDARIES OF A 100-YEAR FLOODPLAIN OR WETLAND; and~~

~~[(3)] (III) For a linear project:~~

~~[(i)] 1. The area of a right-of-way width, new access roads and storage; or~~

~~[(ii)] 2. The limits of disturbance as shown on an application for sediment and erosion control approval or in a capital improvements program project description;~~

~~(2) "NET TRACT AREA" INCLUDES A NONTIDAL WETLAND, STREAM BUFFER, AND THE FORESTED AREA OF A 100-YEAR FLOODPLAIN IF THE WETLAND, BUFFER, AND FORESTED 100-YEAR FLOODPLAIN AREA IS PLACED IN A PERPETUAL CONSERVATION EASEMENT AT THE TIME OF RECORD PLAT.~~

~~(aa) (1) "Nontidal wetland" means an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.~~

~~(2) (i) The determination of whether an area is considered a nontidal wetland shall be made in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands", published in 1989 and as may be amended and interpreted by the U.S. Environmental Protection Agency.~~

~~(ii) THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL APPLY, IN THE SAME MANNER, TO ALL JURISDICTIONS OF THE STATE.~~

~~(3) "Nontidal wetlands" do not include tidal wetlands regulated under Title 16 of the Environment Article.~~

~~(bb) (1) "One hundred year floodplain" means an area along or adjacent to a stream or body of water, except tidal waters, that is capable of storing or conveying floodwaters during a 100-year frequency storm event.~~

~~(2) A 100-year flood is a flood which has a 1% chance of being equaled or exceeded in any given year. Except for Class III waters (natural trout streams), a body of water with a watershed less than 400 acres is excluded.~~

~~(ff) (1) "Reforestation" or "reforested" means the creation of a biological community dominated by trees and other woody plants containing at least 100 trees per acre with at least 50% of those trees having the potential of attaining a 2 inch or greater diameter measured at 4.5 feet above the ground, within 7 years.~~

~~(2) "Reforestation" includes landscaping of areas under an approved landscaping plan that establishes a forest that is at least 35 feet wide and covering 2,500 square feet of area.~~

~~(3) "Reforestation" for a linear project which involves overhead transmission lines may consist of a biological community dominated by trees and woody shrubs with no minimum height or diameter criteria.~~

~~(jj) "Stream buffer" means all lands lying within 50 feet, measured from the top of each normal bank of any perennial or intermittent stream.~~

~~5-1607.~~

~~(c) The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the State or local authority that reasonable efforts have been made to protect them and the plan cannot reasonably be altered:~~

~~(1) Trees, shrubs, and plants located in sensitive areas including 100-year floodplains, intermittent and perennial streams and their buffers, coastal bays and their buffers, steep slopes, and critical habitats;~~

~~(2) Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site;~~

~~(3) Trees, shrubs, or plants identified on the list of rare, threatened, and endangered species of the U.S. Fish and Wildlife Service or the Department;~~

~~(d) The following shall be considered priority for afforestation or reforestation:~~

~~(1) Establish or enhance forest buffers adjacent to intermittent and perennial streams and coastal bays to widths of at least 50 feet;~~

~~(2) Establish or increase existing forested corridors to connect existing forests within or adjacent to the site and, where practical, forested corridors should be a minimum of 300 feet in width to facilitate wildlife movement;~~

~~(3) Establish or enhance forest buffers adjacent to critical habitats where appropriate;~~

~~(4) Establish or enhance forested areas in 100-year floodplains;~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to prevent any person that ~~submitted~~ submits a forest conservation plan before ~~October~~ July 1, 2007, to the State or local authority in accordance with § 5-1605 of the Natural Resources Article, and has not been issued a building permit, from revising the net tract area, for a tract of land of at least 350 acres of which at least 15% is within the boundaries of a 100-year floodplain or wetland, to include the forested area within the boundaries of ~~a~~ the 100-year floodplain or wetland.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2007. It shall remain effective for a period of 8 months and, at the end of February 29, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 615

(House Bill 590)

AN ACT concerning

~~State Property Tax Exemption – Solar Energy Devices~~
State Taxes – Solar Energy Grants and Devices

FOR the purpose of providing a subtraction modification under the Maryland income tax for certain amounts received as a grant under a certain program; exempting from the State property tax certain real property that is a solar energy device installed to heat or cool a dwelling, generate electricity to be used in the dwelling, or provide hot water for use in the dwelling; defining a certain term; providing for the application of this Act; and generally relating to a Maryland income tax subtraction modification for certain amounts received as a grant under the Solar Energy Grant Program and a State property tax exemption for certain solar energy devices.

BY repealing and reenacting, without amendments,

Article – Tax – General
Section 10-207(a)

Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

BY adding to

Article – Tax – General
Section 10-207(x)
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

BY adding to

Article – Tax – Property
Section 7-308
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

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

Article – Tax – General

10-207.

(a) To the extent included in federal adjusted gross income, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(X) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES AN AMOUNT RECEIVED AS A GRANT UNDER THE SOLAR ENERGY GRANT PROGRAM UNDER § 9-2007 OF THE STATE GOVERNMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – Property

7-308.

(A) IN THIS SECTION, “DWELLING” HAS THE MEANING STATED IN § 9-105 OF THIS ARTICLE.

(B) REAL PROPERTY IS NOT SUBJECT TO THE STATE PROPERTY TAX IF THE PROPERTY IS A SOLAR ENERGY DEVICE INSTALLED TO HEAT OR COOL A DWELLING, GENERATE ELECTRICITY TO BE USED IN THE DWELLING, OR PROVIDE HOT WATER FOR USE IN THE DWELLING.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be applicable to all taxable years beginning after December 31, 2006.

~~SECTION 2. 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect June 1, 2007, and shall be applicable to all taxable years beginning after June 30, 2007.~~

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 616

(House Bill 622)

AN ACT concerning

Prince George's County - Special Taxing Districts

PG 428-07

FOR the purpose of altering the definition of "cost" for purposes of certain authority for Prince George's County to establish certain special taxing districts, issue certain bonds, and levy certain taxes; authorizing Prince George's County to exercise certain authority to provide financing, refinancing, or reimbursement for the costs of certain renovation, rehabilitation, and repair; and generally relating to certain authority for Prince George's County to establish certain special taxing districts, issue certain bonds, and levy certain taxes.

BY repealing and reenacting, with amendments,
Article 24 - Political Subdivisions - Miscellaneous Provisions
Section 9-1301(a) and (c)(5)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
The Public Local Laws of Prince George's County
Section 10-269(a)(3) and (b)
Article 17 - Public Local Laws of Maryland
(2003 Edition, as amended)

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

Article 24 – Political Subdivisions – Miscellaneous Provisions

9–1301.

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

(2) (i) “Bond” means a special obligation bond, revenue bond, note, or other similar instrument issued by the county in accordance with this section.

(ii) “Bond” includes a special obligation bond, revenue bond, note, or similar instrument issued by the revenue authority of Prince George’s County.

(3) “Cost” includes the cost of:

(i) Construction, reconstruction, and renovation, and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or to be acquired by the county;

(ii) All machinery and equipment including machinery and equipment needed to expand or enhance county services to the special taxing district;

(iii) Financing charges and interest prior to and during construction, and, if deemed advisable by the county, for a limited period after completion of the construction, interest and reserves for principal and interest, including costs of municipal bond insurance and any other type of financial guaranty and costs of issuance;

(iv) Extensions, enlargements, additions, and improvements;

(v) Architectural, engineering, financial, and legal services;

(vi) Plans, specifications, studies, surveys, and estimates of cost and of revenues;

(vii) Administrative expenses necessary or incident to determining to proceed with the infrastructure improvements; and

(viii) Other expenses as may be necessary or incident to the construction, acquisition, and financing of the infrastructure improvements.

(4) IN PRINCE GEORGE’S COUNTY, “COST” INCLUDES THE COST OF RENOVATION, REHABILITATION, AND REPAIR OF EXISTING BUILDINGS,

INTERNAL AND EXTERNAL STRUCTURAL SYSTEMS, ELEVATORS, FACADES, MECHANICAL SYSTEMS AND COMPONENTS, AND SECURITY SYSTEMS.

(c) (5) Prince George's County may exercise the authority granted in this subsection to:

(i) Levy hotel rental taxes; and
(ii) Provide financing, refinancing, or reimbursement for the costs of:

1. Convention centers, conference centers, and visitors' centers;

2. Maintenance of infrastructure improvements, convention centers, conference centers, and visitors' centers; [and]

3. Marketing the special taxing district facilities and other improvements; AND

4. RENOVATION, REHABILITATION, AND REPAIR OF EXISTING BUILDINGS, BUILDING SYSTEMS, AND COMPONENTS FOR EXISTING RESIDENTIAL CONDOMINIUMS DESIGNATED AS WORKFORCE HOUSING AS DEFINED IN § 4-1801 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

Article 17 - Prince George's County

10-269.

(a) (3) Cost includes the cost of:

(A) Construction, reconstruction, and renovation, and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or to be acquired by the County;

(B) All machinery and equipment including machinery and equipment needed to expand or enhance County services to the Special Taxing District;

(C) Financing charges and interest prior to and during construction, and, if deemed advisable by the County, for a limited period after completion of the construction, interest and reserves for principal and interest, including costs of municipal bond insurance and any other type of financial guaranty and costs of issuance;

(D) Extensions, enlargements, additions, and improvements;

(E) RENOVATION, REHABILITATION, AND REPAIR OF EXISTING BUILDINGS, INTERNAL AND EXTERNAL STRUCTURAL SYSTEMS, ELEVATORS, ~~FACADE~~ FACADES, MECHANICAL SYSTEMS AND COMPONENTS, AND SECURITY SYSTEMS;

[(E)] **(F)** Architectural, engineering, financial, and legal services;

[(F)] **(G)** Plans, specifications, studies, surveys, and estimates of cost and of revenues;

[(G)] **(H)** Administrative expenses necessary or incident to determining to proceed with the infrastructure improvements; and

[(H)] **(I)** Other expenses as may be necessary or incident to the construction, acquisition, and financing of the infrastructure improvements.

(b) (1) Subject to the provisions of this Section, and for the purpose stated in paragraph (2) of this Subsection, the County may:

(A) Create a Special Taxing District;

(B) Levy ad valorem, special, or hotel rental taxes; and

(C) Issue bonds and other obligations.

(2) The purpose of the authority granted under paragraph (1) of this Subsection is to provide financing, refinancing, or reimbursement for the cost of:

(A) The design, construction, establishment, extension, alteration, or acquisition of adequate storm drainage systems, sewers, water systems, roads, bridges, culverts, tunnels, streets, sidewalks, lighting, parking, parks and recreation facilities, libraries, schools, transit facilities, solid waste facilities, and other infrastructure improvements as necessary, whether situated within the Special Taxing District or outside the Special Taxing District if the infrastructure improvement is reasonably related to other infrastructure improvements within the Special Taxing District, for the development and utilization of the land, each with respect to any defined geographic region within the County.

(B) Convention centers, conference centers, and visitors' centers;

(C) RENOVATION, REHABILITATION, AND REPAIR OF EXISTING BUILDINGS, BUILDING SYSTEMS, AND COMPONENTS FOR EXISTING RESIDENTIAL CONDOMINIUMS DESIGNATED AS WORKFORCE HOUSING AS DEFINED IN § 4-1801 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND;

[(C)] (D) Infrastructure improvements maintenance and maintenance of convention centers, conference centers, and visitors' centers; and

[(D)] (E) Marketing the special taxing district facilities and other improvements.

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

Approved by the Governor, May 17, 2007.

CHAPTER 617

(House Bill 637)

AN ACT concerning

Election Law – Compensation for Election Judges – Prince George's County

PG 404-07

FOR the purpose of altering the compensation for chief election judges and election judges in Prince George's County; altering the compensation for completion of certain election training sessions by certain election judges; and generally relating to compensation for election judges in Prince George's County.

BY repealing and reenacting, with amendments,

Article – Election Law

Section 10-205(b)(6)

Annotated Code of Maryland

(2003 Volume and 2006 Supplement)

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

Article – Election Law

10-205.

(b) (6) (i) In Prince George's County, the compensation for each election day actually served shall be **NOT LESS THAN**:

1. [\$200] **\$250** per day for two chief election judges; and
2. [\$125] **\$200** per day for every other election judge.

(ii) 1. In Prince George's County, except as provided under sub-subparagraph 2 of this subparagraph, election judges and alternate election judges shall receive [\$25] **\$50** as compensation for completing the course of instruction required under § 10-206 of this subtitle.

2. An election judge or alternate election judge may not receive the compensation authorized under this subparagraph if the election judge refuses to serve on an election day, unless the local board excuses the election judge.

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

Approved by the Governor, May 17, 2007.

CHAPTER 618

(House Bill 680)

AN ACT concerning

Prince George's County - Sheriff and Sheriff's Deputies - Alteration of Duties

PG 310-07

FOR the purpose of altering the duties of the Sheriff and the Sheriff's deputies of Prince George's County to include certain other duties; requiring the duties to be described in a certain memorandum of understanding entered into by the Office of the Sheriff and the ~~county governing body~~ Prince George's County Police Department; providing that the memorandum of understanding may only be revised by the county governing body; providing a termination date for the memorandum of understanding; altering the scope of criminal investigations the Sheriff and the Sheriff's deputies may conduct; providing for the

termination of this Act; and generally relating to the duties of the Sheriff and the Sheriff's deputies of Prince George's County.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 2–309(r)(8) and (9)
Annotated Code of Maryland
(2006 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 2–309(r)(10)
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Courts and Judicial Proceedings

2–309.

(r) (8) **(I)** The Sheriff and the Sheriff's deputies shall be limited in their duties as law enforcement officers, as follows:

~~(i)~~ **1.** The full power of arrest, the service of process of all writs, summonses, orders, petitions, subpoenas, warrants, rules to show cause, and all other legal papers;

~~(ii)~~ **2.** The care and supervision of prisoners at any of the county detention centers, hospitals, penal institutions, or other places of confinement;

~~(iii)~~ **3.** The security of all State and county courts and perform such duties as may be required of them by the courts;

~~(iv)~~ **4.** The transportation of all legally detained persons; [and]

~~(v)~~ **5.** The administration and enforcement of casino night permits as authorized by the governing body of the county; **AND**

~~(vi)~~ **1- 6.** **AS OF OCTOBER 1, 2007, SPECIFIC DUTIES AS AUTHORIZED BY THE COUNTY GOVERNING BODY, INCLUDING:**

A. RESPONDING TO DOMESTIC VIOLENCE CALLS;

B. ACTING AS SCHOOL RESOURCE DEPUTIES IN COUNTY SCHOOLS; AND

C. PROVIDING SECURITY FOR PRINCE GEORGE'S COUNTY PUBLIC SCHOOL SPORTING EVENTS AND EXTRACURRICULAR ACTIVITIES THAT ARE HELD IN THE COUNTY, SPONSORED BY A PUBLIC SCHOOL, AND OPEN TO THE PUBLIC.

~~2.~~ ~~A. (II) 1.~~ **THE DUTIES AUTHORIZED IN ~~ITEM (VI) 1~~ SUBPARAGRAPH (I)6 OF THIS PARAGRAPH SHALL BE ENUMERATED IN A MEMORANDUM OF UNDERSTANDING ENTERED INTO BY THE PRINCE GEORGE'S COUNTY POLICE DEPARTMENT AND THE OFFICE OF THE SHERIFF OF PRINCE GEORGE'S COUNTY.**

~~B. 2.~~ **THE MEMORANDUM OF UNDERSTANDING MAY BE REVISED ONLY BY THE COUNTY GOVERNING BODY.**

~~C. 3.~~ **THE MEMORANDUM OF UNDERSTANDING IS IN EFFECT FROM THE DATE IT IS SIGNED BY BOTH PARTIES BUT NOT BEFORE OCTOBER 1, 2007, UNTIL THE END OF SEPTEMBER 30, 2010.**

(9) Neither the Sheriff of Prince George's County nor any of the Sheriff's deputies shall conduct criminal investigations, except:

- (i) In matters concerning the Sheriff's department;
- (ii) On request of the courts;
- (iii) As necessary for the administration and enforcement of casino night permits as authorized by the county governing body; or
- (iv) In investigations arising out of or incident to normally assigned duties, **INCLUDING THOSE DUTIES AUTHORIZED BY THE COUNTY GOVERNING BODY UNDER PARAGRAPH (8) ~~(VI) 1~~ (I)6 OF THIS SUBSECTION.**

(10) When a Sheriff or Sheriff's deputy has commenced an investigation under paragraph (9)(iv) of this subsection, the Sheriff or the Sheriff's deputy:

- (i) Shall immediately notify the appropriate law enforcement agency that has jurisdiction over the matter; and
- (ii) Shall transfer the investigation to an appropriate law enforcement agency that has jurisdiction over the matter on request of the agency.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. It shall remain effective for a period of 3 years and, at the end of September 30, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 17, 2007.

CHAPTER 619

(House Bill 683)

AN ACT concerning

Worcester County – Fire and Explosive Investigators – Authority

FOR the purpose of providing that, under certain circumstances, a Worcester County fire and explosive investigator operating in Worcester County has the same authority as the State Fire Marshal and a full-time investigative and inspection assistant in the Office of the State Fire Marshal to make an arrest without a warrant and exercise certain powers of arrest; authorizing a Worcester County fire and explosive investigator to exercise certain authority while operating outside Worcester County under certain circumstances; authorizing the Worcester County Fire Marshal to limit certain authority of a fire and explosive investigator to make an arrest without a warrant or exercise certain powers of arrest; requiring the Worcester County Fire Marshal to express the limitation in writing; excluding a Worcester County fire and explosive investigator from the definition of “law enforcement officer” under the law relating to the Law Enforcement Officers’ Bill of Rights; including a Worcester County fire and explosive investigator in the definition of “police officer” in connection with provisions of law relating to the Maryland Police Training Commission and the authorized carrying of a handgun by a person engaged in law enforcement; defining certain terms; requiring the Maryland Police Training Commission to certify certain fire and explosive investigators as police officers under certain circumstances; and generally relating to the authority of Worcester County fire and explosive investigators.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 4-201(a)
Annotated Code of Maryland
(2002 Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 4–201(d)
Annotated Code of Maryland
(2002 Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 2–208
Annotated Code of Maryland
(2001 Volume and 2006 Supplement)

BY adding to
Article – Criminal Procedure
Section 2–208.3
Annotated Code of Maryland
(2001 Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 3–101(a) and 3–201(a)
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 3–101(e)(2) and 3–201(e)(2)
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

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

Article – Criminal Law

4–201.

- (a) In this subtitle the following words have the meanings indicated.
- (d) “Law enforcement official” means:

(1) a full-time member of a police force or other unit of the United States, a state, a county, a municipal corporation, or other political subdivision of a state who is responsible for the prevention and detection of crime and the enforcement

of the laws of the United States, a state, a county, a municipal corporation, or other political subdivision of a state;

(2) a part-time member of a police force of a county or municipal corporation who is certified by the county or municipal corporation as being trained and qualified in the use of handguns;

(3) a fire investigator of the Prince George's County Fire Department who:

(i) is certified by Prince George's County as being trained and qualified in the use of handguns; and

(ii) has met the minimum qualifications and has satisfactorily completed the training required by the Maryland Police Training Commission;

(4) a Montgomery County fire and explosive investigator as defined in § 2-208.1 of the Criminal Procedure Article; [or]

(5) an Anne Arundel County or City of Annapolis fire and explosive investigator as defined in § 2-208.2 of the Criminal Procedure Article; **OR**

(6) A WORCESTER COUNTY FIRE AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2-208.3 OF THE CRIMINAL PROCEDURE ARTICLE.

Article - Criminal Procedure

2-208.

(a) (1) The State Fire Marshal or a full-time investigative and inspection assistant of the Office of the State Fire Marshal may arrest a person without a warrant if the State Fire Marshal or assistant has probable cause to believe:

(i) a felony that is a crime listed in paragraph (2) of this subsection has been committed or attempted; and

(ii) the person to be arrested has committed or attempted to commit the felony whether or not in the presence or within the view of the State Fire Marshal or assistant.

(2) The powers of arrest set forth in paragraph (1) of this subsection apply only to the crimes listed in this paragraph and to attempts, conspiracies, and solicitations to commit these crimes:

(i) murder under § 2-201(4) of the Criminal Law Article;

(ii) setting fire to a dwelling or occupied structure under § 6–102 of the Criminal Law Article;

(iii) setting fire to a structure under § 6–103 of the Criminal Law Article;

(iv) a crime that relates to destructive devices under § 4–503 of the Criminal Law Article; and

(v) making a false statement or rumor as to a destructive device under § 9–504 of the Criminal Law Article.

(b) (1) The State Fire Marshal or a full-time investigative and inspection assistant of the Office of the State Fire Marshal may arrest a person without a warrant if the State Fire Marshal or assistant has probable cause to believe:

(i) the person has committed a crime listed in paragraph (2) of this subsection; and

(ii) unless the person is arrested immediately, the person:

1. may not be apprehended;
2. may cause physical injury or property damage to another; or
3. may tamper with, dispose of, or destroy evidence.

(2) The crimes referred to in paragraph (1) of this subsection are:

(i) a crime that relates to a device that is constructed to represent a destructive device under § 9–505 of the Criminal Law Article;

(ii) malicious burning in the first or second degree under § 6–104 or § 6–105 of the Criminal Law Article;

(iii) burning the contents of a trash container under § 6–108 of the Criminal Law Article;

(iv) making a false alarm of fire under § 9–604 of the Criminal Law Article;

(v) a crime that relates to burning or attempting to burn property as part of a religious or ethnic crime under § 10-304 or § 10-305 of the Criminal Law Article;

(vi) a crime that relates to interference, obstruction, or false representation of fire and safety personnel under § 6-602 or § 7-402 of the Public Safety Article; and

(vii) threatening arson or attempting, causing, aiding, counseling, or procuring arson in the first or second degree or malicious burning in the first or second degree under Title 6, Subtitle 1 of the Criminal Law Article.

(c) (1) The State Fire Marshal or a full-time investigative and inspection assistant in the Office of the State Fire Marshal may act under the authority granted by § 2-102 of this title to police officers as provided under paragraph (2) of this subsection.

(2) When acting under the authority granted by § 2-102 of this title, the State Fire Marshal or a full-time investigative and inspection assistant in the Office of the State Fire Marshal has the powers of arrest set forth in §§ 2-202, 2-203, and 2-204 of this subtitle.

(d) (1) The State Fire Marshal or a full-time investigative and inspection assistant in the Office of the State Fire Marshal who acts under the authority granted by this section shall notify the following persons of an investigation or enforcement action:

(i) 1. the chief of police, if any, or chief's designee, when in a municipal corporation;

2. the Police Commissioner or Police Commissioner's designee, when in Baltimore City;

3. the chief of police or chief's designee, when in a county with a county police department, except Baltimore City;

4. the sheriff or sheriff's designee, when in a county without a county police department;

5. the Secretary of Natural Resources or Secretary's designee, when on property owned, leased, operated by, or under the control of the Department of Natural Resources; or

6. the respective chief of police or chief's designee, when on property owned, leased, operated by, or under the control of the Maryland

Transportation Authority, Maryland Aviation Administration, or Maryland Port Administration; and

(ii) the Department of State Police barrack commander or commander's designee, unless there is an agreement otherwise with the Department of State Police.

(2) When the State Fire Marshal or a full-time investigative and inspection assistant in the Office of the State Fire Marshal participates in a joint investigation with officials from another State, federal, or local law enforcement unit, the State Fire Marshal or a full-time investigative and inspection assistant in the Office of the State Fire Marshal shall give the notice required under paragraph (1) of this subsection reasonably in advance.

(e) A State Fire Marshal or a full-time investigative and inspection assistant in the Office of the State Fire Marshal who acts under the authority granted by this section:

(1) has the same immunities from liability and exemptions as a State Police officer in addition to any other immunities and exemptions to which the State Fire Marshal or full-time investigative and inspection assistant is otherwise entitled; and

(2) remains at all times and for all purposes an employee of the employing unit.

(f) (1) This section does not impair a right of arrest otherwise existing under the Code.

(2) This section does not deprive a person of the right to receive a citation for a traffic violation as provided in the Maryland Vehicle Law or a criminal violation as provided by law or the Maryland Rules.

2-208.3.

(A) IN THIS SECTION, "FIRE AND EXPLOSIVE INVESTIGATOR" MEANS AN INDIVIDUAL WHO:

(1) IS ASSIGNED FULL-TIME TO THE FIRE AND EXPLOSIVE INVESTIGATIONS SECTION OF THE COUNTY FIRE MARSHAL'S OFFICE; AND

**(2) (I) HAS THE RANK OF DEPUTY FIRE MARSHAL OR HIGHER;
AND**

(II) HAS SUCCESSFULLY COMPLETED A TRAINING PROGRAM FROM A POLICE TRAINING SCHOOL APPROVED BY THE POLICE TRAINING COMMISSION ESTABLISHED UNDER TITLE 3, SUBTITLE 2 OF THE PUBLIC SAFETY ARTICLE.

(B) THIS SECTION APPLIES ONLY TO WORCESTER COUNTY.

(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A FIRE AND EXPLOSIVE INVESTIGATOR HAS THE SAME AUTHORITY GRANTED TO THE STATE FIRE MARSHAL OR A FULL-TIME INVESTIGATIVE AND INSPECTION ASSISTANT OF THE OFFICE OF THE STATE FIRE MARSHAL UNDER § 2-208 OF THIS SUBTITLE:

(1) WHILE OPERATING IN WORCESTER COUNTY; AND

(2) WHILE OPERATING OUTSIDE WORCESTER COUNTY WHEN:

(I) THE FIRE AND EXPLOSIVE INVESTIGATOR IS PARTICIPATING IN A JOINT INVESTIGATION WITH OFFICIALS FROM ANOTHER STATE, FEDERAL, OR LOCAL LAW ENFORCEMENT UNIT, AT LEAST ONE OF WHICH HAS LOCAL JURISDICTION;

(II) THE FIRE AND EXPLOSIVE INVESTIGATOR IS RENDERING ASSISTANCE TO ANOTHER LAW ENFORCEMENT OFFICER;

(III) THE FIRE AND EXPLOSIVE INVESTIGATOR IS ACTING AT THE REQUEST OF A LAW ENFORCEMENT OFFICER OR STATE LAW ENFORCEMENT OFFICER; OR

(IV) AN EMERGENCY EXISTS.

(C) THE COUNTY FIRE MARSHAL:

(1) MAY LIMIT THE AUTHORITY OF A FIRE AND EXPLOSIVE INVESTIGATOR UNDER THIS SECTION; AND

(2) SHALL EXPRESS THE LIMITATION IN A WRITTEN POLICY.

Article - Public Safety

3-101.

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

(e) (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; [or]

(vi) an Anne Arundel County or City of Annapolis fire and explosive investigator as defined in § 2–208.2 of the Criminal Procedure Article; **OR**

(VII) A WORCESTER COUNTY FIRE AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2–208.3 OF THE CRIMINAL PROCEDURE ARTICLE.

3–201.

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

(e) (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 Internal Investigative Unit of the Department;

(iv) a Montgomery County fire and explosive investigator as defined in § 2–208.1 of the Criminal Procedure Article; [and]

(v) an Anne Arundel County or City of Annapolis fire and explosive investigator as defined in § 2–208.2 of the Criminal Procedure Article; **AND**

(VI) A WORCESTER COUNTY FIRE AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2-208.3 OF THE CRIMINAL PROCEDURE ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Police Training Commission shall certify as a police officer each Worcester County fire and explosive investigator who meets the requirements of § 2-208.3 of the Criminal Procedure Article, as enacted by Section 1 of this Act, on October 1, 2007.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 620

(House Bill 689)

AN ACT concerning

Maryland Emergency Management Assistance Compact – Emergency Responders

FOR the purpose of ~~providing that certain emergency responders and certain law enforcement officers may be a party to~~ defining the term “emergency responder” for purposes of the Maryland Emergency Management Assistance Compact, under certain circumstances; defining certain terms; including in the defined term certain firefighters, certain emergency medical services providers, certain rescue squad members, certain county employees, and certain law enforcement officers; and generally relating to the Maryland Emergency Management Assistance Compact.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 14-801 ~~and 14-802~~
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 14-802
Annotated Code of Maryland

(2003 Volume and 2006 Supplement)

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

Article - Public Safety

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 ~~A~~ 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:

~~(1)~~ (I) CAREER OR VOLUNTEER FIREFIGHTER WITHIN THIS STATE;

~~(2)~~ (II) CAREER OR VOLUNTEER EMERGENCY MEDICAL SERVICES PROVIDER ~~WITHIN THIS STATE~~, AS DEFINED IN § 13-516 OF THE EDUCATION ARTICLE, WITHIN THIS STATE; ~~OR~~

~~(3)~~ (III) CAREER OR VOLUNTEER RESCUE SQUAD MEMBER WITHIN THIS STATE; ~~OR~~

~~(4)~~ COUNTY EMPLOYEE WHO:

~~(i) IS SENT BY A PARTY JURISDICTION IN RESPONSE TO A REQUEST FOR ASSISTANCE BY ANOTHER PARTY JURISDICTION; AND~~

~~(ii) IS PERFORMING AN EMERGENCY SUPPORT FUNCTION DESCRIBED IN § 14-803(2)(B)(5)(II) OF THIS SUBTITLE~~

(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.

[(d)] (E) "Jurisdictions" means the 23 counties within Maryland, Baltimore City, and Ocean City.

~~(F) "LAW ENFORCEMENT OFFICER" HAS THE MEANING STATED IN § 3-101 OF THIS ARTICLE.~~

[(e)] ~~(G)~~ (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:

~~(1) [all] ALL other jurisdictions that adopt the Compact in a form substantially similar to the Compact set forth in this subtitle; AND~~

~~(2) EACH EMERGENCY RESPONDER OR LAW ENFORCEMENT OFFICER ORGANIZATION, IF:~~

~~(i) THE ORGANIZATION PROVIDES WRITTEN CONSENT TO BE BOUND BY THE TERMS OF THE COMPACT TO THE SENIOR ELECTED OFFICIAL OF THE COUNTY OR POLITICAL SUBDIVISION OF THE ORGANIZATION; AND~~

~~(ii) THE WRITTEN CONSENT REQUIRED BY SUBPARAGRAPH (i) OF THIS PARAGRAPH IS ACKNOWLEDGED BY A RESOLUTION OF THE LOCAL GOVERNING BODY.~~

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

Approved by the Governor, May 17, 2007.

CHAPTER 621

(House Bill 691)

AN ACT concerning

Washington Suburban Sanitary Commission – Minority and Local Small Business Enterprise Programs

MC/PG 104-07

FOR the purpose of requiring the Washington Suburban Sanitary Commission (WSSC) to establish a mandatory minority business utilization program by resolution or regulation for certain purposes under certain circumstances; requiring the regulations that establish a certain minority business utilization program to contain certain provisions; requiring the WSSC to examine certain certification programs to ensure that they adhere to certain guidelines before accepting the certification programs; authorizing the WSSC to conduct a certain fact-finding study under certain circumstances; requiring the WSSC to report certain findings to certain persons under certain circumstances; requiring the WSSC to issue a certain report to certain persons annually; establishing the Office of Small, Local, and Minority Business Enterprise (Office) in the WSSC; requiring the Office to administer certain minority and local small business enterprise programs; establishing the Director of the Office; imposing certain duties on the Office as to minority business enterprises; imposing certain duties on the WSSC and a contractor as to compliance with certified minority business enterprise subcontract participation goals; requiring a bid or proposal for certain WSSC procurement contracts to include the expected degree of minority business enterprise participation, based on certain factors, under certain circumstances; requiring certain WSSC regulations to require a bid or proposal for certain WSSC procurement contracts to include proof of certified minority business enterprise commitment under certain circumstances; prohibiting the use of a certain sheltered market program unless certain less restrictive remedies have been used and found ineffective under certain circumstances; providing for the awarding of a contract under a certain sheltered market program under certain circumstances; altering the scope of certain business eligibility criteria that the WSSC is required to adopt as to the local small business enterprise program; defining certain terms; making the provisions of this Act severable; ~~making this Act an emergency measure~~; providing for the

termination of certain provisions of this Act; and generally relating to minority and local small business enterprise programs and the Washington Suburban Sanitary Commission.

BY repealing and reenacting, without amendments,
Article 29 – Washington Suburban Sanitary District
Section 3–102(b)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article 29 – Washington Suburban Sanitary District
Section 3–102(d) and (e) and 3–110
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY adding to
Article 29 – Washington Suburban Sanitary District
Section 3–102(f) and 3–109
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article 29 – Washington Suburban Sanitary District

3–102.

(b) This section only applies to design/build contracts and construction contracts.

(d) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Evaluated bid price” means the price of a bid after adjustment in accordance with objective measurable criteria.

(iii) “Objective measurable criteria” means standards that enable the WSSC to compare the economy, effectiveness, or value of the subject of the bids.

(2) If a contract is awarded based on competitive sealed bids, the WSSC shall seek bids by issuing an invitation to bid.

(3) Subject to paragraphs (4) through (6) of this subsection, an invitation to bid shall:

(i) Include the specifications of the contract, **INCLUDING THE EXPECTED DEGREE OF MINORITY BUSINESS ENTERPRISE PARTICIPATION, AS PROVIDED IN SUBSECTION (F)(3)(VI) OF THIS SECTION**; and

(ii) State whether the contract will be awarded based on the lowest bid price or the lowest evaluated bid price.

(4) If a contract will be awarded on an evaluated bid price, the invitation to bid shall include the objective measurable criteria by which the lowest evaluated bid price will be determined.

(5) The WSSC shall award contracts based on competitive sealed bids to the responsible bidder who submits the lowest bid price or lowest evaluated bid price, as appropriate.

(6) If the WSSC determines that an initial preparation of specifications for price bids is impractical, the invitation for bids may:

(i) Include a request for unpriced technical offers or samples;
and

(ii) Direct the bidder to submit a:

1. Sealed price bid with the unpriced technical offer or sample; or
2. Price bid after the WSSC evaluates the technical offer or sample and finds that the offer or sample is acceptable under the criteria set forth in the invitation to bid.

(7) If an invitation to bid includes a request for unpriced technical offers or samples, the WSSC shall:

(i) Consider the price bid of a bidder whose technical offer or sample is acceptable;

(ii) Return unopened the price bid of a bidder whose technical offer or sample is unacceptable; and

(iii) Award the contract to the responsible bidder whose technical offer or sample is acceptable and who submits the lowest bid or lowest evaluated bid, as specified in the invitation to bid.

(e) (1) If a contract is awarded based on competitive sealed proposals, the WSSC shall seek proposals by issuing a request for proposals.

(2) A request for proposals shall include:

(i) A statement describing the scope of the contract, **INCLUDING THE EXPECTED DEGREE OF MINORITY BUSINESS ENTERPRISE PARTICIPATION, AS PROVIDED IN SUBSECTION (F)(3)(VI) OF THIS SECTION;**

(ii) The factors, including price, that will be used in evaluating proposals; and

(iii) The relative importance of each factor.

(3) After receipt of proposals, but before the contract is awarded, the WSSC may conduct discussions with an offeror to:

(i) Obtain the best price for the WSSC; and

(ii) Ensure full understanding of the requirements of the WSSC, as set forth in the request for proposals and in the proposal.

(4) The WSSC:

(i) Shall treat all responsible offerors fairly and equally; and

(ii) May allow each responsible offeror to revise the offeror's initial proposal and submit a best and final offer.

(5) The WSSC shall award a contract based on competitive sealed proposals to the responsible offeror who submits the proposal or best and final offer that the WSSC determines is the most advantageous to the WSSC, considering the evaluation factors set out in the request for proposals.

(F) (1) IN THIS SUBSECTION, "MINORITY BUSINESS ENTERPRISE" HAS THE MEANING STATED IN § 14-301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) (I) BY RESOLUTION AND BY ADOPTING REGULATIONS, THE WSSC SHALL ESTABLISH A MANDATORY MINORITY BUSINESS UTILIZATION PROGRAM TO FACILITATE THE PARTICIPATION OF RESPONSIBLE CERTIFIED MINORITY BUSINESS ENTERPRISES IN CONTRACTS AWARDED BY THE WSSC IN ACCORDANCE WITH COMPETITIVE BIDDING OR PROPOSAL PROCEDURES.

(II) THE OFFICE OF SMALL, LOCAL, AND MINORITY BUSINESS ENTERPRISE, ESTABLISHED UNDER § 3-109 OF THIS SUBTITLE, SHALL ADMINISTER THE MINORITY BUSINESS UTILIZATION PROGRAM ESTABLISHED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(3) THE REGULATIONS THAT ESTABLISH THE PROGRAM UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL INCLUDE PROVISIONS THAT:

(I) RECOGNIZE THE CERTIFICATION OF MINORITY BUSINESS ENTERPRISES BY THE STATE CERTIFICATION AGENCY DESIGNATED UNDER § 14-303(B) OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(II) RECOGNIZE ANY OTHER CERTIFICATION PROGRAM THAT, IN THE JUDGMENT OF THE WSSC, SUBSTANTIALLY DUPLICATES THE REQUIREMENTS OF THE STATE CERTIFICATION AGENCY;

(III) PROVIDE FOR AN INCREASE IN MINORITY BUSINESS PARTICIPATION AS PRIME CONTRACTORS AND SUBCONTRACTORS;

(IV) PERMIT THE WAIVER OF ALL OR PART OF THE PROVISIONS OF THE PROGRAM FOR A SPECIFIC CONTRACT IF THE WSSC DETERMINES THAT THE APPLICATION OF THE PROGRAM TO THE CONTRACT CONFLICTS WITH THE WSSC'S OVERALL OBJECTIVES AND RESPONSIBILITIES;

(V) PROVIDE FOR THE GRADUATION OF A MINORITY BUSINESS ENTERPRISE FROM THE PROGRAM IF THE WSSC DETERMINES THAT THE MINORITY BUSINESS ENTERPRISE NO LONGER REQUIRES THE ASSISTANCE OR BENEFITS OFFERED BY THE PROGRAM;

(VI) REQUIRE AT THE TIME OF SUBMISSION A BID OR PROPOSAL BASED ON A SOLICITATION WITH AN EXPECTED DEGREE OF MINORITY BUSINESS ENTERPRISE PARTICIPATION TO INCLUDE PROOF OF A CERTIFIED MINORITY BUSINESS ENTERPRISE COMMITMENT BY STATING:

1. THE POTENTIAL SUBCONTRACT OPPORTUNITIES AVAILABLE IN THE PRIME PROCUREMENT CONTRACT; AND

2. THE NUMBER OF MINORITY BUSINESS ENTERPRISES THAT HAVE CERTIFIED, UNDER THE PENALTIES OF PERJURY, THAT THE MINORITY BUSINESS ENTERPRISE HAS ENTERED INTO AN AGREEMENT WITH THE BIDDER TO PROVIDE GOODS OR SERVICES UNDER SPECIFIC TERMS OUTLINED IN THE CERTIFICATION BEFORE THE BID IS ACCEPTED;

(VII) REQUIRE EACH GENERAL CONTRACTOR TO SUBMIT MONTHLY REPORTS OF THE NUMBER OF MINORITY BUSINESS ENTERPRISES EMPLOYED BY THE GENERAL CONTRACTOR TO THE WSSC;

(VIII) REQUIRE EACH GENERAL CONTRACTOR TO PROVIDE PROMPT NOTIFICATION TO THE WSSC IF A CONTRACT WITH A MINORITY BUSINESS ENTERPRISE IS TERMINATED; AND

(IX) REQUIRE EACH GENERAL CONTRACTOR TO:

1. MAINTAIN A PARTICIPATION LEVEL FROM MINORITY BUSINESS ENTERPRISES THAT IS CONSISTENT WITH THE PARTICIPATION LEVEL REFERENCED UNDER ITEM (VI)2 OF THIS PARAGRAPH; OR

2. PROVIDE JUSTIFICATION FOR THE GENERAL CONTRACTOR'S INABILITY TO MAINTAIN THAT PARTICIPATION LEVEL.

(4) (I) BEFORE ACCEPTING A CERTIFICATION PROGRAM UNDER PARAGRAPH (3)(II) OF THIS SUBSECTION, THE WSSC SHALL EXAMINE THE PROGRAM TO ENSURE THAT IT ADHERES TO THE GUIDELINES PROVIDED IN THIS PARAGRAPH.

(II) UNLESS THE ~~STATE CERTIFICATION~~ CERTIFYING AGENCY DETERMINES THAT AN INDIVIDUAL'S CLAIM IS INVALID, BONA FIDE MINORITY GROUP MEMBERSHIP SHALL BE ESTABLISHED ON THE BASIS OF THE INDIVIDUAL'S CLAIM THAT THE INDIVIDUAL IS A MEMBER OF A MINORITY GROUP AND IS SO REGARDED BY THAT PARTICULAR MINORITY COMMUNITY.

(III) 1. AN ELIGIBLE MINORITY BUSINESS ENTERPRISE SHALL BE AN INDEPENDENT BUSINESS.

2. THE OWNERSHIP AND CONTROL OF THE ELIGIBLE MINORITY BUSINESS ENTERPRISE BY MINORITIES SHALL BE REAL, SUBSTANTIAL, AND CONTINUING AND SHALL GO BEYOND THE PRO FORMA OWNERSHIP OF THE BUSINESS AS REFLECTED IN ITS OWNERSHIP DOCUMENTS.

3. THE MINORITY OWNERS SHALL ENJOY THE CUSTOMARY INCIDENTS OF OWNERSHIP AND SHALL SHARE IN THE RISKS AND PROFITS COMMENSURATE WITH THEIR OWNERSHIP INTERESTS AS DEMONSTRATED BY AN EXAMINATION OF THE SUBSTANCE RATHER THAN FORM OF ARRANGEMENTS.

4. RECOGNITION OF THE BUSINESS AS A SEPARATE ENTITY FOR TAX OR CORPORATE PURPOSES IS NOT NECESSARILY SUFFICIENT FOR RECOGNITION AS A MINORITY BUSINESS ENTERPRISE.

5. IN DETERMINING WHETHER A POTENTIAL MINORITY BUSINESS ENTERPRISE IS AN INDEPENDENT BUSINESS, THE ~~STATE CERTIFICATION~~ CERTIFYING AGENCY SHALL CONSIDER ALL RELEVANT FACTORS, INCLUDING:

A. THE DATE THE BUSINESS WAS ESTABLISHED;

B. THE ADEQUACY OF ITS RESOURCES FOR THE WORK OF THE CONTRACT; AND

C. THE DEGREE TO WHICH FINANCIAL, EQUIPMENT LEASING, AND OTHER RELATIONSHIPS WITH NONMINORITY BUSINESSES VARY FROM INDUSTRY PRACTICE.

(iv) 1. THE MINORITY OWNERS ALSO SHALL POSSESS THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES OF THE BUSINESS AND TO MAKE THE DAY-TO-DAY AS WELL AS MAJOR DECISIONS ON MATTERS OF MANAGEMENT, POLICY, AND OPERATIONS.

2. THE BUSINESS MAY NOT BE SUBJECT TO ANY FORMAL OR INFORMAL RESTRICTIONS, THROUGH BYLAW PROVISIONS, PARTNERSHIP AGREEMENTS, OR CHARTER REQUIREMENTS FOR CUMULATIVE VOTING RIGHTS OR OTHERWISE THAT PREVENT THE MINORITY OWNERS, WITHOUT THE COOPERATION OR VOTE OF ANY OWNER WHO IS NOT A MINORITY, FROM MAKING A BUSINESS DECISION OF THE BUSINESS.

(v) 1. IF THE OWNERS OF THE BUSINESS WHO ARE NOT MINORITIES ARE DISPROPORTIONATELY RESPONSIBLE FOR THE OPERATION OF THE FIRM, THE FIRM IS NOT CONTROLLED BY MINORITIES AND MAY NOT BE CONSIDERED A MINORITY BUSINESS ENTERPRISE WITHIN THE MEANING OF THIS SECTION.

2. WHERE THE ACTUAL MANAGEMENT OF THE BUSINESS IS CONTRACTED OUT TO INDIVIDUALS OTHER THAN THE OWNER, THOSE PERSONS WHO HAVE THE ULTIMATE POWER TO HIRE AND FIRE THE MANAGERS MAY, FOR THE PURPOSES OF THIS SUBSECTION, BE CONSIDERED AS CONTROLLING THE BUSINESS.

(VI) 1. ALL SECURITIES THAT CONSTITUTE OWNERSHIP OR CONTROL OF A CORPORATION FOR PURPOSES OF ESTABLISHING IT AS A MINORITY BUSINESS ENTERPRISE UNDER THIS SECTION SHALL BE HELD DIRECTLY BY MINORITIES.

2. SECURITIES HELD IN TRUST, OR BY ANY GUARDIAN FOR A MINOR, MAY NOT BE CONSIDERED AS HELD BY MINORITIES IN DETERMINING THE OWNERSHIP OR CONTROL OF A CORPORATION.

(VII) 1. THE CONTRIBUTIONS OF CAPITAL OR EXPERTISE BY THE MINORITY OWNERS TO ACQUIRE THEIR INTERESTS IN THE BUSINESS SHALL BE REAL AND SUBSTANTIAL.

2. INSUFFICIENT CONTRIBUTIONS INCLUDE:

A. A PROMISE TO CONTRIBUTE CAPITAL;

B. A NOTE PAYABLE TO THE BUSINESS OR ITS OWNERS WHO ARE NOT SOCIALLY AND ECONOMICALLY DISADVANTAGED; AND

C. THE MERE PARTICIPATION AS AN EMPLOYEE, RATHER THAN AS A MANAGER.

(VIII) THE CERTIFYING AGENCY SHALL GIVE SPECIAL CONSIDERATION TO THE FOLLOWING ADDITIONAL CIRCUMSTANCES IN DETERMINING ELIGIBILITY:

1. NEWLY FORMED BUSINESSES AND BUSINESSES WHOSE OWNERSHIP OR CONTROL HAS CHANGED SINCE THE DATE OF THE ADVERTISEMENT OF THE CONTRACT SHALL BE CLOSELY SCRUTINIZED TO DETERMINE THE REASONS FOR THE TIMING OF THE FORMATION OF OR CHANGE IN THE BUSINESSES;

2. A PREVIOUS OR CONTINUING EMPLOYER-EMPLOYEE RELATIONSHIP BETWEEN OR AMONG PRESENT OWNERS SHALL BE CAREFULLY REVIEWED TO ENSURE THAT THE EMPLOYEE-OWNER HAS MANAGEMENT RESPONSIBILITIES AND CAPABILITIES DISCUSSED IN THIS SECTION; AND

3. ANY RELATIONSHIP BETWEEN A MINORITY BUSINESS ENTERPRISE AND A BUSINESS THAT IS NOT A MINORITY BUSINESS ENTERPRISE THAT HAS AN INTEREST IN THE MINORITY BUSINESS ENTERPRISE SHALL BE CAREFULLY REVIEWED TO DETERMINE IF THE INTEREST OF THE

NONMINORITY BUSINESS CONFLICTS WITH THE OWNERSHIP AND CONTROL REQUIREMENTS OF THIS SECTION.

(5) (i) THE WSSC MAY CONDUCT ANY IMPARTIAL FACT-FINDING STUDY IN CONNECTION WITH A MINORITY BUSINESS ENTERPRISE PROGRAM FOR CONSISTENCY WITH APPLICABLE LAW.

(ii) THE WSSC SHALL REPORT THE FINDINGS OF ANY REVIEW COMPLETED UNDER THIS PARAGRAPH TO THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY DELEGATIONS TO THE MARYLAND GENERAL ASSEMBLY.

(6) BY SEPTEMBER 15 OF EACH YEAR, THE WSSC SHALL ISSUE A REPORT CONCERNING THE IMPLEMENTATION AND ADMINISTRATION OF THE MINORITY BUSINESS ENTERPRISE PROGRAM FOR THE FISCAL YEAR ENDING ON THE PRECEDING JUNE 30, AND APPROPRIATE RECOMMENDATIONS CONCERNING THE PROGRAM, TO THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SENATE AND HOUSE DELEGATIONS TO THE MARYLAND GENERAL ASSEMBLY.

(7) THE PROVISIONS OF THIS SUBSECTION SHALL BE NULL AND VOID AND MAY NOT BE ENFORCED AFTER JULY 1, 2012.

3-109.

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

(2) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE OF SMALL, LOCAL, AND MINORITY BUSINESS ENTERPRISE ESTABLISHED UNDER SUBSECTION (B)(2) OF THIS SECTION.

(3) "MINORITY BUSINESS ENTERPRISE" MEANS ANY LEGAL ENTITY THAT IS ORGANIZED TO ENGAGE IN COMMERCIAL TRANSACTIONS AND AT LEAST 51% OWNED AND CONTROLLED BY ONE OR MORE INDIVIDUALS WHO ARE MEMBERS OF A GROUP THAT IS:

(i) DISADVANTAGED SOCIALLY OR ECONOMICALLY BY THE EFFECTS OF PAST DISCRIMINATION, INCLUDING DISCRIMINATION AS TO CERTIFICATION; AND

(ii) IDENTIFIED BY A STUDY CONDUCTED IN ACCORDANCE WITH THIS SECTION OR A SIMILAR STUDY PREVIOUSLY CONDUCTED.

(4) "OFFICE" MEANS THE OFFICE OF SMALL, LOCAL, AND MINORITY BUSINESS ENTERPRISE ESTABLISHED UNDER SUBSECTION (B)(2) OF THIS SECTION.

(B) (1) BY RESOLUTION AND BY ADOPTING REGULATIONS, THE WSSC SHALL ESTABLISH A MINORITY BUSINESS UTILIZATION PROGRAM TO FACILITATE THE PARTICIPATION OF RESPONSIBLE CERTIFIED MINORITY BUSINESS ENTERPRISES IN CONTRACTS AWARDED BY THE WSSC FOR GOODS AND SERVICES NOT COVERED BY § 3-102 OF THIS SUBTITLE IF:

(I) THE WSSC DETERMINES THAT MINORITY BUSINESS ENTERPRISES ARE UNDERREPRESENTED IN THE AWARD OF THESE CONTRACTS DUE TO THE EFFECTS OF PAST DISCRIMINATION; AND

(II) THE WSSC DETERMINES THAT SUCH A PROGRAM IS NECESSARY TO REMEDY THE EFFECTS OF PAST DISCRIMINATION AGAINST MINORITY BUSINESS ENTERPRISES IN CONTRACTING WITH THE WSSC.

(2) (I) THERE IS AN OFFICE OF SMALL, LOCAL, AND MINORITY BUSINESS ENTERPRISE IN THE WSSC.

(II) THE OFFICE SHALL ADMINISTER THE PROGRAMS THE WSSC IS REQUIRED TO ESTABLISH UNDER PARAGRAPH (1) OF THIS SUBSECTION AND §§ 3-102(F) AND 3-110 OF THIS SUBTITLE.

(III) THERE IS A DIRECTOR WHO SHALL BE IN CHARGE OF THE OFFICE.

(C) THE REGULATIONS THAT ESTABLISH THE PROGRAM UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE PROVISIONS THAT:

(1) RECOGNIZE THE CERTIFICATION OF MINORITY BUSINESS ENTERPRISES BY THE STATE CERTIFICATION AGENCY DESIGNATED UNDER § 14-303(B) OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(2) RECOGNIZE ANY OTHER CERTIFICATION PROGRAM THAT IN THE JUDGMENT OF THE WSSC SUBSTANTIALLY DUPLICATES THE REQUIREMENTS OF THE STATE CERTIFICATION AGENCY;

(3) PROVIDE FOR MINORITY BUSINESS PARTICIPATION THROUGH SUBCONTRACTING;

(4) EXCEPT AS PROVIDED IN ITEM (5) OF THIS SUBSECTION, PROVIDE FOR A SYSTEM OF GRANTING A PREFERENCE OF UP TO THE LESSER OF 5% OR \$50,000 TO MINORITY BUSINESS ENTERPRISES IN EVALUATING BIDS AND PROPOSALS;

(5) SUBJECT TO THE PROVISIONS OF SUBSECTION (E) OF THIS SECTION, ESTABLISH A SHELTERED MARKET PROGRAM IN WHICH BIDDING ON PROCUREMENT CONTRACTS DESIGNATED BY THE WSSC AS APPROPRIATE IS RESTRICTED TO CERTIFIED MINORITY BUSINESS ENTERPRISES;

(6) PROVIDE FOR THE GRADUATION OF A MINORITY BUSINESS ENTERPRISE FROM THE PROGRAM IF THE WSSC DETERMINES THAT THE MINORITY BUSINESS ENTERPRISE NO LONGER REQUIRES THE ASSISTANCE OR BENEFITS OFFERED BY THE PROGRAM;

(7) REQUIRE THE SOLICITATION DOCUMENT ACCOMPANYING EACH SOLICITATION TO SET FORTH THE REGULATIONS OF THE MINORITY BUSINESS UTILIZATION PROGRAM;

(8) REQUIRE THE GEOGRAPHIC LOCATION AND THE PRINCIPAL PLACE OF BUSINESS OF THE MINORITY BUSINESS ENTERPRISE TO BE A CONSIDERATION FOR PARTICIPATION IN THIS PROGRAM, INCLUDING REQUIRING MONTGOMERY COUNTY BUSINESSES AND PRINCE GEORGE'S COUNTY BUSINESSES TO EACH HAVE A TARGETED PERCENTAGE OF AT LEAST 40% OF ANY CONTRACTS;

(9) AUTHORIZE THE WSSC TO REFUSE TO RECOGNIZE THE CERTIFICATION OF ANY BUSINESS FOUND TO BE IN VIOLATION OF THE PURPOSES OF THE PROGRAM AND TO PERMANENTLY BAR ANY ACTIVE PRINCIPALS OF A VIOLATING BUSINESS FROM FUTURE PARTICIPATION IN THE PROGRAM;

(10) PERMIT THE WAIVER OF ALL OR PART OF THE PROVISIONS OF THE PROGRAM FOR A SPECIFIC CONTRACT IF THE WSSC DETERMINES THAT THE APPLICATION OF THE PROGRAM TO THE CONTRACT CONFLICTS WITH THE WSSC'S OVERALL OBJECTIVES AND RESPONSIBILITIES, AND REQUIRE THE WSSC TO REPORT ANNUALLY TO THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY HOUSE AND SENATE DELEGATIONS ON THOSE WAIVERS;

(11) REQUIRE AT THE TIME OF SUBMISSION EACH BID OR PROPOSAL THAT IS BASED ON A SOLICITATION WITH AN EXPECTED DEGREE OF

MINORITY BUSINESS ENTERPRISE PARTICIPATION TO INCLUDE PROOF OF A CERTIFIED MINORITY BUSINESS ENTERPRISE COMMITMENT BY STATING:

(I) THE POTENTIAL SUBCONTRACT OPPORTUNITIES AVAILABLE IN THE PRIME PROCUREMENT CONTRACT; AND

(II) THE NUMBER OF MINORITY BUSINESS ENTERPRISES THAT HAVE CERTIFIED, UNDER THE PENALTIES OF PERJURY, THAT THE MINORITY BUSINESS ENTERPRISE HAS ENTERED INTO AN AGREEMENT WITH THE BIDDER TO PROVIDE GOODS OR SERVICES UNDER SPECIFIC TERMS OUTLINED IN THE CERTIFICATION BEFORE THE BID IS ACCEPTED;

(12) REQUIRE EACH GENERAL CONTRACTOR TO SUBMIT MONTHLY REPORTS OF THE NUMBER OF MINORITY BUSINESS ENTERPRISES EMPLOYED BY THE GENERAL CONTRACTOR TO THE WSSC;

(13) REQUIRE EACH GENERAL CONTRACTOR TO PROVIDE PROMPT NOTIFICATION TO THE WSSC IF A CONTRACT WITH A MINORITY BUSINESS ENTERPRISE IS TERMINATED; AND

(14) REQUIRE EACH GENERAL CONTRACTOR TO MAINTAIN A PARTICIPATION LEVEL FROM MINORITY BUSINESS ENTERPRISES THAT IS CONSISTENT WITH THE PARTICIPATION LEVEL REFERENCED UNDER ITEM (11)(II) OF THIS SUBSECTION OR PROVIDE JUSTIFICATION FOR THE GENERAL CONTRACTOR'S INABILITY TO MAINTAIN THAT PARTICIPATION LEVEL.

(D) BEFORE ACCEPTING A CERTIFICATION PROGRAM UNDER SUBSECTION (C)(2) OF THIS SECTION, THE WSSC SHALL EXAMINE THE PROGRAM TO ENSURE THAT:

(1) IT ADHERES TO THE GUIDELINES SET FORTH IN § 3-102(F)(4) OF THIS SUBTITLE; AND

(2) THE PRINCIPAL OWNER OF AN ELIGIBLE MINORITY BUSINESS ENTERPRISE IS IN NOT MORE THAN ONE CERTIFIED BUSINESS THAT IS PARTICIPATING IN THE WSSC MINORITY BUSINESS ENTERPRISE PROGRAM UNDER THIS SECTION.

(E) (1) THE SHELTERED MARKET PROGRAM ESTABLISHED IN SUBSECTION (C)(5) OF THIS SECTION MAY NOT BE USED UNTIL ALL LESS RESTRICTIVE REMEDIES UNDER SUBSECTION (C) OF THIS SECTION AND RACE-NEUTRAL REMEDIES SUCH AS ASSISTANCE WITH BONDING

REQUIREMENTS, FINANCING, OR BIDDING PROCEDURES FOR SMALL FIRMS HAVE BEEN USED AND FOUND TO BE INEFFECTIVE.

(2) ON THE BID OF AT LEAST THREE CERTIFIED MINORITY BUSINESS CONTRACTORS, A CONTRACT SHALL BE AWARDED UNDER THE SHELTERED MARKET PROGRAM TO THE LOWEST OF THOSE BIDDERS.

(3) IF FEWER THAN THREE CERTIFIED MINORITY BUSINESS ENTERPRISES BID ON A CONTRACT UNDER THE SHELTERED MARKET PROGRAM, THE CONTRACT SHALL BE AWARDED UNDER THE GENERAL PROVISIONS OF SUBSECTION (C)(4) OF THIS SECTION.

(F) (1) THE OFFICE SHALL:

(i) CARRY OUT EACH WSSC PROGRAM THAT IS CREATED TO PROMOTE THE GROWTH OF OR PARTICIPATION BY MINORITY BUSINESS ENTERPRISES;

(ii) PROMOTE AND COORDINATE THE PLANS, PROGRAMS, AND OPERATIONS OF THE WSSC THAT PROMOTE OR OTHERWISE AFFECT THE ESTABLISHMENT, PRESERVATION, AND STRENGTHENING OF MINORITY BUSINESS ENTERPRISES;

(iii) PROMOTE ACTIVITIES AND THE USE OF THE RESOURCES OF THE WSSC, LOCAL GOVERNMENTS, AND PRIVATE ENTITIES FOR THE GROWTH OF MINORITY BUSINESS ENTERPRISES;

(iv) PROVIDE TECHNICAL AND MANAGERIAL ASSISTANCE TO MINORITY BUSINESS ENTERPRISES; AND

(v) SCHEDULE SEMINARS AND WORKSHOPS TO EDUCATE MINORITY BUSINESSES ON THE WAY THE WSSC CONDUCTS BUSINESS.

(2) TO ENSURE COMPLIANCE WITH CERTIFIED MINORITY BUSINESS ENTERPRISE SUBCONTRACT PARTICIPATION GOALS, THE OFFICE SHALL VERIFY THAT THE CERTIFIED MINORITY BUSINESS ENTERPRISES LISTED IN THE SCHEDULE OF PARTICIPATION ARE ACTUALLY PERFORMING WORK AND RECEIVING COMPENSATION AS SET FORTH IN THE SCHEDULE.

(3) TO FACILITATE THE OFFICE COMPLETING ITS DUTIES UNDER PARAGRAPH (2) OF THIS SUBSECTION, A CONTRACTOR SHALL:

(I) PERMIT THE OFFICE TO INSPECT ANY RELEVANT MATTER, INCLUDING RECORDS AND THE JOB SITE;

(II) PERMIT THE OFFICE TO INTERVIEW THE CONTRACTOR'S SUBCONTRACTORS AND EMPLOYEES;

(III) IF PERFORMING A CONSTRUCTION CONTRACT, ENSURE THAT ALL SUBCONTRACTORS:

1. ARE PAID ANY UNDISPUTED AMOUNT TO WHICH THAT SUBCONTRACTOR IS ENTITLED AS PROVIDED UNDER § 15-226 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

2. OTHERWISE COMPLY WITH WSSC REGULATIONS;

(IV) SUBMIT MONTHLY TO THE WSSC A REPORT LISTING UNPAID INVOICES OVER 30 DAYS OLD RECEIVED FROM A CERTIFIED MINORITY BUSINESS ENTERPRISE SUBCONTRACTOR AND THE REASON PAYMENT HAS NOT BEEN MADE; AND

(V) INCLUDE IN ITS AGREEMENTS WITH ITS CERTIFIED MINORITY BUSINESS ENTERPRISE SUBCONTRACTORS A REQUIREMENT THAT THE SUBCONTRACTORS SUBMIT MONTHLY TO THE WSSC A REPORT THAT:

1. IDENTIFIES THE PRIME CONTRACT; AND

2. LISTS PAYMENTS RECEIVED FROM THE CONTRACTOR IN THE PRECEDING 30 DAYS AND INVOICES FOR WHICH THE SUBCONTRACTOR HAS NOT BEEN PAID.

(4) (I) ON DETERMINING A CONTRACTOR'S NONCOMPLIANCE, THE WSSC SHALL NOTIFY THE CONTRACTOR IN WRITING OF THE FINDINGS AND SPECIFY WHAT CORRECTIVE ACTIONS ARE REQUIRED.

(II) A NONCOMPLIANT CONTRACTOR SHALL INITIATE THE CORRECTIVE ACTIONS WITHIN 10 DAYS OF RECEIVING THE WRITTEN NOTICE AND COMPLETE THE CORRECTIVE ACTION WITHIN THE TIME SPECIFIED BY THE WSSC.

(5) IF THE WSSC DETERMINES THAT A MATERIAL NONCOMPLIANCE WITH MINORITY BUSINESS ENTERPRISE CONTRACT PROVISIONS EXISTS AND THE PRIME CONTRACTOR REFUSES OR FAILS TO TAKE

THE CORRECTIVE ACTIONS REQUIRED BY THE WSSC, THE WSSC MAY IMPOSE THE FOLLOWING SANCTIONS:

(I) TERMINATION OF THE CONTRACT;

(II) REFERRAL TO THE GENERAL MANAGER OR COMMISSIONERS OF THE WSSC FOR APPROPRIATE ACTION; OR

(III) INITIATION OF ANY OTHER SPECIFIC REMEDY IDENTIFIED BY CONTRACT.

(6) (I) ON COMPLETION OF A CONTRACT OR BEFORE FINAL PAYMENT OR RELEASE OF RETAINAGE, THE WSSC MAY REQUIRE A PRIME CONTRACTOR ON ANY CONTRACT HAVING A MINORITY BUSINESS ENTERPRISE SUBCONTRACT GOAL TO SUBMIT TO THE WSSC A FINAL REPORT, IN AFFIDAVIT FORM AND UNDER PENALTY OF PERJURY, OF ALL PAYMENTS MADE TO OR WITHHELD FROM MINORITY BUSINESS ENTERPRISE SUBCONTRACTORS.

(II) EACH SOLICITATION SHALL CONTAIN NOTICE OF THE REQUIREMENTS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(G) (1) THE WSSC MAY CONDUCT ANY FACT-FINDING STUDY IN CONNECTION WITH A MINORITY BUSINESS ENTERPRISE PROGRAM FOR CONSISTENCY WITH APPLICABLE LAW.

(2) THE WSSC SHALL REPORT THE FINDINGS OF ANY REVIEW COMPLETED UNDER THIS SUBSECTION TO THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY DELEGATIONS TO THE MARYLAND GENERAL ASSEMBLY.

(H) BY SEPTEMBER 15 OF EACH YEAR, THE WSSC SHALL ISSUE A REPORT CONCERNING THE IMPLEMENTATION AND ADMINISTRATION OF THE MINORITY BUSINESS ENTERPRISE PROGRAM FOR THE FISCAL YEAR ENDING ON THE PRECEDING JUNE 30, AND APPROPRIATE RECOMMENDATIONS CONCERNING THE PROGRAM, TO THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SENATE AND HOUSE DELEGATIONS TO THE MARYLAND GENERAL ASSEMBLY.

(I) THE PROVISIONS OF THIS SECTION SHALL BE VOID AND MAY NOT BE ENFORCED AFTER JULY 1, 2012.

(a) (1) By resolution or regulation, the WSSC may implement a local small business enterprise program.

(2) THE OFFICE OF SMALL, LOCAL, AND MINORITY BUSINESS ENTERPRISE, ESTABLISHED UNDER § 3-109(B)(2) OF THIS SUBTITLE, SHALL ADMINISTER THE LOCAL SMALL BUSINESS ENTERPRISE PROGRAM ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(b) The purpose of the program is to assist small businesses that are located in Montgomery County and Prince George's County through the establishment of a sheltered market or other appropriate preference or assistance involving the award of construction contracts or the procurement of goods and services by the WSSC.

(c) The WSSC shall adopt:

(1) Eligibility criteria for businesses to qualify for the local small business enterprise program, including:

(i) A net worth not exceeding \$250,000 under WSSC guidelines;

(ii) An average net income after federal income taxes for the preceding 2 years, excluding any carryover losses, not exceeding \$100,000;

(iii) A principal place of business **IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY** or A significant [employment] **EMPLOYEE** presence **IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY WITH NO LESS THAN ~~30%~~ 25% OF THE BUSINESS'S TOTAL NUMBER OF EMPLOYEES BEING DOMICILED** in Montgomery County or Prince George's County; and

(iv) Any other eligibility criteria that the WSSC determines to be necessary or otherwise appropriate for the promotion of local small businesses in its service area; and

(2) Administrative procedures for conducting the program.

(d) A business enterprise may qualify as a local small business for purposes of the program without regard to the race, ethnicity, or gender of the participants in the business enterprise.

(e) The WSSC shall establish graduation criteria from the program for local small businesses that the WSSC determines no longer require the assistance or benefits offered by the program.

(f) The WSSC shall review the eligibility criteria and administrative procedures of the program each year to assess their effectiveness in furthering the purposes of the program.

SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this Act 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 Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 622

(House Bill 692)

AN ACT concerning

**Washington Suburban Sanitary Commission – Local Small Business
Enterprise Program – Eligibility Criteria**

MC/PG 105-07

FOR the purpose of altering the eligibility criteria of the local small business enterprise program of the Washington Suburban Sanitary Commission (WSSC); and generally relating to the eligibility criteria of the WSSC local small business enterprise program.

BY repealing and reenacting, with amendments,
Article 29 – Washington Suburban Sanitary District
Section 3-110
Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

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

Article 29 – Washington Suburban Sanitary District

3–110.

(a) By resolution or regulation, the WSSC may implement a local small business enterprise program.

(b) The purpose of the program is to assist small businesses that are located in Montgomery County and Prince George's County through the establishment of a sheltered market or other appropriate preference or assistance involving the award of construction contracts or the procurement of goods and services by the WSSC.

(c) The WSSC shall adopt:

(1) Eligibility criteria for businesses to qualify for the local small business enterprise program, including:

[(i) A net worth not exceeding \$250,000 under WSSC guidelines;

(ii) An average net income after federal income taxes for the preceding 2 years, excluding any carryover losses, not exceeding \$100,000;]

(I) THE CRITERIA FOR A SMALL BUSINESS QUALIFYING UNDER THE STATE SMALL BUSINESS PREFERENCE PROGRAM AS ESTABLISHED IN REGULATIONS ADOPTED BY THE DEPARTMENT OF GENERAL SERVICES UNDER § 14–203 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

[(iii) **(II)** A principal place of business or significant employment presence in Montgomery County or Prince George's County; and

[(iv) **(III)** Any other eligibility criteria that the WSSC determines to be necessary or otherwise appropriate for the promotion of local small businesses in its service area; and

(2) Administrative procedures for conducting the program.

(d) A business enterprise may qualify as a local small business for purposes of the program without regard to the race, ethnicity, or gender of the participants in the business enterprise.

(e) The WSSC shall establish graduation criteria from the program for local small businesses that the WSSC determines no longer require the assistance or benefits offered by the program.

(f) The WSSC shall review the eligibility criteria and administrative procedures of the program each year to assess their effectiveness in furthering the purposes of the program.

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

Approved by the Governor, May 17, 2007.

CHAPTER 623

(House Bill 745)

AN ACT concerning

State-Owned Heavy Equipment and Heating Equipment - Biodiesel Fuel Requirement

FOR the purpose of requiring the State to ensure that at least a certain percentage of certain heating equipment in State buildings and heavy equipment owned by the State in certain fiscal years use, subject to availability, a blend of fuel containing at least a certain percentage of biodiesel fuel; exempting certain heating equipment and heavy equipment; and generally relating to the use of biodiesel fuel in heating equipment in State buildings and heavy equipment owned by the State.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14-408
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – State Finance and Procurement

14-408.

(a) In this section, "biodiesel fuel" means:

(1) a fuel, comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, that is designated B100 and meets the requirements of ASTM D 6751 and its successors; or

(2) a blend of biodiesel fuel meeting ASTM D 6751 with petroleum-based diesel fuel, designated as BXX, where XX represents the volume percentage of biodiesel fuel in the blend.

(b) In fiscal year 2008 and in each subsequent fiscal year, the State shall ensure that at least 50% of the vehicles using diesel fuel in the State vehicle fleet use a blend of fuel that is at least 5% biodiesel fuel.

(c) IN FISCAL YEAR 2009 AND IN EACH SUBSEQUENT FISCAL YEAR, THE STATE SHALL ENSURE THAT AT LEAST 50% OF THE HEAVY EQUIPMENT OWNED BY THE STATE USING DIESEL FUEL AND AT LEAST 50% OF THE HEATING EQUIPMENT IN STATE BUILDINGS THAT USES NORMAL OR #2 HEATING OIL USE, SUBJECT TO AVAILABILITY, A BLEND OF FUEL THAT IS AT LEAST 5% BIODIESEL FUEL.

[(c)] (D) This section does not apply to any State vehicle, PIECE OF HEAVY EQUIPMENT, OR HEATING EQUIPMENT for which mechanical failure due to use of biodiesel fuel will void the manufacturer's warranty for that vehicle, PIECE OF HEAVY EQUIPMENT, OR HEATING EQUIPMENT.

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

Approved by the Governor, May 17, 2007.

CHAPTER 624

(House Bill 762)

AN ACT concerning

Baltimore City - Housing Authority - Continued Occupancy by Family Member on Death of Tenant

FOR the purpose of altering the circumstances under which an individual who is the surviving spouse or other immediate family member of a deceased tenant of housing assisted under a program administered by the Housing Authority of Baltimore City and who occupied the premises at the time of the tenant's death may be considered eligible to enter into a lease for continued occupancy; authorizing the Authority to initiate legal proceedings no earlier than a certain time to evict a certain occupant who does not satisfy certain conditions for continued occupancy of the premises; and generally relating to the Housing Authority of Baltimore City.

BY repealing and reenacting, with amendments,
 The Public Local Laws of Baltimore City
 Section 9-8
 Article 4 – Public Local Laws of Maryland
 (1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)

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

Article 4 – Baltimore City

9-8.

(A) If a tenant under any demise for the tenant's residential use, **OTHER THAN A TENANT OF HOUSING ASSISTED UNDER A PROGRAM ADMINISTERED BY THE HOUSING AUTHORITY OF BALTIMORE CITY**, shall die, the surviving spouse, or any member of his immediate family who has occupied the premises with the deceased tenant at the time of his death shall have the right, upon payment to the landlord of the agreed rent (including any rent that may be in arrears at the time of tenant's death) to be substituted as tenant to the same extent as the original tenant.

(B) IF A TENANT OF HOUSING ASSISTED UNDER A PROGRAM ADMINISTERED BY THE HOUSING AUTHORITY OF BALTIMORE CITY SHALL DIE, THE SURVIVING SPOUSE OR OTHER MEMBER OF THE DECEASED TENANT'S IMMEDIATE FAMILY WHO IS AN OCCUPANT OF THE PREMISES AT THE TIME OF THE TENANT'S DEATH MAY BE CONSIDERED ELIGIBLE TO ENTER INTO A LEASE IN ACCORDANCE WITH FEDERAL REGULATIONS AND THE ADMISSIONS AND CONTINUED OCCUPANCY POLICY OF THE HOUSING, IF THE OCCUPANT:

(1) IS LISTED AS A HOUSEHOLD MEMBER ON THE DECEASED TENANT'S CURRENT LEASING, RECERTIFICATION, AND RELATED DOCUMENTS;
 AND

(2) QUALIFIES FOR CONTINUED OCCUPANCY, BASED ON THE ELIGIBILITY REQUIREMENTS SET FORTH IN THE ADMISSIONS AND CONTINUED OCCUPANCY POLICY OF THE HOUSING AND FEDERAL REGULATIONS.

(C) IF THE SURVIVING SPOUSE OR OTHER MEMBER OF THE DECEASED TENANT'S IMMEDIATE FAMILY WHO IS AN OCCUPANT OF THE PREMISES AT THE TIME OF THE TENANT'S DEATH DOES NOT SATISFY THE CONDITIONS IN SUBSECTION (B)(1) AND (2) OF THIS SECTION, THE HOUSING AUTHORITY OF BALTIMORE CITY MAY INITIATE LEGAL PROCEEDINGS TO EVICT THE OCCUPANT NO EARLIER THAN 10 DAYS FOLLOWING THE DATE OF THE TENANT'S DEATH.

(D) If a tenant shall die, the landlord shall have the right to summary ejection for nonpayment of rent by making the personal representative of the deceased tenant the party defendant.

(E) If a tenant shall die and no letter shall be issued on his estate to a personal representative, then the landlord after he shall have filed a statement under oath setting forth these facts shall have the right to proceed in summary ejection for nonpayment of rent by naming the estate of the deceased tenant as the defendant. In such case the summons shall be served upon the occupant of the premises; and if the premises be unoccupied, then the summons shall be served upon one of the next of kin of the deceased tenant, if known. If there be no occupant at the premises or known next of kin available for service then the summons shall be affixed to the premises.

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

Approved by the Governor, May 17, 2007.

CHAPTER 625

(House Bill 772)

AN ACT concerning

Howard County - Zoning Regulations - Administrative Proceedings

Ho. Co. 5-07

FOR the purpose of authorizing the Howard County Council to provide by ordinance for an administrative proceeding to enforce certain zoning violations; providing that a certain ordinance may include authority to impose certain civil fines and penalties and create certain liens and assess certain costs for zoning violations; and generally relating to administrative proceedings to enforce zoning regulations in Howard County.

BY repealing and reenacting, with amendments,
Article 66B – Land Use
Section 1.02(b)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY adding to
Article 66B – Land Use
Section 14.06.1
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article 66B – Land Use

1.02.

- (b) The following sections of this article apply to a charter county:
- (1) § 1.00(j) (Definition of “sensitive areas”);
 - (2) § 1.01 (Visions);
 - (3) § 1.03 (Charter county – Comprehensive plans);
 - (4) § 4.01(b)(2) (Regulation of bicycle parking);
 - (5) § 5.03(d) (Easements for burial sites);
 - (6) § 7.02 (Civil penalty for zoning violation);
 - (7) § 10.01 (Adequate Public Facilities Ordinances);
 - (8) § 11.01 (Transfer of Development Rights);
 - (9) § 12.01 (Inclusionary Zoning);

(10) Except in Montgomery County or Prince George's County, § 13.01 (Development rights and responsibilities agreements); [and]

(11) For Baltimore County only, § 14.02; AND

(12) **FOR HOWARD COUNTY ONLY, § 14.06.1.**

14.06.1.

(A) **THIS SECTION APPLIES TO HOWARD COUNTY.**

(B) **IN ADDITION TO THE JURISDICTION GRANTED IN § 7.02 OF THIS ARTICLE, THE HOWARD COUNTY COUNCIL MAY PROVIDE BY ORDINANCE FOR AN ADMINISTRATIVE PROCEEDING TO ENFORCE ITS ZONING REGULATIONS.**

(C) **THE ORDINANCE AUTHORIZED UNDER SUBSECTION (B) OF THIS SECTION MAY INCLUDE THE AUTHORITY TO IMPOSE CIVIL FINES AND PENALTIES AND TO CREATE LIENS AND ASSESS COSTS FOR ZONING VIOLATIONS.**

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

Approved by the Governor, May 17, 2007.

CHAPTER 626

(House Bill 773)

AN ACT concerning

Task Force on the Future for Growth and Development - Membership and Charge

FOR the purpose of altering the membership of the Task Force on the Future for Growth and Development; requiring the Governor to designate the chair of the Task Force; altering the requirements of the Task Force to ~~include certain examinations, recommendations, and determinations concerning~~ address certain growth-related issues and to serve as an advisory board to the Governor's Smart Growth Subcabinet; ~~requiring the Task Force to submit a~~

~~certain preliminary report on or before a certain date~~; altering the date by which the Task Force must make a certain report; making certain stylistic changes; and generally relating to the Task Force on the Future for Growth and Development.

BY repealing and reenacting, with amendments,
Chapter 381 of the Acts of the General Assembly of 2006
Section 4

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

Chapter 381 of the Acts of 2006

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) There is a Task Force on the Future for Growth and Development in Maryland.

(b) (1) The Task Force consists of the following members:

(i) two members of the House Environmental Matters Committee, appointed by the Speaker of the House;

(ii) two members of the Senate Education, Health, and Environmental Affairs Committee, appointed by the President of the Senate;

(iii) the Secretary of Planning, or the Secretary's designee;

(iv) the Secretary of the Environment, or the Secretary's designee;

~~(v) THE SECRETARY OF TRANSPORTATION, OR THE SECRETARY'S DESIGNEE;~~

~~(vi) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;~~

~~(vii) THE CHAIR OF THE BASE REALIGNMENT AND CLOSURE SUBCABINET, OR THE CHAIR'S DESIGNEE;~~

(v) THE SECRETARY OF TRANSPORTATION, OR THE SECRETARY'S DESIGNEE;

(VI) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(VII) THE CHAIR OF THE BASE REALIGNMENT AND CLOSURE SUBCABINET, OR THE CHAIR'S DESIGNEE;

(VIII) THE EXECUTIVE DIRECTOR OF THE RURAL MARYLAND COUNCIL, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

~~[(v)]~~ ~~(VIII)~~ ~~(VIII)~~ (IX) the Director OF the University of Maryland's National Center for Smart Growth, or the Director's designee;

~~[(vi)]~~ ~~(IX)~~ ~~(IX)~~ (X) four representatives of local government:

1. two designated by the Maryland Municipal League, WITH ONE REPRESENTING A RURAL COUNTY; and

2. two designated by the Maryland Association of Counties, WITH ONE REPRESENTING A RURAL COUNTY; ~~and~~ AND

~~(VII) TWO LOCAL GOVERNMENT ADMINISTRATORS OR PUBLIC WORKS DIRECTORS;~~

~~1. ONE DESIGNATED BY THE MARYLAND MUNICIPAL LEAGUE; AND~~

~~2. ONE DESIGNATED BY THE MARYLAND ASSOCIATION OF COUNTIES; AND~~

~~[(vii)]~~ ~~(X)~~ ~~(VIII)~~ (XI) the following members, appointed by the Governor:

1. one representative of the environmental community;

2. one representative of the State Builders Association;

~~and~~

~~[(iii)]~~ 3. one representative of the agricultural community; AND; AND

4. THREE REPRESENTATIVES OF CITIZENS ORGANIZATIONS THAT ADDRESS AFFORDABLE HOUSING, TRANSPORTATION, AND SMART GROWTH

~~4. THREE REPRESENTATIVES OF CITIZEN ORGANIZATIONS THAT ADDRESS AFFORDABLE HOUSING, TRANSPORTATION, AND SMART GROWTH.~~

(2) If the Governor appoints a regulated lobbyist to serve as a member of the Task Force, the lobbyist:

(i) is not subject to § 15-504(d) of the State Government Article with respect to that service; and

(ii) is not subject to § 15-703(f)(3) of the State Government Article as a result of that service.

(c) ~~From among its members, the Task Force shall elect a~~ **THE GOVERNOR SHALL DESIGNATE THE** chair of the Task Force.

(d) The Department of Planning shall provide staff for the Task Force.

(e) A member of the Task Force:

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

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

(f) The Task Force shall:

(1) study current land use policies and their impact on growth in the State;

(2) study current trends and challenges for municipal corporations and counties as they relate to growth, including population and demographic changes;

(3) analyze the capabilities of municipal corporations and counties to plan for future growth and development;

(4) analyze the impacts of county development proximate to municipal corporate limits on municipal infrastructure, water resources, and sensitive areas;

(5) analyze the impacts of municipal growth and development on county infrastructure, water resources, and sensitive areas;

(6) identify regional growth and development issues;

(7) study mechanisms to facilitate joint planning to coordinate growth and development between municipal corporations and counties;

(8) examine the impact of § 1.03(e) and § 3.05(f) of Article 66B of the Code on a local government's ability to establish a floating zone on a property or grant piecemeal rezoning of a specific property; [and]

~~(9) (I) EXAMINE ALL RELEVANT PLANNING LAWS OF THE STATE, INCLUDING THE PROVISIONS OF ARTICLE 25A, 28, AND 66B, TO IDENTIFY DUPLICATIVE AND INCONSISTENT LANGUAGE;~~

~~(II) DETERMINE WHAT ELEMENTS ARE MISSING FROM THE STATE'S PLANNING LAWS; AND~~

~~(III) MAKE RECOMMENDATIONS TO IMPLEMENT LAW OR REGULATIONS THAT ENSURE SOUND LAND USE PLANNING IN THE STATE;~~

~~(10) MAKE RECOMMENDATIONS ON USING STATE DOLLARS TO ENCOURAGE MORE REGIONAL COOPERATION AND PLANNING;~~

~~(11) (9) DETERMINE METHODS TO ASSESS THE CUMULATIVE IMPACTS OF PROPOSED DEVELOPMENT ON INFRASTRUCTURE, INCLUDING WATER, SEWER, ROADS, AND UTILITIES, AND ON TRANSPORTATION, FIRE AND SAFETY RESOURCES, HEALTH SYSTEMS, EDUCATIONAL SYSTEMS, AND ENVIRONMENTAL RESOURCES ON A REGIONAL SCALE;~~

~~(12) (I) DETERMINE THE PARAMETERS FOR A STATE DEVELOPMENT PLAN, STATE TRANSPORTATION PLAN, STATE HOUSING PLAN; AND~~

~~(II) DETERMINE HOW THESE PLANS WORK TOGETHER WITH LOCAL LAND USE PLANS; AND~~

(10) (I) DETERMINE THE PARAMETERS FOR A STATE DEVELOPMENT PLAN, STATE TRANSPORTATION PLAN, STATE HOUSING PLAN; AND

(II) DETERMINE HOW THESE PLANS WORK TOGETHER WITH LOCAL LAND USE PLANS;

~~(10) (11) IDENTIFY INFRASTRUCTURE NEEDED FOR SMART GROWTH DEVELOPMENT CONSISTENT WITH POPULATION GROWTH;~~

~~(11) (12) ASSESS MECHANISMS TO FUND THE CONSTRUCTION AND MAINTENANCE OF SMART GROWTH INFRASTRUCTURE; AND~~

~~(13) EXAMINE THE CAPABILITY OF STATE AGENCIES TO COLLABORATIVELY PLAN AND COORDINATE FOR FUTURE GROWTH; AND~~

[(9)] ~~(14) (12) (13)~~ make recommendations to implement law or regulations that further best management practices as they relate to future growth and development in the State; AND

(14) SERVE AS AN ADVISORY BOARD TO THE GOVERNOR'S SMART GROWTH SUBCABINET, PROVIDING ADVICE AND GUIDANCE AT LEAST TWICE ANNUALLY THROUGH DECEMBER 31, 2010.

(g) ~~(1) On or before December 1, 2007, the Task Force shall report its PRELIMINARY findings and recommendations AND, ON~~ ON OR BEFORE DECEMBER 1, 2008, THE TASK FORCE SHALL REPORT ITS FINAL FINDINGS AND RECOMMENDATIONS.

~~(2) THE TASK FORCE SHALL REPORT BOTH ITS PRELIMINARY AND FINAL FINDINGS AND RECOMMENDATIONS~~ to the Speaker of the House, the President of the Senate, the House Environmental Matters Committee, the Senate Education, Health, and Environmental Affairs Committee, and the Governor, in accordance with § 2-1246 of the State Government Article.

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

Approved by the Governor, May 17, 2007.

CHAPTER 627

(House Bill 800)

AN ACT concerning

Maryland Health Care Commission – Program Evaluation

FOR the purpose of repealing the requirement that the Maryland Health Care Commission may not act on any matter unless a certain number of voting members in attendance concur; providing that a decision of the Commission

shall be by a majority of the quorum present and voting; making permanent a certain authorization to assess a certain administrative charge to fund certain services; raising the amount of total fees that may be assessed by the Commission; providing that a majority of the full authorized membership of the Commission is a quorum to act on certain applications; altering the date by which the Commission shall provide a certain annual report; authorizing the Commission to compile certain data from certain facilities to be included in the medical care data base; altering certain requirements for the medical care data base related to information collected by the Health Services Cost Review Commission; repealing the requirement that the Commission conduct a certain study; repealing the requirement that the Commission annually determine the full cost of certain mandated health insurance services in the State; altering the information to be reported to the General Assembly in a certain annual report on mandated health insurance services; requiring the Commission to include certain information on mandated health insurance services in a certain evaluation and in certain reports to the General Assembly; providing for a certain evaluation of the Commission and the statutes and regulations that relate to the Commission on or before a certain date; requiring the Commission to include certain information regarding the Limited Health Benefit Plan in a certain report to certain committees of the General Assembly; requiring the Commission to include certain information in a certain workload distribution study and to report to certain committees of the General Assembly on or before a certain date; requiring the Commission to report to certain committees of the General Assembly on or before a certain date on the implementation of certain recommendations related to certificate of need; requiring the Commission to include certain information on the Maryland Trauma Physician Services Fund in a certain report; requiring the Commission to report to certain committees of the General Assembly on or before a certain date on the collection and use of certain data; requiring the Commission to report to certain committees of the General Assembly on or before a certain date on the implementation of recommendations contained in a certain evaluation of the Commission; and generally relating to the program evaluation of the Maryland Health Care Commission.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19-107(a), ~~19-111(e)(1)~~, 19-110(b), 19-111(c), 19-126(d)(2), 19-130(e),
and 19-133

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article – Health – General

Section 19-126(d)(1) and (13) and 19-130(b)(1)

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY repealing

Article – Health – General

Section 19–139

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article – Insurance

Section 15–1501(c)

Annotated Code of Maryland

(2006 Replacement Volume and 2006 Supplement)

BY repealing

Article – Insurance

Section 15–1501(d)

Annotated Code of Maryland

(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–1501(e) and (f) and 15–1502

Annotated Code of Maryland

(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government

Section 8–403(a)

Annotated Code of Maryland

(2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 8–403(b)(27)

Annotated Code of Maryland

(2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Chapter 287 of the Acts of the General Assembly of 2004

Section 4

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

Article - Health - General

19-107.

(a) (1) A majority of the full authorized membership of the Commission is a quorum. [However, the Commission may not act on any matter unless at least seven of the voting members in attendance concur.]

(2) THE DECISION OF THE COMMISSION SHALL BE BY A MAJORITY OF THE QUORUM PRESENT AND VOTING.

19-110.

(b) (1) The power of the Secretary to transfer, by rule, regulation, or written directive, any staff, functions, or funds of units in the Department does not apply to any staff, function, or funds of the Commission.

(2) [For fiscal year 2007, the] THE Secretary may assess an administrative charge, consistent with the indirect cost charge assessed to federal grants, to fund services provided to the Commission by the Executive Branch.

19-111.

(c) (1) The total fees assessed by the Commission may not exceed [~~\$10,000,000~~] **\$12,000,000**.

(2) (I) The fees assessed by the Commission shall be used exclusively to cover the actual documented direct costs of fulfilling the statutory and regulatory duties of the Commission in accordance with the provisions of this subtitle.

(II) [For the fiscal year 2007, the] THE costs of the Commission include the administrative costs incurred by the Department on behalf of the Commission.

(III) The amount to be paid by the Commission to the Department for administrative costs, not to exceed 18% of the salaries of the Commission, shall be based on indirect costs or services benefiting the Commission, less overhead costs paid directly by the Commission.

(3) The Commission shall pay all funds collected from the fees assessed in accordance with this section into the Fund.

(4) The fees assessed may be expended only for purposes authorized by the provisions of this subtitle.

(5) The amount in paragraph (1) of this subsection limits only the total fees the Commission may assess in a fiscal year.

19-126.

(d) (1) The Commission alone shall have final nondelegable authority to act upon an application for a certificate of need, except as provided in this subsection.

(2) [Seven voting members] **A MAJORITY OF THE FULL AUTHORIZED MEMBERSHIP** of the Commission shall be a quorum to act on an application for a certificate of need.

(13) The decision of the Commission shall be by a majority of the quorum present and voting.

19-130.

(b) (1) There is a Maryland Trauma Physician Services Fund.

(e) On or before [September 1] **NOVEMBER 1** of each year, the Commission and the Health Services Cost Review Commission shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on:

(1) The amount of money in the Fund on the last day of the previous fiscal year;

(2) The amount of money applied for by trauma physicians and trauma centers during the previous fiscal year;

(3) The amount of money distributed in the form of trauma physician and trauma center reimbursements during the previous fiscal year;

(4) Any recommendations for altering the manner in which trauma physicians and trauma centers are reimbursed from the Fund;

(5) The costs incurred in administering the Fund during the previous fiscal year; and

(6) The amount that each hospital that participates in the Maryland trauma system and that has a trauma center contributes toward the subsidization of trauma-related costs for its trauma center.

19-133.

(a) In this section, "code" means:

(1) The applicable Current Procedural Terminology (CPT) code as adopted by the American Medical Association; or

(2) If a CPT code is not available, the applicable code under an appropriate uniform coding scheme approved by the Commission.

(b) The Commission shall establish a Maryland medical care data base to compile statewide data on health services rendered by health care practitioners and [office] facilities selected by the Commission.

(c) In addition to any other information the Commission may require by regulation, the medical care data base shall:

(1) Collect for each type of patient encounter with a health care practitioner or [office] facility designated by the Commission:

(i) The demographic characteristics of the patient;

(ii) The principal diagnosis;

(iii) The procedure performed;

(iv) The date and location of where the procedure was performed;

(v) The charge for the procedure;

(vi) If the bill for the procedure was submitted on an assigned or nonassigned basis;

(vii) If applicable, a health care practitioner's universal identification number; and

(viii) If the health care practitioner rendering the service is a certified registered nurse anesthetist or certified nurse midwife, identification modifiers for the certified registered nurse anesthetist or certified nurse midwife;

(2) Collect appropriate information relating to prescription drugs for each type of patient encounter with a pharmacist designated by the Commission; and

(3) Collect appropriate information relating to health care costs, utilization, or resources from payors and governmental agencies.

(d) (1) The Commission shall adopt regulations governing the access and retrieval of all medical claims data and other information collected and stored in the medical care data base and any claims clearinghouse licensed by the Commission and may set reasonable fees covering the costs of accessing and retrieving the stored data.

(2) These regulations shall ensure that confidential or privileged patient information is kept confidential.

(3) Records or information protected by the privilege between a health care practitioner and a patient, or otherwise required by law to be held confidential, shall be filed in a manner that does not disclose the identity of the person protected.

(e) (1) To the extent practicable, when collecting the data required under subsection (c) of this section, the Commission shall utilize any standardized claim form or electronic transfer system being used by health care practitioners, [office] facilities, and payors.

(2) The Commission shall develop appropriate methods for collecting the data required under subsection (c) of this section on subscribers or enrollees of health maintenance organizations.

(f) Until the provisions of § 19–134 of this subtitle are fully implemented, where appropriate, the Commission may limit the data collection under this section.

(g) (1) By October 1, 1995 and each year thereafter, the Commission shall publish an annual report on those health care services selected by the Commission that:

(i) Describes the variation in fees charged by health care practitioners and [office] facilities on a statewide basis and in each health service area for those health care services; and

(ii) Describes the geographic variation in the utilization of those health care services.

(2) (i) On an annual basis, the Commission shall publish:

1. The total reimbursement for all health care services over a 12–month period;

2. The total reimbursement for each health care specialty over a 12–month period;

3. The total reimbursement for each code over a 12-month period; and

4. The annual rate of change in reimbursement for health services by health care specialties and by code.

(ii) In addition to the information required under subparagraph (i) of this paragraph, the Commission may publish any other information that the Commission deems appropriate, including information on capitated health care services.

(h) In developing the medical care data base, the Commission shall consult with representatives of the Health Services Cost Review Commission, health care practitioners, payors, and hospitals to ensure that the medical care data base is compatible [with, may be merged with, and does not duplicate] **WITH** information collected by the Health Services Cost Review Commission.

(i) The Commission, in consultation with the Insurance Commissioner, payors, health care practitioners, and hospitals, may adopt by regulation standards for the electronic submission of data and submission and transfer of the uniform claims forms established under § 15-1003 of the Insurance Article.

[19-139.

(a) The Commission, in consultation with the Department of Health and Mental Hygiene, shall study the feasibility of developing a system for reducing the incidences of preventable adverse medical events in the State including but not limited to a system of reporting such incidences.

(b) In conducting the study the Commission shall review:

(1) Federal reports and recommendations for identification of medical errors including the most recent report of the Institute of Medicine of the National Academy of Sciences;

(2) Recommendations of national accrediting and quality assurance organizations including the Joint Commission on the Accreditation of Health Care Organizations;

(3) Recommendations of the National Quality Forum;

(4) Programs in other states designed to reduce adverse medical events; and

(5) Best practices of hospitals and other health care facilities.]

Article – Insurance

15–1501.

(c) (1) The Commission shall assess the social, medical, and financial impacts of a proposed mandated health insurance service.

(2) In assessing a proposed mandated health insurance service and to the extent that information is available, the Commission shall consider:

(i) social impacts, including:

1. the extent to which the service is generally utilized by a significant portion of the population;

2. the extent to which the insurance coverage is already generally available;

3. if coverage is not generally available, the extent to which the lack of coverage results in individuals avoiding necessary health care treatments;

4. if coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship;

5. the level of public demand for the service;

6. the level of public demand for insurance coverage of the service;

7. the level of interest of collective bargaining agents in negotiating privately for inclusion of this coverage in group contracts; and

8. the extent to which the mandated health insurance service is covered by self-funded employer groups of employers in the State who employ at least 500 employees;

(ii) medical impacts, including:

1. the extent to which the service is generally recognized by the medical community as being effective and efficacious in the treatment of patients;

2. the extent to which the service is generally recognized by the medical community as demonstrated by a review of scientific and peer review literature; and

3. the extent to which the service is generally available and utilized by treating physicians; and

(iii) financial impacts, including:

1. the extent to which the coverage will increase or decrease the cost of the service;

2. the extent to which the coverage will increase the appropriate use of the service;

3. the extent to which the mandated service will be a substitute for a more expensive service;

4. the extent to which the coverage will increase or decrease the administrative expenses of insurers and the premium and administrative expenses of policy holders;

5. the impact of this coverage on the total cost of health care; and

6. the impact of all mandated health insurance services on employers' ability to purchase health benefits policies meeting their employees' needs.

[(d) (1) In addition to the information required under subsection (c) of this section, the Commission shall annually determine the full cost of all existing mandated health insurance services in the State:

(i) as a percentage of Maryland's average annual wage; and

(ii) as a percentage of health insurance premiums.

(2) In making its determination, the Commission shall consider the full cost of the existing mandated health insurance services:

(i) under a typical group and individual health benefit plan in this State;

(ii) under the State employee health benefit plan for medical coverage; and

(iii) under the Comprehensive Standard Health Benefit Plan as defined in § 15-1201(q) of this title.]

[(e)] (D) Subject to the limitations of the State budget, the Commission may contract for actuarial services and other professional services to carry out the provisions of this section.

[(f)] (E) (1) On or before December 31, 1998, and each December 31 thereafter, the Commission shall submit a report on its findings, including any recommendations, to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly.

(2) The annual report prepared by the Commission shall include an evaluation of any mandated health insurance service [enacted,] legislatively proposed[,] or otherwise submitted to the Commission by a member of the General Assembly prior to July 1 of that year.

15-1502.

(a) (1) The Commission shall conduct an evaluation of existing mandated health insurance services and make recommendations to the General Assembly regarding decision making criteria for reducing the number of mandates or the extent of coverage.

(2) The evaluation shall include:

(i) an assessment of the full cost of each existing mandated health insurance service as a percentage of the State's average annual wage and of [premiums for the individual and group health insurance market;] **PREMIUMS:**

1. UNDER A TYPICAL GROUP AND INDIVIDUAL HEALTH BENEFIT PLAN IN THE STATE;

2. UNDER THE STATE EMPLOYEE HEALTH BENEFIT PLAN; AND

3. UNDER THE COMPREHENSIVE STANDARD HEALTH BENEFIT PLAN;

(ii) an assessment of the degree to which existing mandated health insurance services are covered in self-funded plans; and

(iii) a comparison of mandated health insurance services provided by the State with those provided in Delaware, the District of Columbia, Pennsylvania, and Virginia.

(3) The comparison described in paragraph (2)(iii) of this subsection shall include:

- (i) the number of mandated health insurance services;
- (ii) the type of mandated health insurance services;
- (iii) the level and extent of coverage for each mandated health insurance service; and
- (iv) the financial impact of differences in levels of coverage for each mandated health insurance service.

(4) On or before January 1, 2004, and every 4 years thereafter, the Commission shall submit a report of its findings to the General Assembly, subject to § 2-1246 of the State Government Article.

(b) The General Assembly may consider the information provided under subsection (a) of this section in determining:

- (1) whether to enact proposed mandated health insurance services; and
- (2) whether to repeal existing mandated health insurance services.

Article - State Government

8-403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(27) Health Care Commission, Maryland (§ 19-103 of the Health - General Article: [July 1, 2007] **JULY 1, 2017**);

Chapter 287 of the Acts of 2004

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before January 1, 2008, the Maryland Health Care Commission shall submit to the Governor and, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee, a report that includes:

(a) for the periods July 1, 2005 through December 31, 2005, January 1, 2006 through December 31, 2006, and January 1, 2007 through June 30, 2007, data on:

(1) the number of carriers offering Limited Health Benefit Plan policies in the State;

(2) the number of Limited Health Benefit Plan policies sold in the State;

(3) the number of eligible employees covered under the policies;

(4) the average age, geographic area, and average wage of each employer group covered under the policies; and

(5) the impact of the Limited Health Benefit Plan on the small group health insurance market and the population of uninsured individuals in the State; [and]

(b) recommendations on continuing or expanding the availability of the Limited Health Benefit Plan in the small group health insurance market; AND

(C) ALTERNATIVE INSURANCE OPTIONS FOR INDIVIDUALS ENROLLED IN THE LIMITED HEALTH BENEFIT PLAN.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) the Maryland Health Care Commission shall include in the next workload distribution study required under § 19-111(d) of the Health – General Article:

(1) the extent to which health care providers that are not currently subject to a user fee assessment utilize Commission resources; and

(2) the feasibility and desirability of extending a user fee to additional types of providers regulated by the Commission; and

(b) on or before December 1, 2008, the Commission shall report its findings and recommendations to the Senate Finance Committee and the House Health and Government Operations Committee in accordance with § 2-1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That on or before October 1, 2007, and on or before October 1, 2008, the Maryland Health Care Commission shall report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1246 of the State Government Article, on:

(a) the implementation of the recommendations of the 2005 Certificate of Need Task Force; and

(b) the progress of the Commission in implementing the recommendations of the comprehensive evaluation of Certificate of Need required by Chapter 702 of the Acts of 1999, including recommendations regarding:

(1) a research project for elective angioplasty; and

(2) a reorganization of the licensing and certificate of need laws for home-based health care services.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) the Maryland Health Care Commission and the Health Services Cost Review Commission shall include in the next report on the Maryland Trauma Physician Services Fund required under § 19-130(e) of the Health – General Article a discussion of options for reducing the Fund surplus, including:

(1) one-time-only uses for eliminating the large surplus that has accrued in the early years of the Fund;

(2) if the surplus is continuing to grow, ongoing uses to align annual expenditures with annual revenues; and

(3) the desirability of providing funds directly to trauma centers for the purpose of subsidizing trauma physician costs at the centers; and

(b) on or before November 1, 2007, the Commissions shall report their findings and recommendations to the General Assembly, in accordance with § 2-1246 of the State Government Article.

SECTION 5. AND BE IT FURTHER ENACTED, That, to provide a more complete picture of health care spending than current data collection efforts allow, on

or before October 1, 2007, the Maryland Health Care Commission shall report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1246 of the State Government Article, on:

(a) the Commission's plans to collect data on facility costs and insurance product design, in addition to the data currently collected on practitioner costs; and

(b) how the data collected under paragraph (a) of this section would be used to promote quality and affordable health care.

SECTION 6. AND BE IT FURTHER ENACTED, That on or before October 1, 2007, the Maryland Health Care Commission shall report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1246 of the State Government Article, on the implementation of the recommendations contained in the 2006 Evaluation of the Maryland Health Care Commission.

SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 628

(House Bill 844)

AN ACT concerning

Health Services Cost Review Commission – Sunset Extension and Program Evaluation

FOR the purpose of requiring the Health Services Cost Review Commission to include certain items in its annual report to the Governor and the General Assembly; authorizing the Secretary of Health and Mental Hygiene to assess a certain administrative charge; authorizing the Commission to use money from certain user fees to pay certain administrative costs; increasing the total amount of user fees that the Commission may assess; requiring the Board of the Maryland Health Insurance Plan to submit a certain report on or before a certain date each year; requiring that an evaluation under the Maryland Program Evaluation Act of the State Health Services Cost Review Commission be prepared on or before a certain date; requiring the Department of Health and Mental Hygiene, in consultation with the Commission, to conduct a certain

assessment of Medicaid hospital day limits and report on its findings to certain committees of the General Assembly on or before a certain date; requiring the Commission, in consultation with the Maryland Hospital Association, to study certain alternatives to the annual update factor as a restriction on the budget of the Commission and report on its findings to certain committees of the General Assembly on or before a certain date; requiring the Commission to submit certain reports to certain committees of the General Assembly on or before certain dates; requiring the Commission, the Maryland Health Care Commission, and the Community Health Resources Commission to study certain items and report on their findings to certain committees of the General Assembly on or before a certain date; and generally relating to the Health Services Cost Review Commission and hospital financing.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19–207(b)(6), 19–208(b), and 19–213(c)(1) and (3) and (d)(8)

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article – Health – General

Section 19–213(d)(1)

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 14–503(l)

Annotated Code of Maryland

(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government

Section 8–403(a)

Annotated Code of Maryland

(2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 8–403(b)(28)

Annotated Code of Maryland

(2004 Replacement Volume and 2006 Supplement)

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

Article - Health - General

19-207.

(b) In addition to the duties set forth elsewhere in this subtitle, the Commission shall:

(6) On or before October 1 of each year, submit to the Governor, to the Secretary, and, subject to § 2-1246 of the State Government Article, to the General Assembly an annual report on the operations and activities of the Commission during the preceding fiscal year, including:

(i) A copy of each summary, compilation, and supplementary report required by this subtitle; [and]

(II) AN UPDATE ON THE STATUS OF THE STATE'S MEDICARE WAIVER;

(III) BUDGET INFORMATION REGARDING THE HEALTH SERVICES COST REVIEW COMMISSION FUND, INCLUDING:

1. ANY BALANCE REMAINING IN THE FUND AT THE END OF THE PREVIOUS FISCAL YEAR; AND

2. THE PERCENTAGE OF THE TOTAL ANNUAL COSTS OF THE COMMISSION THAT IS REPRESENTED BY THE BALANCE REMAINING IN THE FUND AT THE END OF THE PREVIOUS FISCAL YEAR;

(IV) A SUMMARY OF THE COMMISSION'S ROLE IN HOSPITAL QUALITY OF CARE ACTIVITIES, INCLUDING INFORMATION ABOUT THE STATUS OF ANY PAY FOR PERFORMANCE INITIATIVES; AND

[(ii)] **(v) Any other fact, suggestion, or policy recommendation that the Commission considers necessary;**

19-208.

(b) **(1)** The power of the Secretary to transfer by rule, regulation, or written directive, any staff, functions, or funds of units in the Department does not apply to any staff, function, or funds of the Commission.

(2) THE SECRETARY MAY ASSESS AN ADMINISTRATIVE CHARGE ON THE COMMISSION TO FUND SERVICES PROVIDED TO THE COMMISSION BY THE DEPARTMENT.

(3) The amount to be paid by the Commission to the Department for administrative costs, not to exceed 18% of the salaries of the Commission, shall be based on indirect costs or services benefiting the Commission, less overhead costs paid directly by the Commission.

19-213.

(c) (1) The total fees assessed by the Commission may not exceed ~~[\$4,000,000]~~ **\$5,500,000.**

(3) The user fees assessed by the Commission shall be used exclusively to cover the actual documented direct costs of fulfilling the statutory and regulatory duties of the Commission in accordance with the provisions of this subtitle **AND ANY ADMINISTRATIVE COSTS FOR SERVICES TO THE COMMISSION PROVIDED BY THE DEPARTMENT.**

(d) (1) There is a Health Services Cost Review Commission Fund.

(8) The Fund shall be used only to provide funding for the Commission and for the purposes authorized under this subtitle. [For each of fiscal years 2005 and 2006, the] **THE** costs of the Commission include the administrative costs incurred by the Department on behalf of the Commission. [The amount to be paid by the Commission to the Department for administrative costs will be calculated in the same manner as indirect costs for federal grants, less overhead costs paid directly by the Commission.]

Article - Insurance

14-503.

(l) **(1) THE BOARD SHALL REPORT ON OR BEFORE DECEMBER 1 OF EACH YEAR TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON:**

(I) THE NUMBER OF MEMBERS ENROLLED IN THE PLAN;

(II) ANY INCREASE OR DECREASE IN THE NUMBER OF MEMBERS ENROLLED IN THE PLAN FROM THE PREVIOUS YEAR;

(III) ANY ACTIONS TAKEN BY THE BOARD TO INCREASE ENROLLMENT OR BENEFITS OFFERED THROUGH THE PLAN; AND

(IV) THE AMOUNT OF ANY SURPLUS IN THE FUND AT THE END OF THE PREVIOUS FISCAL YEAR.

(2) For those members enrolled in the Plan whose eligibility in the Plan is subject to the requirements of the federal tax credit for health insurance costs under Section 35 of the Internal Revenue Code, the Board shall report on or before December 1, 2003, and annually thereafter, to the Governor, and subject to § 2-1246 of the State Government Article, to the General Assembly on the number of members enrolled in the Plan and the costs to the Plan associated with providing insurance to those members.

Article - State Government

8-403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(28) Health Services Cost Review Commission, State (§ 19-202 of the Health - General Article: July 1, [2007] **2017**);

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene, in consultation with the Health Services Cost Review Commission, shall:

(1) assess the impact of Medicaid day limits on Medicaid enrollees by reviewing data on average length of stay, readmissions, and discharge patterns for Medicaid hospital patients in the State between January 1, 2004, and June 30, 2007; and

(2) report on the Department's findings, on or before October 1, 2008, to the Senate Finance Committee, and the House Health and Government Operations Committee, in accordance with § 2-1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That the Health Services Cost Review Commission, in consultation with the Maryland Hospital Association, shall:

(1) study alternatives to the annual update factor as restrictions on increases in the Commission's budget that would:

(i) ensure that Commission user-fee increases are reasonable;
and

(ii) allow adequate budget growth for the Commission; and

(2) report on recommended alternatives, on or before November 1, 2007, to the Senate Finance Committee, and the House Health and Government Operations Committee, in accordance with § 2-1246 of the State Government Article.

SECTION 4. AND BE IT FURTHER ENACTED, That the Health Services Cost Review Commission shall report to the Senate Finance Committee, and the House Health and Government Operations Committee, on or before November 1, 2007, in accordance with § 2-1246 of the State Government Article, on the implementation of the plan of the Commission to spend down the balance in the Commission Fund to ten percent of total annual costs by the end of fiscal 2007.

SECTION 5. AND BE IT FURTHER ENACTED, That the Health Services Cost Review Commission, the Maryland Health Care Commission, and the Community Health Resources Commission shall:

(1) determine how to clarify the appropriate role for each commission in assessing the underlying causes of uncompensated care and making recommendations to the General Assembly on how to address uncompensated care; and

(2) report on their determinations to the Senate Finance Committee and the House Health and Government Operations Committee on or before December 1, 2007, in accordance with § 2-1246 of the State Government Article.

SECTION 6. AND BE IT FURTHER ENACTED, That the Health Services Cost Review Commission shall report to the Senate Finance Committee and the House Health and Government Operations Committee on or before October 1, 2008, in accordance with § 2-1246 of the State Government Article, on the implementation of the nonstatutory recommendations of the Department of Legislative Services contained in the sunset evaluation report dated October 2006.

SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, May 17, 2007.

CHAPTER 629

(House Bill 847)

AN ACT concerning

Discount Medical Plan Organizations and Discount Drug Plan Organizations - Registration and Regulation

FOR the purpose of providing for the regulation by the Maryland Insurance Commissioner of certain discount medical plan organizations and discount drug plan organizations; requiring the registration of certain entities as discount medical plan organizations or discount drug plan organizations; providing for the application and renewal process for registration; authorizing the Commissioner to deny a registration or refuse to renew, suspend, or revoke a registration under certain circumstances; prohibiting certain actions by a discount medical plan organization and discount drug plan organization; requiring certain disclosures to be made by discount medical plan organizations and discount drug plan organizations; requiring certain reimbursement if membership in a discount medical plan or discount drug plan is canceled under certain circumstances; requiring the Commissioner, in consultation with the Office of the Attorney General, to adopt regulations that establish standards for determining a certain fee; requiring ~~that certain information appear on certain discount cards~~ each discount medical plan organization and each discount drug plan organization to provide to a plan member a discount card that includes, at a minimum, certain data elements; requiring a discount medical plan organization or discount drug plan organization to reissue a discount card under certain circumstances; authorizing the examination of discount medical plan organizations and discount drug plan organizations under certain circumstances; authorizing the Commissioner to take certain actions to enforce certain provisions of law; providing for certain penalties; providing for the payment of the examinations; requiring an insurer, nonprofit health service plan, health maintenance organization, or dental plan organization to meet certain requirements; requiring the Commissioner to adopt certain regulations; defining certain terms; providing for the application of this Act; and generally relating to discount medical plan organizations and discount drug plan organizations.

BY adding to

Article – Health – General

Section 19-706(iii)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 2-208
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY adding to
Article – Insurance
Section 14-601 through 14-612 to be under the new subtitle “Subtitle 6.
Discount Medical Plan Organizations and Discount Drug Plan
Organizations”
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article - Health - General

19-706.

(JJJ) THE PROVISIONS OF TITLE 14, SUBTITLE 6 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article - Insurance

2-208.

The expense incurred in an examination made under § 2-205 of this subtitle, § 2-206 of this subtitle for surplus lines brokers and insurance holding corporations, § 23-207 of this article for premium finance companies, § 15-10B-19 of this article for private review agents, [or] § 15-10B-20 of this article, **OR § 14-610 OF THIS ARTICLE FOR DISCOUNT MEDICAL PLAN ORGANIZATIONS AND DISCOUNT DRUG PLAN ORGANIZATIONS** shall be paid by the person examined in the following manner:

(1) the person examined shall pay to the Commissioner the travel expenses, a living expense allowance, and a per diem as compensation for examiners, actuaries, and typists:

(i) to the extent incurred for the examination; and

(ii) at reasonable rates set by the Commissioner;

(2) the Commissioner may present a detailed account of expenses incurred to the person examined periodically during the examination or at the end of the examination, as the Commissioner considers proper; and

(3) a person may not pay and an examiner may not accept any compensation for an examination in addition to the compensation under paragraph (1) of this section.

**SUBTITLE 6. DISCOUNT MEDICAL PLAN ORGANIZATIONS AND DISCOUNT
DRUG PLAN ORGANIZATIONS.**

14-601.

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

(B) (1) “DISCOUNT DRUG PLAN” MEANS A BUSINESS ARRANGEMENT OR CONTRACT IN WHICH A PERSON, IN EXCHANGE FOR FEES, DUES, CHARGES, OR OTHER FINANCIAL CONSIDERATION PAID BY OR ON BEHALF OF A PLAN MEMBER, PROVIDES THE RIGHT TO RECEIVE DISCOUNTS ON SPECIFIED PHARMACEUTICAL SUPPLIES, PRESCRIPTION DRUGS, OR MEDICAL EQUIPMENT AND SUPPLIES FROM SPECIFIED PROVIDERS.

(2) “DISCOUNT DRUG PLAN” DOES NOT INCLUDE:

(I) A BUSINESS ARRANGEMENT OR CONTRACT IN WHICH THE FEES, DUES, CHARGES, AND OTHER FINANCIAL CONSIDERATION PAID BY OR ON BEHALF OF A PLAN MEMBER CONSIST ONLY OF:

~~(H)~~ 1. A PAYMENT MADE DIRECTLY TO A PROVIDER AS A DISPENSING OR TRANSACTIONAL FEE IN CONNECTION WITH THE PURCHASE OF PHARMACEUTICAL SUPPLIES, PRESCRIPTION DRUGS, OR MEDICAL EQUIPMENT AND SUPPLIES THAT ARE SUBJECT TO A DISCOUNT; OR

~~(H)~~ 2. AN ADMINISTRATIVE OR PROCESSING FEE PAID BY ANYONE OTHER THAN A PLAN MEMBER TO A PROVIDER IN CONNECTION WITH THAT PROVIDER’S PROVISION OF DISCOUNTS TO PLAN MEMBERS; OR

(II) A PATIENT ASSISTANCE PROGRAM THAT:

1. IS SPONSORED, OFFERED, OR PROVIDED FOR BY A PHARMACEUTICAL MANUFACTURER; AND

2. IS NOT PROVIDED IN EXCHANGE FOR FEES, DUES, CHARGES, OR OTHER FINANCIAL CONSIDERATION.

(C) "DISCOUNT DRUG PLAN ORGANIZATION" MEANS AN ENTITY THAT:

(1) CONTRACTS DIRECTLY OR INDIRECTLY WITH PROVIDERS OR PROVIDER NETWORKS TO PROVIDE PHARMACEUTICAL SUPPLIES, PRESCRIPTION DRUGS, OR MEDICAL EQUIPMENT AND SUPPLIES AT A DISCOUNT TO PLAN MEMBERS; AND

(2) DETERMINES THE CHARGE TO PLAN MEMBERS.

(D) "DISCOUNT MEDICAL PLAN" MEANS A BUSINESS ARRANGEMENT OR CONTRACT IN WHICH A PERSON, IN EXCHANGE FOR FEES, DUES, CHARGES, OR OTHER FINANCIAL CONSIDERATION PAID BY OR ON BEHALF OF A PLAN MEMBER, PROVIDES THE RIGHT TO RECEIVE DISCOUNTS ON SPECIFIED MEDICAL SERVICES FROM SPECIFIED PROVIDERS.

(E) "DISCOUNT MEDICAL PLAN ORGANIZATION" MEANS AN ENTITY THAT:

(1) CONTRACTS DIRECTLY OR INDIRECTLY WITH PROVIDERS OR PROVIDER NETWORKS TO PROVIDE MEDICAL SERVICES AT A DISCOUNT TO PLAN MEMBERS; AND

(2) DETERMINES THE CHARGE TO PLAN MEMBERS.

(F) "HOSPITAL SERVICES" HAS THE MEANING STATED IN § 19-201 OF THE HEALTH - GENERAL ARTICLE.

(G) "MEDICAL SERVICES" MEANS ANY CARE, SERVICE, OR TREATMENT OF ILLNESS OR DYSFUNCTION OF, OR INJURY TO, THE HUMAN BODY, INCLUDING PHYSICIAN CARE, OUTPATIENT SERVICES, AMBULANCE SERVICES, DENTAL CARE SERVICES, VISION CARE SERVICES, MENTAL HEALTH SERVICES, SUBSTANCE ABUSE SERVICES, CHIROPRACTIC SERVICES, PODIATRIC CARE SERVICES, AND LABORATORY SERVICES.

(H) "MEDICARE PRESCRIPTION DRUG PLAN" MEANS A PLAN THAT PROVIDES A MEDICARE PART D PRESCRIPTION DRUG BENEFIT IN

ACCORDANCE WITH THE REQUIREMENTS OF THE FEDERAL MEDICARE MODERNIZATION ACT.

(I) "PLAN MEMBER" MEANS ANY INDIVIDUAL WHO PAYS FEES, DUES, CHARGES, OR OTHER FINANCIAL CONSIDERATION FOR THE RIGHT TO RECEIVE THE BENEFITS OF A DISCOUNT MEDICAL PLAN OR A DISCOUNT DRUG PLAN.

(J) "PROVIDER" MEANS:

(1) ANY PERSON OR INSTITUTION WHICH IS CONTRACTED, DIRECTLY OR INDIRECTLY, WITH A DISCOUNT MEDICAL PLAN ORGANIZATION TO PROVIDE MEDICAL SERVICES TO PLAN MEMBERS; OR

(2) ANY PERSON OR INSTITUTION WHICH IS CONTRACTED, DIRECTLY OR INDIRECTLY, WITH A DISCOUNT DRUG PLAN ORGANIZATION TO PROVIDE PHARMACEUTICAL SUPPLIES, PRESCRIPTION DRUGS, OR MEDICAL EQUIPMENT AND SUPPLIES TO PLAN MEMBERS.

(K) "STATE PRESCRIPTION DRUG PLAN" MEANS ANY DISCOUNT PLAN OPERATED BY A STATE AGENCY.

14-602.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS SUBTITLE DOES NOT APPLY TO AN INSURER, NONPROFIT HEALTH SERVICE PLAN, HEALTH MAINTENANCE ORGANIZATION, OR DENTAL PLAN ORGANIZATION THAT HOLDS A CERTIFICATE OF AUTHORITY IN THIS STATE.

(B) AN INSURER, NONPROFIT HEALTH SERVICE PLAN, HEALTH MAINTENANCE ORGANIZATION, OR DENTAL PLAN ORGANIZATION SHALL:

(1) COMPLY WITH §§ 14-606 THROUGH 14-611 OF THIS SUBTITLE;

(2) NOTIFY THE COMMISSIONER IN WRITING THAT IT SELLS, MARKETS, OR SOLICITS A DISCOUNT MEDICAL PLAN OR DISCOUNT DRUG PLAN IN THE STATE; AND

(3) (I) FILE ANNUALLY WITH THE COMMISSIONER A CURRENT LIST OF THE PERSONS, OTHER THAN LICENSED INSURANCE PRODUCERS, WHO ARE AUTHORIZED TO SELL, MARKET, OR SOLICIT IN THE STATE A DISCOUNT MEDICAL PLAN OR DISCOUNT DRUG PLAN ESTABLISHED BY THE INSURER,

NONPROFIT HEALTH SERVICE PLAN, HEALTH MAINTENANCE ORGANIZATION, OR DENTAL PLAN ORGANIZATION; AND

(II) PROVIDE THE COMMISSIONER WITH AN ADDITIONAL LIST ON REQUEST.

(C) AN INSURER, NONPROFIT HEALTH SERVICE PLAN, HEALTH MAINTENANCE ORGANIZATION, OR DENTAL PLAN ORGANIZATION MAY FILE THE LIST REQUIRED UNDER SUBSECTION (B)(3) OF THIS SECTION ELECTRONICALLY, IN A FORMAT PRESCRIBED BY THE COMMISSIONER.

(D) THIS SUBTITLE DOES NOT APPLY TO MEDICARE PRESCRIPTION DRUG PLANS OR TO A STATE PRESCRIPTION DRUG PLAN.

14-603.

(A) (1) AN ENTITY SHALL REGISTER WITH THE COMMISSIONER AS A DISCOUNT MEDICAL PLAN ORGANIZATION BEFORE A DISCOUNT MEDICAL PLAN ESTABLISHED BY THAT ENTITY IS SOLD, MARKETED, OR SOLICITED IN THE STATE.

(2) A DISCOUNT MEDICAL PLAN MAY NOT BE SOLD, MARKETED, OR SOLICITED IN THE STATE UNLESS THE DISCOUNT MEDICAL PLAN ORGANIZATION THAT ESTABLISHED THE DISCOUNT MEDICAL PLAN IS REGISTERED WITH THE COMMISSIONER.

(B) (1) AN ENTITY SHALL REGISTER WITH THE COMMISSIONER AS A DISCOUNT DRUG PLAN ORGANIZATION BEFORE A DISCOUNT DRUG PLAN ESTABLISHED BY THAT ENTITY IS SOLD, MARKETED, OR SOLICITED IN THE STATE.

(2) A DISCOUNT DRUG PLAN MAY NOT BE SOLD, MARKETED, OR SOLICITED IN THE STATE UNLESS THE DISCOUNT DRUG PLAN ORGANIZATION THAT ESTABLISHED THE DISCOUNT DRUG PLAN IS REGISTERED WITH THE COMMISSIONER.

(C) AN APPLICANT FOR REGISTRATION SHALL:

(1) FILE WITH THE COMMISSIONER AN APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES; AND

(2) PAY TO THE COMMISSIONER AN APPLICATION FEE OF \$250.

(D) AN ENTITY THAT IS REQUIRED TO REGISTER WITH THE COMMISSIONER UNDER BOTH SUBSECTIONS (A) AND (B) OF THIS SECTION MAY FILE ONE APPLICATION WITH THE COMMISSIONER AND PAY ONE APPLICATION FEE.

(E) AN APPLICANT SHALL FILE WITH ITS APPLICATION A LIST OF THE PERSONS AUTHORIZED TO SELL, MARKET, OR SOLICIT A DISCOUNT MEDICAL PLAN OR DISCOUNT DRUG PLAN ESTABLISHED BY THE APPLICANT.

14-604.

(A) A REGISTRATION EXPIRES ON THE SECOND JUNE 30 FOLLOWING THE REGISTRATION UNLESS IT IS RENEWED AS PROVIDED IN THIS SECTION.

(B) BEFORE A REGISTRATION EXPIRES, THE REGISTRANT MAY RENEW IT FOR AN ADDITIONAL 2-YEAR TERM, IF THE REGISTRANT:

(1) OTHERWISE IS ENTITLED TO BE REGISTERED;

(2) FILES WITH THE COMMISSIONER A RENEWAL APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES; AND

(3) PAYS TO THE COMMISSIONER A RENEWAL FEE OF \$150.

(C) AN APPLICATION FOR RENEWAL OF A REGISTRATION SHALL BE CONSIDERED MADE IN A TIMELY MANNER IF IT IS POSTMARKED ON OR BEFORE JUNE 30 OF THE YEAR OF RENEWAL.

(D) SUBJECT TO THE PROVISIONS OF § 14-605 OF THIS SUBTITLE, THE COMMISSIONER SHALL RENEW THE REGISTRATION OF EACH REGISTRANT THAT MEETS THE REQUIREMENTS OF THIS SECTION.

(E) (1) A REGISTRANT SHALL FILE ANNUALLY WITH THE COMMISSIONER A CURRENT LIST OF THE PERSONS AUTHORIZED TO SELL, MARKET, OR SOLICIT IN THE STATE A DISCOUNT MEDICAL PLAN OR DISCOUNT DRUG PLAN ESTABLISHED BY THE REGISTRANT.

(2) A REGISTRANT SHALL PROVIDE THE COMMISSIONER AN ADDITIONAL LIST ON REQUEST.

(3) A REGISTRANT MAY FILE THE LIST REQUIRED UNDER THIS SUBSECTION ELECTRONICALLY, IN A FORMAT PRESCRIBED BY THE COMMISSIONER.

14-605.

(A) SUBJECT TO THE HEARING PROVISIONS OF TITLE 2 OF THIS ARTICLE, THE COMMISSIONER MAY DENY A REGISTRATION TO AN APPLICANT OR REFUSE TO RENEW, SUSPEND, OR REVOKE THE REGISTRATION OF A REGISTRANT IF THE APPLICANT OR REGISTRANT, OR AN OFFICER, DIRECTOR, OR EMPLOYEE OF THE APPLICANT OR REGISTRANT:

(1) MAKES A MATERIAL MISSTATEMENT OR MISREPRESENTATION IN AN APPLICATION FOR REGISTRATION;

(2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A REGISTRATION FOR THE APPLICANT OR REGISTRANT OR FOR ANOTHER;

(3) HAS BEEN CONVICTED OF A FELONY OR OF A MISDEMEANOR INVOLVING MORAL TURPITUDE;

(4) IN CONNECTION WITH THE ADMINISTRATION OF A DISCOUNT MEDICAL PLAN OR DISCOUNT DRUG PLAN, COMMITS FRAUD OR ENGAGES IN ILLEGAL OR DISHONEST ACTIVITIES;

(5) HAS VIOLATED ANY PROVISION OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER IT;

(6) PROVIDES A FALSE, FALSELY DISPARAGING, OR MISLEADING ORAL OR WRITTEN STATEMENT, VISUAL DESCRIPTION, OR OTHER REPRESENTATION OF ANY KIND THAT HAS THE CAPACITY, TENDENCY, OR EFFECT OF DECEIVING OR MISLEADING CONSUMERS;

(7) MAKES A REPRESENTATION THAT A DISCOUNT MEDICAL PLAN OR DISCOUNT DRUG PLAN HAS A SPONSORSHIP, APPROVAL, CHARACTERISTIC, USE, OR BENEFIT THAT IT DOES NOT HAVE;

(8) HAS VIOLATED § 13-301 OF THE COMMERCIAL LAW ARTICLE;
OR

(9) FAILS TO MAINTAIN ON FILE WITH THE COMMISSIONER A CURRENT LIST OF THE PERSONS AUTHORIZED TO SELL, MARKET, OR SOLICIT A DISCOUNT MEDICAL PLAN OR DISCOUNT DRUG PLAN ESTABLISHED BY THE APPLICANT OR THE REGISTRANT.

(B) THIS SECTION DOES NOT LIMIT ANY REGULATORY POWER OF THE COMMISSIONER UNDER TITLE 2 OF THIS ARTICLE.

14-606.

(A) A DISCOUNT MEDICAL PLAN ORGANIZATION AND A DISCOUNT DRUG PLAN ORGANIZATION MAY NOT:

(1) USE IN THEIR ADVERTISEMENTS, MARKETING MATERIAL, BROCHURES, AND DISCOUNT CARDS THE TERM "INSURANCE" EXCEPT:

(I) IN THE NAME OF AN INSURER, NONPROFIT HEALTH SERVICE PLAN, HEALTH MAINTENANCE ORGANIZATION, OR DENTAL PLAN ORGANIZATION WHOSE CORPORATE NAME INCLUDES THE WORD "INSURANCE";

(II) WHEN COMPARING THE DISCOUNT MEDICAL PLAN OR DISCOUNT DRUG PLAN TO INSURANCE OR OTHERWISE DISTINGUISHING THE DISCOUNT MEDICAL PLAN OR DISCOUNT DRUG PLAN FROM INSURANCE; OR

(III) AS OTHERWISE PROVIDED IN THIS SUBTITLE.

(2) USE IN THEIR ADVERTISEMENTS, MARKETING MATERIAL, BROCHURES, AND DISCOUNT CARDS THE TERMS "HEALTH PLAN", "COVERAGE", "COPAY", "COPAYMENTS", "PREEXISTING CONDITIONS", "GUARANTEED ISSUE", "PREMIUM", "PPO", "PREFERRED PROVIDER ORGANIZATION", OR OTHER TERMS IN A CONTEXT THAT COULD REASONABLY MISLEAD A PERSON INTO BELIEVING THE DISCOUNT MEDICAL PLAN OR DISCOUNT DRUG PLAN WAS HEALTH INSURANCE;

(3) HAVE RESTRICTIONS ON ACCESS TO DISCOUNT MEDICAL PLAN OR DISCOUNT DRUG PLAN PROVIDERS, INCLUDING WAITING PERIODS AND NOTIFICATION PERIODS;

(4) PAY PROVIDERS ANY FEES FOR MEDICAL SERVICES, PHARMACEUTICAL SUPPLIES, PRESCRIPTION DRUGS, OR MEDICAL EQUIPMENT AND SUPPLIES, EXCEPT THAT A DISCOUNT MEDICAL PLAN ORGANIZATION OR A DISCOUNT DRUG PLAN ORGANIZATION THAT ALSO HAS AN ACTIVE REGISTRATION UNDER TITLE 8, SUBTITLE 3 OF THIS ARTICLE MAY CONTINUE TO PAY FEES TO PROVIDERS IN ITS CAPACITY AS A THIRD PARTY ADMINISTRATOR;

(5) REFUSE TO MODIFY THE METHOD OF PAYMENT FOR MEMBERSHIP IN A DISCOUNT MEDICAL PLAN OR A DISCOUNT DRUG PLAN ON

REQUEST, UNLESS A SPECIFIC METHOD OF PAYMENT IS REQUIRED AS A TERM OF THE DISCOUNT MEDICAL PLAN OR THE DISCOUNT DRUG PLAN AND WAS AGREED TO IN WRITING IN ADVANCE;

(6) IF MEMBERSHIP IS BILLED ON A MONTHLY BASIS, REFUSE TO PERMIT MEMBERSHIP TO TERMINATE WITHOUT FINANCIAL PENALTY ON NO MORE THAN 30 CALENDAR DAYS' WRITTEN NOTICE; OR

(7) (I) CONTINUE ELECTRONIC FUND TRANSFER AS A METHOD OF PAYMENT MORE THAN 30 CALENDAR DAYS AFTER A WRITTEN REQUEST FOR TERMINATION OF ELECTRONIC FUND TRANSFER HAS BEEN MADE; OR

(II) REQUIRE THE MEMBER TO NOTIFY MORE THAN ONE ENTITY THAT IS EITHER THE DISCOUNT MEDICAL PLAN ORGANIZATION OR THE DISCOUNT DRUG PLAN ORGANIZATION OR AN ENTITY IDENTIFIED BY THE DISCOUNT MEDICAL PLAN ORGANIZATION OR THE DISCOUNT DRUG PLAN ORGANIZATION THAT ELECTRONIC FUND TRANSFER SHOULD BE TERMINATED.

14-607.

(A) THE FOLLOWING DISCLOSURES SHALL BE MADE IN WRITING PRINTED IN 12 POINT TYPE TO ANY PROSPECTIVE MEMBER OF A DISCOUNT MEDICAL PLAN ORGANIZATION AND SHALL BE INCLUDED IN ANY MARKETING MATERIALS OR BROCHURES RELATING TO AN APPLICATION OR CONTRACT FOR A DISCOUNT MEDICAL PLAN:

(1) A STATEMENT THAT THE DISCOUNT MEDICAL PLAN IS NOT INSURANCE;

(2) A STATEMENT THAT MEMBERSHIP IN THE DISCOUNT MEDICAL PLAN ENTITLES MEMBERS TO DISCOUNTS FOR CERTAIN MEDICAL SERVICES OFFERED BY PROVIDERS WHO HAVE AGREED TO PARTICIPATE IN THE DISCOUNT MEDICAL PLAN;

(3) A STATEMENT THAT THE DISCOUNT MEDICAL PLAN ORGANIZATION ITSELF DOES NOT PAY PROVIDERS OF MEDICAL SERVICES FOR SERVICES PROVIDED TO PLAN MEMBERS;

(4) A STATEMENT THAT THE PLAN MEMBER IS REQUIRED TO PAY FOR ANY MEDICAL SERVICE PROVIDED, BUT IS ENTITLED TO RECEIVE A DISCOUNT ON CERTAIN IDENTIFIED MEDICAL SERVICES FROM THOSE PROVIDERS WHO HAVE CONTRACTED WITH THE DISCOUNT MEDICAL PLAN ORGANIZATION;

(5) A DESCRIPTION OF THE MEDICAL SERVICES SUBJECT TO DISCOUNT, A DESCRIPTION OF THE DISCOUNTS THAT THE PLAN MEMBER IS ENTITLED TO RECEIVE, AND THE MECHANISM BY WHICH A CURRENT OR PROSPECTIVE PLAN MEMBER CAN OBTAIN THE NAMES OF THE PROVIDERS THAT HAVE CONTRACTED WITH THE DISCOUNT MEDICAL PLAN ORGANIZATION TO OFFER DISCOUNTS TO PLAN MEMBERS;

(6) THE NAME, LOCATION, AND CONTACT INFORMATION, INCLUDING A TELEPHONE NUMBER, FOR THE DISCOUNT MEDICAL PLAN ORGANIZATION;

(7) ALL FEES, DUES, CHARGES, OR OTHER FINANCIAL CONSIDERATION TO BE PAID BY THE PLAN MEMBER WITH RESPECT TO THE MEMBER'S PARTICIPATION IN THE DISCOUNT MEDICAL PLAN, INCLUDING ALL FEES OR CHARGES RELATING TO THE PROCESSING OF DISCOUNTS OR BILLING;

(8) IF THE MARKETING MATERIALS OR BROCHURES REFER TO HOSPITAL SERVICES, A STATEMENT THAT THE DISCOUNT MEDICAL PLAN DOES NOT OFFER A DISCOUNT ON HOSPITAL SERVICES IN MARYLAND; AND

(9) IF APPLICABLE, A STATEMENT THAT A NOMINAL FEE ASSOCIATED WITH ENROLLMENT COSTS WILL BE RETAINED BY THE DISCOUNT MEDICAL PLAN ORGANIZATION, IN ACCORDANCE WITH § 14-608(A) OF THIS SUBTITLE, IF MEMBERSHIP IS CANCELED WITHIN THE FIRST 30 CALENDAR DAYS AFTER THE EFFECTIVE DATE OF ENROLLMENT.

(B) THE FOLLOWING DISCLOSURES SHALL BE MADE IN WRITING PRINTED IN 12 POINT TYPE TO ANY PROSPECTIVE MEMBER OF A DISCOUNT DRUG PLAN ORGANIZATION AND SHALL BE INCLUDED IN ANY MARKETING MATERIALS OR BROCHURES RELATING TO AN APPLICATION OR CONTRACT FOR A DISCOUNT DRUG PLAN:

(1) A STATEMENT THAT THE DISCOUNT DRUG PLAN IS NOT:

(i) INSURANCE; OR

(ii) A MEDICARE PRESCRIPTION DRUG PLAN;

(2) A STATEMENT THAT MEMBERSHIP IN THE DISCOUNT DRUG PLAN ENTITLES MEMBERS TO DISCOUNTS FOR CERTAIN PHARMACEUTICAL SUPPLIES, PRESCRIPTION DRUGS, OR MEDICAL EQUIPMENT AND SUPPLIES

OFFERED BY PROVIDERS WHO HAVE AGREED TO PARTICIPATE IN THE DISCOUNT DRUG PLAN;

(3) A STATEMENT THAT THE DISCOUNT DRUG PLAN ORGANIZATION ITSELF DOES NOT PAY PROVIDERS OF PHARMACEUTICAL SUPPLIES, PRESCRIPTION DRUGS, AND MEDICAL EQUIPMENT AND SUPPLIES PROVIDED TO PLAN MEMBERS;

(4) A STATEMENT THAT THE DISCOUNT DRUG PLAN MEMBER IS REQUIRED TO PAY FOR ALL PHARMACEUTICAL SUPPLIES, PRESCRIPTION DRUGS, AND MEDICAL EQUIPMENT AND SUPPLIES PROVIDED, BUT IS ENTITLED TO RECEIVE A DISCOUNT ON CERTAIN IDENTIFIED PHARMACEUTICAL SUPPLIES, PRESCRIPTION DRUGS, OR MEDICAL EQUIPMENT AND SUPPLIES FROM THOSE PROVIDERS WHO HAVE CONTRACTED WITH THE DISCOUNT DRUG PLAN ORGANIZATION;

(5) A DESCRIPTION OF THE DISCOUNTS THAT THE DISCOUNT DRUG PLAN MEMBER IS ENTITLED TO RECEIVE AND THE MECHANISM BY WHICH A CURRENT OR PROSPECTIVE PLAN MEMBER CAN OBTAIN:

(I) UNLESS THE DISCOUNT DRUG PLAN OFFERS AN OPEN FORMULARY, A LISTING OF THE ITEMS, INCLUDING PRESCRIPTION DRUGS, SUBJECT TO DISCOUNT; AND

(II) THE NAMES OF THE PROVIDERS WHO HAVE CONTRACTED TO OFFER DISCOUNTS TO PLAN MEMBERS;

(6) THE NAME, LOCATION, AND CONTACT INFORMATION, INCLUDING A TELEPHONE NUMBER, FOR THE DISCOUNT DRUG PLAN ORGANIZATION;

(7) ALL FEES, DUES, CHARGES, OR OTHER FINANCIAL CONSIDERATION TO BE PAID BY THE PLAN MEMBER WITH RESPECT TO THE MEMBER'S PARTICIPATION IN THE DISCOUNT DRUG PLAN, INCLUDING ALL FEES OR CHARGES RELATING TO THE PROCESSING OF DISCOUNTS OR BILLING; AND

(8) IF APPLICABLE, A STATEMENT THAT A NOMINAL FEE ASSOCIATED WITH ENROLLMENT COSTS WILL BE RETAINED BY THE DISCOUNT DRUG PLAN ORGANIZATION, IN ACCORDANCE WITH § 14-608(A) OF THIS SUBTITLE, IF MEMBERSHIP IS CANCELED WITHIN THE FIRST 30 CALENDAR DAYS AFTER THE EFFECTIVE DATE OF ENROLLMENT.

(C) IF A DISCOUNT MEDICAL PLAN OR A DISCOUNT DRUG PLAN IS SOLD, MARKETED, OR SOLICITED BY TELEPHONE, THE DISCLOSURES REQUIRED BY SUBSECTIONS (A) AND (B) OF THIS SECTION SHALL BE:

(1) MADE ORALLY; AND

(2) INCLUDED WITH THE MEMBERSHIP CARD WHEN MAILED TO THE PROSPECTIVE PLAN MEMBER.

(D) THE FOLLOWING DISCLOSURES SHALL BE MADE IN WRITING IN 12 POINT TYPE IN ANY ADVERTISEMENT ~~RELATING TO~~ PROMOTE INTEREST IN OR PROMOTE THE DESIRE TO INQUIRE FURTHER ABOUT A DISCOUNT MEDICAL PLAN:

(1) A STATEMENT THAT THE DISCOUNT MEDICAL PLAN IS NOT INSURANCE;

(2) A STATEMENT THAT MEMBERSHIP IN THE DISCOUNT MEDICAL PLAN ENTITLES MEMBERS TO DISCOUNTS FOR CERTAIN MEDICAL SERVICES OFFERED BY PROVIDERS WHO HAVE AGREED TO PARTICIPATE IN THE DISCOUNT MEDICAL PLAN;

(3) A STATEMENT THAT THE PLAN MEMBER, AND NOT THE DISCOUNT MEDICAL PLAN ORGANIZATION, IS REQUIRED TO PAY FOR ALL MEDICAL SERVICES PROVIDED;

(4) THE NAME, LOCATION, AND CONTACT INFORMATION, INCLUDING A TELEPHONE NUMBER, FOR THE DISCOUNT MEDICAL PLAN ORGANIZATION;

(5) A STATEMENT OF THE MECHANISM BY WHICH A PROSPECTIVE PLAN MEMBER MAY OBTAIN THE NAMES OF THE PROVIDERS WHO HAVE CONTRACTED TO OFFER DISCOUNTS TO PLAN MEMBERS; AND

(6) IF THE ADVERTISEMENT REFERS TO HOSPITAL SERVICES ~~IN OTHER STATES~~, A STATEMENT THAT THE DISCOUNT MEDICAL PLAN DOES NOT ~~AND MAY NOT BY LAW~~ OFFER A DISCOUNT ON HOSPITAL SERVICES IN MARYLAND.

(E) THE FOLLOWING DISCLOSURES SHALL BE MADE IN WRITING IN 12 POINT TYPE IN ANY ADVERTISEMENT ~~RELATING TO~~ PROMOTE INTEREST IN OR PROMOTE THE DESIRE TO INQUIRE FURTHER ABOUT A DISCOUNT DRUG PLAN:

(1) A STATEMENT THAT THE DISCOUNT DRUG PLAN IS NOT:

(I) INSURANCE; OR

(II) A MEDICARE PRESCRIPTION DRUG PLAN;

(2) A STATEMENT THAT MEMBERSHIP IN THE DISCOUNT DRUG PLAN ENTITLES MEMBERS TO DISCOUNTS FOR CERTAIN PHARMACEUTICAL SUPPLIES, PRESCRIPTION DRUGS, OR MEDICAL EQUIPMENT AND SUPPLIES OFFERED BY PROVIDERS WHO HAVE AGREED TO PARTICIPATE IN THE DISCOUNT DRUG PLAN;

(3) A STATEMENT THAT THE PLAN MEMBER, AND NOT THE DISCOUNT DRUG PLAN ORGANIZATION, IS REQUIRED TO PAY FOR ALL PHARMACEUTICAL SUPPLIES, PRESCRIPTION DRUGS, OR MEDICAL EQUIPMENT AND SUPPLIES PROVIDED;

(4) THE NAME, LOCATION, AND CONTACT INFORMATION, INCLUDING A TELEPHONE NUMBER, FOR THE DISCOUNT DRUG PLAN ORGANIZATION; AND

(5) A STATEMENT OF THE MECHANISM BY WHICH A PROSPECTIVE PLAN MEMBER MAY OBTAIN THE NAMES OF THE PROVIDERS WHO HAVE CONTRACTED TO OFFER DISCOUNTS TO PLAN MEMBERS.

14-608.

(A) (1) IF MEMBERSHIP IN A DISCOUNT MEDICAL PLAN OR A DISCOUNT DRUG PLAN IS CANCELED WITHIN THE FIRST 30 CALENDAR DAYS AFTER THE EFFECTIVE DATE OF ENROLLMENT, ALL FEES, DUES, CHARGES, OR OTHER FINANCIAL CONSIDERATION, EXCEPT A NOMINAL FEE, NOT TO EXCEED ANY FEES, DUES, CHARGES, OR OTHER FINANCIAL CONSIDERATION THE MEMBER HAS ALREADY PAID, ASSOCIATED WITH ENROLLMENT COSTS THAT WERE PART OF THE COST OF THE DISCOUNT MEDICAL PLAN CARD OR THE DISCOUNT DRUG PLAN CARD, SHALL BE REFUNDED TO THE PAYOR ON RETURN OF THE DISCOUNT MEDICAL PLAN CARD TO THE DISCOUNT MEDICAL PLAN

ORGANIZATION OR RETURN OF THE DISCOUNT DRUG PLAN CARD TO THE DISCOUNT DRUG PLAN ORGANIZATION.

(2) THE COMMISSIONER, IN CONSULTATION WITH THE ATTORNEY GENERAL, SHALL ADOPT REGULATIONS THAT ESTABLISH STANDARDS FOR DETERMINING THE NOMINAL FEE ASSOCIATED WITH ENROLLMENT COSTS THAT MAY BE RETAINED BY A DISCOUNT MEDICAL PLAN ORGANIZATION OR A DISCOUNT DRUG PLAN ORGANIZATION UNDER THIS SUBSECTION.

(3) ~~ANY~~ SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, ANY REGULATION ADOPTED UNDER THIS SUBSECTION SHALL INCLUDE A CAP ON THE NOMINAL FEE THAT MAY BE RETAINED.

(B) IF A DISCOUNT MEDICAL PLAN ORGANIZATION OR A DISCOUNT DRUG PLAN ORGANIZATION CANCELS A MEMBERSHIP FOR ANY REASON OTHER THAN NONPAYMENT, THE DISCOUNT MEDICAL PLAN ORGANIZATION OR DISCOUNT DRUG PLAN ORGANIZATION SHALL MAKE A PRO RATA REFUND TO THE PAYOR OF ALL FEES, DUES, CHARGES, OR OTHER FINANCIAL CONSIDERATION WITHIN 30 CALENDAR DAYS AFTER THE DATE OF CANCELLATION.

14-609.

(A) EACH DISCOUNT MEDICAL PLAN ORGANIZATION AND EACH DISCOUNT DRUG ORGANIZATION SHALL PROVIDE TO A PLAN MEMBER OR TO A PLAN MEMBER FOR THE MEMBER'S FAMILY A DISCOUNT CARD THAT INCLUDES, AT A MINIMUM, THE FOLLOWING DATA ELEMENTS:

(1) A STATEMENT THAT THE DISCOUNT MEDICAL PLAN OR DISCOUNT DRUG PLAN IS NOT INSURANCE;

(2) (I) THE NAME OR IDENTIFYING TRADEMARK OF THE DISCOUNT MEDICAL PLAN ORGANIZATION OR THE DISCOUNT DRUG PLAN ORGANIZATION; OR

(II) THE NAME OR IDENTIFYING TRADEMARK OF THE PROVIDER NETWORKS THAT PARTICIPATE WITH THE DISCOUNT MEDICAL PLAN OR DISCOUNT DRUG PLAN; AND

(3) THE TELEPHONE NUMBER THAT THE PLAN MEMBER MAY CALL FOR ASSISTANCE.

(B) (1) IF A CHANGE OCCURS IN THE DATA ELEMENT REQUIRED UNDER SUBSECTION (A)(3) OF THIS SECTION, A DISCOUNT MEDICAL PLAN ORGANIZATION OR A DISCOUNT DRUG PLAN ORGANIZATION SHALL REISSUE A DISCOUNT CARD.

(2) A DISCOUNT MEDICAL PLAN ORGANIZATION OR A DISCOUNT DRUG PLAN ORGANIZATION SHALL NOTIFY A PLAN MEMBER WHEN THERE IS A MATERIAL CHANGE IN PLAN BENEFITS OR IN THE DATA ELEMENTS REQUIRED UNDER SUBSECTION (A)(1), (2), OR (3) OF THIS SECTION.

14-610.

(A) WHENEVER THE COMMISSIONER CONSIDERS IT ADVISABLE, THE COMMISSIONER MAY EXAMINE THE AFFAIRS, TRANSACTIONS, ACCOUNTS, RECORDS, AND ASSETS OF A DISCOUNT MEDICAL PLAN ORGANIZATION OR DISCOUNT DRUG PLAN ORGANIZATION.

(B) THE EXAMINATION SHALL BE CONDUCTED IN ACCORDANCE WITH § 2-207 OF THIS ARTICLE.

(C) THE EXPENSE OF THE EXAMINATION SHALL BE PAID IN ACCORDANCE WITH § 2-208 OF THIS ARTICLE.

(D) THE REPORTS OF THE EXAMINATION AND INVESTIGATION SHALL BE ISSUED IN ACCORDANCE WITH § 2-209 OF THIS ARTICLE.

14-611.

(A) TO ENFORCE THIS SUBTITLE AND ANY REGULATION ADOPTED UNDER IT, THE COMMISSIONER MAY ISSUE AN ORDER:

(1) THAT REQUIRES THE VIOLATOR TO CEASE AND DESIST FROM THE IDENTIFIED VIOLATION AND FURTHER SIMILAR VIOLATIONS;

(2) THAT REQUIRES THE VIOLATOR TO TAKE SPECIFIC AFFIRMATIVE ACTION TO CORRECT THE VIOLATION;

(3) THAT REQUIRES THE VIOLATOR TO MAKE RESTITUTION OF MONEY, PROPERTY, OR OTHER ASSETS TO A PERSON WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF THE VIOLATION; OR

(4) THAT REQUIRES A DISCOUNT MEDICAL PLAN ORGANIZATION OR A DISCOUNT DRUG PLAN ORGANIZATION TO MAKE RESTITUTION OF MONEY, PROPERTY, OR OTHER ASSETS TO A PERSON WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF A VIOLATION BY ANY PERSON AUTHORIZED TO SELL, MARKET, SOLICIT, OR ADMINISTER A DISCOUNT MEDICAL PLAN OR DISCOUNT DRUG PLAN ESTABLISHED BY THE DISCOUNT MEDICAL PLAN ORGANIZATION OR DISCOUNT DRUG PLAN ORGANIZATION WHILE THE PERSON IS ACTING WITH THE ACTUAL OR APPARENT AUTHORITY OF THE DISCOUNT MEDICAL PLAN ORGANIZATION OR DISCOUNT DRUG PLAN ORGANIZATION.

(B) (1) AN ORDER OF THE COMMISSIONER ISSUED UNDER THIS SECTION MAY BE SERVED ON A VIOLATOR WHO IS REGISTERED UNDER THIS SUBTITLE IN THE MANNER PROVIDED IN TITLE 2 OF THIS ARTICLE.

(2) AN ORDER OF THE COMMISSIONER ISSUED UNDER THIS SECTION MAY BE SERVED ON A VIOLATOR THAT IS NOT REGISTERED UNDER THIS SUBTITLE IN THE MANNER PROVIDED FOR SERVICE ON AN UNAUTHORIZED INSURER THAT DOES AN ACT OF INSURANCE BUSINESS IN TITLE 4 OF THIS ARTICLE.

(3) A REQUEST FOR A HEARING ON ANY ORDER ISSUED UNDER THIS SUBSECTION DOES NOT STAY THAT PORTION OF THE ORDER THAT REQUIRES THE VIOLATOR TO CEASE AND DESIST FROM CONDUCT IDENTIFIED IN THE ORDER.

(4) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT COURT OF ANY COUNTY TO ENFORCE AN ORDER ISSUED UNDER THIS SECTION, WHETHER OR NOT A HEARING HAS BEEN REQUESTED OR, IF REQUESTED, WHETHER OR NOT A HEARING HAS BEEN HELD.

(5) IF THE COMMISSIONER PREVAILS IN AN ACTION BROUGHT BY THE COMMISSIONER UNDER THIS SECTION, THE COMMISSIONER MAY RECOVER FOR THE USE OF THE STATE REASONABLE ATTORNEY'S FEES AND THE COSTS OF THE ACTION.

(C) (1) IN ADDITION TO ANY OTHER ENFORCEMENT ACTION TAKEN BY THE COMMISSIONER UNDER THIS SECTION, THE COMMISSIONER MAY

IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$10,000 FOR EACH VIOLATION OF THIS SUBTITLE.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$1,000 PER DAY FOR EACH DAY THAT A PERSON IS IN VIOLATION OF § 14-603 OF THIS SUBTITLE.

(D) THIS SECTION DOES NOT LIMIT ANY REGULATORY POWER OF THE COMMISSIONER UNDER THIS ARTICLE.

14-612.

THE COMMISSIONER SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

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

Approved by the Governor, May 17, 2007.

CHAPTER 630

(House Bill 868)

AN ACT concerning

Maryland Transit Administration - Public Hearings

FOR the purpose of requiring, except under certain circumstances, the Maryland Transit Administration to hold a public hearing before changing a certain bus or rail route alignment ~~or bus stop location~~; requiring the Administration to hold a public hearing before establishing or abandoning a rail transit station; limiting the time period during which the Administration may implement a ~~policy~~ certain change ~~on certain matters~~; establishing notice requirements that must be met for a public hearing on ~~certain matters~~ a certain change before the Administration may implement ~~policy changes on those matters~~ the change; requiring a public hearing to be at a certain location and time; requiring the Administration to accept written comments during a certain time period after a public hearing; authorizing the Administration to alter a bus route alignment in

a certain manner without holding a public hearing; requiring the People's Counsel to the Public Service Commission to appear at certain hearings called by the Administration; making a stylistic change; and generally relating to public hearings held by the Maryland Transit Administration.

BY repealing and reenacting, with amendments,
 Article – Transportation
 Section 7–506
 Annotated Code of Maryland
 (2001 Replacement Volume and 2006 Supplement)

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

Article – Transportation

7–506.

(a) ~~(1) Until~~ **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, UNTIL** a public hearing is held on the matter, the Administration may not:

~~[(1)] (I)~~ Fix or revise any fare or rate charged the general public; [or]

~~[(2)] (II)~~ Establish or abandon any **BUS OR RAIL** route **LISTED ON A PUBLISHED TIMETABLE;**

~~(III) CHANGE A BUS OR RAIL ROUTE ALIGNMENT ~~OR BUS STOP LOCATION~~ LISTED ON A PUBLISHED TIMETABLE, UNLESS THE CHANGE IS NEEDED BECAUSE OF TEMPORARY CONSTRUCTION OR CHANGES IN THE ROAD NETWORK; OR~~

~~(IV) ESTABLISH OR ABANDON A RAIL TRANSIT STATION.~~

~~(2) THE ADMINISTRATION MAY ONLY IMPLEMENT A CHANGE ~~OF POLICY ON A MATTER~~ DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION DURING THE TIME PERIOD THAT BEGINS 6 WEEKS AFTER THE PUBLIC HEARING AND ENDS 6 MONTHS AFTER THE PUBLIC HEARING.~~

~~(3) (I) IF THE ADMINISTRATION GIVES INADEQUATE NOTICE OF A PUBLIC HEARING ON A ~~MATTER~~ CHANGE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE ADMINISTRATION MAY NOT IMPLEMENT ~~A CHANGE OF POLICY ON THE MATTER~~ THE CHANGE UNLESS A LEGALLY SUFFICIENT PUBLIC HEARING IS HELD.~~

(II) FOR THE PURPOSES OF THIS PARAGRAPH, NOTICE SHALL BE CONSIDERED INADEQUATE IF:

1. THE ADMINISTRATION DOES NOT COMPLY WITH THE NEWSPAPER PUBLICATION REQUIREMENTS UNDER SUBSECTION ~~(E)~~ (D) OF THIS SECTION; OR

2. AT LEAST 30% OF THE ADMINISTRATION'S FACILITIES ARE NOT POSTED AS REQUIRED UNDER SUBSECTION ~~(E)~~ (D) OF THIS SECTION.

(4) A PUBLIC HEARING REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE AT A PLACE AND TIME THAT IS REASONABLY ACCESSIBLE AND CONVENIENT TO THE PATRONS OF THE SERVICE TO BE AFFECTED.

(5) THE ADMINISTRATION SHALL ACCEPT WRITTEN COMMENTS FOR 30 DAYS AFTER A HEARING HELD ON A CHANGE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(B) THE ADMINISTRATION MAY ADD SERVICE ON A NEW ALIGNMENT BRANCHING OFF OF AN EXISTING ROUTE WITHOUT HOLDING A PUBLIC HEARING, IF THE ADDITION OF THE NEW ALIGNMENT DOES NOT ALTER THE EXISTING ROUTE.

~~(C)~~ (C) (1) The following persons may request the Administration to hold a hearing on any rentals, rates, fares, fees, or other charges of the Administration or any service rendered by the transit facilities owned or controlled by the Administration:

(i) Any person served by or using the transit facilities;

(ii) The People's Counsel ~~to the Public Service Commission~~, as a representative of the general public; and

(iii) Any private carrier operating in the District.

(2) The request for a hearing shall:

(i) Be in writing;

(ii) State the matter sought to be heard; and

(iii) Set forth clearly the grounds for the request.

(3) As soon as possible after the Administration receives a request for a hearing, a designated employee of the Administration shall confer on the matter with the person requesting the hearing. After the conference, if the Administration considers the matter meritorious and of general significance, it may call a hearing.

~~(d)~~ **(D)**(1) The Administration shall give at least [30 days] **A 30-DAY** notice before a hearing.

(2) The notice shall be:

(i) Published once a week for 2 successive weeks in two or more newspapers of daily circulation throughout the District; and

(ii) Posted in all of the Administration's offices, stations, and terminals and all of ~~its~~ **THE** vehicles and rolling stock **USED** in revenue service **BY THE MODE OF TRANSPORTATION THAT WILL BE AFFECTED BY THE PROPOSED ACTION DESCRIBED IN SUBSECTION (A) OF THIS SECTION.**

(3) The 30-day period begins when the notice first appears in the newspaper.

~~(d)~~ **(E)** Before calling a hearing under this section, the Administration shall file at its main office and make available for public inspection:

(1) Its report on the subject matter of the hearing;

(2) Any report received from the Public Service Commission under § 7-507 of this subtitle; and

(3) If the hearing was requested under subsection ~~(b)~~ **(C)** of this section, the written request for the hearing and all documents filed in support of it.

~~(e)~~ **(F)** [If the] **THE** People's Counsel ~~to the Public Service Commission~~ [considers the public interest to be involved, the People's Counsel] shall appear and represent the public interest at each hearing called by the Administration under this section.

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

Approved by the Governor, May 17, 2007.

CHAPTER 631

(House Bill 881)

AN ACT concerning

Howard County – Certificated and Noncertificated Public School Employees – Service or Representation Fee

Ho. Co. 11-07

FOR the purpose of authorizing the Howard County Board of Education to negotiate with employee organizations a reasonable service fee to be charged to nonmember certificated employees for representing the employees in certain matters; requiring the Howard County Board of Education to negotiate with certain employee organizations a reasonable service fee to be charged to nonmember noncertificated employees for representing the employees in certain matters; and generally relating to a service or representation fee for nonmembers of certain employee organizations in Howard County.

BY repealing and reenacting, with amendments,

Article – Education

Section 6-407(c) and 6-504(b)

Annotated Code of Maryland

(2006 Replacement Volume)

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

Article – Education

6-407.

(c) (1) In Montgomery County, Prince George's County, Baltimore County, [and] Baltimore City, **AND HOWARD COUNTY**, the public school employer may negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a reasonable service or representation fee, to be charged nonmembers for representing them in negotiations, contract administration, including grievances, and other activities as are required under subsection (b) of this section.

(2) The service or representation fee may not exceed the annual dues of the members of the organization.

(3) An employee who is a substitute teacher and who works on a short-term day-to-day basis is not required to pay a service or representation fee.

(4) An employee whose religious beliefs are opposed to joining or financially supporting any collective bargaining organization is:

(i) Not required to pay a service or representation fee; and

(ii) Required to pay an amount of money as determined in paragraph (2) of this subsection to a nonreligious, nonunion charity or to such other charitable organization as may be mutually agreed upon by the employee and the exclusive representative, and who furnishes to the public school employer and the exclusive representative written proof of such payment.

(5) (i) In Baltimore County, the provisions of this subsection shall apply only to employees who are hired on or after July 1, 1997.

(ii) The provisions of this paragraph apply if an agency or representation fee is negotiated in Baltimore County.

(iii) 1. Subject to the provisions of sub-subparagraph 2 of this subparagraph, the employee organization designated as the exclusive representative for the public school employees shall indemnify and hold harmless the Board of Education of Baltimore County against any and all claims, demands, suits, or any other forms of liability that may arise out of, or by reason of, action taken by the Board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

2. The Board shall retain without charge to the Board the services of counsel that are designated by the exclusive representative with regard to any claim, demand, suit, or any other liability that may arise out of, or by reason of, action taken by the Board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

(iv) The employee organization designated as the exclusive representative shall submit to the Board an annual audit from an external auditor that reflects the operational expenses of the employee organization and explains how the representation fee is calculated based on the audit.

(v) 1. The agency or representation fee shall be based only on the expenses incurred by the employee organization in its representation in negotiations, contract administration, including the handling of grievances, and other activities, as required under this section.

2. Any political activities of the employee organization designated as the exclusive representative may not be financed by the funds collected from the agency or representation fee.

(6) In Montgomery County, an employee who is a home or hospital teacher and who works on a short-term day-to-day basis is not required to pay a service or representation fee.

6-504.

(b) (1) In Montgomery County, Allegany County, [and] Charles County, **AND HOWARD COUNTY**, the County Board, with respect to noncertificated employees, shall negotiate a structure of reasonable service fees to be charged nonmembers for representation in negotiations and grievance matters by employee organizations.

(2) In Charles County, the provisions of this subsection shall apply only to employees hired on or after July 1, 2005.

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

Approved by the Governor, May 17, 2007.

CHAPTER 632

(House Bill 908)

AN ACT concerning

Prince George's County - Public Safety Surcharge - Increased Distribution of Revenue to Municipal Corporations

PG 414-07

FOR the purpose of increasing to a certain amount the percentage of revenue from the public safety surcharge on construction located in a municipal corporation that is distributed to the municipal corporation's police department; providing for a delayed effective date; and generally relating to the distribution of revenue from the public safety surcharge to municipal corporations.

BY repealing and reenacting, with amendments,
The Public Local Laws of Prince George's County
Section 10-192.11(e)
Article 17 - Public Local Laws of Maryland
(2003 Edition, as amended)

(As enacted by Chapter 594 of the Acts of the General Assembly of 2005)

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

Article 17 – Prince George’s County

10–192.11.

(e) (1) Subject to paragraphs (2) and (3) of this subsection, revenue collected under the public safety surcharge shall be distributed by the governing body of Prince George’s County to police, fire, and emergency medical services in the county.

(2) ~~¶(A)¶~~ At least [12%] ~~50%~~ 25% of the revenue collected from a surcharge imposed on construction that is located in a municipal corporation that maintains a police department shall be distributed to that municipal corporation’s police department.

~~¶(B)~~ The revenue collected from a surcharge imposed on construction that is located in the City of Laurel shall be distributed as follows:

(i) 50% to Prince George’s County fire and rescue services; and

(ii) 50% to the Laurel Police Department for the construction or rehabilitation of public safety facilities or the purchase of equipment or communications devices used in connection with law enforcement.~~¶~~

(3) Revenue collected under this section may be used only for:

(A) The construction or rehabilitation of public safety facilities;

or

(B) The purchase of equipment or communications devices used in connection with law enforcement, fire fighting, or emergency services activities, including protective body armor, surveillance devices, weapons, ladder trucks, ambulances, police cruisers, and rescue vehicles.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2007~~ July 1, 2008.

Approved by the Governor, May 17, 2007.