
By: Washington County Delegation

Introduced and read first time: February 22, 1996

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Washington County Gaming Commission - Tip Jar Regulation**

3 FOR the purpose of modifying provisions governing the regulation of tipjars in
4 Washington County; authorizing the Board of County Commissioners to establish a
5 temporary tip jar license, to require certain information and actions relating to
6 criminal background checks, and to require certain additional reports; modifying
7 requirements concerning membership of and qualifications and terms of members
8 of the Washington County Gaming Commission; requiring the Board to waive
9 certain fees; modifying requirements concerning tip jar licensees and wholesalers;
10 requiring certain organizations and associations that have tip jar licenses to
11 contribute certain proceeds in a certain manner; prohibiting the Board from
12 reducing certain appropriations below a certain level; altering certain reporting
13 requirements; prohibiting a person from operating a tip jar on property owned by
14 the Washington County School Board; increasing certain criminal penalties;
15 providing for certain other criminal penalties; requiring certain recommendations to
16 the Board of License Commissioners of Washington County relating to suspension
17 of liquor licenses; repealing a provision authorizing certain organizations to make
18 contributions without contributing to the Washington County Gaming Fund for a
19 certain duration; altering a certain termination provision; and generally relating to
20 tip jar operations and the regulation of tip jars in Washington County.

21 BY repealing and reenacting, with amendments,
22 Article 27 - Crimes and Punishments
23 Section 255C
24 Annotated Code of Maryland
25 (1992 Replacement Volume and 1995 Supplement)

26 BY repealing
27 Chapter 636 of the Acts of the General Assembly of 1995
28 Section 2

29 BY repealing and reenacting, with amendments,
30 Chapter 636 of the Acts of the General Assembly of 1995
31 Section 4

2

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

3 **Article 27 - Crimes and Punishments**

4 255C.

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

6 (2) "Board" means the Board of County Commissioners of Washington
7 County.

8 (3) "Commission" means the Washington County Gaming Commission.

9 (4) "County" means Washington County.

10 (5) "County agency" means an agency designated by the Board to
11 administer this section.

12 (6) "Fund" means the Washington County Gaming Fund.

13 (7) (i) "Gaming sticker" means a sticker issued by the county agency that
14 is required to be affixed to a tip jar packet before the tip jar packet is sold.

15 (ii) A gaming sticker may be in the form of a bar code or other form
16 that the Board designates.

17 (8) "Tip jar" means a gaming device from which a number or series of
18 numbers or other symbol is obtained for consideration by selection of a sealed piece of
19 paper that may entitle the purchaser of the number or numbers or other symbol to a
20 payoff in cash or other manner immediately upon receipt or as a result of a subsequent
21 announcement of a winning number or numbers or other symbol or any other device
22 commonly recognized as a tip jar.

23 (9) "Tip jar packet" means a package containing tips to be sold by way of a
24 tip jar sufficient for a single tip jar game.

25 (10) "Tip jar license" means a license issued by the county agency to operate
26 a tip jar in the County.

27 (11) "Wholesaler's license" means a license issued by the county agency to
28 sell OR DISTRIBUTE tip jar packets in the County.

29 (b) There is a Washington County Gaming Commission.

30 (c) (1) The Commission consists of [five] SEVEN members appointed as
31 follows:

32 (i) Three members appointed by the Board;

33 (ii) One member appointed by the Chairman of the Washington
34 County House of Delegates Delegation, with the concurrence of the County's House
35 Delegation; [and]

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1 (iii) One member appointed by the State Senators whose districts are
2 within or include part of Washington County;

3 (IV) ONE MEMBER FROM WASHINGTON COUNTY TO REPRESENT
4 RESTAURANTS, TAVERNS, AND THE ALCOHOLIC BEVERAGES INDUSTRY IN THE
5 COUNTY, APPOINTED BY THE WASHINGTON COUNTY HOUSE AND SENATE
6 DELEGATIONS; AND

7 (V) ONE MEMBER FROM THE WASHINGTON COUNTY CLUBS
8 ASSOCIATION, APPOINTED BY THE WASHINGTON COUNTY HOUSE AND SENATE
9 DELEGATIONS.

10 (2) A member of the Commission APPOINTED UNDER PARAGRAPH (1)(I),
11 (II), OR (III) OF THIS SUBSECTION may not:

12 (i) Hold a tip jar license or a wholesaler's license; [or]

13 (ii) Be employed by a person who holds a tip jar license or a
14 wholesaler's license;

15 (III) HOLD ANY OWNERSHIP INTEREST IN OR RECEIVE ANY DIRECT
16 BENEFIT FROM THE HOLDER OF A TIP JAR LICENSE OR A WHOLESALER'S LICENSE;
17 OR

18 (IV) SERVE ON ANY BOARD OR AS AN OFFICER OF ANY
19 ORGANIZATION THAT IS QUALIFIED UNDER § 501(C)(3) OF THE INTERNAL REVENUE
20 CODE.

21 (3) A member of the Commission shall be a resident of Washington County.

22 (4) The term of a member of the Commission is 2 years and begins on July
23 1.

24 (5) A member of the Commission may not be reappointed within 5 years
25 after completion of a full 2-year term.

26 (6) The terms of members of the Commission are staggered as required by
27 the terms in effect for members of the Commission on July 1, 1995.

28 (7) At the end of a term, a member continues to serve until a successor is
29 appointed.

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

32 (9) A member of the commission:

33 (i) May not receive compensation; but

34 (ii) May be entitled to reimbursement for expenses, in accordance with
35 a policy of the Board.

36 (d) (1) The Commission shall annually choose a chairman from among its
37 members.

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1 (2) The Board shall assign appropriate professional staff to the Commission
2 for the periodic meetings of the Commission.

3 (e) (1) The Board shall adopt regulations to carry out this section.

4 (2) The [Commission] COUNTY AGENCY may recommend to the Board
5 regulations or guidelines concerning the administration of this section.

6 (3) BY REGULATION, THE BOARD:

7 (I) MAY REQUIRE AN APPLICANT FOR A TIP JAR LICENSE OR A
8 WHOLESALER'S LICENSE OR ANY INDIVIDUAL INVOLVED IN THE OPERATION OF A
9 TIP JAR TO BE FINGERPRINTED; AND

10 (II) MAY DIRECT THE COUNTY AGENCY TO OBTAIN A CRIMINAL
11 RECORDS CHECK FROM THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL
12 REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
13 SERVICES.

14 (f) A person may operate a tip jar in the County if:

15 (1) The person is:

16 (i) A volunteer fire company;

17 (ii) A volunteer rescue company;

18 (iii) A religious, fraternal, civic, veterans, or bona fide charitable
19 organization;

20 (iv) A sportsmen's association that is exempt from taxation under §
21 501(c) of the Internal Revenue Code and approved by the Board;

22 (v) A restaurant for which an alcoholic beverages license has been
23 issued;

24 (vi) A tavern for which an alcoholic beverages license has been issued;
25 or

26 (vii) A holder of a Class A beer, wine and liquor license;

27 (2) The person:

28 (i) Unless allowed under subsection [(o)] (P) of this section, does not
29 hold a wholesaler's license;

30 (ii) Does not owe taxes to THE STATE, the County, or a municipal
31 corporation in the County; and

32 (iii) Has not been convicted of a felony or misdemeanor [involving any
33 gambling or gaming law of the State, except a misdemeanor in regard to the operation of
34 a tip jar before October 1, 1995] EXCEPT FOR A TRAFFIC VIOLATION; and

35 (3) The person holds a tip jar license issued by the county agency.

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1 (g) (1) Subject to paragraph (2) of this subsection, the county agency may issue
2 a tip jar license to each qualified applicant for a tip jar license that pays an annual fee of
3 \$250.

4 (2) The [Commission] BOARD may waive or reduce the annual fee for an
5 organization that qualifies for a tip jar license under subsection (f)(1)(i), (ii), (iii), or (iv)
6 of this section.

7 (3) License fees collected under this subsection shall be credited to the
8 general fund of the County.

9 (h) A holder of a tip jar license may:

10 (1) Only operate a tip jar if the operation is on the premises of the holder
11 during normal business hours unless otherwise authorized by the Board; and

12 (2) Award prizes in cash or merchandise.

13 (i) (1) A tip jar license expires on the first July 1 that comes after the effective
14 date of the tip jar license.

15 (2) A tip jar license is not transferable.

16 (j) (1) The county agency shall send an agent to inspect periodically the
17 premises of holders of tip jar licenses to ensure compliance with this section.

18 (i) (1) The Board may audit any records relating to tip jars of a holder of
19 a tip jar license or wholesaler's license.

20 (ii) A holder of a tip jar license or wholesaler's license shall make
21 available to an auditor designated by the Board any records required for an audit in
22 accordance with regulations of the Board.

23 (iii) The Board shall make audit reports completed under this
24 paragraph available for public inspection.

25 (3) A holder of a tip jar license or wholesaler's license shall retain all
26 records required under regulations of the Board for at least [5] 3 years.

27 (k) (1) THE BOARD MAY ESTABLISH BY REGULATION A TEMPORARY TIP
28 JAR LICENSE FOR ISSUANCE TO AN AMATEUR ATHLETIC ORGANIZATION, BOOSTER
29 CLUB, EDUCATIONAL ORGANIZATION, HOSPITAL, POLITICAL ORGANIZATION,
30 SOCIAL CLUB, OR SIMILAR ORGANIZATION.

31 (2) A POLITICAL COMMITTEE FOR A CANDIDATE FOR PUBLIC OFFICE
32 MAY NOT BE GRANTED A TEMPORARY TIP JAR LICENSE.

33 (3) AN INDIVIDUAL INVOLVED IN THE OPERATION OF A TIP JAR UNDER
34 THE TEMPORARY LICENSE MAY NOT PERSONALLY BENEFIT FINANCIALLY FROM
35 THE OPERATION OF THE TIP JAR AND THE ORGANIZATION IS SUBJECT TO AUDIT BY
36 THE COMMISSION.

37 (4) THE BOARD SHALL PRESCRIBE BY REGULATION:

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1 (I) THE FEE FOR A TEMPORARY TIP JAR LICENSE;

2 (II) THE PERIOD FOR WHICH THE LICENSE SHALL REMAIN IN
3 EFFECT;

4 (III) THE PROVISIONS OF THIS SECTION APPLICABLE TO THE
5 ISSUANCE OF A TEMPORARY TIP JAR LICENSE AND TO THE OPERATION OF A TIP JAR
6 UNDER A TEMPORARY LICENSE; AND

7 (IV) ANY ADDITIONAL REQUIREMENTS THAT THE BOARD
8 CONSIDERS APPROPRIATE CONCERNING THE OPERATION OF A TIP JAR UNDER A
9 TEMPORARY TIP JAR LICENSE.

10 (5) AN ORGANIZATION THAT HAS OPERATED A TIP JAR UNDER A
11 TEMPORARY TIP JAR LICENSE AND THEN DISBANDS SHALL TRANSFER ANY
12 REMAINING PROCEEDS FROM THE OPERATION OF A TIP JAR TO THE FUND.

13 (L) A person may sell OR DISTRIBUTE a tip jar packet in the County if the
14 person:

15 (1) Has had an established place of business in the County for at least [3
16 years] 1 YEAR, AS EVIDENCED BY THE FILING OF A PERSONAL PROPERTY TAX
17 RETURN;

18 (2) Has not been convicted of a felony or misdemeanor [involving any
19 gambling or gaming law of the State, except a misdemeanor in regard to the operation of
20 a tip jar before October 1, 1995] EXCEPT FOR A TRAFFIC VIOLATION;

21 (3) [Is of good moral character;

22 (4)] Unless allowed under subsection [(o)] (P) of this section, does not hold
23 a tip jar license;

24 [(5)] (4) Does not owe taxes to THE STATE, the County, or a municipal
25 corporation in the County; and

26 [(6)] (5) Has a wholesaler's license issued by the county agency.

27 [(1)] (M) (1) Except as provided in paragraph (2) of this subsection, the county
28 agency may issue a wholesaler's license to each qualified applicant that pays the county
29 agency a fee of \$500.

30 (2) The [Commission may waive or reduce] BOARD SHALL WAIVE the
31 annual fee for a volunteer fire company or a volunteer rescue company.

32 (3) License fees collected under this subsection shall be credited to the
33 general fund of the County.

34 [(m)] (N) (1) A wholesaler's license expires on the first July 1 that comes after
35 the effective date of the wholesaler's license.

36 (2) A wholesaler's license is not transferable.

1 [(n)] (O) (1) Before selling a tip jar packet, a holder of a wholesaler's license
2 shall obtain a gaming sticker from the county agency and affix the gaming sticker to the
3 tip jar packet as the Board requires.

4 (2) A holder of a wholesaler's license may not sell a tip jar packet to any
5 person who does not hold a tip jar license.

6 [(o)] (P) A volunteer fire company or a volunteer rescue company may hold both
7 a tip jar license and a wholesaler's license.

8 [(p)] (Q) (1) There is a Washington County Gaming Fund established by the
9 Commission.

10 (2) In this subsection, "gross profits" means the total proceeds from the
11 operation of a tip jar less the amount of prizes or money winnings distributed.

12 (3) (i) Subject to [subparagraph (ii)] SUBPARAGRAPHS (II) AND (III) of
13 this paragraph, a person that qualifies for a tip jar license under subsection (f)(1)(v), (vi),
14 or (vii) of this section shall deposit with a financial institution that the Commission
15 designates and to the credit of the Fund the gross profits from the tipjars that the person
16 operates.

17 (ii) To offset the costs of operating a tip jar, a person that qualifies for
18 a tip jar license under subsection (f)(1)(v), (vi), or (vii) of this section may retain [\$35]
19 THE LESSER OF \$45 OR 50% OF THE GROSS PROFITS from each tip jar game.

20 (III) THE GROSS PROFITS OF A TIP JAR OPERATED BY A PERSON
21 THAT IS SUBJECT TO THIS PARAGRAPH MAY NOT EXCEED \$250.

22 (4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A
23 FRATERNAL, CIVIC, VETERANS, OR BONA FIDE CHARITABLE ORGANIZATION OR
24 SPORTSMEN'S ASSOCIATION THAT QUALIFIES FOR A TIP JAR LICENSE UNDER
25 SUBSECTION (F)(1)(III) OR (IV) OF THIS SECTION SHALL CONTRIBUTE TO
26 CHARITABLE PURPOSES EACH YEAR:

27 1. 10% OF THE GROSS PROFITS EARNED BETWEEN JULY 1,
28 1996 AND JUNE 30, 1997;

29 2. 15% OF THE GROSS PROFITS EARNED BETWEEN JULY 1,
30 1997 AND JUNE 30, 1998; AND

31 3. 20% OF THE GROSS PROFITS EARNED BETWEEN JULY 1,
32 1998 AND JUNE 30, 1999, AND EACH 12-MONTH PERIOD THEREAFTER.

33 (II) CONTRIBUTIONS REQUIRED UNDER SUBPARAGRAPH (I) OF THIS
34 PARAGRAPH SHALL BE DIVIDED WITH:

35 1. ONE-HALF BEING DEPOSITED WITH A FINANCIAL
36 INSTITUTION THAT THE COMMISSION DESIGNATES AND TO THE CREDIT OF THE
37 FUND; AND

38 2. ONE-HALF CONTRIBUTED DIRECTLY FOR CHARITABLE
39 PURPOSES CHOSEN BY THE LICENSEE.

1 (III) THE DIRECT CONTRIBUTIONS UNDER SUBPARAGRAPH (II)2 OF
2 THIS PARAGRAPH:

3 1. MAY INCLUDE UP TO 5% OF THE GROSS PROFITS EARNED
4 DURING THE APPLICABLE PERIOD AS IN KIND CONTRIBUTIONS, INCLUDING
5 CONTRIBUTIONS OF FREE FOOD, BEVERAGES, AND OTHER GOODS AND FREE
6 RENTALS OF SPACE, MATERIALS, AND EQUIPMENT; AND

7 2. SHALL BE CONTRIBUTED IN ACCORDANCE WITH
8 GUIDELINES ESTABLISHED BY THE BOARD BY REGULATION AFTER RECEIVING
9 INPUT FROM THE WASHINGTON COUNTY CLUBS ASSOCIATION AND HOLDING A
10 PUBLIC HEARING.

11 (IV) IF AN ORGANIZATION THAT IS SUBJECT TO THIS SUBSECTION
12 DOES NOT CONTRIBUTE IN A YEAR THE FULL AMOUNT REQUIRED UNDER
13 SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE ORGANIZATION IN THE NEXT YEAR
14 SHALL DEPOSIT, WITH A FINANCIAL INSTITUTION THAT THE COMMISSION
15 DESIGNATES AND TO THE CREDIT OF THE FUND, THE BALANCE OF THE AMOUNT
16 REQUIRED TO BE CONTRIBUTED.

17 (5) The [Commission] BOARD shall establish the time, method of deposit,
18 and other procedures necessary to carry out [paragraph] PARAGRAPHS (3) AND (4) of
19 this subsection.

20 [(5)] (6) The Commission may use money in the Fund to reimburse the
21 Board for the costs to the County for administering this section in accordance with a
22 written agreement between the Board and the Commission.

23 [(6)] (7) Each year, after the reimbursement under paragraph [(5)] (6) of
24 this subsection, the Commission shall distribute:

25 (i) 60 percent of the moneys deposited in the Fund to bonafide
26 charitable organizations in the County, subject to any restrictions that the Board may
27 adopt by regulation; and

28 (ii) 40 percent of the moneys deposited in the Fund to the Washington
29 County Volunteer Fire and Rescue Association.

30 (8) THE BOARD MAY NOT REDUCE THE TOTAL OF ITS APPROPRIATIONS
31 TO NONPROFIT ORGANIZATIONS IN THE COUNTY BUDGET BELOW THE TOTAL
32 APPROPRIATION TO NONPROFIT ORGANIZATIONS THAT IS IN THE BUDGET FOR THE
33 1996 FISCAL YEAR.

34 [(q)] (R) (1) [Four times a year, each] EACH holder of a tip jar license shall
35 submit to the [Commission] BOARD a [quarterly] report concerning the tip jars that it
36 operates AT LEAST THREE TIMES A YEAR.

37 (2) A [quarterly] report shall include the number of tip jars in operation,
38 the number of tip jar packets purchased, the identity of the gaming stickers used, and any
39 additional information that the Board requires.

40 (3) An organization that qualifies for a tip jar license under subsection
41 (f)(1)(v), (vi), or (vii) of this section shall include in each [quarterly] report an

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1 accounting of all receipts and disbursements made in connection with the operation of tip
2 jars for [that quarter] THE PERIOD in accordance with regulations of the Board.

3 (4) A report submitted under this subsection shall include a written
4 statement signed by the individual making it in which the individual solemnly affirms
5 under the penalties under this section and under the penalty of perjury that the contents
6 of the report are true to the best of the individual's knowledge, information, and belief.

7 (5) (I) EACH REPORT FILED BY AN ORGANIZATION THAT QUALIFIES
8 FOR A TIP JAR LICENSE AND IS SUBJECT TO THE CONTRIBUTION REQUIREMENTS
9 UNDER SUBSECTION (Q)(4) OF THIS SECTION SHALL:

10 1. BE FILED BY AN OFFICER OF THE ORGANIZATION; AND

11 2. INCLUDE FOR THE PERIOD IN ACCORDANCE WITH
12 REGULATIONS OF THE BOARD AN ACCOUNTING OF ALL RECEIPTS IN CONNECTION
13 WITH THE OPERATION OF TIP JARS AND THE DISBURSEMENTS MADE IN
14 COMPLIANCE WITH SUBSECTION (Q)(4) OF THIS SECTION.

15 (II) 1. IN FILING A REPORT UNDER THIS PARAGRAPH AN
16 INDIVIDUAL MAY NOT:

17 A. FRAUDULENTLY USE A FALSE OR FICTITIOUS NAME;

18 B. KNOWINGLY MAKE A FALSE STATEMENT;

19 C. KNOWINGLY CONCEAL A MATERIAL FACT; OR

20 D. OTHERWISE COMMIT A FRAUD IN FILING THE REPORT.

21 2. A PERSON WHO VIOLATES THIS SUBPARAGRAPH IS
22 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
23 EXCEEDING \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 10 DAYS OR BOTH.

24 [(5)] (6) The [Commission] BOARD shall make reports submitted under
25 this subsection available for public inspection in accordance with regulations of the
26 Board.

27 [(r)] (S) (1) Subject to subsection [(t)] (U) of this section, the county agency
28 may deny a tip jar license or a wholesaler's license to an applicant or discipline a holder
29 of a license in accordance with this subsection.

30 (2) If the county agency finds that a person has violated this section, the
31 person is subject to:

32 (i) For a first offense, denial or suspension of the person's tip jar
33 license or wholesaler's license and a fine not exceeding \$1,500; and

34 (ii) For a subsequent offense:

35 1. A fine not exceeding \$5,000; and

36 2. Revocation of the person's tip jar license or wholesaler's
37 license.

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1 (3) In addition to the penalties under paragraph (2)(ii) of this subsection for
2 a subsequent offense, if the licensee also has a liquor license, the county agency may
3 recommend to the Board of License Commissioners that the licensee's liquor license be
4 suspended for not less than 15 days.

5 (4) Fines collected under paragraph (2) of this subsection shall be credited
6 to the general fund of the County.

7 [(s)] (T) A person whose tip jar license or wholesaler's license is revoked may not
8 be issued another license.

9 [(t)] (U) (1) Before the county agency may take action under subsection [(r)]
10 (S) of this section, the county agency shall give the person against whom the action is
11 contemplated the opportunity for a hearing before the Board.

12 (2) On request, the Board shall hold a hearing in the same manner as
13 specified in Title 10, Subtitle 2 of the State Government Article.

14 (3) The Board may administer oaths in a proceeding under this subsection.

15 (4) If, after notice is given, the person against whom the action is
16 contemplated does not appear, nevertheless the Board may hear and determine the
17 matter.

18 [(u)] (V) (1) A person who does not hold a wholesaler's license may not sell OR
19 DISTRIBUTE a tip jar packet.

20 (2) A person who does not hold a tip jar license may not offer to another
21 person a chance from a tip jar or otherwise operate a tip jar.

22 (3) A person who holds a tip jar license may not:

23 (I) [allow] ALLOW an individual under the age of 18 years to play a
24 tip jar; OR

25 (II) OPERATE A TIP JAR ON PROPERTY OWNED BY THE
26 WASHINGTON COUNTY SCHOOL BOARD.

27 (4) A person who violates this section is guilty of a misdemeanor and on
28 conviction is subject to a fine not exceeding [\$1,000]:

29 (I) FOR A FIRST OFFENSE, \$5,000; AND

30 (II) FOR A SUBSEQUENT OFFENSE, \$10,000.

31 (5) Each sale or offer of a chance from a tip jar is considered a separate
32 offense.

33 (6) IF A PERSON CONVICTED UNDER THIS SECTION HAS A LIQUOR
34 LICENSE, THE COUNTY AGENCY SHALL RECOMMEND TO THE BOARD OF LICENSE
35 COMMISSIONERS THAT THE PERSON'S LIQUOR LICENSE BE SUSPENDED FOR NOT
36 LESS THAN 15 DAYS.

11

1 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 2 of Chapter
2 636 of the Acts of the General Assembly of 1995 be repealed.

3 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
4 read as follows:

5 **Chapter 636 of the Acts of 1995**

6 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 1995. It shall remain effective for a period of [22 months] 4 YEARS and, at the
8 end of [April 30, 1997] JUNE 30, 1999, with no further action required by the General
9 Assembly, this Act shall be abrogated and of no further force and effect.

10 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 July 1, 1996.