

CF 7r1664

By: Delegates McIntosh, Beck, Dypski, Rosenberg, Billings, Bobo, Clagett, Cryor, Montague, Brinkley, Hurson, Kittleman, Kagan, Pitkin, Getty, Goldwater, Grosfeld, Kopp, Willis, Morgan, Dembrow, and Hecht

Introduced and read first time: January 16, 1997

Assigned to: Commerce and Government Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 1997

CHAPTER _____

1 AN ACT concerning

2 Election Law and Ethics Law Violations - Enforcement Procedures and Penalties

3 FOR the purpose of establishing a civil citation procedure for the adjudication of certain
 4 violations of the State election law; providing for a civil penalty for certain violations
 5 of the Fair Election Practices Act of the Election Code and specifying a maximum
 6 fine for such civil violations; increasing the criminal fine for certain election law
 7 violations; authorizing the State Prosecutor to prosecute certain election law
 8 violations; providing for original jurisdiction of the District Court of the State for
 9 persons contesting a citation for a civil infraction of certain fair election practice
 10 laws; providing for the disposition of certain ~~finer~~ money collected by the court;
 11 altering the statute of limitations period for a prosecution for violations of certain
 12 fair election practices laws and certain ~~lobbying disclosure~~ ethics laws; repealing a
 13 certain statute of limitation provision; making certain stylistic changes; and
 14 generally relating to the statute of limitations period for certain election law and
 15 ethics law violations, the establishment of a system of civil penalties for certain
 16 violations of the Fair Practices Act of the State Election Code, and certain
 17 enforcement procedures and penalties for violations of the State ethics law and
 18 election law.

19 BY repealing and reenacting, with amendments,
 20 Article - Courts and Judicial Proceedings
 21 Section 4-401(10) and 5-106
 22 Annotated Code of Maryland
 23 (1995 Replacement Volume and 1996 Supplement)

24 BY repealing and reenacting, with amendments,

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1 Article 33 - Election Code
2 Section 26-13(c), 26-16(c), and 26-20
3 Annotated Code of Maryland
4 (1993 Replacement Volume and 1996 Supplement)

5 BY adding to

6 Article 33 - Election Code
7 Section 26-20A
8 Annotated Code of Maryland
9 (1993 Replacement Volume and 1996 Supplement)

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

12 **Article - Courts and Judicial Proceedings**

13 4-401.

14 Except as provided in § 4-402 of this subtitle, and subject to the venue provisions of
15 Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

16 (10) A proceeding for adjudication of:

17 (i) A municipal infraction as defined in Article 23A, § 3(b)(1) of the
18 Code;

19 (ii) A Commission infraction as defined in Article 28, § 5-113 of the
20 Code;

21 (iii) A WSSC infraction as defined in Article 29, § 18-104.1 of the
22 Code, concerning rules and regulations governing publicly owned watershed property;

23 (iv) A WSSC infraction as defined in Article 29, § 18-104.2 of the
24 Code, concerning WSSC regulations governing:

25 1. Erosion and sediment control for utility construction; and

26 2. Plumbing, gasfitting, and sewer cleaning;

27 (v) A zoning violation for which a civil penalty has been provided
28 pursuant to Article 66B, § 7.01 or Article 28, § 8-120(c) of the Code;

29 (vi) A violation of an ordinance enacted:

30 1. By a charter county for which a civil penalty is provided
31 under Article 25A, § 5(A) of the Code; or

32 2. By the Mayor and City Council of Baltimore for which a civil
33 penalty is provided by ordinance;

34 (vii) A citation for a Code violation issued under Article 27, § 403 of the
35 Code;

3

1 (VIII) A CIVIL INFRACTION RELATING TO A VIOLATION OF THE FAIR
2 ELECTION PRACTICES ACT OF THE ELECTION LAWS AS PROVIDED UNDER ARTICLE
3 33, ~~§§ 26-20(A) AND (B) AND § 26-20A OF THE CODE;~~

4 [(viii)] (IX) A violation of an ordinance or regulation enacted by a
5 county without home rule, under authority granted under Article 25 of the Code, or any
6 provision of the Code of Public Local Laws for that county, for which a civil penalty is
7 provided; or

8 [(ix)] (X) A civil infraction that is authorized by law to be prosecuted
9 by a sanitary commission;

10 5-106.

11 (a) Except as provided by this section, a prosecution for a misdemeanor shall be
12 instituted within [one] 1 year after the offense was committed.

13 (b) Notwithstanding Article 27, § 690(e) OR ANY OTHER PROVISION of the
14 Code, if a statute provides that a misdemeanor is punishable by imprisonment in the
15 penitentiary, the State may institute a prosecution for the offense at any time.

16 (c) A prosecution under the vehicle code shall be instituted within [two] 2 years
17 after the offense was committed if the charge is:

18 (1) Unlawfully using a driver's license; or

19 (2) Fraudulently using a false or fictitious name when applying for a driver's
20 license.

21 (d) A prosecution for Sabbath breaking or drunkenness shall be instituted within
22 30 days after the offense was committed.

23 (e) In Allegany County, a prosecution for selling alcoholic beverages to a person
24 under the legal age for drinking such alcoholic beverages or for selling alcoholic
25 beverages after hours shall be instituted within 30 days after the offense was committed.

26 (f) A prosecution for the commission of or the attempt to commit a misdemeanor
27 constituting: (1) EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, a
28 criminal offense under the State election laws; or (2) a criminal offense under the State
29 conflict of interest laws; or (3) criminal malfeasance, misfeasance, or nonfeasance in
30 office committed by an officer of the State, or of an agency of the State, or of a political
31 subdivision of the State, or of a bicounty or multicounty agency in the State shall be
32 instituted within [two] 2 years after the offense was committed.

33 (g) A prosecution for conspiracy to commit any of the offenses enumerated in
34 subsection (f) of this section shall be instituted within [two] 2 years after the offense was
35 committed.

36 ~~(H) A PROSECUTION FOR AN OFFENSE ARISING UNDER ARTICLE 33, SUBTITLE~~
37 ~~26 OF THE CODE SHALL BE INSTITUTED WITHIN 4 YEARS AFTER THE OFFENSE WAS~~
38 ~~COMMITTED.~~

4

1 (H) A PROSECUTION TO IMPOSE A CIVIL FINE FOR AN OFFENSE ARISING
 2 UNDER ARTICLE 33, § 26-20A OF THE CODE SHALL BE INSTITUTED WITHIN 3 YEARS
 3 AFTER THE OFFENSE WAS COMMITTED.

4 ~~(I) A PROSECUTION FOR AN OFFENSE ARISING UNDER TITLE 15, SUBTITLE 7~~
 5 ~~OF THE STATE GOVERNMENT ARTICLE SHALL BE INSTITUTED WITHIN 4 YEARS~~
 6 ~~AFTER THE OFFENSE WAS COMMITTED.~~

7 (I) A PETITION BY THE STATE ETHICS COMMISSION TO SEEK A CIVIL FINE
 8 UNDER § 15-902(B) OF THE STATE GOVERNMENT ARTICLE MAY NOT BE INITIATED
 9 UNLESS THE COMPLAINT IS FILED BY THE COMMISSION WITHIN 3 YEARS FROM THE
 10 TIME THE CONDUCT ENDED.

11 [(h)] (J) A prosecution for a welfare offense under Article 27, § 230A of the
 12 Code shall be instituted within [three] 3 years after the offense was committed.

13 [(i)] (K) A prosecution for the offense of Medicaid fraud under Article 27, §
 14 230B of this Code shall be instituted within 3 years after the offense was committed.

15 [(j)] (L) A prosecution for an offense arising under the Tax - General Article
 16 with respect to the financial institution franchise, income, or motor fuel tax shall be
 17 instituted within 3 years after the date on which the offense was committed.

18 [(k)] (M) A prosecution for the offense of failure to secure workers' compensation
 19 insurance in accordance with Title 9, Subtitle 4 of the Labor and Employment Article
 20 shall be instituted within 1 year after the State Workers' Compensation Commission
 21 finds, by order, that the employer was uninsured or, pursuant to the authority contained
 22 in § 9-1003 of the Labor and Employment Article, within 1 year after the Uninsured
 23 Employers' Fund makes payment under § 9-1003 of the Labor and Employment Article,
 24 as directed by the Commission.

25 [(l)] (N) A prosecution for an offense of the controlled hazardous substance law
 26 under § 7-265(b) of the Environment Article, shall be instituted within 2 years after
 27 commission of the offense.

28 [(m)] (O) Except as provided in subsection (g) of this section, the statute of
 29 limitations for the prosecution of the crime of conspiracy is the statute of limitations for
 30 the prosecution of the substantive crime that is the subject of the conspiracy.

31 [(n)] (P) A prosecution for an offense under Article 27, § 388 or § 388A of the
 32 Code shall be instituted within 3 years after the offense was committed.

33 [(o)] (Q) A prosecution for an offense of discrimination on the basis of sex in
 34 paying wages under §§ 3-301 through 3-308 of the Labor and Employment Article shall
 35 be instituted within 3 years after the performance of the act on which the prosecution is
 36 based.

37 [(p)] (R) A prosecution for an offense of unlawfully charging or receiving
 38 compensation in connection with an adoption under § 5-327 of the Family Law Article
 39 shall be instituted within 3 years after the offense was committed.

5

1 [(q)] (S) A prosecution for an offense under § 14-601 of the Health Occupations
2 Article of practicing, attempting to practice, or offering to practice medicine without a
3 license shall be instituted within 3 years after the offense was committed.

4 [(r)] (T) A prosecution for an offense under the Maryland Charitable
5 Solicitations Act (Title 6 of the Business Regulation Article) shall be instituted within 3
6 years after the offense was committed.

7 [(s)] (U) A prosecution for an offense under ARTICLE 27, § 449(d) or (e) of [this
8 subtitle] THE CODE, relating to straw sales of regulated firearms to prohibited persons or
9 minors and to illegal sales, rentals, transfers, possession, or receipt of regulated firearms,
10 shall be instituted within 3 years after the offense was committed.

11 **Article 33 - Election Code**

12 26-13.

13 (c) Each board shall promptly notify the State Administrative Board of Election
14 Laws of any report or statement required by § 26-11 to be filed which is more than 30
15 days overdue. Whenever it learns that a required report or statement is more than 30 days
16 overdue, the State Administrative Board of Election Laws shall issue a notice to the
17 candidate and treasurer, if the report is the statement of a candidate, or to the chairman
18 and treasurer if the report is that of a committee, to show cause why the appropriate
19 State's Attorney should not be requested to prosecute them as provided in § 26-20 for
20 violation of the provisions of this subtitle, unless the failure to file is remedied and late
21 filing fees paid within 30 days of service of the notice. Any candidate, chairman, or
22 treasurer who fails to file the report or statement and pay the late filing fee due within 30
23 days after service of the show cause notice is guilty of a misdemeanor and subject to the
24 penalties prescribed in § 26-20 of this article. [Any such prosecution must be commenced
25 within three years of the date on which the report or statement was originally due.]

26 26-16.

27 (c) (1) It shall be the duty of the State's Attorney of Baltimore City and of the
28 State's Attorney of each county of this State to prosecute, by the regular course of
29 criminal procedure, any person whom [he may believe] THE STATE'S ATTORNEY
30 BELIEVES to be guilty of having wilfully violated any of the provisions of this section
31 within the city or county for which said State's Attorney may be acting as such.

32 (2) THE STATE PROSECUTOR MAY PROSECUTE, BY THE REGULAR
33 COURSE OF CRIMINAL PROCEDURE, IN ANY JURISDICTION OF THE STATE, ANY
34 PERSON WHOM THE STATE PROSECUTOR BELIEVES TO BE GUILTY OF HAVING
35 WILLFULLY VIOLATED ANY OF THE PROVISIONS OF THIS SECTION.

36 26-20.

37 (A) ~~(Any)~~ EXCEPT AS PROVIDED IN § 26-15 OF THIS SUBTITLE, ANY person
38 who KNOWINGLY AND WILLFULLY violates any of the provisions of this subtitle is guilty
39 of a misdemeanor, and upon conviction shall be fined ~~not more than one thousand~~
40 ~~dollars (\$1,000.00)] AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION THE~~
41 GREATER OF \$25,000 OR 300 PERCENT OF THE CONTRIBUTION, EXPENDITURE, OR

6

1 TRANSFER INVOLVED IN THE VIOLATION, or [be] imprisoned for not more than
2 [one] 1 year, or both, in the discretion of the court.

3 ~~(2) THE AMOUNT OF A FINE IMPOSED UNDER THIS SUBSECTION MAY~~
4 ~~NOT EXCEED THE GREATER OF \$25,000 OR 300 PERCENT OF THE CONTRIBUTION,~~
5 ~~EXPENDITURE, OR TRANSFER INVOLVED IN THE VIOLATION.~~

6 ~~(B) (1) ANY PERSON WHO, WITHOUT KNOWLEDGE OF THE ILLEGALITY OF~~
7 ~~THE ACT, VIOLATES ANY PROVISION OF THIS SUBTITLE SHALL PAY A CIVIL FINE.~~

8 ~~(2) THE AMOUNT OF A FINE IMPOSED UNDER THIS SUBSECTION MAY~~
9 ~~NOT EXCEED THE GREATER OF \$1,000 OR AN AMOUNT EQUAL TO 200 PERCENT OF~~
10 ~~THE CONTRIBUTION, EXPENDITURE, OR TRANSFER INVOLVED IN THE VIOLATION.~~

11 ~~(B)~~ (B) If a different penalty is specifically prescribed for violation of any section
12 in this subtitle and expressly set forth therein, the specific penalty applies and the penalty
13 set forth in this section does not apply.

14 26-20A.

15 (A) (1) ANY PERSON WHO, WITHOUT KNOWLEDGE OF THE ILLEGALITY OF
16 THE ACT, VIOLATES ANY PROVISION OF THIS SUBTITLE SHALL PAY A CIVIL FINE IN
17 ACCORDANCE WITH THE PROCEDURES ESTABLISHED UNDER SUBSECTIONS (B)
18 THROUGH (G) OF THIS SECTION.

19 (2) THE AMOUNT OF THE FINE IMPOSED UNDER THIS SECTION MAY
20 NOT EXCEED THE GREATER OF \$1,000 OR AN AMOUNT EQUAL TO 200 PERCENT OF
21 THE CONTRIBUTION, EXPENDITURE, OR TRANSFER INVOLVED IN THE VIOLATION.

22 (3) AN INFRACTION UNDER THIS SECTION IS A CIVIL OFFENSE.

23 (4) IF A DIFFERENT PENALTY IS SPECIFICALLY PRESCRIBED FOR
24 VIOLATION OF ANY SECTION IN THIS SUBTITLE AND EXPRESSLY SET FORTH
25 THEREIN, THE SPECIFIC PENALTY APPLIES AND THE PENALTY SET FORTH IN THIS
26 SECTION DOES NOT APPLY.

27 ~~(A)~~ (B) (1) WHEN THE STATE PROSECUTOR OR THE STATE'S ATTORNEY
28 FOR A COUNTY, OR BOTH, DETERMINE THAT A PERSON HAS UNINTENTIONALLY,
29 AND WITHOUT CRIMINAL INTENT, VIOLATED A PROVISION OF THIS SUBTITLE, THE
30 STATE PROSECUTOR OR THE STATE'S ATTORNEY, OR BOTH, SHALL CAUSE TO BE
31 ISSUED A CIVIL CITATION TO EACH PERSON WHO COMMITTED THE OFFENSE. THE
32 CITATION SHALL CONTAIN:

33 (I) THE NAME AND ADDRESS OF THE PERSON CHARGED;

34 (II) THE NATURE OF THE VIOLATION AND THE TIME, PLACE, AND
35 MANNER IN WHICH IT OCCURRED;

36 (III) THE MAXIMUM FINE FOR THE VIOLATION THAT OCCURRED;

37 (IV) THE MANNER, LOCATION, AND TIME IN WHICH THE FINE MAY
38 BE PAID; AND

7

1 (V) A STATEMENT THAT THE PERSON RECEIVING THE CITATION
2 HAS A RIGHT TO A TRIAL IN THE DISTRICT COURT OF MARYLAND.

3 (2) THE ORIGINAL OF A CITATION SHALL BE FILED IN THE DISTRICT
4 COURT HAVING PROPER VENUE.

5 ~~(B)~~ (C) THE CITATION SHALL BE SERVED UPON THE PERSON NAMED IN THE
6 CITATION BY MAIL OR BY PERSONAL SERVICE BY A SHERIFF OR A COMPETENT
7 PRIVATE PERSON 18 YEARS OLD OR OLDER.

8 ~~(C)~~ (D) THE SHERIFF OR PERSON WHO SERVES THE CITATION SHALL MAKE
9 A PROMPT RETURN OF SERVICE TO THE COURT THAT SHOWS THE DATE, TIME, AND
10 PLACE OF SERVICE.

11 ~~(D)~~ (E) (1) ON RECEIPT OF THE RETURN OF SERVICE, THE DISTRICT
12 COURT SHALL SCHEDULE THE CASE FOR TRIAL AND NOTIFY THE PERSON NAMED IN
13 THE CITATION OF THE TRIAL DATE.

14 (2) THE TRIAL IN THE DISTRICT COURT SHALL BE PROSECUTED IN THE
15 SAME MANNER AND TO THE SAME EXTENT AS SET FORTH FOR MUNICIPAL
16 INFRACTIONS UNDER ARTICLE 23A, § 3(B)(8) THROUGH (15) OF THE CODE.

17 (3) ALL ~~FINES AND~~ LATE FEES COLLECTED BY THE DISTRICT COURT
18 SHALL BE REMITTED TO THE STATE ADMINISTRATIVE BOARD OF ELECTION LAWS.

19 (4) AN ADJUDICATION OF A VIOLATION UNDER THIS SUBSECTION:

20 (I) IS NOT A CRIMINAL CONVICTION; AND

21 (II) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES
22 ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

23 ~~(E)~~ (F) IF A PERSON IS FOUND TO HAVE COMMITTED THE VIOLATION SET
24 FORTH IN THE CITATION, THE PERSON SHALL BE LIABLE FOR THE COSTS OF THE
25 PROCEEDINGS IN THE DISTRICT COURT.

26 ~~(F)~~ (G) (1) IF A PERSON WHO HAS BEEN SERVED WITH A CITATION FAILS
27 TO APPEAR FOR TRIAL, THE COURT, AT THE REQUEST OF THE PROSECUTOR, MAY
28 EITHER DISMISS THE CITATION OR GRANT A CIVIL JUDGMENT AGAINST THE
29 PERSON NAMED IN THE CITATION IN FAVOR OF THE STATE ADMINISTRATIVE
30 BOARD OF ELECTION LAWS IN ACCORDANCE WITH THE MARYLAND RULES OF
31 PROCEDURE.

32 (2) THE AMOUNT OF A JUDGMENT UNDER THIS SUBSECTION MAY NOT
33 EXCEED THE TOTAL OF THE MAXIMUM FINE SET FORTH IN ~~§ 26-20 OF THIS SUBTITLE~~
34 SUBSECTION (A) OF THIS SECTION AND ANY LATE FEES OWED TO THE STATE
35 ADMINISTRATIVE BOARD OF ELECTION LAWS.

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 1997.

