

(PRE-FILED)

By: Chairman, Judicial Proceedings Committee (Departmental - Secretary of State)

Requested: October 30, 1996

Introduced and read first time: January 8, 1997

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 12, 1997

CHAPTER ____

1 AN ACT concerning

2 **Special Police Officers**

3 FOR the purpose of clarifying that the commission of a special police officer may be
4 suspended; authorizing the Governor to delegate to the Secretary of State or
5 Assistant Secretary of State the authority to revoke or suspend the commission of a
6 special police officer; providing that under certain circumstances the commission of
7 a special police officer does not terminate when an employer no longer needs the
8 special police officer's services; making the provisions governing special police
9 officers gender neutral; and generally relating to special police officers.

10 BY repealing and reenacting, with amendments,

11 Article 41 - Governor - Executive and Administrative Departments
12 Section 4-901, 4-905, 4-907, 4-909, 4-912, and 4-913 to be under the amended
13 subtitle "Subtitle 9. Special Police Officers"
14 Annotated Code of Maryland
15 (1993 Replacement Volume and 1996 Supplement)

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

18 **Article 41 - Governor - Executive and Administrative Departments**

19 Subtitle 9. Special [Policemen] POLICE OFFICERS.

20 4-901.

21 The Governor may appoint and deputize as special [policemen] POLICE OFFICERS
22 persons [he] THE GOVERNOR deems qualified for special police commissions. A

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1 commission shall be issued for each individual approved by the Governor. The
2 commission shall indicate the period the commission is to be in force as well as the
3 property it is intended to cover or the purpose for which it was issued.

4 4-905.

5 Each person appointed under this subtitle as a special [policeman] POLICE
6 OFFICER is charged with the protection and preservation of peace and good order on the
7 property described in the application for the commission. [He] THE OFFICER has the
8 power to arrest persons who trespass or commit offenses thereon. [He] THE OFFICER
9 has, and may exercise, the powers of a police officer upon the property described in the
10 application for the commission and may exercise these powers in any county or city of the
11 State in connection with the care, custody, and protection of other property of the
12 requesting authority or other property, real or personal, for which it has assumed an
13 obligation to maintain or protect. In order to facilitate the orderly ingress and egress of
14 traffic to and from the property described in the application, [he] THE OFFICER has
15 authority to direct and control traffic on public highways and roads adjacent to and in the
16 immediate vicinity of the property described in the application when this activity is
17 approved in advance by the Secretary of the State Police; however, only a special
18 [policeman] POLICE OFFICER with a probationary or permanent appointment as a
19 security officer or a member of any industrial police force who holds a special police
20 commission, and has completed the basic training course for police officers as established
21 by the Police Training Commission, pursuant to § 4-201 of this article may make arrests
22 or issue traffic citations for violations of any of the provisions of the Maryland Vehicle
23 Law or any other State or local traffic laws or regulations. [He] THE OFFICER may
24 exercise this power only upon the property of [his] THE OFFICER'S employer as
25 described in the application for the commission unless [he] THE OFFICER is in active
26 pursuit of an individual for the purpose of immediate apprehension. [He] THE OFFICER
27 is responsible for any abuse of [his] THE OFFICER'S powers or the exercise of them on
28 property not within [his] THE OFFICER'S jurisdiction. The requesting authority for
29 whose convenience and protection the [policeman] OFFICER has been appointed is also
30 responsible for any wrongful actions committed by [him] THE OFFICER in the course of
31 [his] THE OFFICER'S duties as well as any abuse of the powers granted by the
32 commission either on or off the premises.

33 4-907.

34 (a) Every special [policeman] POLICE OFFICER shall wear a distinctive police
35 badge which shall carry proper identification identifying [him] THE OFFICER as a special
36 [policeman] POLICE OFFICER and be in plain view to all who come in contact with
37 [him] THE OFFICER. The [policeman] POLICE OFFICER shall also wear a uniform
38 which shall be distinguishable from ordinary civilian clothing and give some notice of
39 [his] THE OFFICER'S designation as a law-enforcement official. The uniform and badge
40 and identification shall be subject to the acceptance or refusal by the Department of State
41 Police. The provisions of this subsection shall not apply to a special [policeman] POLICE
42 OFFICER when on detective duty.

43 (b) Every special [policeman] POLICE OFFICER on detective duty shall carry
44 proper identification identifying [him] THE OFFICER as a special [policeman] POLICE

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1 OFFICER and shall also carry a distinctive police badge as referred to in subsection (a)
2 above.

3 4-909.

4 Each person appointed under this subtitle shall be deemed to be the employee of
5 the State, agency, governing body, school system, or business concern requesting [his]
6 THE OFFICER'S appointment. [He] THE OFFICER shall be compensated by it on
7 whatever terms contracted for.

8 4-912.

9 Unless a subdivision or municipality requests the appointment of an individual as a
10 special [policeman] POLICE OFFICER and the request is granted as provided in this
11 subtitle, the State and any subdivision or municipality of the State shall have the
12 immunity from liability described under § 5-332 of the Courts and Judicial Proceedings
13 Article.

14 4-913.

15 (A) [The] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE
16 commissions granted under this subtitle shall cease OR BE SUSPENDED upon the filing of
17 a notice in writing by the State, agency, college, school system, or business which
18 requested the appointment, stating that the [policeman is no longer required and]
19 OFFICER has been relieved of [his] OR SUSPENDED FROM THE OFFICER'S duties. The
20 Governor, upon recommendation by the Secretary of the State Police, or on the
21 Governor's own motion if the Governor finds it in the best interest of the State, may
22 terminate OR SUSPEND any commission granted under this subtitle. The termination OR
23 SUSPENSION shall be noted in the official records of the Governor and shall not be
24 effective until five days after notice is sent to the requesting State, agency, school, or
25 business and also to the person whose commission has been revoked OR SUSPENDED. If
26 that person thereafter, knowing of the revocation OR SUSPENSION or having in any
27 manner received notice thereof, exercises or attempts to exercise any of the powers
28 granted under this subtitle, that person shall be guilty of a misdemeanor; and upon
29 conviction be fined not more than \$1,000 or imprisoned for not more than six months, or
30 both. The filing and mailing of notice as indicated above shall raise a presumption that
31 the person knew of the revocation OR SUSPENSION.

32 (B) THE GOVERNOR MAY DELEGATE THE POWER TO TERMINATE OR
33 SUSPEND A COMMISSION UNDER THIS SUBTITLE TO THE SECRETARY OF STATE, THE
34 ASSISTANT SECRETARY OF STATE, OR BOTH.

35 (C) A COMMISSION GRANTED UNDER THIS SUBTITLE DOES NOT TERMINATE
36 IF:

37 (1) AN EMPLOYER NO LONGER NEEDS THE SERVICES OF THE SPECIAL
38 POLICE OFFICER BECAUSE THE EMPLOYER HAS TRANSFERRED THE BUSINESS
39 PROPERTY DESCRIBED IN THE COMMISSION TO ANOTHER PERSON FOR LEGITIMATE
40 AND LEGAL BUSINESS PURPOSES; AND

41 (2) THE TRANSFEREE EXECUTES A FORM PREPARED BY THE
42 SECRETARY OF STATE AFFIRMING THAT THE TRANSFEREE WILL EMPLOY THE

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1 SPECIAL POLICE OFFICER TO PROTECT THAT BUSINESS PROPERTY, AND WILL
2 ASSUME ALL RESPONSIBILITIES OF THE ORIGINAL APPLICANT EMPLOYER UNDER
3 THIS SUBTITLE.

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