

Unofficial Copy
G2

1997 Regular Session
7lr1664

CF 7lr0579

By: Senators Frosh, Sfikas, Van Hollen, Pinsky, Madden, and Roeser

Introduced and read first time: January 17, 1997

Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 1997

CHAPTER ____

1 AN ACT concerning

2 **Election Law and Ethics Law Violations - Enforcement Procedures and Penalties Statute**
3 **of Limitations**

4 FOR the purpose of ~~establishing a civil citation procedure for the adjudication of certain~~
5 ~~violations of the State election law; providing for a civil penalty for certain violations~~
6 ~~of the Fair Election Practices Act of the Election Code and specifying a maximum~~
7 ~~fine for such civil violations; increasing the criminal fine for certain election law~~
8 ~~violations; authorizing the State Prosecutor to prosecute certain election law~~
9 ~~violations; providing for original jurisdiction of the District Court of the State for~~
10 ~~persons contesting a citation for a civil infraction of certain fair election practice~~
11 ~~laws; providing for the disposition of certain fines; altering the statute of limitations~~
12 ~~period for a prosecution for violations of certain fair election practices laws and~~
13 ~~certain lobbying disclosure laws; repealing a certain statute of limitation provision;~~
14 ~~making certain stylistic changes; and generally relating to the statute of limitations~~
15 ~~period for certain election law and ethics law violations; the establishment of a~~
16 ~~system of civil penalties for certain violations of the Fair Practices Act of the State~~
17 ~~Election Code, and certain enforcement procedures and penalties for violations of~~
18 ~~the State ethics law and 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,
25 Article 33 - Election Code
26 Section 26-13(c), ~~26-16(e)~~, and ~~26-20~~

2

1 Annotated Code of Maryland
2 (1993 Replacement Volume and 1996 Supplement)

3 ~~BY adding to~~
4 ~~Article 33—Election Code~~
5 ~~Section 26-20A~~
6 ~~Annotated Code of Maryland~~
7 ~~(1993 Replacement Volume and 1996 Supplement)~~

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

10 **Article - Courts and Judicial Proceedings**

11 ~~4-401.~~

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

14 ~~(10) A proceeding for adjudication of:~~

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

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

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

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

23 ~~1. Erosion and sediment control for utility construction; and~~

24 ~~2. Plumbing, gasfitting, and sewer cleaning;~~

25 ~~(v) A zoning violation for which a civil penalty has been provided~~
26 ~~pursuant to Article 66B, § 7-01 or Article 28, § 8-120(e) of the Code;~~

27 ~~(vi) A violation of an ordinance enacted:~~

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

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

32 ~~(vii) A citation for a Code violation issued under Article 27, § 403 of the~~
33 ~~Code;~~

34 ~~(VIII) A CIVIL INFRACTION RELATING TO A VIOLATION OF THE FAIR~~
35 ~~ELECTION PRACTICES ACT OF THE ELECTION LAWS AS PROVIDED UNDER ARTICLE~~
36 ~~33, §§ 26-20(A) AND (B) AND 26-20A OF THE CODE;~~

3

1 ~~{{(viii)}} (IX) A violation of an ordinance or regulation enacted by a~~
2 ~~county without home rule, under authority granted under Article 25 of the Code, or any~~
3 ~~provision of the Code of Public Local Laws for that county, for which a civil penalty is~~
4 ~~provided; or~~

5 ~~{{(ix)}} (X) A civil infraction that is authorized by law to be prosecuted~~
6 ~~by a sanitary commission;~~

7 5-106.

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

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

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

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

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

18 (d) A prosecution for Sabbath breaking or drunkenness shall be instituted within
19 30 days after the offense was committed.

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

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

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

33 (H) A PROSECUTION FOR AN OFFENSE ARISING UNDER ARTICLE 33, SUBTITLE
34 26 OF THE CODE SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE OFFENSE WAS
35 COMMITTED.

36 (I) A PROSECUTION FOR AN OFFENSE ARISING UNDER TITLE 15, SUBTITLE 7
37 OF THE STATE GOVERNMENT ARTICLE SHALL BE INSTITUTED WITHIN 3 YEARS
38 AFTER THE OFFENSE WAS COMMITTED.

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

1 [(i)] (K) A prosecution for the offense of Medicaid fraud under Article 27, §
2 230B of this Code shall be instituted within 3 years after the offense was committed.

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

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

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

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

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

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

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

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

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

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

5

1 **Article 33 - Election Code**

2 26-13.

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

16 ~~26-16.~~

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

22 ~~(2) THE STATE PROSECUTOR MAY PROSECUTE, BY THE REGULAR~~
 23 ~~COURSE OF CRIMINAL PROCEDURE, IN ANY JURISDICTION OF THE STATE, ANY~~
 24 ~~PERSON WHOM THE STATE PROSECUTOR BELIEVES TO BE GUILTY OF HAVING~~
 25 ~~WILLFULLY VIOLATED ANY OF THE PROVISIONS OF THIS SECTION.~~

26 ~~26-20.~~

27 ~~(A) (1) [Any] EXCEPT AS PROVIDED IN § 26-15 OF THIS SUBTITLE, ANY~~
 28 ~~person who KNOWINGLY AND WILLFULLY violates any of the provisions of this subtitle~~
 29 ~~is guilty of a misdemeanor, and upon conviction shall be fined [not more than one~~
 30 ~~thousand dollars (\$1,000.00)] AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,~~
 31 ~~or [be] imprisoned for not more than [one] 1 year, or both, in the discretion of the~~
 32 ~~court.~~

33 ~~(2) THE AMOUNT OF A FINE IMPOSED UNDER THIS SUBSECTION MAY~~
 34 ~~NOT EXCEED THE GREATER OF \$10,000 OR 300 PERCENT OF THE CONTRIBUTION,~~
 35 ~~EXPENDITURE, OR TRANSFER INVOLVED IN THE VIOLATION.~~

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

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

1 ~~(C) If a different penalty is specifically prescribed for violation of any section in~~
2 ~~this subtitle and expressly set forth therein, the specific penalty applies and the penalty~~
3 ~~set forth in this section does not apply.~~

4 ~~26-20A.~~

5 ~~(A) (1) WHEN THE STATE PROSECUTOR OR THE STATE'S ATTORNEY FOR A~~
6 ~~COUNTY, OR BOTH, DETERMINE THAT A PERSON HAS UNINTENTIONALLY, AND~~
7 ~~WITHOUT CRIMINAL INTENT, VIOLATED A PROVISION OF THIS SUBTITLE, THE STATE~~
8 ~~PROSECUTOR OR THE STATE'S ATTORNEY, OR BOTH, SHALL CAUSE TO BE ISSUED A~~
9 ~~CIVIL CITATION TO EACH PERSON WHO COMMITTED THE OFFENSE. THE CITATION~~
10 ~~SHALL CONTAIN:~~

11 ~~(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;~~

12 ~~(II) THE NATURE OF THE VIOLATION AND THE TIME, PLACE, AND~~
13 ~~MANNER IN WHICH IT OCCURRED;~~

14 ~~(III) THE MAXIMUM FINE FOR THE VIOLATION THAT OCCURRED;~~

15 ~~(IV) THE MANNER, LOCATION, AND TIME IN WHICH THE FINE MAY~~
16 ~~BE PAID; AND~~

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

19 ~~(2) THE ORIGINAL OF A CITATION SHALL BE FILED IN THE DISTRICT~~
20 ~~COURT HAVING PROPER VENUE.~~

21 ~~(B) THE CITATION SHALL BE SERVED UPON THE PERSON NAMED IN THE~~
22 ~~CITATION BY MAIL OR BY PERSONAL SERVICE BY A SHERIFF OR A COMPETENT~~
23 ~~PRIVATE PERSON 18 YEARS OLD OR OLDER.~~

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

27 ~~(D) (1) ON RECEIPT OF THE RETURN OF SERVICE, THE DISTRICT COURT~~
28 ~~SHALL SCHEDULE THE CASE FOR TRIAL AND NOTIFY THE PERSON NAMED IN THE~~
29 ~~CITATION OF THE TRIAL DATE.~~

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

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

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

36 ~~(I) IS NOT A CRIMINAL CONVICTION; AND~~

37 ~~(II) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES~~
38 ~~ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.~~

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

4 ~~(F) (1) IF A PERSON WHO HAS BEEN SERVED WITH A CITATION FAILS TO~~
 5 ~~APPEAR FOR TRIAL, THE COURT, AT THE REQUEST OF THE PROSECUTOR, MAY~~
 6 ~~EITHER DISMISS THE CITATION OR GRANT A CIVIL JUDGMENT AGAINST THE~~
 7 ~~PERSON NAMED IN THE CITATION IN FAVOR OF THE STATE ADMINISTRATIVE~~
 8 ~~BOARD OF ELECTION LAWS IN ACCORDANCE WITH THE MARYLAND RULES OF~~
 9 ~~PROCEDURE.~~

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

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