

BY: Judicial Proceedings Committee

AMENDMENT TO HOUSE BILL NO. 1307

(Third Reading File Bill)

At the top of page 1, insert "EMERGENCY BILL"; strike line 2 in its entirety and substitute:

"Criminal Procedure - Bombs - Suspension of Driving Privileges and Restitution -
Juvenile Court Jurisdiction";

strike in their entirety lines 3 through 10, inclusive, and substitute:

"FOR the purpose of allowing the court to order the Motor Vehicle Administration to suspend the driver's license, or not issue a driver's license, to certain individuals convicted of certain crimes involving a destructive device; requiring the court to order restitution for destructive device offenses under certain circumstances; expanding the type of restitution; making local boards of education eligible for restitution for crimes involving a destructive device; eliminating the juvenile court's jurisdiction over certain children alleged to have committed certain violations involving a destructive device under certain circumstances; establishing procedures for the suspension of a driver's license or privilege; making this Act an emergency measure; and generally relating to penalties for crimes involving destructive devices.";

and strike in their entirety lines 11 through 20, inclusive, and substitute:

"BY repealing and reenacting, with amendments,

Article 27 - Crimes and Punishments

Section 139D, 151A, and 151C

Annotated Code of Maryland

(1996 Replacement Volume and 1997 Supplement)

BY repealing and reenacting, with amendments,

(Over)

Article - Courts and Judicial Proceedings
Section 3-804(e) and 3-820(d)
Annotated Code of Maryland
(1995 Replacement Volume and 1997 Supplement)

BY repealing and reenacting, with amendments,
Article - Transportation
Section 16-206(a) and (d)
Annotated Code of Maryland
(1992 Replacement Volume and 1997 Supplement)

BY repealing and reenacting, without amendments,
Article - Transportation
Section 16-206(c)
Annotated Code of Maryland
(1992 Replacement Volume and 1997 Supplement)”.

On pages 2 through 5, strike in their entirety the lines beginning with line 1 on page 2 through line 24 on page 5, inclusive, and substitute:

“Article 27 - Crimes and Punishments

139D.

(a) A person who violates the provisions of this subheading is guilty of a felony and on conviction is subject to a fine of not more than \$250,000 or by imprisonment for not more than 25 years or both. IN ADDITION, THE COURT MAY ORDER THE MOTOR VEHICLE ADMINISTRATION TO INITIATE AN ACTION, UNDER THE MOTOR VEHICLE LAWS, TO SUSPEND THE DRIVING PRIVILEGE OF THE CONVICTED PERSON FOR A SPECIFIED PERIOD NOT TO EXCEED 2 YEARS FROM THE DATE OF THE CONVICTION.

(b) The sentence imposed under this section may be imposed separate from and consecutive to or concurrent with a sentence for an offense based on the act or acts establishing the violation of this subheading.

(c) (1) In addition to the penalty provided in this section, a person convicted under this subheading [may] SHALL be ordered by the court to pay restitution to:

(i) The State, county, LOCAL BOARD OF EDUCATION, municipal corporation, bicounty agency, or special taxing district for actual costs, INCLUDING SALARIES AND WAGES, reasonably incurred due to the placement, delivery, or detonation of a destructive device, including the search for, removal of, and damages caused by a destructive device; and

(ii) The owner or tenant of a property for the actual value of any goods, services, or income lost as a result of the evacuation of the property or damage sustained due to the placement, delivery, or detonation of a destructive device.

(2) This subsection may not be construed to limit the right of a person to restitution under § 807 of this article.

151A.

(a) A person is guilty of a felony if, knowing the statement or rumor to be false, he circulates or transmits to another or others, with intent that it be acted upon, a statement or rumor, written, printed, by any electronic means, or by word of mouth, concerning the location or possible detonation of a destructive device, as defined in § 139A of this article. An offense under this section committed by the use of a telephone or by other electronic means may be deemed to have been committed either at the place at which the telephone call or calls were made or the electronic communication originated or at the place at which the telephone call or calls or electronic communication were received.

(b) A person convicted of violating this section is subject to a fine not exceeding \$10,000 or to imprisonment not exceeding 10 years, or to both such fine and imprisonment in the discretion of the court. IN ADDITION, THE COURT MAY ORDER THE MOTOR VEHICLE ADMINISTRATION TO INITIATE AN ACTION, UNDER THE MOTOR VEHICLE LAWS, TO SUSPEND THE DRIVING PRIVILEGE OF THE CONVICTED PERSON FOR A SPECIFIED PERIOD NOT TO EXCEED 2 YEARS FROM THE DATE OF THE CONVICTION. This section does not apply to any statement or rumor made or circulated by an officer, employee, or agent of a bona fide civilian defense organization or agency, if made in the regular course of his duties with that organization or agency.

(Over)

(c) (1) In addition to the penalty provided in subsection (b) of this section, a person convicted under this section [may] SHALL be ordered by the court to pay restitution to:

(i) The State, county, LOCAL BOARD OF EDUCATION, municipal corporation, bicounty agency, or special taxing district for actual costs, INCLUDING SALARIES AND WAGES, reasonably incurred due to the response to a location and search for a destructive device caused by the false statement or rumor of a destructive device; and

(ii) The owner or tenant of a property for the actual value of any goods, services, or income lost as a result of the evacuation of the property in response to the false statement or rumor of a destructive device.

(2) This subsection may not be construed to limit the right of a person to restitution under § 807 of this article.

151C.

(a) A person may not manufacture, possess, transport, or place a device that is constructed to represent a destructive device, as defined in § 139A of this article, with the intent to terrorize, frighten, intimidate, threaten, or harass.

(b) A person who violates this section is guilty of a felony and on conviction, is subject to imprisonment for not more than 10 years or a fine of not more than \$10,000 or both. IN ADDITION, THE COURT MAY ORDER THE MOTOR VEHICLE ADMINISTRATION TO INITIATE AN ACTION, UNDER THE MOTOR VEHICLE LAWS, TO SUSPEND THE DRIVING PRIVILEGE OF THE CONVICTED PERSON FOR A SPECIFIED PERIOD NOT TO EXCEED 2 YEARS FROM THE DATE OF THE CONVICTION.

(c) (1) In addition to the penalty provided in subsection (b) of this section, a person convicted under this section [may] SHALL be ordered by the court to pay restitution to:

(i) The State, county, LOCAL BOARD OF EDUCATION, municipal corporation, bicounty agency, or special taxing district for actual costs, INCLUDING SALARIES

AND WAGES, reasonably incurred in the search for and removal of any devices representing destructive devices; and

(ii) The owner or tenant of a property for the actual value of any goods, services, or income lost as a result of the evacuation of the property in response to the representation of a destructive device.

(2) This subsection may not be construed to limit the right of a person to restitution under § 807 of this article.

Article - Courts and Judicial Proceedings

3-804.

(e) The court does not have jurisdiction over:

(1) A child at least 14 years old alleged to have done an act which, if committed by an adult, would be a crime punishable by death or life imprisonment, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under Article 27, § 594A of the Code;

(2) A child at least 16 years old alleged to have done an act in violation of any provision of the Transportation Article or other traffic law or ordinance, except an act that prescribes a penalty of incarceration;

(3) A child at least 16 years old alleged to have done an act in violation of any provision of law, rule, or regulation governing the use or operation of a boat, except an act that prescribes a penalty of incarceration; [or]

(4) A child at least 16 years old alleged to have committed any of the following crimes, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under Article 27, § 594A of the Code:

(Over)

(i) Abduction;

(ii) Kidnapping;

(iii) Second degree murder;

(iv) Manslaughter, except involuntary manslaughter;

(v) Second degree rape;

(vi) Robbery with a dangerous or deadly weapon;

(vii) Second degree sexual offense in violation of Article 27, § 464A(a)(1) of the Code;

(viii) Third degree sexual offense in violation of Article 27, § 464B(a)(1) of the Code;

(ix) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, § 446, or § 481C of the Code;

(x) Using, wearing, carrying, or transporting of firearm during and in relation to a drug trafficking crime in violation of Article 27, § 281A of the Code;

(xi) Use of a firearm in violation of Article 27, § 291A of the Code;

(xii) Carjacking or armed carjacking in violation of Article 27, § 348A of the Code;

(xiii) Assault in the first degree in violation of Article 27, § 12A-1 of the Code;

(xiv) Attempted murder in the second degree in violation of Article 27, § 411A of the Code;

(xv) Attempted rape or attempted sexual offense in the second degree under Article 27, § 464F of the Code; or

(xvi) Attempted robbery with a dangerous or deadly weapon under Article 27, § 488 of the Code; OR

(5) A CHILD AT LEAST 16 YEARS OLD ALLEGED TO HAVE COMMITTED A VIOLATION OF ARTICLE 27, § 139C, § 151A, OR § 151C OF THE CODE.

3-820.

(d) (1) (i) Subject to the provisions of subparagraphs (iii) and (iv) of this paragraph, in making a disposition on a finding that the child has committed the violation specified in a citation, the court may order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(ii) In this paragraph “driver's license” means a license or permit to drive a motor vehicle that is issued under the laws of this State or any other jurisdiction.

(iii) In making a disposition on a finding that the child has committed a violation under Article 27, § 400 of the Code specified in a citation that involved the use of a driver's license or a document purporting to be a driver's license, the court may order the Motor Vehicle Administration to initiate an action under the Maryland Vehicle Law to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration:

1. For a first offense, for 6 months; and

2. For a second or subsequent offense, until the child is 21 years old.

(iv) In making a disposition on a finding that the child has committed a violation under § 26-103 of the Education Article, the court shall order the Motor Vehicle

(Over)

Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(v) If a child subject to a suspension under this subsection does not hold a license to operate a motor vehicle on the date of the disposition, the suspension shall commence:

1. If the child is at least 16 years of age on the date of the disposition, on the date of the disposition; or

2. If the child is younger than 16 years of age on the date of the disposition, on the date the child reaches the child's 16th birthday.

(2) In addition to the dispositions under paragraph (1) of this subsection, the court also may:

(i) Counsel the child or the parent or both, or order the child to participate in an alcohol education or rehabilitation program that is in the best interest of the child;

(ii) Impose a civil fine of not more than \$25 for the first violation and a civil fine of not more than \$100 for the second and subsequent violations; or

(iii) Order the child to participate in a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for the second and subsequent violations.

(3) (i) The provisions of paragraphs (1) and (2) of this subsection do not apply to a child found to have committed a violation under Article 27, § 405A of the Code.

(ii) In making a disposition on a finding that the child has committed a violation under Article 27, § 405A of the Code, the court may:

1. Counsel the child or the parent or both, or order the child to participate in a smoking cessation clinic, or other suitable presentation of the hazards associated with

tobacco use that is in the best interest of the child;

2. Impose a civil fine of not more than \$25 for the first violation and a civil fine of not more than \$100 for a second or subsequent violation; or

3. Order the child to participate in a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for a second or subsequent violation.

(4) (I) IN MAKING A DISPOSITION ON A FINDING THAT THE CHILD HAS COMMITTED A VIOLATION UNDER ARTICLE 27, § 139C, § 151A, OR § 151C OF THE CODE, THE COURT SHALL ORDER THE MOTOR VEHICLE ADMINISTRATION TO INITIATE AN ACTION, UNDER THE MARYLAND VEHICLE LAW, TO SUSPEND THE DRIVING PRIVILEGES OF A CHILD LICENSED TO OPERATE A MOTOR VEHICLE BY THE MOTOR VEHICLE ADMINISTRATION UNTIL THE CHILD IS 18 YEARS OLD, OR FOR A PERIOD OF 2 YEARS, WHICHEVER IS LONGER.

(II) IF THE CHILD HAS NOT BEEN LICENSED TO OPERATE A MOTOR VEHICLE BY THE MOTOR VEHICLE ADMINISTRATION, THE COURT SHALL ORDER THE MOTOR VEHICLE ADMINISTRATION NOT TO ISSUE A DRIVER'S LICENSE TO THAT CHILD UNTIL THE CHILD IS 18 YEARS OLD, OR FOR A PERIOD OF 2 YEARS FROM THE DATE OF DISPOSITION, WHICHEVER IS LONGER, SUBJECT TO ANY MINIMUM AGE REQUIREMENTS OF THE MOTOR VEHICLE ADMINISTRATION.

Article - Transportation

16-206.

(a) (1) The Administration may suspend, revoke, or refuse to issue or renew the license of any resident or the privilege to drive of any nonresident on a showing by its records or other sufficient evidence that the applicant or licensee:

(i) Has been convicted of moving violations so often as to indicate an intent to disregard the traffic laws and the safety of other persons on the highways;

(Over)

(ii) Is an unfit, unsafe, or habitually reckless or negligent driver of a motor vehicle;

(iii) Has permitted an unlawful or fraudulent use of a license, identification card, or a facsimile of a license or identification card;

(iv) Has used a license, identification card, or a facsimile of a license or identification card in an unlawful or fraudulent manner, unless the applicant or licensee is subject to the provisions of subsection (c) of this section;

(v) Has committed an offense in another state that, if committed in this State, would be grounds for suspension or revocation; or

(vi) Has knowingly made a false certification of required security in any application for a certificate of title or for the registration of a vehicle.

(2) The Administration may suspend a license to drive of an individual who fails to attend:

(i) A driver improvement program or an alcohol education program required under § 16-212 of this subtitle; or

(ii) A private alternative program or an alternative program that is provided by a political subdivision of this State under § 16-212 of this subtitle.

(3) PURSUANT TO A COURT ORDER UNDER ARTICLE 27, § 139D, § 151A, OR § 151C OF THE CODE, THE ADMINISTRATION:

(I) SHALL INITIATE AN ACTION TO SUSPEND THE DRIVING LICENSE OR PRIVILEGE OF AN INDIVIDUAL FOR A TIME SPECIFIED BY THE COURT; AND

(II) MAY ISSUE A WORK-RESTRICTED LICENSE OR WORK-RESTRICTED PRIVILEGE TO DRIVE.

(c) (1) Pursuant to a court order under § 3-820(d) of the Courts Article, the Administration shall initiate an action to suspend the driving privilege of a child for the time specified by the court.

(2) If a child subject to a suspension under § 3-820(d) of the Courts Article does not hold a license to operate a motor vehicle on the date of the court order, the suspension shall commence:

(i) If the child is at least 16 years of age on the date of the disposition, on the date of the disposition; or

(ii) If the child is younger than 16 years of age on the date of the disposition, on the date the child reaches the child's 16th birthday.

(3) On receipt of a notice described under Article 27, § 403(f) of the Code, the Administration shall suspend the license of an individual described under Article 27, § 403(f) of the Code:

(i) For a first offense, for 6 months; and

(ii) For a second or subsequent offense, until the individual is 21 years old or for a period of 1 year, whichever is longer.

(4) If an individual subject to a suspension under paragraph (3) of this subsection does not hold a license to operate a motor vehicle on the date that the individual is found guilty of a Code violation, the suspension shall begin on the date that the license is issued, or after the individual applies and becomes qualified to receive a license, or on the individual's twenty-first birthday, whichever occurs first.

(5) The Administration may modify a suspension under this subsection or subsection (b) of this section or issue a restricted license if:

(i) The license is required for the purpose of attending an alcohol education or alcoholic prevention or treatment program;

(Over)

(ii) The child or individual is required to drive a motor vehicle in the course of employment;

(iii) It finds that the individual's or child's employment would be adversely affected because the individual or child has no reasonable alternative means of transportation to or from a place of employment; or

(iv) It finds that the individual's or child's education would be adversely affected because the individual or child has no reasonable alternative means of transportation for educational purposes.

(d) (1) After the Administration refuses to issue a license under this section or after the Administration determines that a suspension should be imposed under subsection (a)(2) of this section, the Administration immediately shall give written notice to the applicant or licensee, and the applicant or licensee may request a hearing as provided in Title 12, Subtitle 2 of this article.

(2) AFTER THE ADMINISTRATION SUSPENDS THE DRIVING LICENSE OR PRIVILEGE OF AN INDIVIDUAL UNDER SUBSECTION (A)(3) OF THIS SECTION, THE ADMINISTRATION SHALL SEND WRITTEN NOTICE TO THE INDIVIDUAL, INCLUDING NOTICE OF THE INDIVIDUAL'S RIGHT TO CONTEST THE ACCURACY OF THE INFORMATION.

(3) ANY CONTEST UNDER THIS SUBSECTION SHALL BE LIMITED TO:

(I) WHETHER THE ADMINISTRATION HAS MISTAKEN THE IDENTITY OF THE INDIVIDUAL WHOSE LICENSE OR PRIVILEGE TO DRIVE HAS BEEN SUSPENDED; AND

(II) WHETHER THE INDIVIDUAL MAY BE ISSUED A WORK-RESTRICTED LICENSE OR WORK-RESTRICTED PRIVILEGE TO DRIVE.

[(2)] (4) Except as otherwise provided in this section, the Administration may suspend or revoke a license under this section only after a hearing under Title 12, Subtitle 2 of this

article.

[(3)] (5) If the Administration determines that there is a likelihood of substantial and immediate danger and harm to the licensee or others if the license is continued pending a hearing, the Administration:

(i) Immediately may suspend the license;

(ii) Within 7 days of a request for a hearing, shall grant the licensee a hearing as provided in Title 12, Subtitle 2 of this article; and

(iii) After the hearing, render an immediate decision as to whether or not it should continue the suspension or revoke the license.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health and 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.”.