

HOUSE BILL 219

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1998 Regular Session
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CF 8lr0727

By: **Delegates Cadden, Bissett, M. Burns, Schade, Perry, Love, Clagett,
Baldwin, Rzepkowski, Busch, Greenip, and Leopold**

Introduced and read first time: January 23, 1998

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Bombs - Suspension of Driving Privileges and**
3 **Restitution - Juvenile Court Jurisdiction**

4 FOR the purpose of allowing the court to order the Motor Vehicle Administration to
5 suspend the driver's license, or not issue a driver's license, to certain individuals
6 convicted of certain crimes involving a destructive device; requiring the court to
7 order restitution for destructive device offenses under certain circumstances;
8 expanding the type of restitution; making local boards of education eligible for
9 restitution for crimes involving a destructive device; eliminating the juvenile
10 court's jurisdiction over certain children alleged to have committed certain
11 violations involving a destructive device under certain circumstances;
12 establishing procedures for the suspension of a driver's license or privilege; and
13 generally relating to penalties for crimes involving destructive devices.

14 BY repealing and reenacting, with amendments,
15 Article 27 - Crimes and Punishments
16 Section 139D, 151A, and 151C
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 1997 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Courts and Judicial Proceedings
21 Section 3-804(e) and 3-820(d)
22 Annotated Code of Maryland
23 (1995 Replacement Volume and 1997 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Transportation
26 Section 16-206(a) and (d)
27 Annotated Code of Maryland
28 (1992 Replacement Volume and 1997 Supplement)

1 BY repealing and reenacting, without amendments,
2 Article - Transportation
3 Section 16-206(c)
4 Annotated Code of Maryland
5 (1992 Replacement Volume and 1997 Supplement)

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

8 **Article 27 - Crimes and Punishments**

9 139D.

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

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

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

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

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

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

32 151A.

33 (a) A person is guilty of a felony if, knowing the statement or rumor to be false,
34 he circulates or transmits to another or others, with intent that it be acted upon, a
35 statement or rumor, written, printed, by any electronic means, or by word of mouth,
36 concerning the location or possible detonation of a destructive device, as defined in §
37 139A of this article. An offense under this section committed by the use of a telephone
38 or by other electronic means may be deemed to have been committed either at the

1 place at which the telephone call or calls were made or the electronic communication
2 originated or at the place at which the telephone call or calls or electronic
3 communication were received.

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

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

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

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

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

26 151C.

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

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

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

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

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

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

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

8 **Article - Courts and Judicial Proceedings**

9 3-804.

10 (e) The court does not have jurisdiction over:

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

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

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

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

26 (i) Abduction;

27 (ii) Kidnapping;

28 (iii) Second degree murder;

29 (iv) Manslaughter, except involuntary manslaughter;

30 (v) Second degree rape;

31 (vi) Robbery with a dangerous or deadly weapon;

32 (vii) Second degree sexual offense in violation of Article 27, §
33 464A(a)(1) of the Code;

- 1 (viii) Third degree sexual offense in violation of Article 27, §
2 464B(a)(1) of the Code;
- 3 (ix) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, §
4 446, or § 481C of the Code;
- 5 (x) Using, wearing, carrying, or transporting of firearm during and
6 in relation to a drug trafficking crime in violation of Article 27, § 281A of the Code;
- 7 (xi) Use of a firearm in violation of Article 27, § 291A of the Code;
- 8 (xii) Carjacking or armed carjacking in violation of Article 27, § 348A
9 of the Code;
- 10 (xiii) Assault in the first degree in violation of Article 27, § 12A-1 of
11 the Code;
- 12 (xiv) Attempted murder in the second degree in violation of Article
13 27, § 411A of the Code;
- 14 (xv) Attempted rape or attempted sexual offense in the second
15 degree under Article 27, § 464F of the Code; or
- 16 (xvi) Attempted robbery with a dangerous or deadly weapon under
17 Article 27, § 488 of the Code; OR
- 18 (5) A CHILD AT LEAST 14 YEARS OLD ALLEGED TO HAVE COMMITTED A
19 VIOLATION OF ARTICLE 27, § 139D, § 151A, OR § 151C OF THE CODE.
- 20 3-820.
- 21 (d) (1) (i) Subject to the provisions of subparagraphs (iii) and (iv) of this
22 paragraph, in making a disposition on a finding that the child has committed the
23 violation specified in a citation, the court may order the Motor Vehicle Administration
24 to initiate an action, under the motor vehicle laws, to suspend the driving privilege of
25 a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a
26 specified period of not less than 30 days nor more than 90 days.
- 27 (ii) In this paragraph "driver's license" means a license or permit to
28 drive a motor vehicle that is issued under the laws of this State or any other
29 jurisdiction.
- 30 (iii) In making a disposition on a finding that the child has
31 committed a violation under Article 27, § 400 of the Code specified in a citation that
32 involved the use of a driver's license or a document purporting to be a driver's license,
33 the court may order the Motor Vehicle Administration to initiate an action under the
34 Maryland Vehicle Law to suspend the driving privilege of a child licensed to operate a
35 motor vehicle by the Motor Vehicle Administration:
- 36 1. For a first offense, for 6 months; and

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

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

5 (3) PURSUANT TO A COURT ORDER UNDER ARTICLE 27, § 139D, § 151A, OR
6 § 151C OF THE CODE, THE ADMINISTRATION:

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

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

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

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

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

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

22 (3) On receipt of a notice described under Article 27, § 403(f) of the Code,
23 the Administration shall suspend the license of an individual described under Article
24 27, § 403(f) of the Code:

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

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

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

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

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

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

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

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

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

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

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

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

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

25 [(2)] (4) Except as otherwise provided in this section, the Administration
26 may suspend or revoke a license under this section only after a hearing under Title
27 12, Subtitle 2 of this article.

28 [(3)] (5) If the Administration determines that there is a likelihood of
29 substantial and immediate danger and harm to the licensee or others if the license is
30 continued pending a hearing, the Administration:

31 (i) Immediately may suspend the license;

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

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

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 1998.

