

HOUSE BILL 670

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1998 Regular Session
8r1252
CF 8r1251

By: **Delegates Doory and Genn (Committee to Revise Article 27)**

Introduced and read first time: February 9, 1998

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 1998

CHAPTER _____

1 AN ACT concerning

2 **Crimes - Trespass - Revision**

3 FOR the purpose of revising, restating, and recodifying the laws concerning trespass;
4 eliminating a requirement that certain trespass prosecution be brought by a
5 certain landowner or tenant; altering certain provisions concerning suspension
6 of hunting and fishing licenses for certain trespass offenses; repealing a
7 requirement that certain paint marks be made and placed in a certain manner;
8 eliminating a provision concerning certain discriminatory practices; eliminating
9 a requirement that a certain permission be written; adding to the prohibition on
10 operating or using an off-road vehicle on certain government property a
11 requirement that the operation or use be with a certain knowledge; prohibiting
12 wanton trespass on the property of Government House; eliminating a certain
13 exception for lawful business concerning trespass on Government House;
14 altering certain penalties; defining certain terms; making stylistic changes;
15 providing that the Committee Notes contained in this Act are not law; and
16 generally relating to trespass and entry on property.

17 BY repealing

18 Article 27 - Crimes and Punishments

19 Section 576, 576A, 577, 577C, 578, 579A, 579B, and 580

20 Annotated Code of Maryland

21 (1996 Replacement Volume and 1997 Supplement)

22 BY adding to

23 Article 27 - Crimes and Punishments

24 Section 576 and 577

25 Annotated Code of Maryland

1 (1996 Replacement Volume and 1997 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article 27 - Crimes and Punishments
4 Section 577A
5 Annotated Code of Maryland
6 (1996 Replacement Volume and 1997 Supplement)

7 BY repealing and reenacting, with amendments,
8 Article - Natural Resources
9 Section 4-1207
10 Annotated Code of Maryland
11 (1997 Replacement Volume and 1997 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article - Natural Resources
14 Section 10-1108
15 Annotated Code of Maryland
16 (1990 Replacement Volume and 1997 Supplement)

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

19 **Article 27 - Crimes and Punishments**

20 [576.

21 Any person who enters or trespasses on any property which is posted against
22 trespassers in a conspicuous manner or in accordance with the provisions of § 576A of
23 this subheading is guilty of a misdemeanor and on conviction is subject to a fine not
24 exceeding \$500, or imprisonment not exceeding three months, or both. The
25 prosecution of such offenders shall be made and proceedings instituted by the
26 landowner or tenant of the property unlawfully entered. Any person who is convicted
27 of violating the provisions of this section and who carried any firearm or bow and
28 arrow at the time of the violation shall have the person's hunting license revoked for
29 one year immediately on conviction. Any person who is convicted of violating the
30 provisions of this section and was carrying a fishing rod or net at the time of the
31 violation shall have any fishing license revoked for one year immediately on
32 conviction. If the person does not hold a license, the person may not be issued the
33 appropriate license until one year after any conviction under the provisions of this
34 section.]

35 [576A.

36 (a) In order to institute proceedings for trespassing under § 576 of this
37 subheading, the owner or tenant of any private property shall have posted the
38 property against unlawful entry or trespass by placing:

- 1 (1) Signs where they may reasonably be seen; or
- 2 (2) Identifying paint marks on trees or posts at each road entrance and
3 adjacent to public roadways, public waterways, and any other lands adjoining the
4 property.

5 (b) A paint mark under subsection (a)(2) of this section shall:

6 (1) Be a vertical line at least two inches in width and at least eight
7 inches in length;

8 (2) Be centered at least three feet but no more than six feet from the
9 ground or from the water surface at its mean high tide for tidal water or its normal
10 level for nontidal water; and

11 (3) Be readily visible to any person with normal eyesight who
12 approaches the property.

13 (c) The Department of Natural Resources shall adopt regulations that
14 prescribe the type and color of paint to be used for posting property under this
15 section.]

16 [577.

17 (a) (1) Any person who remains upon, enters upon or crosses over the land,
18 premises or private property, including boarding any boat or other marine vessel, of
19 any person or persons in this State after having been duly notified by the owner or his
20 agent not to do so is considered guilty of a misdemeanor, and on conviction is subject
21 to a fine not exceeding \$500, or imprisonment not exceeding 3 months, or both.

22 (2) The provisions of paragraph (1) of this subsection shall apply to
23 property used as a housing project and operated by a housing authority or by another
24 State public body, as those terms are defined under Article 44A of the Code, if a duly
25 authorized agent of the housing authority or other State public body gives the
26 required notification specified in paragraph (1) of this subsection.

27 (3) This section may not be construed to include within its provisions the
28 entry upon or crossing over any land when such entry or crossing is done under a
29 bona fide claim of right or ownership of said land, it being the intention of this section
30 only to prohibit any wanton trespass upon the private land of others.

31 (b) These provisions do not preclude the Mayor and City Council of Baltimore
32 from enacting legislation making it unlawful or prohibitory to refuse, withhold from,
33 or deny to any person because of his race, creed, color, sex, age, physical or mental
34 handicap, or national origin any accommodations, advantages, facilities or privileges
35 of any place or places whose facilities, accommodations, services, commodities or use
36 are offered to or enjoyed by the general public, either with or without charge.]

1 576.

2 (A) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) "CULTIVATED LAND" MEANS LAND WHICH HAS BEEN CLEARED OF ITS
5 NATURAL VEGETATION AND IS PRESENTLY PLANTED WITH A CROP OR ORCHARD.

6 (C) (1) "OFF-ROAD VEHICLE" MEANS:

7 (I) A VEHICLE AS DEFINED IN § 11-176 OF THE TRANSPORTATION
8 ARTICLE; OR

9 (II) ANY MOTORIZED VEHICLE DESIGNED FOR OR CAPABLE OF
10 CROSS-COUNTRY TRAVEL ON OR IMMEDIATELY OVER LAND, WATER, SNOW, ICE,
11 MARSH, SWAMPLAND, OR OTHER NATURAL TERRAIN AND INCLUDES, BUT IS NOT
12 LIMITED TO, FOUR-WHEEL DRIVE OR LOW-PRESSURE-TIRE VEHICLES,
13 MOTORCYCLES, AND RELATED TWO-WHEEL VEHICLES, AMPHIBIOUS MACHINES,
14 GROUND-EFFECT VEHICLES, OR AIR-CUSHION VEHICLES.

15 (2) "OFF-ROAD VEHICLE" DOES NOT INCLUDE ANY BOAT, MILITARY,
16 FIRE OR LAW ENFORCEMENT VEHICLES, FARM-TYPE TRACTORS AND OTHER
17 AGRICULTURAL EQUIPMENT USED FOR AGRICULTURAL PURPOSES OR EARTH
18 MOVING, OR CONSTRUCTION EQUIPMENT WHILE USED FOR THOSE PURPOSES, LAWN
19 MOWERS, SNOWBLOWERS, GARDEN OR LAWN TRACTORS, OR GOLF CARTS WHILE
20 BEING USED FOR THEIR DESIGNED PURPOSE.

21 (D) "WANTON" RETAINS ITS JUDICIALLY DETERMINED MEANING.

22 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The definitions of
23 "cultivated land" and "off-road vehicle" are based on current law found in former §§
24 578 and 579B of Article 27, respectively. No substantive changes are intended.

25 "Wanton" has been defined as being "characterized by extreme recklessness and
26 utter disregard for the rights of others". See, e.g., Griffin v. State, 225 Md. 422, 171
27 A.2d 717 (1961).

28 577.

29 (A) (1) A PERSON MAY NOT ENTER OR TRESPASS ON ANY PRIVATE
30 PROPERTY WHICH IN A CONSPICUOUS MANNER IS POSTED AGAINST TRESPASSERS
31 BY:

32 (I) SIGNS WHERE THEY MAY REASONABLY BE SEEN; OR

33 (II) IDENTIFYING PAINT MARKS THAT CONFORM WITH
34 REGULATIONS ADOPTED BY THE DEPARTMENT OF NATURAL RESOURCES AND ARE
35 MADE ON TREES OR POSTS AT EACH ROAD ENTRANCE AND ADJACENT TO PUBLIC
36 ROADWAYS, PUBLIC WATERWAYS, AND ANY OTHER LAND ADJOINING THE PROPERTY.

1 (2) (I) A PERSON MAY NOT REMAIN ON, ENTER ON, OR CROSS OVER
 2 THE LAND, PREMISES, OR PRIVATE PROPERTY, INCLUDING BOARDING ANY BOAT OR
 3 OTHER MARINE VESSEL OF ANOTHER, AFTER HAVING BEEN DULY NOTIFIED BY THE
 4 OWNER OR THE OWNER'S AGENT NOT TO DO SO.

5 (II) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH
 6 SHALL APPLY TO PROPERTY USED AS A HOUSING PROJECT AND OPERATED BY A
 7 HOUSING AUTHORITY OR BY ANOTHER STATE PUBLIC BODY, AS THOSE TERMS ARE
 8 DEFINED UNDER ARTICLE 44A OF THE CODE, IF A DULY AUTHORIZED AGENT OF THE
 9 HOUSING AUTHORITY OR OTHER STATE PUBLIC BODY GIVES THE REQUIRED
 10 NOTIFICATION SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

11 (III) IT IS INTENDED THAT THIS PARAGRAPH IS ONLY TO PROHIBIT
 12 ANY WANTON ENTRY AND MAY NOT BE CONSTRUED TO APPLY TO THE ENTRY ON OR
 13 CROSSING OVER ANY LAND WHEN THE ENTRY OR CROSSING IS DONE UNDER A BONA
 14 FIDE CLAIM OF RIGHT OR OWNERSHIP.

15 (3) EXCEPT WHEN TRAVELING ON CLEARLY DESIGNATED PRIVATE
 16 DRIVEWAYS, A PERSON MAY NOT OPERATE OR USE AN OFF-ROAD VEHICLE ON
 17 PRIVATE PROPERTY UNLESS THE PERSON HAS ~~IN THE PERSON'S POSSESSION THE~~
 18 ~~WRITTEN~~ THE PERMISSION OF THE OWNER OR TENANT OF THE PROPERTY.

19 (4) (I) IN THIS PARAGRAPH, "POLITICAL SUBDIVISION" INCLUDES:

- 20 1. A COUNTY;
- 21 2. A MUNICIPAL CORPORATION;
- 22 3. A BICOUNTY OR MULTICOUNTY AGENCY;
- 23 4. A COUNTY BOARD OF EDUCATION;
- 24 5. A PUBLIC AUTHORITY; OR
- 25 6. A SPECIAL TAXING DISTRICT.

26 (II) EXCEPT AS PERMITTED BY LAW, A PERSON MAY NOT OPERATE
 27 OR USE AN OFF-ROAD VEHICLE ON PROPERTY OWNED OR LEASED BY THE STATE OR
 28 ANY POLITICAL SUBDIVISION ~~INCLUDING:~~

- 29 (I) ~~A COUNTY;~~
- 30 (II) ~~A MUNICIPAL CORPORATION;~~
- 31 (III) ~~A BICOUNTY OR MULTICOUNTY AGENCY;~~
- 32 (IV) ~~A COUNTY BOARD OF EDUCATION;~~
- 33 (V) ~~A PUBLIC AUTHORITY; OR~~

1 ~~(VI)~~ A SPECIAL TAXING DISTRICT WITH KNOWLEDGE THAT THE
2 PROPERTY IS OWNED OR LEASED BY THE STATE OR ANY POLITICAL SUBDIVISION.

3 (5) (I) UNLESS A PERSON HAS PERMISSION FROM THE OWNER OR
4 AGENT OF THE OWNER, A PERSON MAY NOT ENTER ON THE CULTIVATED LAND OF
5 ANOTHER.

6 (II) IT IS INTENDED THAT THIS PARAGRAPH IS ONLY TO PROHIBIT
7 WANTON ENTRY ON CULTIVATED LAND, AND MAY NOT BE CONSTRUED TO:

8 1. PREVENT PERSONS WHO RESIDE ON CULTIVATED LAND
9 FROM RECEIVING ANY PERSON WHO SEEKS TO PROVIDE A LAWFUL SERVICE; OR

10 2. APPLY TO PERSONS ENTERING CULTIVATED LAND UNDER
11 COLOR OF LAW OR COLOR OF TITLE.

12 (6) A PERSON MAY NOT ENTER OR REMAIN IN THE STABLE AREA OF A
13 RACETRACK AFTER HAVING BEEN DULY NOTIFIED BY A RACETRACK OFFICIAL,
14 SECURITY GUARD, OR LAW ENFORCEMENT OFFICER THAT THE PERSON IS NOT
15 ALLOWED IN THAT AREA.

16 (7) A PERSON MAY NOT ENTER ON THE LAND OR PREMISES OF ANOTHER
17 FOR THE PURPOSE OF INVADING THE PRIVACY OF THE OCCUPANTS OF ANY
18 BUILDING OR ENCLOSURE LOCATED ON THE LAND OR PREMISES, BY LOOKING INTO
19 ANY WINDOW, DOOR, OR OTHER APERTURE OF THE BUILDING OR ENCLOSURE.

20 (B) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF
21 A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN
22 \$500 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH.

23 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): This section
24 includes those offenses previously found in former §§ 576, 577, 578, 579A, 579B, and
25 580 of Article 27.

26 The previous requirement under former § 576 of Article 27 that the prosecution
27 be brought by the landowner or tenant has been eliminated. The provisions dealing
28 with suspension of a hunting or fishing license for a violation of former § 576 (new
29 subsection (a)(1)) if the offense was committed while carrying a fishing rod, net,
30 firearm, or bow and arrow can now be found in §§ 4-1207 (fishing license) and
31 10-1108 (hunting license) of the Natural Resources Article.

32 The posting requirements previously found in former § 576A of Article 27 are
33 included as part of subsection (a)(1) of this section.

34 See § 26-102 of the Education Article for prohibitions on trespass on grounds of
35 a public institution of elementary, secondary, or higher education.

36 When any provision of this Trespass subheading is violated, a court should
37 consider whether restitution should be ordered under the provisions of § 807 of this
38 article.

1 [577A.] 578.

2 [(1)] (A) [Any person refusing or failing] A PERSON MAY NOT REFUSE OR FAIL
3 to leave a public building or grounds, or specific portion [thereof, of a public agency or
4 public institution] OF A PUBLIC BUILDING OR GROUNDS during those hours of the
5 day or night when the building, grounds, or specific portion [thereof] OF THE PUBLIC
6 BUILDING OR GROUNDS, is regularly closed to the public, upon being requested to do
7 so by a regularly employed guard, watchman or other authorized employee of the
8 public agency or institution owning, operating or maintaining the building or
9 property, if the surrounding circumstances are such as to indicate to a reasonable
10 [man] PERSON that such person has no apparent lawful business to pursue at such
11 place[, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined
12 not more than \$1,000.00, or imprisoned for not more than six months, or both, in the
13 discretion of the court].

14 [(2)] (B) [Any person refusing or failing] A PERSON MAY NOT REFUSE OR FAIL
15 to leave a public building or grounds, or specific portion [thereof, of a public agency or
16 public institution] OF A PUBLIC BUILDING OR GROUNDS during regular business
17 hours, upon being requested to do so by an authorized employee of the public agency
18 or institution owning, operating or maintaining the building or property, if the
19 surrounding circumstances are such as to indicate to a reasonable [man] PERSON
20 that [such] THE person has no apparent lawful business to pursue at such place or is
21 acting in a manner disruptive of and disturbing to the conduct of normal business by
22 such agency or institution[, shall be guilty of a misdemeanor, and upon conviction
23 thereof shall be fined not more than \$1,000.00, or imprisoned for not more than six
24 months, or both, in the discretion of the court].

25 (C) (1) A PERSON MAY NOT COMMIT WANTON TRESPASS ON THE PROPERTY
26 OF GOVERNMENT HOUSE.

27 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THERE SHALL
28 BE NO REQUIREMENT THAT THE PROPERTY OF GOVERNMENT HOUSE BE POSTED
29 AGAINST UNLAWFUL ENTRY OR TRESPASS.

30 (D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
31 AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR
32 IMPRISONMENT FOR NOT MORE THAN 6 MONTHS OR BOTH.

33 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): Subsection (c)
34 of this section prohibiting trespass on Government House is based on the prohibitions
35 in former § 577C of Article 27. The requirement that the trespass be wanton
36 eliminates the need for the lawful business exception found in former § 577C of
37 Article 27.

38 The only other changes to this section are in style and no substantive change is
39 intended.

1 [577C.

2 (a) Except as provided in subsection (b) of this section, any person who enters
3 or trespasses upon the property of Government House is guilty of a misdemeanor and
4 on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding
5 6 months or both.

6 (b) This section does not apply to any person who has lawful business to
7 pursue at Government House.

8 (c) Notwithstanding any other provision of law, there shall be no requirement
9 that the property of Government House be posted against unlawful entry or
10 trespass.]

11 [578.

12 (a) (1) "Off-road vehicle" means in this section, except as provided in
13 paragraph (2) of this subsection:

14 (i) A vehicle as defined in § 11-176 of the Transportation Article; or

15 (ii) Any motorized vehicle designed for or capable of cross-country
16 travel on or immediately over land, water, snow, ice, marsh, swampland or other
17 natural terrain and includes, but is not limited to four-wheel drive or
18 low-pressure-tire vehicles, motorcycles and related two-wheel vehicles, amphibious
19 machines, ground-effect, or air-cushion vehicles.

20 (2) "Off-road vehicle" does not include any boat, military, fire or
21 law-enforcement vehicle, farm-type tractors and other agricultural equipment used
22 for agricultural purposes or earth moving, or construction equipment while used for
23 those purposes, lawn mowers, snowblowers, garden or lawn tractors or golf carts
24 while being used for their designed purpose.

25 (b) (1) Except when traveling on clearly designated private driveways, a
26 person may not operate or use an off-road vehicle on private property unless the
27 person has in his possession the written permission of the owner or tenant of the
28 property.

29 (2) Except as permitted by law, a person may not operate or use an
30 off-road vehicle on property owned or leased by the State or any other of its political
31 subdivisions.

32 (3) Any person who violates the provisions of this section is guilty of a
33 misdemeanor and, on conviction, is subject to a fine not exceeding \$250.]

34 [579A.

35 Any unauthorized person who enters or remains in the stable area of a race
36 track after having been notified by a race track official, security guard, or policeman
37 that he is not allowed in that area is guilty of a misdemeanor and upon conviction

1 thereof shall be subject to a fine of not more than one thousand dollars (\$1,000.00), or
2 imprisonment for not more than six months, or both fine and imprisonment.]

3 [579B.

4 (a) A person, without permission from the owner or agent of the owner, who
5 enters upon the cultivated land of another is guilty of a misdemeanor and on
6 conviction may be fined not more than \$500. "Cultivated land" means land which has
7 been cleared of its natural vegetation and is presently planted with a crop or orchard.

8 (b) It is intended that this section is only to prohibit any wanton entry upon
9 cultivated land, and therefore this section shall not be construed:

10 (i) To prevent persons who reside on cultivated land from receiving any
11 person who seeks to provide a lawful service; or

12 (ii) To apply to persons entering cultivated land under color of law or
13 color of title.]

14 [580.

15 Any person who shall enter upon the land or premises of another for the purpose
16 of invading the privacy of the occupants of any building or enclosure located thereon,
17 by looking into any window, door or other aperture of such building or enclosure, shall
18 be guilty of a misdemeanor and upon conviction thereof shall be fined not more than
19 fifty dollars or imprisoned for not more than thirty days, or both fined and
20 imprisoned.]

21 **Article - Natural Resources**

22 4-1207.

23 (A) In addition to any other penalty or fine provided in this title, any person
24 who is convicted of violating any provision of this title or any regulation adopted
25 under the authority of this title may have the license under which the person
26 operated in the commission of violation suspended or revoked by the court.

27 (B) (1) A COURT MAY SUSPEND FOR NOT MORE THAN 1 YEAR A FISHING
28 LICENSE OF A PERSON WHO IS CONVICTED OF VIOLATING ARTICLE 27, § 577(A)(1) OF
29 THE CODE WHILE CARRYING A FISHING ROD OR NET FOR THE PURPOSE OF FISHING.

30 (2) WHEN A PERSON NOT HOLDING A FISHING LICENSE IS CONVICTED
31 OF VIOLATING ARTICLE 27, § 577(A)(1) OF THE CODE WHILE CARRYING A FISHING ROD
32 OR NET FOR THE PURPOSE OF FISHING, THE COURT MAY ORDER THAT THE PERSON
33 NOT OBTAIN A FISHING LICENSE FOR A PERIOD OF NOT MORE THAN 1 YEAR.

34 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The provisions
35 in subsection (b) of this section on suspension of a fishing license for violating the
36 trespass law (former Article 27, § 577(a)(1)) are based on current law. The Committee

1 felt that the Natural Resources Article was the more appropriate place for the license
2 suspension provisions.

3 10-1108.

4 (a) (1) In addition to any other penalty, a court may suspend the hunting
5 license of any person who is convicted of violating any provision of this title or any
6 regulation adopted under this title, for a period not exceeding 5 years.

7 (2) (I) A COURT MAY SUSPEND FOR NOT MORE THAN 1 YEAR THE
8 HUNTING LICENSE OF A PERSON WHO IS CONVICTED OF VIOLATING ARTICLE 27, §
9 577(A)(1) OF THE CODE WHILE CARRYING A FIREARM OR BOW AND ARROW FOR THE
10 PURPOSE OF HUNTING.

11 (II) WHEN A PERSON NOT HOLDING A HUNTING LICENSE IS
12 CONVICTED OF VIOLATING ARTICLE 27, § 577(A)(1) OF THE CODE WHILE CARRYING A
13 FIREARM OR BOW AND ARROW FOR THE PURPOSE OF HUNTING, THE COURT MAY
14 ORDER THAT THE PERSON NOT OBTAIN A HUNTING LICENSE FOR A PERIOD OF NOT
15 MORE THAN 1 YEAR.

16 (b) If a person whose hunting license is suspended under this section passes
17 another hunting safety course after the suspension has expired, the person may
18 reapply for and be issued a hunting license.

19 (c) A person whose hunting license is suspended under this section may not:

20 (1) Hunt on any lands where a hunting license is required; or

21 (2) Purchase or attempt to purchase another hunting license during the
22 period of suspension.

23 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The provisions
24 in subsection (a)(2) of this section on suspension of a hunting license for violating the
25 trespass law (former Article 27, § 577(a)(1)) are based on current law. The Committee
26 felt that the Natural Resources Article was the more appropriate place for the license
27 suspension provisions.

28 SECTION 2. AND BE IT FURTHER ENACTED, That the Committee Notes
29 contained in this Act are not law.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 1998.

