

SENATE BILL 391

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1998 Regular Session
(8lr1251)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senators Stone, Kelley, and Middlebrooks (Committee to
Revise Article 27)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

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; adding to
9 the prohibition on operating or using an off-road vehicle on certain government
10 property a requirement that the operation or use be with a certain knowledge;
11 prohibiting wanton trespass on the property of Government House; eliminating
12 a certain exception for lawful business concerning trespass on Government
13 House; altering certain penalties; defining certain terms; making stylistic
14 changes; providing that the Committee Notes contained in this Act are not law;
15 and generally relating to trespass and entry on property.

16 BY repealing

1 Article 27 - Crimes and Punishments
2 Section 576, 576A, 577, 577C, 578, 579A, 579B, and 580
3 Annotated Code of Maryland
4 (1996 Replacement Volume and 1997 Supplement)

5 BY adding to
6 Article 27 - Crimes and Punishments
7 Section 576 and 577
8 Annotated Code of Maryland
9 (1996 Replacement Volume and 1997 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article 27 - Crimes and Punishments
12 Section 577A
13 Annotated Code of Maryland
14 (1996 Replacement Volume and 1997 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article - Natural Resources
17 Section 4-1207
18 Annotated Code of Maryland
19 (1997 Replacement Volume and 1997 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article - Natural Resources
22 Section 10-1108
23 Annotated Code of Maryland
24 (1990 Replacement Volume and 1997 Supplement)

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

27 **Article 27 - Crimes and Punishments**

28 [576.

29 Any person who enters or trespasses on any property which is posted against
30 trespassers in a conspicuous manner or in accordance with the provisions of § 576A of
31 this subheading is guilty of a misdemeanor and on conviction is subject to a fine not
32 exceeding \$500, or imprisonment not exceeding three months, or both. The
33 prosecution of such offenders shall be made and proceedings instituted by the
34 landowner or tenant of the property unlawfully entered. Any person who is convicted
35 of violating the provisions of this section and who carried any firearm or bow and
36 arrow at the time of the violation shall have the person's hunting license revoked for
37 one year immediately on conviction. Any person who is convicted of violating the

1 provisions of this section and was carrying a fishing rod or net at the time of the
2 violation shall have any fishing license revoked for one year immediately on
3 conviction. If the person does not hold a license, the person may not be issued the
4 appropriate license until one year after any conviction under the provisions of this
5 section.]

6 [576A.

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

10 (1) Signs where they may reasonably be seen; or

11 (2) Identifying paint marks on trees or posts at each road entrance and
12 adjacent to public roadways, public waterways, and any other lands adjoining the
13 property.

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

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

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

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

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

25 [577.

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

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

36 (3) This section may not be construed to include within its provisions the
37 entry upon or crossing over any land when such entry or crossing is done under a

1 bona fide claim of right or ownership of said land, it being the intention of this section
2 only to prohibit any wanton trespass upon the private land of others.

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

9 576.

10 (A) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

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

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

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

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

23 (2) "OFF-ROAD VEHICLE" DOES NOT INCLUDE ANY BOAT, MILITARY,
24 FIRE OR LAW ENFORCEMENT VEHICLES, FARM-TYPE TRACTORS AND OTHER
25 AGRICULTURAL EQUIPMENT USED FOR AGRICULTURAL PURPOSES OR EARTH
26 MOVING, OR CONSTRUCTION EQUIPMENT WHILE USED FOR THOSE PURPOSES, LAWN
27 MOWERS, SNOWBLOWERS, GARDEN OR LAWN TRACTORS, OR GOLF CARTS WHILE
28 BEING USED FOR THEIR DESIGNED PURPOSE.

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

30 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The definitions of
31 "cultivated land" and "off-road vehicle" are based on current law found in former §§
32 578 and 579B of Article 27, respectively. No substantive changes are intended.

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

1 577.

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

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

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

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

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

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

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

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

29 1. A COUNTY;

30 2. A MUNICIPAL CORPORATION;

31 3. A BICOUNTY OR MULTICOUNTY AGENCY;

32 4. A COUNTY BOARD OF EDUCATION;

33 5. A PUBLIC AUTHORITY; OR

34 6. A SPECIAL TAXING DISTRICT.

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

4 (I) ~~A COUNTY;~~

5 (II) ~~A MUNICIPAL CORPORATION;~~

6 (III) ~~A BICOUNTY OR MULTICOUNTY AGENCY;~~

7 (IV) ~~A COUNTY BOARD OF EDUCATION;~~

8 (V) ~~A PUBLIC AUTHORITY; OR~~

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

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

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

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

18 2. APPLY TO PERSONS ENTERING CULTIVATED LAND UNDER
19 COLOR OF LAW OR COLOR OF TITLE.

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

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

28 (B) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF
29 A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN
30 \$500 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH.

31 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): This section
32 includes those offenses previously found in former §§ 576, 577, 578, 579A, 579B, and
33 580 of Article 27.

34 The previous requirement under former § 576 of Article 27 that the prosecution
35 be brought by the landowner or tenant has been eliminated. The provisions dealing
36 with suspension of a hunting or fishing license for a violation of former § 576 (new

1 subsection (a)(1)) if the offense was committed while carrying a fishing rod, net,
2 firearm, or bow and arrow can now be found in §§ 4-1207 (fishing license) and
3 10-1108 (hunting license) of the Natural Resources Article.

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

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

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

11 [577A.] 578.

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

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

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

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

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

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

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

11 [577C.

12 (a) Except as provided in subsection (b) of this section, any person who enters
13 or trespasses upon the property of Government House is guilty of a misdemeanor and
14 on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding
15 6 months or both.

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

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

21 [578.

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

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

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

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

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

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

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

6 [579A.

7 Any unauthorized person who enters or remains in the stable area of a race
8 track after having been notified by a race track official, security guard, or policeman
9 that he is not allowed in that area is guilty of a misdemeanor and upon conviction
10 thereof shall be subject to a fine of not more than one thousand dollars (\$1,000.00), or
11 imprisonment for not more than six months, or both fine and imprisonment.]

12 [579B.

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

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

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

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

23 [580.

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

30 **Article - Natural Resources**

31 4-1207.

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

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

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

8 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The provisions
9 in subsection (b) of this section on suspension of a fishing license for violating the
10 trespass law (former Article 27, § 577(a)(1)) are based on current law. The Committee
11 felt that the Natural Resources Article was the more appropriate place for the license
12 suspension provisions.

13 10-1108.

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

17 (2) (I) A COURT MAY SUSPEND FOR NOT MORE THAN 1 YEAR THE
18 HUNTING LICENSE OF A PERSON WHO IS CONVICTED OF VIOLATING ARTICLE 27, §
19 577(A)(1) OF THE CODE WHILE CARRYING A FIREARM OR BOW AND ARROW FOR THE
20 PURPOSE OF HUNTING.

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

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

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

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

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

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

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

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