

SENATE BILL 391

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1998 Regular Session
8r1251
CF 8r1252

By: **Senators Stone, Kelley, and Middlebrooks (Committee to Revise Article 27)**

Introduced and read first time: February 6, 1998
Assigned to: Judicial Proceedings

Committee Report: Favorable
Senate action: Adopted
Read second time: March 4, 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; prohibiting
9 wanton trespass on the property of Government House; eliminating a certain
10 exception for lawful business concerning trespass on Government House;
11 altering certain penalties; defining certain terms; making stylistic changes;
12 providing that the Committee Notes contained in this Act are not law; and
13 generally relating to trespass and entry on property.

14 BY repealing

15 Article 27 - Crimes and Punishments
16 Section 576, 576A, 577, 577C, 578, 579A, 579B, and 580
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 1997 Supplement)

19 BY adding to

20 Article 27 - Crimes and Punishments
21 Section 576 and 577
22 Annotated Code of Maryland
23 (1996 Replacement Volume and 1997 Supplement)

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

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

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

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

18 **Article 27 - Crimes and Punishments**

19 [576.

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

34 [576A.

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

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

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

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

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

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

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

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

15 [577.

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

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

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

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

36 576.

37 (A) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE MEANINGS
38 INDICATED.

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

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

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

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

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

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

19 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The definitions of
20 "cultivated land" and "off-road vehicle" are based on current law found in former §§
21 578 and 579B of Article 27, respectively. No substantive changes are intended.

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

25 577.

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

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

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

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

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

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

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

15 (4) EXCEPT AS PERMITTED BY LAW, A PERSON MAY NOT OPERATE OR
16 USE AN OFF-ROAD VEHICLE ON PROPERTY OWNED OR LEASED BY THE STATE OR
17 ANY POLITICAL SUBDIVISION INCLUDING:

18 (I) A COUNTY;

19 (II) A MUNICIPAL CORPORATION;

20 (III) A BICOUNTY OR MULTICOUNTY AGENCY;

21 (IV) A COUNTY BOARD OF EDUCATION;

22 (V) A PUBLIC AUTHORITY; OR

23 (VI) A SPECIAL TAXING DISTRICT.

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

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

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

31 2. APPLY TO PERSONS ENTERING CULTIVATED LAND UNDER
32 COLOR OF LAW OR COLOR OF TITLE.

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

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

5 (B) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF
6 A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN
7 \$500 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH.

8 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): This section
9 includes those offenses previously found in former §§ 576, 577, 578, 579A, 579B, and
10 580 of Article 27.

11 The previous requirement under former § 576 of Article 27 that the prosecution
12 be brought by the landowner or tenant has been eliminated. The provisions dealing
13 with suspension of a hunting or fishing license for a violation of former § 576 (new
14 subsection (a)(1)) if the offense was committed while carrying a fishing rod, net,
15 firearm, or bow and arrow can now be found in §§ 4-1207 (fishing license) and
16 10-1108 (hunting license) of the Natural Resources Article.

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

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

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

24 [577A.] 578.

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

37 [(2)] (B) [Any person refusing or failing] A PERSON MAY NOT REFUSE OR FAIL
38 to leave a public building or grounds, or specific portion [thereof, of a public agency or
39 public institution] OF A PUBLIC BUILDING OR GROUNDS during regular business
40 hours, upon being requested to do so by an authorized employee of the public agency
41 or institution owning, operating or maintaining the building or property, if the

1 surrounding circumstances are such as to indicate to a reasonable [man] PERSON
2 that [such] THE person has no apparent lawful business to pursue at such place or is
3 acting in a manner disruptive of and disturbing to the conduct of normal business by
4 such agency or institution[, shall be guilty of a misdemeanor, and upon conviction
5 thereof shall be fined not more than \$1,000.00, or imprisoned for not more than six
6 months, or both, in the discretion of the court].

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

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

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

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

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

22 [577C.

23 (a) Except as provided in subsection (b) of this section, any person who enters
24 or trespasses upon the property of Government House is guilty of a misdemeanor and
25 on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding
26 6 months or both.

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

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

32 [578.

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

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

36 (ii) Any motorized vehicle designed for or capable of cross-country
37 travel on or immediately over land, water, snow, ice, marsh, swampland or other

1 natural terrain and includes, but is not limited to four-wheel drive or
2 low-pressure-tire vehicles, motorcycles and related two-wheel vehicles, amphibious
3 machines, ground-effect, or air-cushion vehicles.

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

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

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

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

18 [579A.

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

24 [579B.

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

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

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

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

35 [580.

36 Any person who shall enter upon the land or premises of another for the purpose
37 of invading the privacy of the occupants of any building or enclosure located thereon,

1 by looking into any window, door or other aperture of such building or enclosure, shall
2 be guilty of a misdemeanor and upon conviction thereof shall be fined not more than
3 fifty dollars or imprisoned for not more than thirty days, or both fined and
4 imprisoned.]

5

Article - Natural Resources

6 4-1207.

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

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

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

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

23 10-1108.

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

27 (2) (I) A COURT MAY SUSPEND FOR NOT MORE THAN 1 YEAR THE
28 HUNTING LICENSE OF A PERSON WHO IS CONVICTED OF VIOLATING ARTICLE 27, §
29 577(A)(1) OF THE CODE WHILE CARRYING A FIREARM OR BOW AND ARROW.

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

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

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

- 1 (1) Hunt on any lands where a hunting license is required; or
- 2 (2) Purchase or attempt to purchase another hunting license during the
- 3 period of suspension.

4 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The provisions

5 in subsection (a)(2) of this section on suspension of a hunting license for violating the

6 trespass law (former Article 27, § 577(a)(1)) are based on current law. The Committee

7 felt that the Natural Resources Article was the more appropriate place for the license

8 suspension provisions.

9 SECTION 2. AND BE IT FURTHER ENACTED, That the Committee Notes

10 contained in this Act are not law.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect

12 October 1, 1998.