

SENATE BILL 258

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SB 100/98 - JPR

2000 Regular Session
0lr0224

By: **Senator Mooney**

Introduced and read first time: January 28, 2000

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Destructive Device Offenses - Suspension of Driver's**
3 **License and Restitution**

4 FOR the purpose of expanding the circumstances under which a court may order the
5 Motor Vehicle Administration to suspend the driving privileges of a person
6 convicted of a crime or found to have committed a delinquent act involving a
7 destructive device; modifying the time periods for which a court may order the
8 Administration to suspend the driver's license or not issue a driver's license to
9 certain individuals convicted of a crime or found to have committed a delinquent
10 act involving a destructive device; requiring a court to order restitution for
11 destructive device offenses under certain circumstances; expanding the type of
12 restitution; making local boards of education eligible for restitution for crimes
13 involving a destructive device; eliminating the juvenile court's jurisdiction over
14 certain children alleged to have committed certain violations involving a
15 destructive device under certain circumstances; requiring a court, in making a
16 disposition that a child has committed a violation involving a destructive device,
17 to order the Administration to suspend the driving privilege of, or refuse to issue
18 a driver's license to, the child for a certain period; and generally relating to
19 penalties for crimes involving destructive devices.

20 BY repealing and reenacting, without amendments,
21 Article 27 - Crimes and Punishments
22 Section 139C
23 Annotated Code of Maryland
24 (1996 Replacement Volume and 1999 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article 27 - Crimes and Punishments
27 Section 139D, 151A, and 151C
28 Annotated Code of Maryland
29 (1996 Replacement Volume and 1999 Supplement)

30 BY repealing and reenacting, with amendments,
31 Article - Courts and Judicial Proceedings

1 Section 3-804(e) and 3-820(d)
2 Annotated Code of Maryland
3 (1998 Replacement Volume and 1999 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article - Transportation
6 Section 16-206(a)
7 Annotated Code of Maryland
8 (1999 Replacement Volume and 1999 Supplement)

9 BY repealing and reenacting, without amendments,
10 Article - Transportation
11 Section 16-206(d)
12 Annotated Code of Maryland
13 (1999 Replacement Volume and 1999 Supplement)

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

16 **Article 27 - Crimes and Punishments**

17 139C.

18 A person may not knowingly:

19 (1) Manufacture, transport, possess, control, store, sell, distribute, or use
20 a destructive device; or

21 (2) Possess any explosive, incendiary, or toxic material with intent to
22 create a destructive device.

23 139D.

24 (a) A person who violates the provisions of this subheading is guilty of a felony
25 and on conviction is subject to a fine of not more than \$250,000 or by imprisonment
26 for not more than 25 years or both.

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

30 (c) (1) In addition to the penalty provided in this section, a person convicted
31 or found to have committed a delinquent act under this subheading [may] SHALL be
32 ordered by the court to pay restitution to:

33 (i) The State, county, LOCAL BOARD OF EDUCATION, municipal
34 corporation, bicounty agency, or special taxing district for actual costs, INCLUDING
35 SALARIES AND WAGES, reasonably incurred due to the placement, delivery, or

1 detonation of a destructive device, including the search for, removal of, and damages
2 caused by a destructive device; 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 or damage
5 sustained due to the placement, delivery, or detonation 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 (3) (i) If the person convicted or found to have committed a delinquent
9 act under this subheading is a child, the court may order the child, the child's parent,
10 or both to pay the restitution described in paragraph (1) of this subsection.

11 (ii) Except as otherwise provided in this section, the provisions of §
12 807 of this article apply to an order of restitution under this paragraph.

13 (d) In addition to any other penalty authorized by law, [if the person convicted
14 or found to have committed a delinquent act under this subheading is a child,] the
15 court may order the Motor Vehicle Administration to initiate an action, under the
16 motor vehicle laws, to suspend the driving privilege of [the child] A PERSON
17 CONVICTED OF A CRIME OR FOUND TO HAVE COMMITTED A DELINQUENT ACT
18 UNDER THIS SUBHEADING for a specified period not to exceed[:

19 (1) For a first offense, 6 months; and

20 (2) For a second or subsequent offense, 1 year or until the person is 21
21 years old, whichever is longer.] 2 YEARS FROM THE DATE THAT THE PERSON WAS
22 CONVICTED OR FOUND TO HAVE COMMITTED THE DELINQUENT ACT, OR UNTIL THE
23 PERSON IS 18 YEARS OLD, WHICHEVER IS LONGER.

24 151A.

25 (a) In this section, "child" means a person under the age of 18 years.

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

36 (c) A person convicted of violating this section is subject to a fine not
37 exceeding \$10,000 or to imprisonment not exceeding 10 years, or to both such fine and
38 imprisonment in the discretion of the court. This section does not apply to any
39 statement or rumor made or circulated by an officer, employee, or agent of a bona fide

1 civilian defense organization or agency, if made in the regular course of the person's
2 duties with that organization or agency.

3 (d) (1) In addition to the penalty provided in subsection (c) of this section, a
4 person convicted or found to have committed a delinquent act under this section
5 [may] SHALL be ordered by the court to pay restitution to:

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

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

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

16 (3) (i) If the person convicted or found to have committed a delinquent
17 act under this section is a child, the court may order the child, the child's parent, or
18 both to pay the restitution described in paragraph (1) of this subsection.

19 (ii) Except as otherwise provided in this section, the provisions of §
20 807 of this article apply to an order of restitution under this paragraph.

21 (e) In addition to any other penalty authorized by law, [if the person convicted
22 or found to have committed a delinquent act under this section is a child,] the court
23 may order the Motor Vehicle Administration to initiate an action, under the motor
24 vehicle laws, to suspend the driving privilege of [the child] A PERSON CONVICTED OF
25 A CRIME OR FOUND TO HAVE COMMITTED A DELINQUENT ACT UNDER THIS SECTION
26 for a specified period not to exceed:

27 (1) For a first offense, 6 months; and

28 (2) For a second or subsequent offense, 1 year or until the person is 21
29 years old, whichever is longer.] 2 YEARS FROM THE DATE THAT THE PERSON WAS
30 CONVICTED OR FOUND TO HAVE COMMITTED THE DELINQUENT ACT, OR UNTIL THE
31 PERSON IS 18 YEARS OLD, WHICHEVER IS LONGER.

32 151C.

33 (a) In this section, "child" means a person under the age of 18 years.

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

1 (c) A person who violates this section is guilty of a felony and on conviction, is
2 subject to imprisonment for not more than 10 years or a fine of not more than \$10,000
3 or both.

4 (d) (1) In addition to the penalty provided in subsection (c) of this section, a
5 person convicted or found to have committed a delinquent act under this section
6 [may] SHALL be ordered by the court to pay restitution to:

7 (i) The State, county, LOCAL BOARD OF EDUCATION, municipal
8 corporation, bicounty agency, or special taxing district for actual costs, INCLUDING
9 SALARIES AND WAGES, reasonably incurred in the search for and removal of any
10 devices representing destructive devices; and

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

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

16 (3) (i) If the person convicted or found to have committed a delinquent
17 act in violation of this section is a child, the court may order the child, the child's
18 parent, or both to pay the restitution described in paragraph (1) of this subsection.

19 (ii) Except as otherwise provided in this section, the provisions of §
20 807 of this article apply to an order of restitution under this paragraph.

21 (e) In addition to any other penalty authorized by law, [if the person convicted
22 or found to have committed a delinquent act under this section is a child,] the court
23 may order the Motor Vehicle Administration to initiate an action, under the motor
24 vehicle laws, to suspend the driving privilege of [the child] A PERSON CONVICTED OF
25 A CRIME OR FOUND TO HAVE COMMITTED A DELINQUENT ACT UNDER THIS SECTION
26 for a specified period not to exceed[:

27 (1) For a first offense, 6 months; and

28 (2) For a second or subsequent offense, 1 year or until the person is 21
29 years old, whichever is longer.] 2 YEARS FROM THE DATE THAT THE PERSON WAS
30 CONVICTED OR FOUND TO HAVE COMMITTED THE DELINQUENT ACT, OR UNTIL THE
31 PERSON IS 18 YEARS OLD, WHICHEVER IS LONGER.

32 **Article - Courts and Judicial Proceedings**

33 3-804.

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

35 (1) A child at least 14 years old alleged to have done an act which, if
36 committed by an adult, would be a crime punishable by death or life imprisonment, as
37 well as all other charges against the child arising out of the same incident, unless an

1 order removing the proceeding to the court has been filed under Article 27, § 594A of
2 the Code;

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

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

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

13 (i) Abduction;

14 (ii) Kidnapping;

15 (iii) Second degree murder;

16 (iv) Manslaughter, except involuntary manslaughter;

17 (v) Second degree rape;

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

19 (vii) Second degree sexual offense in violation of Article 27, §
20 464A(a)(1) of the Code;

21 (viii) Third degree sexual offense in violation of Article 27, §
22 464B(a)(1) of the Code;

23 (ix) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, §
24 446, or § 481C of the Code;

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

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

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

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

32 (xiv) Attempted murder in the second degree in violation of Article
33 27, § 411A of the Code;

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

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

5 (XVII) A CRIME IN VIOLATION OF ARTICLE 27, § 139C, § 151A, OR §151C
6 OF THE CODE; OR

7 (5) A child who previously has been convicted as an adult of a felony and
8 is subsequently alleged to have committed an act that would be a felony if committed
9 by an adult, unless an order removing the proceeding to the court has been filed
10 under Article 27, § 594A of the Code.

11 3-820.

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

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

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

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

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

30 (iv) In making a disposition on a finding that the child has
31 committed a violation under § 26-103 of the Education Article, the court shall order
32 the Motor Vehicle Administration to initiate an action, under the motor vehicle laws,
33 to suspend the driving privilege of a child licensed to operate a motor vehicle by the
34 Motor Vehicle Administration for a specified period of not less than 30 days nor more
35 than 90 days.

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

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

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

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

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

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

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

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

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

20 1. Counsel the child or the parent or both, or order the child
21 to participate in a smoking cessation clinic, or other suitable presentation of the
22 hazards associated with tobacco use that is in the best interest of the child;

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

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

29 (4) (i) In making a disposition on a finding that the child has
30 committed a violation under Article 27, § 139C, § 151A, or § 151C of the Code, the
31 court [may] SHALL order the Motor Vehicle Administration to initiate an action,
32 under the Maryland Vehicle Law, to suspend the driving privilege of a child [for a
33 specified period not to exceed:

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

35 2. For a second or subsequent offense, 1 year or until the
36 person is 21 years old, whichever is longer.] LICENSED TO OPERATE A MOTOR

1 VEHICLE BY THE MOTOR VEHICLE ADMINISTRATION UNTIL THE CHILD IS 18 YEARS
2 OLD, OR FOR A PERIOD OF 2 YEARS, WHICHEVER IS LONGER.

3 (ii) If a child subject to a suspension under this paragraph does not
4 possess the privilege to drive on the date of the disposition, [the suspension shall
5 commence:

6 1. If the child is at an age that is eligible to obtain the
7 privilege to drive on the date of the disposition, on the date of the disposition; or

8 2. If the child is younger than an age that is eligible to obtain
9 the privilege to drive on the date of the disposition, on the date the child is eligible to
10 obtain driving privileges.] THE COURT SHALL ORDER THE MOTOR VEHICLE
11 ADMINISTRATION NOT TO ISSUE A DRIVER'S LICENSE TO THAT CHILD UNTIL THE
12 CHILD IS 18 YEARS OLD, OR FOR A PERIOD OF 2 YEARS FROM THE DATE OF
13 DISPOSITION, WHICHEVER IS LONGER, SUBJECT TO ANY MINIMUM AGE
14 REQUIREMENTS OF THE MOTOR VEHICLE ADMINISTRATION.

15 **Article - Transportation**

16 16-206.

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

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

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

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

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

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

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

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

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) The Administration may suspend or revoke a provisional license
6 under § 16-213 of this subtitle.

7 (4) (i) Pursuant to a court order under Article 27, § 139C, § 151A, or §
8 151C of the Code, the Administration:

9 1. Shall initiate an action to suspend the driver's license or
10 driving privilege of an individual for a time specified by the court; and

11 2. May issue a restricted license that is limited to driving a
12 motor vehicle:

13 A. For the purpose of attending an alcohol education or
14 alcoholic prevention or treatment program;

15 B. That is required in the course of employment;

16 C. For the purposes of driving to or from a place of
17 employment if the individual's employment would be adversely affected because the
18 individual has no reasonable alternative means of transportation to or from the place
19 of employment; or

20 D. For the purposes of driving to or from school or any other
21 place of educational instruction if the individual's education would be adversely
22 affected because the individual has no reasonable alternative means of transportation
23 for educational purposes.

24 (ii) If an individual subject to a suspension under subparagraph (i)
25 of this paragraph does not possess the privilege to drive on the date of the
26 disposition[, the suspension shall commence]:

27 1. If the individual is at an age that is eligible to obtain the
28 privilege to drive on the date of the disposition, **THE SUSPENSION SHALL COMMENCE**
29 **on the date of the disposition; or**

30 2. If the individual is younger than an age that is eligible to
31 obtain the privilege to drive on the date of the disposition, [on the date the individual
32 is eligible to obtain driving privileges.] **A LICENSE SHALL NOT BE ISSUED TO THAT**
33 **INDIVIDUAL UNTIL THE INDIVIDUAL IS 18 YEARS OLD OR FOR A PERIOD OF 2 YEARS**
34 **FROM THE DATE OF THE DISPOSITION, WHICHEVER IS LONGER, AS ORDERED BY THE**
35 **COURT SUBJECT TO ANY MINIMUM AGE REQUIREMENTS OF THE ADMINISTRATION.**

36 (d) (1) After the Administration refuses to issue a license under this section,
37 determines that a suspension should be imposed under subsection (a)(2) of this

1 section, or determines that a suspension or revocation should be imposed under
2 subsection (a)(3) of this section, the Administration immediately shall give written
3 notice to the applicant or licensee, and the applicant or licensee may request a
4 hearing as provided in Title 12, Subtitle 2 of this article.

5 (2) After the Administration suspends the driver's license or driving
6 privilege of an individual under subsection (a)(4) of this section, the Administration
7 shall send written notice to the individual, including notice of the individual's right to
8 contest the accuracy of the information.

9 (3) Any contest under this subsection shall be limited to:

10 (i) Whether the Administration has mistaken the identity of the
11 individual whose license or privilege to drive has been suspended; and

12 (ii) Whether the individual may be issued a restricted license that
13 is limited to driving a motor vehicle:

14 1. For the purpose of attending an alcohol education or
15 alcoholic prevention or treatment program;

16 2. That is required in the course of employment;

17 3. For the purposes of driving to or from a place of
18 employment if the individual's employment would be adversely affected because the
19 individual has no reasonable alternative means of transportation to or from the place
20 of employment; or

21 4. For the purposes of driving to or from school or any other
22 place of educational instruction if the individual's education would be adversely
23 affected because the individual has no reasonable alternative means of transportation
24 for educational purposes.

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

28 (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.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2000.