

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

Committee Report: Favorable
Senate action: Adopted
Read second time: March 14, 2000

CHAPTER _____

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,

1 Article 27 - Crimes and Punishments
2 Section 139D, 151A, and 151C
3 Annotated Code of Maryland
4 (1996 Replacement Volume and 1999 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article - Courts and Judicial Proceedings
7 Section 3-804(e) and 3-820(d)
8 Annotated Code of Maryland
9 (1998 Replacement Volume and 1999 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article - Transportation
12 Section 16-206(a)
13 Annotated Code of Maryland
14 (1999 Replacement Volume and 1999 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article - Transportation
17 Section 16-206(d)
18 Annotated Code of Maryland
19 (1999 Replacement Volume and 1999 Supplement)

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

22 **Article 27 - Crimes and Punishments**

23 139C.

24 A person may not knowingly:

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

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

29 139D.

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

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

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

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

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

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

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

17 (ii) Except as otherwise provided in this section, the provisions of §
18 807 of this article apply to an order of restitution under this paragraph.

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

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

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

30 151A.

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

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

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

3 (c) A person convicted of violating this section is subject to a fine not
4 exceeding \$10,000 or to imprisonment not exceeding 10 years, or to both such fine and
5 imprisonment in the discretion of the court. This section does not apply to any
6 statement or rumor made or circulated by an officer, employee, or agent of a bona fide
7 civilian defense organization or agency, if made in the regular course of the person's
8 duties with that organization or agency.

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

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

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

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

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

25 (ii) Except as otherwise provided in this section, the provisions of §
26 807 of this article apply to an order of restitution under this paragraph.

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

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

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

1 151C.

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

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

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

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

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

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

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

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

24 (ii) Except as otherwise provided in this section, the provisions of §
25 807 of this article apply to an order of restitution under this paragraph.

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

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

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

Article - Courts and Judicial Proceedings

1 3-804.

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

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

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

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

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

18 (i) Abduction;

19 (ii) Kidnapping;

20 (iii) Second degree murder;

21 (iv) Manslaughter, except involuntary manslaughter;

22 (v) Second degree rape;

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

24 (vii) Second degree sexual offense in violation of Article 27, §
25 464A(a)(1) of the Code;

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

28 (ix) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, §
29 446, or § 481C of the Code;

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

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

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

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

5 (xiv) Attempted murder in the second degree in violation of Article
6 27, § 411A of the Code;

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

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

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

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

17 3-820.

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

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

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

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

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

36 (iv) In making a disposition on a finding that the child has
37 committed a violation under § 26-103 of the Education Article, the court shall order

1 the Motor Vehicle Administration to initiate an action, under the motor vehicle laws,
2 to suspend the driving privilege of a child licensed to operate a motor vehicle by the
3 Motor Vehicle Administration for a specified period of not less than 30 days nor more
4 than 90 days.

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

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

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

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

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

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

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

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

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

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

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

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

36 (4) (i) In making a disposition on a finding that the child has
37 committed a violation under Article 27, § 139C, § 151A, or § 151C of the Code, the

1 court [may] SHALL order the Motor Vehicle Administration to initiate an action,
2 under the Maryland Vehicle Law, to suspend the driving privilege of a child [for a
3 specified period not to exceed:

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

5 2. For a second or subsequent offense, 1 year or until the
6 person is 21 years old, whichever is longer.] LICENSED TO OPERATE A MOTOR
7 VEHICLE BY THE MOTOR VEHICLE ADMINISTRATION UNTIL THE CHILD IS 18 YEARS
8 OLD, OR FOR A PERIOD OF 2 YEARS, WHICHEVER IS LONGER.

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

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

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

21 **Article - Transportation**

22 16-206.

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

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

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

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

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

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

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

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

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

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

9 (3) The Administration may suspend or revoke a provisional license
10 under § 16-213 of this subtitle.

11 (4) (i) Pursuant to a court order under Article 27, § 139C, § 151A, or §
12 151C of the Code, the Administration:

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

15 2. May issue a restricted license that is limited to driving a
16 motor vehicle:

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

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

20 C. For the purposes of driving to or from a place of
21 employment if the individual's employment would be adversely affected because the
22 individual has no reasonable alternative means of transportation to or from the place
23 of employment; or

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

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

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

34 2. If the individual is younger than an age that is eligible to
35 obtain the privilege to drive on the date of the disposition, [on the date the individual
36 is eligible to obtain driving privileges.] **A LICENSE SHALL NOT BE ISSUED TO THAT**

1 INDIVIDUAL UNTIL THE INDIVIDUAL IS 18 YEARS OLD OR FOR A PERIOD OF 2 YEARS
2 FROM THE DATE OF THE DISPOSITION, WHICHEVER IS LONGER, AS ORDERED BY THE
3 COURT SUBJECT TO ANY MINIMUM AGE REQUIREMENTS OF THE ADMINISTRATION.

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

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

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

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

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

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

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

22 3. For the purposes of driving to or from a place of
23 employment if the individual's employment would be adversely affected because the
24 individual has no reasonable alternative means of transportation to or from the place
25 of employment; or

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

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

33 (5) If the Administration determines that there is a likelihood of
34 substantial and immediate danger and harm to the licensee or others if the license is
35 continued pending a hearing, the Administration:

36 (i) Immediately may suspend the license;

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

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

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