

(PRE-FILED)

By: **Delegate Smigiel**
 Requested: July 7, 2004
 Introduced and read first time: January 12, 2005
 Assigned to: Judiciary

Committee Report: Favorable with amendments
 House action: Adopted
 Read second time: February 22, 2005

CHAPTER _____

1 AN ACT concerning

2 **Courts-- Witness Fees and Mileage Costs**

3 FOR the purpose of ~~altering~~ repealing certain fees and mileage costs for certain
 4 witnesses attending certain ~~court~~ proceedings; ~~limiting the payment of certain~~
 5 ~~fees and mileage costs to witnesses in civil proceedings; requiring the State~~
 6 ~~Court Administrator to determine witness fees and mileage costs that are~~
 7 ~~uniform throughout the courts in the State; requiring a party requesting a~~
 8 ~~summons for the attendance of a certain witness to pay that witness the fee and~~
 9 ~~mileage costs set by the clerk of court; providing for the application of this Act;~~
 10 and generally relating to ~~the payment of~~ repealing certain fees and mileage
 11 costs ~~to~~ for certain witnesses attending ~~court~~ certain proceedings.

12 BY repealing and reenacting, with amendments,
 13 Article - Agriculture
 14 Section 4-222(e)
 15 Annotated Code of Maryland
 16 (1999 Replacement Volume and 2004 Supplement)

17 BY repealing and reenacting, with amendments,
 18 Article - Business Occupations and Professions
 19 Section 16-209(a)(2)(iv) and 17-209(a)(2)(iv)
 20 Annotated Code of Maryland
 21 (2004 Replacement Volume and 2004 Supplement)

22 BY repealing and reenacting, with amendments,
 23 Article - Courts and Judicial Proceedings

1 Section ~~9-202~~ 3-220
2 Annotated Code of Maryland
3 (2002 Replacement Volume and 2004 Supplement)

4 BY repealing

5 Article - Courts and Judicial Proceedings
6 Section 9-202
7 Annotated Code of Maryland
8 (2002 Replacement Volume and 2004 Supplement)

9 BY repealing

10 Article - Criminal Procedure
11 Section 1-204
12 Annotated Code of Maryland
13 (2001 Volume and 2004 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article - Estates and Trusts
16 Section 2-104
17 Annotated Code of Maryland
18 (2001 Replacement Volume and 2004 Supplement)

19 BY repealing

20 Article - Labor and Employment
21 Section 9-311(d)
22 Annotated Code of Maryland
23 (1999 Replacement Volume and 2004 Supplement)

24 BY repealing

25 Article - Public Utility Companies
26 Section 3-110(d)
27 Annotated Code of Maryland
28 (1998 Volume and 2004 Supplement)

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

31 **Article - Agriculture**

32 4-222.

33 (e) [Any witness summoned before the Secretary shall be paid the same fees
34 and mileage that is paid any witness in State court.] Any [witness whose deposition
35 is taken, and the] person taking [it.] A DEPOSITION IN ACCORDANCE WITH THIS
36 SUBTITLE shall be entitled to the same fees paid for similar services in State courts.

1 Article - Business Occupations and Professions

2 16-209.

3 (a) (2) In connection with any action to enforce the provisions of this title,
4 the Commission may:

5 (iv) take depositions[,] in the same manner [and with the same
6 fees and compensation for mileage] as provided in civil cases in the State.

7 17-209.

8 (a) (2) In connection with any disciplinary action under Subtitle 3 of this
9 title or any investigation or proceeding brought for an alleged violation of this title,
10 the Commission, a hearing board, the executive director of the Commission, or the
11 assistant director of the Commission may:

12 (iv) take depositions[,] in the same manner [and with the same
13 fees and compensation for mileage] as provided in civil cases in the State.

14 Article - Courts and Judicial Proceedings

15 3-220.

16 (a) [Fees for attendance as a witness are the same as for a witness in the
17 circuit courts of the State.

18 (b) The arbitrators may, and on application of a party shall, order that part or
19 all of the proceedings be transcribed.

20 (B) The record made from the transcript shall be available to either side for
21 purpose of appeal or otherwise.

22 ~~9-202.~~

23 (a) (1) (I) ~~[Except as provided in subsections (b) and (c)] IN A CIVIL~~
24 ~~PROCEEDING AND IN ACCORDANCE WITH § 9-203(H) OF THIS SUBTITLE, a witness~~
25 ~~attending court is allowed [\$1] A REASONABLE FEE for each day in attendance plus~~
26 ~~[itinerant charges allowable to witnesses from other principal county subdivisions]~~
27 ~~REASONABLE MILEAGE COSTS.~~

28 (II) ~~Each witness shall obtain from the clerk of court a certificate or~~
29 ~~order showing the amount due and by whom payable.~~

30 (III) ~~The certificate or order [must] SHALL be obtained within 30~~
31 ~~days of the last day of attendance, and failure to do so constitutes a waiver of any~~
32 ~~claim for compensation.~~

1 (2) (4) THE STATE COURT ADMINISTRATOR SHALL DETERMINE A
2 REASONABLE FEE AND REASONABLE MILEAGE COSTS FOR A WITNESS ATTENDING
3 COURT UNDER THIS SECTION.

4 (II) THE FEE AND MILEAGE COSTS SHALL BE UNIFORM
5 THROUGHOUT THE COURTS IN THE STATE.

6 (3) IF A WITNESS APPEARS IN RESPONSE TO A SUMMONS, THE PARTY
7 REQUESTING THE SUMMONS SHALL PAY THE WITNESS THE ATTENDANCE FEE AND
8 MILEAGE COSTS SET FORTH IN THE CERTIFICATE OR ORDER FROM THE CLERK OF
9 COURT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

10 (b) (1) In Dorchester, Somerset, Talbot, and Worcester counties a witness is
11 allowed 75 cents per day.

12 (2) In Baltimore City a witness is allowed 50 cents per day.

13 (e) (1) Allegany County—A witness is allowed 12 cents per mile for each
14 mile over three he resides from the court. This amount is allowed only once in one
15 term. A witness attending court is allowed \$5 for each day in attendance plus
16 itinerant charges allowable to witnesses from other counties.

17 (2) Baltimore City—A witness who resides outside the city limits is
18 allowed itinerant charges.

19 (3) Caroline County—A witness is allowed 5 cents per mile for each
20 mile over three he resides from Denton.

21 (4) Dorchester County—A witness is allowed 5 cents per mile for each
22 mile he resides from the court. This amount is allowed only once in one term.

23 (5) Frederick County—A witness is allowed 10 cents per mile for each
24 mile over ten he resides from Frederick City. This amount is allowed only once in one
25 ease.

26 (6) Garrett County—A witness is allowed 12 cents per mile for each
27 mile over three he resides from the court. A witness attending court is allowed \$5 for
28 each day in attendance plus itinerant charges allowable to witnesses from other
29 principal county subdivisions.

30 (7) Kent County—A witness is allowed whatever amount the court may
31 direct.

32 (8) Somerset County—A witness is allowed 4 cents per mile for each
33 mile he resides from the court.

34 (9) Talbot County—A witness is allowed 5 cents per mile for each mile
35 he resides from the court.

1 (10) Washington County—A witness is allowed 8 cents per mile for each
2 mile over ten he resides from the court. This amount is allowed only once in one case.

3 (11) Worcester County—A witness is allowed 4 cents per mile for each
4 mile he resides from the court.

5 (d)] A witness summoned by a surveyor upon an order shall be paid in the same
6 manner as any other witness.

7 **Article - Criminal Procedure**

8 1-204.

9 A witness attending court has the right to compensation as provided in § 9-202
10 of the Courts Article.]

11 **Article - Estates and Trusts**

12 2-104.

13 [(a)] The Maryland Rules for the summoning of a witness, and for depositions
14 and discovery, apply to all actions.

15 [(b)] A witness attending the court is entitled to the same compensation as a
16 witness attending the circuit court in the same county.]

17 **Article - Labor and Employment**

18 9-311.

19 [(d)] (1) Except as provided in paragraph (2) of this subsection, a witness who
20 is subpoenaed to appear and appears before the Commission, a special examiner, or
21 an inspector is entitled to the same fees and mileage reimbursement provided for a
22 witness by law in a civil case in the county where the witness testifies.

23 (2) A witness subpoenaed at the request of a party is not entitled to fees
24 or mileage reimbursement from the State Treasury, unless the Commission certifies
25 that the testimony was material to the matter investigated.

26 (3) The fees and mileage reimbursement paid under this subsection shall
27 be audited and paid by the State in the same way as other expenses approved by a
28 member and the Secretary of the Commission.]

29 **Article - Public Utility Companies**

30 3-110.

31 [(d)] In the same manner as other expenses, the Commission shall pay the same
32 witness fees that are allowed by a court of general jurisdiction in the county where the
33 hearing is held.]

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
2 construed to apply only prospectively and may not be applied or interpreted to have
3 any effect on or application to any witnesses appearing in court before the effective
4 date of this Act.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
6 effect October 1, 2005.