

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senator Astle (Chairman, Anne Arundel County Senators)**

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 **Anne Arundel County and the City of Annapolis - Fire and Explosive**
3 **Investigators - Authority**

4 FOR the purpose of providing that, under certain circumstances, an Anne Arundel
5 County or City of Annapolis fire and explosive investigator operating in Anne
6 Arundel County or the City of Annapolis has the same authority as the State
7 Fire Marshal and a full-time investigative and inspection assistant in the Office
8 of the State Fire Marshal to make an arrest without a warrant and exercise
9 certain powers of arrest; authorizing an Anne Arundel County or City of
10 Annapolis fire and explosive investigator to exercise certain authority while
11 operating outside Anne Arundel County or the City of Annapolis under certain
12 circumstances; authorizing the Anne Arundel County or City of Annapolis Fire
13 Chief to limit certain authority of a fire and explosive investigator to make an
14 arrest without a warrant or exercise certain powers of arrest; requiring the Fire
15 Chief to express the limitation in writing; excluding an Anne Arundel County or
16 City of Annapolis fire and explosive investigator from the definition of "law
17 enforcement officer" under the law relating to the Law Enforcement Officers'

1 Bill of Rights; including an Anne Arundel County or City of Annapolis fire and
2 explosive investigator in the definition of "police officer" in connection with
3 provisions of law relating to the Maryland Police Training Commission and the
4 authorized carrying of a handgun by a person engaged in law enforcement;
5 defining a certain term; requiring the Maryland Police Training Commission to
6 certify certain fire and explosive investigators as police officers under certain
7 circumstances; and generally relating to the authority of Anne Arundel County
8 and City of Annapolis fire and explosive investigators.

9 BY repealing and reenacting, without amendments,
10 Article - Criminal Law
11 Section 4-201(a)
12 Annotated Code of Maryland
13 (2002 Volume and 2004 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - Criminal Law
16 Section 4-201(d)
17 Annotated Code of Maryland
18 (2002 Volume and 2004 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article - Criminal Procedure
21 Section 2-208
22 Annotated Code of Maryland
23 (2001 Volume and 2004 Supplement)

24 BY adding to
25 Article - Criminal Procedure
26 Section 2-208.2
27 Annotated Code of Maryland
28 (2001 Volume and 2004 Supplement)

29 BY repealing and reenacting, without amendments,
30 Article - Public Safety
31 Section 3-101(a) and 3-201(a)
32 Annotated Code of Maryland
33 (2003 Volume and 2004 Supplement)

34 BY repealing and reenacting, with amendments,
35 Article - Public Safety
36 Section 3-101(e)(2) and 3-201(e)(2)
37 Annotated Code of Maryland
38 (2003 Volume and 2004 Supplement)

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

3 **Article - Criminal Law**

4 4-201.

5 (a) In this subtitle the following words have the meanings indicated.

6 (d) "Law enforcement official" means:

7 (1) a full-time member of a police force or other unit of the United
8 States, a state, a county, a municipal corporation, or other political subdivision of a
9 state who is responsible for the prevention and detection of crime and the
10 enforcement of the laws of the United States, a state, a county, a municipal
11 corporation, or other political subdivision of a state;

12 (2) a part-time member of a police force of a county or municipal
13 corporation who is certified by the county or municipal corporation as being trained
14 and qualified in the use of handguns;

15 (3) a fire investigator of the Prince George's County Fire Department
16 who:

17 (i) is certified by Prince George's County as being trained and
18 qualified in the use of handguns; and

19 (ii) has met the minimum qualifications and has satisfactorily
20 completed the training required by the Maryland Police Training Commission; [or]

21 (4) a Montgomery County fire and explosive investigator as defined in §
22 2-208.1 of the Criminal Procedure Article; OR

23 (5) AN ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE AND
24 EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2-208.2 OF THE CRIMINAL PROCEDURE
25 ARTICLE.

26 **Article - Criminal Procedure**

27 2-208.

28 (a) (1) The State Fire Marshal or a full-time investigative and inspection
29 assistant of the Office of the State Fire Marshal may arrest a person without a
30 warrant if the State Fire Marshal or assistant has probable cause to believe:

31 (i) a felony that is a crime listed in paragraph (2) of this subsection
32 has been committed or attempted; and

1 (ii) the person to be arrested has committed or attempted to commit
2 the felony whether or not in the presence or within the view of the State Fire Marshal
3 or assistant.

4 (2) The powers of arrest set forth in paragraph (1) of this subsection
5 apply only to the crimes listed in this paragraph and to attempts, conspiracies, and
6 solicitations to commit these crimes:

7 (i) murder under § 2-201(4) of the Criminal Law Article;

8 (ii) setting fire to a dwelling or occupied structure under § 6-102 of
9 the Criminal Law Article;

10 (iii) setting fire to a structure under § 6-103 of the Criminal Law
11 Article;

12 (iv) a crime that relates to destructive devices under § 4-503 of the
13 Criminal Law Article; and

14 (v) making a false statement or rumor as to a destructive device
15 under § 9-504 of the Criminal Law Article.

16 (b) (1) The State Fire Marshal or a full-time investigative and inspection
17 assistant of the Office of the State Fire Marshal may arrest a person without a
18 warrant if the State Fire Marshal or assistant has probable cause to believe:

19 (i) the person has committed a crime listed in paragraph (2) of this
20 subsection; and

21 (ii) unless the person is arrested immediately, the person:

22 1. may not be apprehended;

23 2. may cause physical injury or property damage to another;
24 or

25 3. may tamper with, dispose of, or destroy evidence.

26 (2) The crimes referred to in paragraph (1) of this subsection are:

27 (i) a crime that relates to a device that is constructed to represent
28 a destructive device under § 9-505 of the Criminal Law Article;

29 (ii) malicious burning in the first or second degree under § 6-104 or
30 § 6-105 of the Criminal Law Article;

31 (iii) burning the contents of a trash container under § 6-108 of the
32 Criminal Law Article;

33 (iv) making a false alarm of fire under § 9-604 of the Criminal Law
34 Article;

1 (v) a crime that relates to burning or attempting to burn property
2 as part of a religious or ethnic crime under § 10-303 or § 10-304 of the Criminal Law
3 Article;

4 (vi) a crime that relates to interference, obstruction, or false
5 representation of fire and safety personnel under § 6-602 or § 7-402 of the Public
6 Safety Article; and

7 (vii) threatening arson or attempting, causing, aiding, counseling, or
8 procuring arson in the first or second degree or malicious burning in the first or
9 second degree under Title 6, Subtitle 1 of the Criminal Law Article.

10 (c) (1) The State Fire Marshal or a full-time investigative and inspection
11 assistant in the Office of the State Fire Marshal may act under the authority granted
12 by § 2-102 of this title to police officers as provided under paragraph (2) of this
13 subsection.

14 (2) When acting under the authority granted by § 2-102 of this title, the
15 State Fire Marshal or a full-time investigative and inspection assistant in the Office
16 of the State Fire Marshal has the powers of arrest set forth in §§ 2-202, 2-203, and
17 2-204 of this subtitle.

18 (d) (1) The State Fire Marshal or a full-time investigative and inspection
19 assistant in the Office of the State Fire Marshal who acts under the authority granted
20 by this section shall notify the following persons of an investigation or enforcement
21 action:

22 (i) 1. the chief of police, if any, or chief's designee, when in a
23 municipal corporation;

24 2. the Police Commissioner or Police Commissioner's
25 designee, when in Baltimore City;

26 3. the chief of police or chief's designee, when in a county
27 with a county police department, except Baltimore City;

28 4. the sheriff or sheriff's designee, when in a county without
29 a county police department;

30 5. the Secretary of Natural Resources or Secretary's
31 designee, when on property owned, leased, operated by, or under the control of the
32 Department of Natural Resources; or

33 6. the respective chief of police or chief's designee, when on
34 property owned, leased, operated by, or under the control of the Maryland
35 Transportation Authority, Maryland Aviation Administration, or Maryland Port
36 Administration; and

1 (ii) the Department of State Police barrack commander or
2 commander's designee, unless there is an agreement otherwise with the Department
3 of State Police.

4 (2) When the State Fire Marshal or a full-time investigative and
5 inspection assistant in the Office of the State Fire Marshal participates in a joint
6 investigation with officials from another State, federal, or local law enforcement unit,
7 the State Fire Marshal or a full-time investigative and inspection assistant in the
8 Office of the State Fire Marshal shall give the notice required under paragraph (1) of
9 this subsection reasonably in advance.

10 (e) A State Fire Marshal or a full-time investigative and inspection assistant
11 in the Office of the State Fire Marshal who acts under the authority granted by this
12 section:

13 (1) has the same immunities from liability and exemptions as a State
14 Police officer in addition to any other immunities and exemptions to which the State
15 Fire Marshal or full-time investigative and inspection assistant is otherwise entitled;
16 and

17 (2) remains at all times and for all purposes an employee of the
18 employing unit.

19 (f) (1) This section does not impair a right of arrest otherwise existing
20 under the Code.

21 (2) This section does not deprive a person of the right to receive a citation
22 for a traffic violation as provided in the Maryland Vehicle Law or a criminal violation
23 as provided by law or the Maryland Rules.

24 2-208.2.

25 (A) IN THIS SECTION, "ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE
26 AND EXPLOSIVE INVESTIGATOR" MEANS AN INDIVIDUAL WHO:

27 (1) IS ASSIGNED TO THE FIRE AND EXPLOSIVE INVESTIGATIONS
28 SECTION OF THE ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE MARSHAL'S
29 OFFICE;

30 (2) HAS THE RANK OF A FIRE RESCUE LIEUTENANT OR HIGHER; AND

31 ~~(2)~~ (3) HAS SUCCESSFULLY COMPLETED A TRAINING PROGRAM FROM
32 A POLICE TRAINING SCHOOL APPROVED BY THE POLICE TRAINING COMMISSION
33 ESTABLISHED UNDER TITLE 3, SUBTITLE 2 OF THE PUBLIC SAFETY ARTICLE.

34 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN ANNE
35 ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE AND EXPLOSIVE INVESTIGATOR HAS
36 THE SAME AUTHORITY GRANTED TO THE STATE FIRE MARSHAL OR A FULL-TIME
37 INVESTIGATIVE AND INSPECTION ASSISTANT OF THE OFFICE OF THE STATE FIRE
38 MARSHAL UNDER § 2-208 OF THIS SUBTITLE:

1 (1) WHILE OPERATING IN ANNE ARUNDEL COUNTY OR THE CITY OF
2 ANNAPOLIS; AND

3 (2) WHILE OPERATING OUTSIDE ANNE ARUNDEL COUNTY OR THE CITY
4 OF ANNAPOLIS WHEN:

5 (I) THE ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE AND
6 EXPLOSIVE INVESTIGATOR IS PARTICIPATING IN A JOINT INVESTIGATION WITH
7 OFFICIALS FROM ANOTHER STATE, FEDERAL, OR LOCAL LAW ENFORCEMENT UNIT,
8 AT LEAST ONE OF WHICH HAS LOCAL JURISDICTION;

9 (II) THE ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE AND
10 EXPLOSIVE INVESTIGATOR IS RENDERING ASSISTANCE TO ANOTHER LAW
11 ENFORCEMENT OFFICER;

12 (III) THE ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE AND
13 EXPLOSIVE INVESTIGATOR IS ACTING AT THE REQUEST OF A LAW ENFORCEMENT
14 OFFICER OR STATE LAW ENFORCEMENT OFFICER; OR

15 (IV) AN EMERGENCY EXISTS.

16 (C) THE ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE CHIEF:

17 (1) MAY LIMIT THE AUTHORITY OF AN ANNE ARUNDEL COUNTY OR CITY
18 OF ANNAPOLIS FIRE AND EXPLOSIVE INVESTIGATOR UNDER THIS SECTION; AND

19 (2) SHALL EXPRESS THE LIMITATION IN A WRITTEN POLICY.

20 **Article - Public Safety**

21 3-101.

22 (a) In this subtitle the following words have the meanings indicated.

23 (e) (2) "Law enforcement officer" does not include:

24 (i) an individual who serves at the pleasure of the Police
25 Commissioner of Baltimore City;

26 (ii) an individual who serves at the pleasure of the appointing
27 authority of a charter county;

28 (iii) the police chief of a municipal corporation;

29 (iv) an officer who is in probationary status on initial entry into the
30 law enforcement agency except if an allegation of brutality in the execution of the
31 officer's duties is made; [or]

32 (v) a Montgomery County fire and explosive investigator as defined
33 in § 2-208.1 of the Criminal Procedure Article; OR

1 (VI) AN ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE AND
2 EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2-208.2 OF THE CRIMINAL PROCEDURE
3 ARTICLE.

4 3-201.

5 (a) In this subtitle the following words have the meanings indicated.

6 (e) (2) "Police officer" includes:

7 (i) a member of the Field Enforcement Division of the
8 Comptroller's Office;

9 (ii) the State Fire Marshal or a deputy State fire marshal;

10 (iii) an investigator of the Internal Investigative Unit of the
11 Department; [and]

12 (iv) a Montgomery County fire and explosive investigator as defined
13 in § 2-208.1 of the Criminal Procedure Article; AND

14 (V) AN ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE AND
15 EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2-208.2 OF THE CRIMINAL PROCEDURE
16 ARTICLE.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Police
18 Training Commission shall certify as a police officer each Anne Arundel County or
19 City of Annapolis fire and explosive investigator who meets the requirements of §
20 2-208.2 of the Criminal Procedure Article on October 1, 2005.

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