

HOUSE BILL 508

E4, L2

71r2649

By: **Prince George's County Delegation**

Introduced and read first time: February 6, 2007

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2007

CHAPTER _____

1 AN ACT concerning

2 **Prince George's County – Fire and Explosive Investigators – Authority**

3 **PG 319–07**

4 FOR the purpose of providing that, under certain circumstances, a Prince George's
5 County fire and explosive investigator operating in Prince George's County has
6 the same authority as the State Fire Marshal and a full-time investigative and
7 inspection assistant in the Office of the State Fire Marshal to make an arrest
8 without a warrant and exercise certain powers of arrest; authorizing a Prince
9 George's County fire and explosive investigator to exercise certain authority
10 while operating outside Prince George's County under certain circumstances;
11 authorizing the Prince George's County Fire Chief to limit certain authority of a
12 fire and explosive investigator to make an arrest without a warrant or exercise
13 certain powers of arrest; requiring the Fire Chief to express the limitation in
14 writing; excluding a Prince George's County fire and explosive investigator from
15 the definition of "law enforcement officer" under the law relating to the Law
16 Enforcement Officers' Bill of Rights; including a Prince George's County fire and
17 explosive investigator in the definition of "police officer" in connection with
18 provisions of law relating to the Maryland Police Training Commission and the
19 authorized carrying of a handgun by a person engaged in law enforcement;
20 defining a certain term; making clarifying changes; requiring the Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Police Training Commission to certify certain fire and explosive investigators as
2 police officers under certain circumstances; and generally relating to the
3 authority of Prince George's County fire and explosive investigators.

4 BY repealing
5 Article – Criminal Procedure
6 Section 2–209
7 Annotated Code of Maryland
8 (2001 Volume and 2006 Supplement)

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 2006 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 2006 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 2006 Supplement)

24 BY adding to
25 Article – Criminal Procedure
26 Section 2–208.3
27 Annotated Code of Maryland
28 (2001 Volume and 2006 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 2006 Supplement)

34 BY repealing and reenacting, with amendments,
35 Article – Public Safety
36 Section 3–101(e)(2) and 3–201(e)(2)

1 Annotated Code of Maryland
2 (2003 Volume and 2006 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That Section(s) 2–209 of Article – Criminal Procedure of the Annotated
5 Code of Maryland be repealed.

6 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
7 read as follows:

8 **Article – Criminal Law**

9 4–201.

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

11 (d) “Law enforcement official” means:

12 (1) a full–time member of a police force or other unit of the United
13 States, a state, a county, a municipal corporation, or other political subdivision of a
14 state who is responsible for the prevention and detection of crime and the enforcement
15 of the laws of the United States, a state, a county, a municipal corporation, or other
16 political subdivision of a state;

17 (2) a part–time member of a police force of a county or municipal
18 corporation who is certified by the county or municipal corporation as being trained
19 and qualified in the use of handguns;

20 (3) a fire **AND EXPLOSIVE** investigator of the Prince George’s County
21 [Fire] **FIRE/EMS** Department [who:

22 (i) is certified by Prince George’s County as being trained and
23 qualified in the use of handguns; and

24 (ii) has met the minimum qualifications and has satisfactorily
25 completed the training required by the Maryland Police Training Commission] **AS**
26 **DEFINED IN § 2–208.3 OF THE CRIMINAL PROCEDURE ARTICLE;**

27 (4) a Montgomery County fire and explosive investigator as defined in
28 § 2–208.1 of the Criminal Procedure Article; or

1 (5) an Anne Arundel County or City of Annapolis fire and explosive
2 investigator as defined in § 2-208.2 of the Criminal Procedure Article.

3 Article – Criminal Procedure

4 2-208.

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

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

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

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

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

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

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

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

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

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

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

- 1 (ii) unless the person is arrested immediately, the person:
2 1. may not be apprehended;
3 2. may cause physical injury or property damage to
4 another; or
5 3. may tamper with, dispose of, or destroy evidence.

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

- 7 (i) a crime that relates to a device that is constructed to
8 represent a destructive device under § 9–505 of the Criminal Law Article;
- 9 (ii) malicious burning in the first or second degree under §
10 6–104 or § 6–105 of the Criminal Law Article;
- 11 (iii) burning the contents of a trash container under § 6–108 of
12 the Criminal Law Article;
- 13 (iv) making a false alarm of fire under § 9–604 of the Criminal
14 Law Article;
- 15 (v) a crime that relates to burning or attempting to burn
16 property as part of a religious or ethnic crime under § 10–304 or § 10–305 of the
17 Criminal Law Article;
- 18 (vi) a crime that relates to interference, obstruction, or false
19 representation of fire and safety personnel under § 6–602 or § 7–402 of the Public
20 Safety Article; and
- 21 (vii) threatening arson or attempting, causing, aiding,
22 counseling, or procuring arson in the first or second degree or malicious burning in the
23 first or second degree under Title 6, Subtitle 1 of the Criminal Law Article.

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

28 (2) When acting under the authority granted by § 2–102 of this title,
29 the State Fire Marshal or a full-time investigative and inspection assistant in the

1 Office of the State Fire Marshal has the powers of arrest set forth in §§ 2–202, 2–203,
2 and 2–204 of this subtitle.

3 (d) (1) The State Fire Marshal or a full–time investigative and inspection
4 assistant in the Office of the State Fire Marshal who acts under the authority granted
5 by this section shall notify the following persons of an investigation or enforcement
6 action:

7 (i) 1. the chief of police, if any, or chief’s designee, when in
8 a municipal corporation;

9 2. the Police Commissioner or Police Commissioner’s
10 designee, when in Baltimore City;

11 3. the chief of police or chief’s designee, when in a county
12 with a county police department, except Baltimore City;

13 4. the sheriff or sheriff’s designee, when in a county
14 without a county police department;

15 5. the Secretary of Natural Resources or Secretary’s
16 designee, when on property owned, leased, operated by, or under the control of the
17 Department of Natural Resources; or

18 6. the respective chief of police or chief’s designee, when
19 on property owned, leased, operated by, or under the control of the Maryland
20 Transportation Authority, Maryland Aviation Administration, or Maryland Port
21 Administration; and

22 (ii) the Department of State Police barrack commander or
23 commander’s designee, unless there is an agreement otherwise with the Department
24 of State Police.

25 (2) When the State Fire Marshal or a full–time investigative and
26 inspection assistant in the Office of the State Fire Marshal participates in a joint
27 investigation with officials from another State, federal, or local law enforcement unit,
28 the State Fire Marshal or a full–time investigative and inspection assistant in the
29 Office of the State Fire Marshal shall give the notice required under paragraph (1) of
30 this subsection reasonably in advance.

31 (e) A State Fire Marshal or a full–time investigative and inspection assistant
32 in the Office of the State Fire Marshal who acts under the authority granted by this
33 section:

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

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

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

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

12 **2-208.3.**

13 (A) IN THIS SECTION, "PRINCE GEORGE'S COUNTY FIRE AND
14 EXPLOSIVE INVESTIGATOR" MEANS AN INDIVIDUAL WHO:

15 (1) IS ASSIGNED FULL TIME TO THE FIRE AND EXPLOSIVE
16 INVESTIGATIONS SECTION OF THE PRINCE GEORGE'S COUNTY FIRE/EMS
17 DEPARTMENT; ~~AND~~

18 (2) HAS ATTAINED THE POSITION OF DEPUTY FIRE MARSHAL; AND

19 ~~(2)~~ (3) HAS SUCCESSFULLY COMPLETED A TRAINING PROGRAM
20 FROM A POLICE TRAINING SCHOOL APPROVED BY THE MARYLAND POLICE
21 TRAINING COMMISSION ESTABLISHED UNDER TITLE 3, SUBTITLE 2 OF THE
22 PUBLIC SAFETY ARTICLE.

23 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A
24 PRINCE GEORGE'S COUNTY FIRE AND EXPLOSIVE INVESTIGATOR HAS THE
25 SAME AUTHORITY GRANTED TO THE STATE FIRE MARSHAL OR A FULL-TIME
26 INVESTIGATIVE AND INSPECTION ASSISTANT OF THE OFFICE OF THE STATE
27 FIRE MARSHAL UNDER § 2-208 OF THIS SUBTITLE:

28 (1) WHILE OPERATING IN PRINCE GEORGE'S COUNTY; AND

1 **(2) WHILE OPERATING OUTSIDE PRINCE GEORGE’S COUNTY**
2 **WHEN:**

3 **(I) THE PRINCE GEORGE’S COUNTY FIRE AND EXPLOSIVE**
4 **INVESTIGATOR IS PARTICIPATING IN A JOINT INVESTIGATION WITH OFFICIALS**
5 **FROM ANOTHER STATE, FEDERAL, OR LOCAL LAW ENFORCEMENT UNIT, AT**
6 **LEAST ONE OF WHICH HAS LOCAL JURISDICTION;**

7 **(II) THE PRINCE GEORGE’S COUNTY FIRE AND EXPLOSIVE**
8 **INVESTIGATOR IS RENDERING ASSISTANCE TO ANOTHER LAW ENFORCEMENT**
9 **OFFICER;**

10 **(III) THE PRINCE GEORGE’S COUNTY FIRE AND EXPLOSIVE**
11 **INVESTIGATOR IS ACTING AT THE REQUEST OF A LAW ENFORCEMENT OFFICER**
12 **OR STATE LAW ENFORCEMENT OFFICER; OR**

13 **(IV) AN EMERGENCY EXISTS.**

14 **(C) THE PRINCE GEORGE’S COUNTY FIRE CHIEF:**

15 **(1) MAY LIMIT THE AUTHORITY OF A PRINCE GEORGE’S COUNTY**
16 **FIRE AND EXPLOSIVE INVESTIGATOR UNDER THIS SECTION; AND**

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

18 **Article – Public Safety**

19 3–101.

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

21 (e) (2) “Law enforcement officer” does not include:

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

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

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

1 (iv) an officer who is in probationary status on initial entry into
2 the law enforcement agency except if an allegation of brutality in the execution of the
3 officer's duties is made;

4 (v) a Montgomery County fire and explosive investigator as
5 defined in § 2-208.1 of the Criminal Procedure Article; [or]

6 (vi) an Anne Arundel County or City of Annapolis fire and
7 explosive investigator as defined in § 2-208.2 of the Criminal Procedure Article; **OR**

8 **(VII) A PRINCE GEORGE'S COUNTY FIRE AND EXPLOSIVE**
9 **INVESTIGATOR AS DEFINED IN § 2-208.3 OF THE CRIMINAL PROCEDURE**
10 **ARTICLE.**

11 3-201.

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

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

14 (i) a member of the Field Enforcement Bureau of the
15 Comptroller's Office;

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

17 (iii) an investigator of the Internal Investigative Unit of the
18 Department;

19 (iv) a Montgomery County fire and explosive investigator as
20 defined in § 2-208.1 of the Criminal Procedure Article; [and]

21 (v) an Anne Arundel County or City of Annapolis fire and
22 explosive investigator as defined in § 2-208.2 of the Criminal Procedure Article; **AND**

23 **(VI) A PRINCE GEORGE'S COUNTY FIRE AND EXPLOSIVE**
24 **INVESTIGATOR AS DEFINED IN § 2-208.3 OF THE CRIMINAL PROCEDURE**
25 **ARTICLE.**

26 SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Police
27 Training Commission shall certify as a police officer each Prince George's County fire
28 and explosive investigator who meets the requirements of § 2-208.3 of the Criminal
29 Procedure Article on October 1, 2007.

1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.