

HOUSE BILL 745

L3, E2

8lr1995
CF 8lr2495

By: **Delegate Donoghue**

Introduced and read first time: February 4, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **City of Hagerstown – Fire and Explosives Investigators – Authority**

3 FOR the purpose of providing that under certain circumstances, a City of Hagerstown
4 fire and explosive investigator operating in the City of Hagerstown has the
5 same authority as the State Fire Marshal and a full-time investigative and
6 inspection assistant in the Office of the State Fire Marshal to make arrests
7 without a warrant and to exercise certain powers of arrest; authorizing a City of
8 Hagerstown fire and explosive investigator to exercise certain authority while
9 operating outside the City of Hagerstown under certain circumstances;
10 authorizing the City of Hagerstown Fire Chief to limit certain authority of a fire
11 and explosive investigator to make an arrest without a warrant or exercise
12 certain powers of arrest; requiring the City of Hagerstown Fire Chief to express
13 the limitation in writing; excluding a City of Hagerstown fire and explosive
14 investigator from the definition of “law enforcement officer” under the law
15 relating to the Law Enforcement Officers’ Bill of Rights; including a City of
16 Hagerstown fire and explosive investigator in the definition of “police officer” in
17 connection with provisions of law relating to the Maryland Police Training
18 Commission and in the definition of “law enforcement official” in connection
19 with the authorized carrying of a handgun by a person engaged in law
20 enforcement; defining certain terms; requiring the Maryland Police Training
21 Commission to certify certain fire and explosive investigators as police officers
22 by a certain date under certain circumstances; and generally relating to the
23 authority of the City of Hagerstown fire and explosive investigators.

24 BY repealing and reenacting, without amendments,
25 Article – Criminal Law
26 Section 4–201(a)
27 Annotated Code of Maryland
28 (2002 Volume and 2007 Supplement)

29 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Criminal Law
2 Section 4–201(d)
3 Annotated Code of Maryland
4 (2002 Volume and 2007 Supplement)

5 BY repealing and reenacting, without amendments,
6 Article – Criminal Procedure
7 Section 2–208
8 Annotated Code of Maryland
9 (2001 Volume and 2007 Supplement)

10 BY adding to
11 Article – Criminal Procedure
12 Section 2–208.5
13 Annotated Code of Maryland
14 (2001 Volume and 2007 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – Public Safety
17 Section 3–101(a) and 3–201(a)
18 Annotated Code of Maryland
19 (2003 Volume and 2007 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Public Safety
22 Section 3–101(e)(2) and 3–201(e)(2)
23 Annotated Code of Maryland
24 (2003 Volume and 2007 Supplement)

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

27 **Article – Criminal Law**

28 4–201.

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

30 (d) “Law enforcement official” means:

31 (1) a full–time member of a police force or other unit of the United
32 States, a state, a county, a municipal corporation, or other political subdivision of a
33 state who is responsible for the prevention and detection of crime and the enforcement
34 of the laws of the United States, a state, a county, a municipal corporation, or other
35 political subdivision of a state;

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

4 (3) a fire and explosive investigator of the Prince George's County
5 Fire/EMS Department as defined in § 2-208.3 of the Criminal Procedure Article;

6 (4) a Montgomery County fire and explosive investigator as defined in
7 § 2-208.1 of the Criminal Procedure Article;

8 (5) an Anne Arundel County or City of Annapolis fire and explosive
9 investigator as defined in § 2-208.2 of the Criminal Procedure Article; [or]

10 (6) a Worcester County fire and explosive investigator as defined in §
11 2-208.4 of the Criminal Procedure Article; **OR**

12 (7) **A CITY OF HAGERSTOWN FIRE AND EXPLOSIVE INVESTIGATOR**
13 **AS DEFINED IN § 2-208.5 OF THE CRIMINAL PROCEDURE ARTICLE.**

14 **Article - Criminal Procedure**

15 2-208.

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

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

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

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

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

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

1 (iv) a crime that relates to destructive devices under § 4–503 of
2 the Criminal Law Article; and

3 (v) making a false statement or rumor as to a destructive device
4 under § 9–504 of the Criminal Law Article.

5 (b) (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) the person has committed a crime listed in paragraph (2) of
9 this subsection; and

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

11 1. may not be apprehended;

12 2. may cause physical injury or property damage to
13 another; or

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

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

16 (i) a crime that relates to a device that is constructed to
17 represent a destructive device under § 9–505 of the Criminal Law Article;

18 (ii) malicious burning in the first or second degree under §
19 6–104 or § 6–105 of the Criminal Law Article;

20 (iii) burning the contents of a trash container under § 6–108 of
21 the Criminal Law Article;

22 (iv) making a false alarm of fire under § 9–604 of the Criminal
23 Law Article;

24 (v) a crime that relates to burning or attempting to burn
25 property as part of a religious or ethnic crime under § 10–304 or § 10–305 of the
26 Criminal Law Article;

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

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

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

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

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

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

15 2. the Police Commissioner or Police Commissioner's
16 designee, when in Baltimore City;

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

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

21 5. the Secretary of Natural Resources or Secretary's
22 designee, when on property owned, leased, operated by, or under the control of the
23 Department of Natural Resources; or

24 6. the respective chief of police or chief's designee, when
25 on property owned, leased, operated by, or under the control of the Maryland
26 Transportation Authority, Maryland Aviation Administration, or Maryland Port
27 Administration; and

28 (ii) the Department of State Police barrack commander or
29 commander's designee, unless there is an agreement otherwise with the Department
30 of State Police.

31 (2) When the State Fire Marshal or a full-time investigative and
32 inspection assistant in the Office of the State Fire Marshal participates in a joint
33 investigation with officials from another state, federal, or local law enforcement unit,
34 the State Fire Marshal or a full-time investigative and inspection assistant in the
35 Office of the State Fire Marshal shall give the notice required under paragraph (1) of
36 this subsection reasonably in advance.

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

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

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

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

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

15 **2-208.5.**

16 (A) **IN THIS SECTION, "FIRE AND EXPLOSIVE INVESTIGATOR" MEANS AN**
17 **INDIVIDUAL WHO:**

18 (1) **IS ASSIGNED FULL TIME TO THE FIRE AND EXPLOSIVE**
19 **INVESTIGATIONS SECTION OF THE CITY OF HAGERSTOWN FIRE MARSHAL'S**
20 **OFFICE;**

21 (2) **HAS ATTAINED THE POSITION OF DEPUTY FIRE MARSHAL OR**
22 **HIGHER; AND**

23 (3) **HAS SUCCESSFULLY COMPLETED A TRAINING PROGRAM FROM**
24 **A POLICE TRAINING SCHOOL APPROVED BY THE POLICE TRAINING**
25 **COMMISSION ESTABLISHED UNDER TITLE 3, SUBTITLE 2 OF THE PUBLIC**
26 **SAFETY ARTICLE.**

27 (B) **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A FIRE**
28 **AND EXPLOSIVE INVESTIGATOR HAS THE SAME AUTHORITY GRANTED TO THE**
29 **STATE FIRE MARSHAL OR A FULL-TIME INVESTIGATIVE AND INSPECTION**
30 **ASSISTANT OF THE OFFICE OF THE STATE FIRE MARSHAL UNDER § 2-208 OF**
31 **THIS SUBTITLE:**

32 (1) **WHILE OPERATING IN THE CITY OF HAGERSTOWN; AND**

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 Article;

3 (vii) a Prince George's County fire and explosive investigator as
4 defined in § 2-208.3 of the Criminal Procedure Article; [or]

5 (viii) a Worcester County fire and explosive investigator as
6 defined in § 2-208.4 of the Criminal Procedure Article; **OR**

7 **(IX) A CITY OF HAGERSTOWN FIRE AND EXPLOSIVE**
8 **INVESTIGATOR AS DEFINED IN § 2-208.5 OF THE CRIMINAL PROCEDURE**
9 **ARTICLE.**

10 3-201.

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

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

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

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

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

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

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

22 (vi) a Prince George's County fire and explosive investigator as
23 defined in § 2-208.3 of the Criminal Procedure Article; [and]

24 (vii) a Worcester County fire and explosive investigator as
25 defined in § 2-208.4 of the Criminal Procedure Article; **AND**

26 **(VIII) A CITY OF HAGERSTOWN FIRE AND EXPLOSIVE**
27 **INVESTIGATOR AS DEFINED IN § 2-208.5 OF THE CRIMINAL PROCEDURE**
28 **ARTICLE.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That on July 1, 2008, the
30 Maryland Police Training Commission shall certify as a police officer each City of

1 Hagerstown fire and explosive investigator who meets the requirements of § 2-208.5
2 of the Criminal Procedure Article, as enacted by Section 1 of this Act.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 July 1, 2008.