

# SENATE BILL 3

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(PRE-FILED)

8lr0392  
CF HB 64

By: **Senators Simonaire, Harris, Edwards, and Greenip**

Requested: July 17, 2007

Introduced and read first time: January 9, 2008

Assigned to: Finance

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## A BILL ENTITLED

1   AN ACT concerning

### **Fallen Soldier Privacy Act of 2008**

3   FOR the purpose of prohibiting a person from using the name, portrait, picture, or  
4   image of a certain deceased soldier for certain purposes without prior consent  
5   from certain individuals; defining a certain term; establishing a certain penalty;  
6   and generally relating to the use of a deceased soldier's identity.

7   BY adding to

8       Article – Business Regulation

9       Section 19–401 through 19–403 to be under the new subtitle “Subtitle 4. Use of  
10      a Deceased Soldier’s Identity”

11      Annotated Code of Maryland

12      (2004 Replacement Volume and 2007 Supplement)

## Preamble

14       WHEREAS, The State of Maryland recognizes the tremendous dedication and  
15      sacrifice of those men and women who served in the armed forces and their  
16      willingness to defend the freedoms that we as individuals hold dear; and

17       WHEREAS, This legislation was inspired by the untimely death of Eric  
18      Kavanagh, a 20–year–old soldier and resident of Maryland, who was killed in action in  
19      Iraq on September 20, 2006, during Operation Iraqi Freedom, and dedicated to every  
20      man and woman in our armed forces who died protecting our country; and

21       WHEREAS, We believe that special honor should be given to those brave  
22      soldiers and surviving family members; and

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, We also believe that it is imperative to protect the dignity of those  
2 who have fallen while serving this great country and that no individual, group, or  
3 organization should profit from the commercial use of a fallen soldier's name; and

4 WHEREAS, It is fitting that the State of Maryland enact legislation to ensure  
5 that the privacy of these heroic soldiers be respected and maintained; now, therefore,

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

## Article – Business Regulation

## **SUBTITLE 4. USE OF A DECEASED SOLDIER'S IDENTITY.**

10 19-401.

## **IN THIS SECTION, “SOLDIER” MEANS:**

12 (1) AN ACTIVE DUTY MEMBER OF THE ARMED FORCES OF THE  
13 UNITED STATES, INCLUDING THE ARMY, MARINE CORPS, NAVY, AIR FORCE,  
14 COAST GUARD, NATIONAL GUARD, RESERVE FORCES, AND ANY OTHER  
15 STANDARD UNITED STATES MILITARY AGENCY; OR

16 (2) A FEDERAL ACTIVE DUTY MEMBER OF THE STATE NATIONAL  
17 GUARD OR RESERVE FORCE.

18 19-402.

19       A PERSON MAY NOT USE THE NAME, PORTRAIT, PICTURE, OR IMAGE OF A  
20      SOLDIER KILLED IN THE LINE OF DUTY WITHIN THE PREVIOUS 50 YEARS, FOR  
21      THE PURPOSE OF GAINING A COMMERCIAL ADVANTAGE BY ADVERTISING FOR  
22      SALE A PRODUCT, GOOD, WARE, MERCHANDISE, OR SERVICE, WITHOUT FIRST  
23      OBTAINING CONSENT FOR USE FROM THE SURVIVING SPOUSE, THE PERSONAL  
24      REPRESENTATIVE, OR THE MAJORITY OF THE HEIRS OF THE DECEASED  
25      SOLDIER.

26 19-403.

27       **A PERSON THAT VIOLATES § 19-402 OF THIS SECTION IS GUILTY OF A**  
28       **MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING**  
29       **\$2,500 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.**

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 2008.