

SENATE BILL 620

P5

EMERGENCY BILL

8lr0822

By: **The President (By Request – Department of Legislative Services)**

Introduced and read first time: February 1, 2008

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Annual Curative Bill**

3 FOR the purpose of generally curing previous Acts of the General Assembly with
4 possible title or other defects; altering the minimum amount of capital
5 investment for restaurant facilities required for the issuance of a certain beer,
6 wine and liquor license for use by a restaurant in Baltimore City or Baltimore
7 County; expanding the relief available for certain discriminatory acts in an
8 administrative proceeding under the Maryland Human Relations Commission
9 law; repealing a certain limitation on certain monetary relief for certain
10 discriminatory acts under the Maryland Human Relations Commission law;
11 requiring the Department of Health and Mental Hygiene to distribute grants to
12 administer the Charles County Prostate Cancer Pilot Program to the local
13 health department or a federally qualified health center in Charles County;
14 providing that the proceedings, records, and files of a certain organization or
15 State agency are confidential and not discoverable or admissible in a civil or
16 criminal action; requiring the Secretary of Health and Mental Hygiene to
17 develop and distribute a certain document that informs employees of forensic
18 laboratories of certain procedures; requiring a forensic laboratory to post the
19 document in a certain place; providing that the dependents of certain
20 individuals eligible for workers' compensation benefits under certain provisions
21 of law are entitled to receive workers' compensation benefits in addition to
22 certain retirement benefits, subject to a certain limitation; requiring the
23 Governor to make certain appointments on or before a certain date; requiring
24 the Washington County Commissioners to present a certain plan to the
25 members of the General Assembly representing the county on or before a
26 certain date; requiring the plan to establish certain goals; providing for the
27 effect and construction of certain provisions of this Act; making this Act an
28 emergency measure; and generally repealing and reenacting without
29 amendments certain Acts of the General Assembly that may be subject to
30 possible title or other defects in order to validate those Acts.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 BY repealing and reenacting, without amendments,
2 Article 2B – Alcoholic Beverages
3 Section 9–102(b–3A)
4 Annotated Code of Maryland
5 (2005 Replacement Volume and 2007 Supplement)
- 6 BY repealing and reenacting, without amendments,
7 Article 49B – Human Relations Commission
8 Section 11
9 Annotated Code of Maryland
10 (2003 Replacement Volume and 2007 Supplement)
- 11 BY repealing and reenacting, without amendments,
12 Article 83A – Department of Business and Economic Development
13 Section 5–1805(a) and (b)
14 Annotated Code of Maryland
15 (2003 Replacement Volume and 2007 Supplement)
- 16 BY repealing and reenacting, without amendments,
17 Article – Education
18 Section 18–301
19 Annotated Code of Maryland
20 (2006 Replacement Volume and 2007 Supplement)
- 21 BY repealing and reenacting, without amendments,
22 Article – Health – General
23 Section 13–2606, 17–2A–03(c), and 17–2A–10(d) and (e)
24 Annotated Code of Maryland
25 (2005 Replacement Volume and 2007 Supplement)
- 26 BY repealing and reenacting, without amendments,
27 Article – Health Occupations
28 Section 14–316(e)
29 Annotated Code of Maryland
30 (2005 Replacement Volume and 2007 Supplement)
- 31 BY repealing and reenacting, without amendments,
32 Article – Labor and Employment
33 Section 9–503
34 Annotated Code of Maryland
35 (1999 Replacement Volume and 2007 Supplement)
- 36 BY repealing and reenacting, without amendments,
37 Chapter 46 of the Acts of the General Assembly of 2006, as amended by Chapter
38 86 of the Acts of the General Assembly of 2007
39 Section 1(3) Item ZA02(AS)
- 40 BY repealing and reenacting, without amendments,

1 Chapter 147 of the Acts of the General Assembly of 2007
2 Section 2

3 BY repealing and reenacting, without amendments,
4 Chapter 392 of the Acts of the General Assembly of 2007
5 Section 11

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

8 **Article 2B – Alcoholic Beverages**

9 9–102.

10 (b–3A) Notwithstanding any other provisions of this section in Baltimore
11 City or Baltimore County, the holder of a Class B, (on–sale — hotels and restaurants)
12 beer, wine and liquor license under this article, by making application in the regular
13 manner and paying the usual fee may obtain an additional Class B, (on–sale — hotels
14 and restaurants) beer, wine and liquor license for premises used and occupied as a
15 bona fide restaurant, as may be defined by the rules and regulations of the Board of
16 License Commissioners for Baltimore City or Baltimore County, provided that said
17 restaurant has a minimum capital investment of \$500,000 for restaurant facilities,
18 which sum shall not include the cost of land or buildings, and has a minimum seating
19 capacity of 125 persons. Nothing contained herein shall permit the issuance of more
20 than three (3) such licenses to any person, or for the use of any partnership,
21 corporation, unincorporated association, or limited liability company in Baltimore City
22 or Baltimore County. The granting of additional licenses hereunder shall be limited
23 and restricted to the purpose of providing alcoholic beverages for consumption on the
24 licensed premises only, with no off–sale privileges to be exercised therewith.

25 DRAFTER’S NOTE:

26 Error: Purpose paragraph of bill being cured failed to accurately describe the
27 changes made by the bill.

28 Occurred: Chapter 335 (Senate Bill 571) of the Acts of 2007.

29 **Article 49B – Human Relations Commission**

30 11.

31 (a) (1) In case of failure to reach an agreement for the remedy and
32 elimination of the acts of discrimination and upon the entry of findings to that effect,
33 the entire file including the complaint and any and all findings made shall be certified
34 to the general counsel of the Commission.

35 (2) The Executive Director of the Commission shall cause a written
36 notice to be issued and served in the name of the Commission together with a copy of

1 the complaint requiring the respondent to answer the charges of the complaint at a
2 public hearing:

3 (i) Before an administrative law judge at a time and place
4 certified in the notice; or

5 (ii) In a civil action elected under § 11A of this subtitle by a
6 complainant.

7 (3) If a civil action is not elected under § 11A of this subtitle, the case
8 shall be heard by an administrative law judge and the hearing shall be held in the
9 county where the alleged act of discrimination took place.

10 (4) A transcript of all testimony at the hearing shall be made.

11 (5) The case in support of the complaint shall be presented at the
12 hearing by the general counsel of the Commission.

13 (b) (1) The respondent may file a written answer to the complaint and
14 appear at the hearing in person, or otherwise, with or without counsel.

15 (2) The respondent may submit testimony and shall be fully heard.

16 (3) The respondent may examine and cross-examine witnesses.

17 (c) (1) The Commission may permit reasonable amendment to be made to
18 any complaint or answer.

19 (2) Testimony taken at the hearing shall be under oath and recorded.

20 (d) (1) In the administration and enforcement of the provisions of these
21 several subtitles, the Commission has power to:

22 (i) Administer oaths and to issue subpoenas;

23 (ii) Compel the attendance and testimony of witnesses; and

24 (iii) Compel the production of books, papers, records and
25 documents relevant or necessary for proceedings under the particular subtitle.

26 (2) Any subpoena shall be served by:

27 (i) Certified mail, requesting restricted delivery – Show to
28 whom, date, address of delivery; or

29 (ii) Personal service of process by:

30 1. An employee of the Commission;

1 (iv) Ordering any other equitable relief the court considers
2 appropriate.

3 (4) Compensatory damages awarded under this subsection are in
4 addition to:

5 (i) Back pay or interest on back pay that the complainant may
6 recover under any other provision of law; and

7 (ii) Any other equitable relief that a complainant may recover
8 under any other provision of law.

9 (5) The sum of the amount of compensatory damages awarded to each
10 complainant under this section, for future pecuniary losses, emotional pain, suffering,
11 inconvenience, mental anguish, loss of enjoyment of life, or nonpecuniary losses, may
12 not exceed:

13 (i) \$50,000 if the respondent employs not fewer than 15 and not
14 more than 100 employees in each of 20 or more calendar weeks in the current or
15 preceding calendar year;

16 (ii) \$100,000, if the respondent employs not fewer than 101 and
17 not more than 200 employees in each of 20 or more calendar weeks in the current or
18 preceding calendar year;

19 (iii) \$200,000, if the respondent employs not fewer than 201 and
20 not more than 500 employees in each of 20 or more calendar weeks in the current or
21 preceding calendar year; and

22 (iv) \$300,000, if the respondent employs not fewer than 501
23 employees in each of 20 or more calendar weeks in the current or preceding calendar
24 year.

25 (6) In case of an award of back pay under paragraph (3) of this
26 subsection, interim earning or amounts earned with reasonable diligence by the
27 person or persons discriminated against shall operate to reduce the back pay
28 otherwise allowable.

29 (7) In cases of discrimination other than those involving employment,
30 in addition to the award of civil penalties as specifically provided in this article,
31 nonmonetary relief may be granted to the complainant, except that in no event shall
32 an order be issued that substantially affects the cost, level, or type of any
33 transportation services.

34 (8) In cases involving transportation services which are supported
35 fully or partially with funds from the Maryland Department of Transportation, no
36 order may be issued which would require costs, level, or type of transportation services

1 different from or in excess of those required to meet U.S. Department of
2 Transportation regulations adopted pursuant to Section 504 of the Rehabilitation Act
3 of 1973, codified as 29 U.S.C. § 794, nor would any such order be enforceable under §
4 12(a) of this subtitle.

5 (f) If upon all the evidence, the administrative law judge finds that the
6 respondent has not engaged in any alleged discriminatory act within the scope of the
7 particular subtitle, the administrative law judge shall state the judge's findings of fact
8 and shall similarly issue and file an order dismissing the complaint.

9 DRAFTER'S NOTE:

10 Error: Purpose paragraphs of bills being cured failed to accurately describe the
11 changes made by the bills.

12 Occurred: Chapters 176 and 177 (Senate Bill 678/House Bill 314) of the Acts of
13 2007.

14 **Article 83A – Department of Business and Economic Development**

15 5–1805.

16 (a) There is a Film Production Rebate Fund within the Department.

17 (b) The Department may use the Fund to:

18 (1) Grant to a qualified film production entity as a rebate a percentage
19 of the total direct costs of a film production activity paid by the qualified film
20 production entity for a film production activity, as provided under § 5–1803 of this
21 subtitle; and

22 (2) Pay the administrative, legal, and actuarial expenses of the Fund.

23 DRAFTER'S NOTE:

24 Error: Function paragraph of bill being cured incorrectly indicated that Art.
25 83A, § 5–1805, rather than § 5–1805(a) and (b), was being amended.

26 Occurred: Chapter 87 (House Bill 1185) of the Acts of 2007.

27 **Article – Education**

28 18–301.

29 (a) There is a Delegate Howard P. Rawlings Program of Educational
30 Excellence Awards in this State that are awarded under this subtitle.

31 (b) The Program shall consist of the following types of awards:

1 (1) Guaranteed Access Grants that are awarded to the neediest
2 students to ensure that 100 percent of educational costs, as defined by regulations
3 adopted by the Commission, are paid; and

4 (2) Educational Assistance Grants that are awarded to low and
5 moderate income students to assist in paying educational costs, as defined by
6 regulations adopted by the Commission.

7 DRAFTER'S NOTE:

8 Error: Function paragraph of bill being cured incorrectly indicated that §
9 18-301 of the Education Article was unamended.

10 Occurred: Chapter 491 (Senate Bill 834) of the Acts of 2007.

11 **Article - Health - General**

12 13-2606.

13 (a) The Program shall be funded as provided in the State budget.

14 (b) The Department shall distribute grants to administer the Program to:

15 (1) The local health department in Charles County; or

16 (2) A federally qualified health center in Charles County.

17 DRAFTER'S NOTE:

18 Error: Purpose paragraph of bill being cured failed to accurately describe the
19 changes made by the bill.

20 Occurred: Chapter 541 (Senate Bill 283) of the Acts of 2007.

21 17-2A-03.

22 (c) Except as provided in subsection (a) of this section, the proceedings,
23 records, and files of an organization or State agency responsible for assuring
24 compliance with this subtitle shall be confidential and not discoverable or admissible
25 in evidence in a civil or criminal action.

26 DRAFTER'S NOTE:

27 Error: Purpose paragraph of bill being cured failed to accurately describe the
28 changes made by the bill.

29 Occurred: Chapter 147 (Senate Bill 351) of the Acts of 2007.

1 17-2A-10.

2 (d) (1) The Secretary shall develop, through regulation, a document that
3 informs the employees of a forensic laboratory of the procedures to report instances of
4 noncompliance or other violations of the standards and requirements for forensic
5 laboratories in the State.

6 (2) The Secretary shall distribute the document developed under
7 paragraph (1) of this subsection to forensic laboratories in the State.

8 (e) A forensic laboratory shall post the document developed under subsection
9 (d) of this section in a conspicuous place.

10 DRAFTER'S NOTE:

11 Error: Purpose paragraph of bill being cured failed to accurately describe the
12 changes made by the bill.

13 Occurred: Chapter 147 (Senate Bill 351) of the Acts of 2007.

14 **Article - Health Occupations**

15 14-316.

16 (e) The Board shall renew the license of each licensee who meets the
17 requirements of this section.

18 DRAFTER'S NOTE:

19 Error: Function paragraph of bill being cured incorrectly indicated that §
20 14-316(e) of the Health Occupations Article was both amended and unamended.

21 Occurred: Chapter 539 (Senate Bill 255) of the Acts of 2007.

22 **Article - Labor and Employment**

23 9-503.

24 (a) A paid firefighter, paid fire fighting instructor, or sworn member of the
25 Office of the State Fire Marshal employed by an airport authority, a county, a fire
26 control district, a municipality, or the State or a volunteer firefighter, volunteer fire
27 fighting instructor, volunteer rescue squad member, or volunteer advanced life
28 support unit member who is a covered employee under § 9-234 of this title is
29 presumed to have an occupational disease that was suffered in the line of duty and is
30 compensable under this title if:

1 (1) the individual has heart disease, hypertension, or lung disease;

2 (2) the heart disease, hypertension, or lung disease results in partial
3 or total disability or death; and

4 (3) in the case of a volunteer firefighter, volunteer fire fighting
5 instructor, volunteer rescue squad member, or volunteer advanced life support unit
6 member, the individual has met a suitable standard of physical examination before
7 becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life
8 support unit member.

9 (b) (1) A paid police officer employed by an airport authority, a county,
10 the Maryland–National Capital Park and Planning Commission, a municipality, or the
11 State, a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this
12 subsection, a deputy sheriff of Baltimore City, Montgomery County correctional officer,
13 Prince George’s County deputy sheriff, or Prince George’s County correctional officer is
14 presumed to be suffering from an occupational disease that was suffered in the line of
15 duty and is compensable under this title if:

16 (i) the police officer, deputy sheriff, or correctional officer is
17 suffering from heart disease or hypertension; and

18 (ii) the heart disease or hypertension results in partial or total
19 disability or death.

20 (2) (i) A deputy sheriff of Baltimore City, Montgomery County
21 correctional officer, Prince George’s County deputy sheriff, or Prince George’s County
22 correctional officer is entitled to the presumption under this subsection only to the
23 extent that the individual suffers from heart disease or hypertension that is more
24 severe than the individual’s heart disease or hypertension condition existing prior to
25 the individual’s employment as a deputy sheriff of Baltimore City, Montgomery
26 County correctional officer, Prince George’s County deputy sheriff, or Prince George’s
27 County correctional officer.

28 (ii) To be eligible for the presumption under this subsection, a
29 deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince
30 George’s County deputy sheriff, or Prince George’s County correctional officer, as a
31 condition of employment, shall submit to a medical examination to determine any
32 heart disease or hypertension condition existing prior to the individual’s employment
33 as a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince
34 George’s County deputy sheriff, or Prince George’s County correctional officer.

35 (c) A paid firefighter, paid fire fighting instructor, or a sworn member of the
36 Office of the State Fire Marshal employed by an airport authority, a county, a fire
37 control district, a municipality, or the State or a volunteer firefighter, volunteer fire
38 fighting instructor, volunteer rescue squad member, or volunteer advanced life
39 support unit member who is a covered employee under § 9–234 of this title is

1 presumed to be suffering from an occupational disease that was suffered in the line of
2 duty and is compensable under this title if the individual:

3 (1) has leukemia or pancreatic, prostate, rectal, or throat cancer that
4 is caused by contact with a toxic substance that the individual has encountered in the
5 line of duty;

6 (2) has completed at least 5 years of service as a firefighter, fire
7 fighting instructor, rescue squad member, or advanced life support unit member or in
8 a combination of those jobs in the department where the individual currently is
9 employed or serves;

10 (3) is unable to perform the normal duties of a firefighter, fire fighting
11 instructor, rescue squad member, or advanced life support unit member in the
12 department where the individual currently is employed or serves because of the cancer
13 or leukemia disability; and

14 (4) in the case of a volunteer firefighter, volunteer fire fighting
15 instructor, volunteer rescue squad member, or volunteer advanced life support unit
16 member, has met a suitable standard of physical examination before becoming a
17 firefighter, fire fighting instructor, rescue squad member, or advanced life support unit
18 member.

19 (d) A paid law enforcement employee of the Department of Natural
20 Resources who is a covered employee under § 9-207 of this title is presumed to have
21 an occupational disease that was suffered in the line of duty and is compensable under
22 this title if the employee:

23 (1) is suffering from Lyme disease; and

24 (2) was not suffering from Lyme disease before assignment to a
25 position that regularly places the employee in an outdoor wooded environment.

26 (e) (1) Except as provided in paragraph (2) of this subsection, any paid
27 firefighter, paid fire fighting instructor, sworn member of the Office of the State Fire
28 Marshal, paid police officer, paid law enforcement employee of the Department of
29 Natural Resources, deputy sheriff of Montgomery County, deputy sheriff of Baltimore
30 City, Montgomery County correctional officer, deputy sheriff of Prince George's
31 County, or Prince George's County correctional officer who is eligible for benefits
32 under subsection (a), (b), (c), or (d) of this section or the dependents of those
33 individuals shall receive the benefits in addition to any benefits that the individual or
34 the dependents of the individual is entitled to receive under the retirement system in
35 which the individual was a participant at the time of the claim.

36 (2) The benefits received under this title shall be adjusted so that the
37 weekly total of those benefits and retirement benefits does not exceed the weekly
38 salary that was paid to the paid law enforcement employee of the Department of
39 Natural Resources, firefighter, fire fighting instructor, sworn member of the Office of

1 the State Fire Marshal, police officer, deputy sheriff, or Prince George’s County or
2 Montgomery County correctional officer.

3 DRAFTER’S NOTE:

4 Error: Purpose paragraphs of bills being cured failed to accurately describe the
5 changes made by the bills.

6 Occurred: Chapters 350 and 351 (Senate Bill 752/House Bill 1117) of the Acts of
7 2007.

8 **Chapter 46 of the Acts of 2006, as amended by Chapter 86 of the Acts of 2007**

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
10 MARYLAND, That:

11 (3) ZA02 LOCAL HOUSE OF DELEGATES INITIATIVES

12	(AS) Blair Baseball Field Improvements. Provide a grant equal to	
13	the lesser of (i) \$50,000 or (ii) the amount of the matching	
14	fund provided, to the Board of Directors of Maryland	
15	Community Baseball, Inc. for the planning, design, repair,	
16	renovation, construction of improvements, and capital	
17	equipping of the Blair Baseball Field, located in Silver Spring.	
18	Notwithstanding Section 1(5) of this Act, the matching fund	
19	may consist of funds expended prior to the effective date of	
20	this Act, including funds expended on or after January 1,	
21	2002 (Montgomery County)	50,000

22 DRAFTER’S NOTE:

23 Error: Function paragraph of bill being cured incorrectly indicated that
24 Chapter 46 of the Acts of 2006, Section 1(3) Item ZA02, rather than Item ZA02(AS),
25 was being amended.

26 Occurred: Chapter 86 (House Bill 1184) of the Acts of 2007.

27 **Chapter 147 of the Acts of 2007**

28 SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall make
29 initial appointments to the Forensic Laboratory Advisory Committee on or before
30 December 1, 2008.

31 DRAFTER’S NOTE:

32 Error: Purpose paragraph of bill being cured failed to accurately describe the
33 changes made by the bill.

1 Occurred: Chapter 147 (Senate Bill 351) of the Acts of 2007.

2 **Chapter 392 of the Acts of 2007**

3 SECTION 11. AND BE IT FURTHER ENACTED, That the Washington County
4 Commissioners shall present a plan to implement a County land preservation and
5 landowner equity program to the members of the General Assembly representing
6 Washington County on or before January 1, 2008. The plan shall establish annual
7 goals for financial support and acres of land preserved.

8 DRAFTER'S NOTE:

9 Error: Purpose paragraph of bill being cured failed to accurately describe the
10 changes made by the bill.

11 Occurred: Chapter 392 (House Bill 352) of the Acts of 2007.

12 SECTION 2. AND BE IT FURTHER ENACTED, That the Drafter's Notes
13 contained in this Act are not law and may not be considered to have been enacted as
14 part of this Act.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
16 measure, is necessary for the immediate preservation of the public health or safety,
17 has been passed by a yea and nay vote supported by three-fifths of all the members
18 elected to each of the two Houses of the General Assembly, and shall take effect from
19 the date it is enacted.