

## **CHAPTER 37**

**(Senate Bill 620)**

AN ACT concerning

### **Annual Curative Bill**

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

BY repealing and reenacting, without amendments,  
Article 2B – Alcoholic Beverages  
Section 9–102(b–3A)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,  
Article 49B – Human Relations Commission

Section 11  
Annotated Code of Maryland  
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,  
Article 83A – Department of Business and Economic Development  
Section 5–1805(a) and (b)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,  
Article – Education  
Section 18–301  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,  
Article – Health – General  
Section 13–2606, 17–2A–03(c), and 17–2A–10(d) and (e)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,  
Article – Health Occupations  
Section 14–316(e)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,  
Article – Labor and Employment  
Section 9–503  
Annotated Code of Maryland  
(1999 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,  
Chapter 46 of the Acts of the General Assembly of 2006, as amended by Chapter  
86 of the Acts of the General Assembly of 2007  
Section 1(3) Item ZA02(AS)

BY repealing and reenacting, without amendments,  
Chapter 147 of the Acts of the General Assembly of 2007  
Section 2

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

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

**Article 2B – Alcoholic Beverages**

9–102.

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

**DRAFTER’S NOTE:**

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

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

**Article 49B – Human Relations Commission**

11.

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

(2) The Executive Director of the Commission shall cause a written notice to be issued and served in the name of the Commission together with a copy of the complaint requiring the respondent to answer the charges of the complaint at a public hearing:

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

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

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

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

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

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

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

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

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

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

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

(i) Administer oaths and to issue subpoenas;

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

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

(2) Any subpoena shall be served by:

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

(ii) Personal service of process by:

1. An employee of the Commission;

2. Any person who is not a party and is not less than 18 years of age; or

3. The sheriff or deputy sheriff of the political subdivision in which is located the residence of the person or the main office of the firm, association, partnership or corporation against whom or which the subpoena is issued.

(3) (i) In case of disobedience to a subpoena, the Commission may apply to a circuit court in any county for an order requiring the attendance and testimony of witnesses and the production of books, papers, records, and documents.

(ii) In case of contumacy or refusal to obey a subpoena for the attendance of a witness or the production of books, papers, records, and documents, after notice to the person subpoenaed as a witness or directed to produce books, papers, records and documents, and upon a finding that the attendance and testimony of the witness or the production of the books, papers, records and documents is relevant or necessary for the proceedings of the Commission, the court may issue an order requiring the attendance and testimony of the witness and the production of the books, papers, records and documents.

(iii) Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(iv) An order issued by the court under this subsection shall be served on the person to whom it is directed by the sheriff or deputy sheriff of the political subdivision where the residence or main office of the person is located.

(e) (1) If, after reviewing all of the evidence, the administrative law judge finds that the respondent has engaged in any discriminatory act within the scope of this article, the administrative law judge shall so state the findings.

(2) The administrative law judge shall issue and cause to be served upon the respondent an order requiring the respondent to cease and desist from the discriminatory acts and to take affirmative action to effectuate the purposes of the particular subtitle.

(3) If the respondent is found to have engaged in or to be engaging in an unlawful employment practice charged in the complaint, the remedy may include:

(i) Enjoining the respondent from engaging in the discriminatory act;

(ii) Ordering appropriate affirmative relief, including the reinstatement or hiring of employees, with or without back pay;

(iii) Awarding compensatory damages; or

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

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

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

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

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

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

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

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

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

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

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

(8) In cases involving transportation services which are supported fully or partially with funds from the Maryland Department of Transportation, no order may be issued which would require costs, level, or type of transportation services different from or in excess of those required to meet U.S. Department of Transportation regulations adopted pursuant to Section 504 of the Rehabilitation Act of 1973, codified as 29 U.S.C. § 794, nor would any such order be enforceable under § 12(a) of this subtitle.

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

**DRAFTER'S NOTE:**

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

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

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

5–1805.

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

(b) The Department may use the Fund to:

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

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

**DRAFTER'S NOTE:**

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

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

**Article – Education**

18–301.

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

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

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

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

**DRAFTER'S NOTE:**

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

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

**Article - Health - General**

13-2606.

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

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

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

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

**DRAFTER'S NOTE:**

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

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

17-2A-03.

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



**DRAFTER'S NOTE:**

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

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

17-2A-10.

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

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

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

**DRAFTER'S NOTE:**

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

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

**Article - Health Occupations**

14-316.

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

**DRAFTER'S NOTE:**

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

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

**Article - Labor and Employment**

9-503.

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

- (1) the individual has heart disease, hypertension, or lung disease;
- (2) the heart disease, hypertension, or lung disease results in partial or total disability or death; and
- (3) in the case of a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member, the individual has met a suitable standard of physical examination before becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member.

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

- (i) the police officer, deputy sheriff, or correctional officer is suffering from heart disease or hypertension; and
- (ii) the heart disease or hypertension results in partial or total disability or death.

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

(ii) To be eligible for the presumption under this subsection, a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince

George's County deputy sheriff, or Prince George's County correctional officer, as a condition of employment, shall submit to a medical examination to determine any heart disease or hypertension condition existing prior to the individual's employment as a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer.

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

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

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

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

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

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

(1) is suffering from Lyme disease; and

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

(e) (1) Except as provided in paragraph (2) of this subsection, any paid firefighter, paid fire fighting instructor, sworn member of the Office of the State Fire

Marshal, paid police officer, paid law enforcement employee of the Department of Natural Resources, deputy sheriff of Montgomery County, deputy sheriff of Baltimore City, Montgomery County correctional officer, deputy sheriff of Prince George's County, or Prince George's County correctional officer who is eligible for benefits under subsection (a), (b), (c), or (d) of this section or the dependents of those individuals shall receive the benefits in addition to any benefits that the individual or the dependents of the individual is entitled to receive under the retirement system in which the individual was a participant at the time of the claim.

(2) The benefits received under this title shall be adjusted so that the weekly total of those benefits and retirement benefits does not exceed the weekly salary that was paid to the paid law enforcement employee of the Department of Natural Resources, firefighter, fire fighting instructor, sworn member of the Office of the State Fire Marshal, police officer, deputy sheriff, or Prince George's County or Montgomery County correctional officer.

**DRAFTER'S NOTE:**

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

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

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

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

(3) ZA02 LOCAL HOUSE OF DELEGATES INITIATIVES

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

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

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

### **Chapter 147 of the Acts of 2007**

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

DRAFTER'S NOTE:

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

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

### **Chapter 392 of the Acts of 2007**

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

DRAFTER'S NOTE:

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

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

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

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

**Approved by the Governor, April 8, 2008.**