

HOUSE BILL 328

E1
HB 444/08 – JUD

9lr1425
CF SB 148

By: **Delegate Niemann**

Introduced and read first time: January 30, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Mail Theft - Penalty**

3 FOR the purpose of prohibiting a person from knowingly and willfully removing,
4 taking, possessing, obtaining, or receiving mail under certain circumstances
5 without the permission of the United States Postal Service or the intended
6 recipient; providing penalties for a violation of this Act; repealing a certain
7 prohibition against opening a letter without permission that is rendered
8 inconsistent with this Act; providing that a person who violates this Act is
9 subject to a certain statute of limitations and may reserve a point or question
10 for a certain in banc review; defining certain terms; and generally relating to
11 the theft of mail.

12 BY repealing
13 Article – Criminal Law
14 Section 3–905
15 Annotated Code of Maryland
16 (2002 Volume and 2008 Supplement)

17 BY adding to
18 Article – Criminal Law
19 Section 7–106.1
20 Annotated Code of Maryland
21 (2002 Volume and 2008 Supplement)

22 Preamble

23 WHEREAS, The Maryland Task Force to Study Identity Theft, which concluded
24 its work in January 2008, heard testimony from federal, State, and local law
25 enforcement agencies about the prevalence of identity theft; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, Among the government agencies that testified was the U.S. Postal
2 Inspection Service, one of the country's oldest federal law enforcement agencies; and

3 WHEREAS, The U.S. Postal Inspection Service has significant expertise in
4 pursuing identity theft and devotes considerable resources to investigating and
5 preventing it, especially the increasing incidences of mail theft rings – the agency's
6 biggest concern; and

7 WHEREAS, The U.S. Postal Inspection Service has indicated that identity theft
8 is becoming a relatively easy crime to commit; and

9 WHEREAS, Because it is not the physical content of the mail but the personal
10 identifying information found in mail that has value often exceeding thousands of
11 dollars, more stringent penalties for those convicted of identity theft by stealing mail
12 are necessary and justifiable; and

13 WHEREAS, The personal identifying information contained in stolen mail can
14 be used for many years to continually perpetuate crimes; and

15 WHEREAS, Over the last 3 years, the U.S. Postal Inspection Service has
16 arrested about 3,000 suspects annually for identity theft, and the Service has testified
17 that mail theft is often a predicate offense to identify theft; and

18 WHEREAS, In Maryland, the existing penalty for unauthorized mail possession
19 is so lenient that police and prosecutors cannot allocate their limited resources to the
20 enforcement and prosecution of the crime; and

21 WHEREAS, The U.S. Postal Inspection Service has recommended – and the
22 members of the former Maryland Task Force to Study Identity Theft have
23 unanimously agreed – that mail theft, since it is often a predicate offense to identity
24 theft, should be subject to the same statute of limitations and penalties as are
25 provided in Maryland's misdemeanor identity fraud statute; and

26 WHEREAS, California and Minnesota are among the states that have increased
27 penalties for the crime of mail theft in accordance with the recommendations of the
28 U.S. Postal Inspection Service; now, therefore,

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

31 **Article – Criminal Law**

32 [3–905.

33 (a) A person may not take and break open a letter that is not addressed to
34 the person without permission from the person to whom the letter is addressed or the
35 personal representative of the addressee's estate.

1 (b) A person who violates this section is guilty of a misdemeanor and on
2 conviction is subject to imprisonment for 6 days and a fine of \$15.]

3 **7-106.1.**

4 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
5 MEANINGS INDICATED.

6 (2) "MAIL" MEANS MATERIAL PROCESSED OR INTENDED TO BE
7 PROCESSED FOR DISTRIBUTION BY THE POSTAL SERVICE, INCLUDING A
8 LETTER, POSTAL CARD, PACKAGE, BAG, OR OTHER SEALED ARTICLE.

9 (3) "MAIL CARRIER" MEANS A PERSON OR ENTITY THAT
10 DELIVERS MAIL ON BEHALF OF THE POSTAL SERVICE.

11 (4) "MAIL DEPOSITORY" MEANS:

12 (I) A MAILBOX, LETTER BOX, OR RECEPTACLE IN WHICH
13 MAIL IS DEPOSITED OR STORED;

14 (II) A POST OFFICE OR STATION OF A POST OFFICE;

15 (III) A MAIL ROUTE; OR

16 (IV) A VEHICLE USED BY THE POSTAL SERVICE FOR THE
17 DELIVERY OF MAIL.

18 (5) "POSTAL SERVICE" MEANS THE UNITED STATES POSTAL
19 SERVICE OR ANY OF ITS SUBSIDIARIES OR CONTRACTORS.

20 (B) A PERSON MAY NOT KNOWINGLY OR WILLFULLY AND WITHOUT
21 PERMISSION FROM THE POSTAL SERVICE OR THE INTENDED RECIPIENT:

22 (1) REMOVE MAIL FROM A MAIL DEPOSITORY;

23 (2) TAKE MAIL FROM A MAIL CARRIER;

24 (3) OBTAIN CUSTODY OF MAIL BY INTENTIONALLY DECEIVING A
25 MAIL CARRIER, OR OTHER PERSON WHO RIGHTFULLY POSSESSES OR CONTROLS
26 THE MAIL, WITH A FALSE REPRESENTATION THAT IS KNOWN TO BE FALSE, MADE
27 WITH INTENT TO DECEIVE;

28 (4) TAKE MAIL, OR THE CONTENTS OF MAIL, THAT HAS BEEN LEFT
29 FOR COLLECTION OR DELIVERY ON OR NEAR A MAIL DEPOSITORY; OR

1 **(5) RECEIVE, POSSESS, TRANSFER, BUY, OR CONCEAL MAIL**
2 **OBTAINED BY ACTS DESCRIBED IN ITEMS (1) THROUGH (4) OF THIS SUBSECTION**
3 **KNOWING OR HAVING REASON TO KNOW THE MAIL WAS OBTAINED ILLEGALLY.**

4 **(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
5 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**
6 **EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.**

7 **(D) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO § 5-106(B)**
8 **OF THE COURTS ARTICLE.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2009.