

HOUSE BILL 539

E4

9lr2411
CF 9lr2460

By: **Delegates Branch, Bronrott, Griffith, Jones, and Sossi**

Introduced and read first time: February 5, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety - Electronic Control Devices - Requirements**

3 FOR the purpose of prohibiting a person from possessing or using a certain electronic
4 control device unless the person meets certain requirements; prohibiting a
5 certain electronic control device from being sold, possessed, or used in the State
6 unless the electronic control device meets certain requirements; requiring a
7 certain manufacturer to provide a certain law enforcement agency with prompt
8 access to certain records; establishing penalties for a violation of this Act;
9 requiring the Police Training Commission to require that certain curriculum
10 and minimum courses of study include certain training; requiring the
11 Correctional Training Commission to require that certain curriculum include
12 certain training; requiring the Governor's Office of Crime Control and
13 Prevention to submit a certain report to certain committees on or before a
14 certain date; defining a certain term; and generally relating to electronic control
15 devices.

16 BY adding to
17 Article – Criminal Law
18 Section 4–109
19 Annotated Code of Maryland
20 (2002 Volume and 2008 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Public Safety
23 Section 3–207
24 Annotated Code of Maryland
25 (2003 Volume and 2008 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article – Correctional Services
28 Section 8–208(a)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2008 Replacement Volume and 2008 Supplement)

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

5 **Article – Criminal Law**

6 **4–109.**

7 (A) (1) IN THIS SECTION, “ELECTRONIC CONTROL DEVICE” MEANS A
8 PORTABLE DEVICE DESIGNED AS A WEAPON CAPABLE OF INJURING,
9 IMMOBILIZING, OR INFLICTING PAIN ON AN INDIVIDUAL BY THE DISCHARGE OF
10 ELECTRICAL CURRENT.

11 (2) “ELECTRONIC CONTROL DEVICE” INCLUDES A STUN GUN AND
12 A TASER.

13 (B) A PERSON MAY NOT POSSESS OR USE AN ELECTRONIC CONTROL
14 DEVICE UNLESS THE PERSON:

15 (1) HAS ATTAINED THE AGE OF 18 YEARS;

16 (2) HAS NEVER BEEN CONVICTED OF A FELONY;

17 (3) HAS REGISTERED THE ELECTRONIC CONTROL DEVICE WITH
18 THE MANUFACTURER; AND

19 (4) HAS RECEIVED ADEQUATE TRAINING IN THE USE OF THE
20 ELECTRONIC CONTROL DEVICE FROM THE MANUFACTURER OR AN AGENT OF
21 THE MANUFACTURER.

22 (C) AN ELECTRONIC CONTROL DEVICE MAY NOT BE SOLD, POSSESSED,
23 OR USED IN THE STATE UNLESS:

24 (1) THE ELECTRONIC CONTROL DEVICE AND ANY CARTRIDGE
25 ATTACHED TO THE ELECTRONIC CONTROL DEVICE EACH DISPLAY A SERIAL
26 NUMBER; AND

27 (2) THE ELECTRONIC CONTROL DEVICE HAS A TRACKING SYSTEM
28 THAT ALLOWS LAW ENFORCEMENT TO FIND THE OWNER OF THE ELECTRONIC
29 CONTROL DEVICE.

30 (D) A MANUFACTURER OF ELECTRONIC CONTROL DEVICES SHALL
31 PROVIDE AN INVESTIGATING LAW ENFORCEMENT AGENCY WITH PROMPT

1 ACCESS TO THE MANUFACTURER'S RECORDS ON ELECTRONIC CONTROL
2 DEVICES AND CARTRIDGES SOLD IN THE STATE.

3 (E) (1) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION
4 IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO
5 IMPRISONMENT NOT EXCEEDING 2 MONTHS OR A FINE NOT EXCEEDING \$500 OR
6 BOTH.

7 (2) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION
8 WHILE COMMITTING A SEPARATE CRIME THAT IS A FELONY IS GUILTY OF A
9 FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3
10 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

11 **Article – Public Safety**

12 3–207.

13 Subject to the authority of the Secretary, the Commission has the following
14 powers and duties:

15 (1) to establish standards for the approval and continuation of
16 approval of schools that conduct police entrance–level and in–service training courses
17 required by the Commission, including State, regional, county, and municipal training
18 schools;

19 (2) to approve and issue certificates of approval to police training
20 schools;

21 (3) to inspect police training schools;

22 (4) to revoke, for cause, the approval or certificate of approval issued
23 to a police training school;

24 (5) to establish the following for police training schools:

25 (i) curriculum;

26 (ii) minimum courses of study;

27 (iii) attendance requirements;

28 (iv) eligibility requirements;

29 (v) equipment and facilities;

30 (vi) standards of operation; and

1 (vii) minimum qualifications for instructors;

2 (6) to require, for entrance-level police training and at least every 3
3 years for in-service level police training conducted by the State and each county and
4 municipal police training school, that the curriculum and minimum courses of study
5 include special training, attention to, and study of the application and enforcement of
6 the criminal laws concerning rape and sexual offenses, including:

7 (i) the sexual abuse of children;

8 (ii) related evidentiary procedures; and

9 (iii) the contact with and treatment of victims of these crimes;

10 (7) to certify and issue appropriate certificates to qualified instructors
11 for police training schools authorized by the Commission to offer police training
12 programs;

13 (8) to verify that police officers have satisfactorily completed training
14 programs and issue diplomas to those police officers;

15 (9) to conduct and operate police training schools authorized by the
16 Commission to offer police training programs;

17 (10) to make a continuous study of entrance-level and in-service
18 training methods and procedures;

19 (11) to consult with and accept the cooperation of any recognized
20 federal, State, or municipal law enforcement agency or educational institution;

21 (12) to consult and cooperate with universities, colleges, and
22 institutions in the State to develop specialized courses of study for police officers in
23 police science and police administration;

24 (13) to consult and cooperate with other agencies and units of the State
25 concerned with police training;

26 (14) to develop, with the cooperation of the Office of the Chief Medical
27 Examiner and the Federal Bureau of Investigation, a uniform missing person report
28 form to be available for use by each law enforcement agency of the State on or before
29 October 1, 2008; [and]

30 **(15) TO REQUIRE, FOR ENTRANCE-LEVEL POLICE TRAINING AND**
31 **ANNUALLY FOR IN-SERVICE LEVEL POLICE TRAINING CONDUCTED BY THE**
32 **STATE AND EACH COUNTY AND MUNICIPAL POLICE TRAINING SCHOOL, THAT**
33 **THE CURRICULUM AND MINIMUM COURSES OF STUDY INCLUDE SPECIAL**
34 **TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED**

1 **IN § 4-109 OF THE CRIMINAL LAW ARTICLE, CONSISTENT WITH ESTABLISHED**
2 **LAW ENFORCEMENT STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL**
3 **PROVISIONS; AND**

4 [(15)] (16) to perform any other act that is necessary or appropriate to
5 carry out the powers and duties of the Commission under this subtitle.

6 **Article – Correctional Services**

7 8-208.

8 (a) Subject to the authority of the Secretary, the Commission has the
9 following powers and duties:

10 (1) to prescribe standards for the approval and continuation of
11 approval of schools that conduct correctional, parole, or probation entrance level and
12 in-service training courses required by the Commission, including State, regional,
13 county, and municipal training schools;

14 (2) to approve and issue certificates of approval to correctional
15 training schools;

16 (3) to inspect correctional training schools;

17 (4) to revoke, for cause, any approval or certificate of approval issued
18 to a correctional training school;

19 (5) to prescribe the following for correctional training schools:

20 (i) curriculum, **INCLUDING ENTRANCE-LEVEL AND ANNUAL**
21 **TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED**
22 **IN § 4-109 OF THE CRIMINAL LAW ARTICLE, CONSISTENT WITH ESTABLISHED**
23 **LAW ENFORCEMENT STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL**
24 **PROVISIONS;**

25 (ii) courses of study;

26 (iii) attendance requirements;

27 (iv) eligibility requirements;

28 (v) equipment and facilities;

29 (vi) standards of operation; and

30 (vii) minimum qualifications for instructors;

1 (6) to certify and issue appropriate certificates to qualified instructors
2 for approved correctional training schools;

3 (7) to certify and issue appropriate certificates to correctional officers
4 who have satisfactorily completed training programs;

5 (8) to conduct and operate approved correctional training schools;

6 (9) to adopt regulations necessary to carry out this subtitle, including
7 regulations that establish and enforce standards for prior substance abuse by
8 individuals applying for certification as a correctional officer;

9 (10) to make a continuous study of correctional training methods and
10 procedures for all correctional training schools;

11 (11) to consult with and accept the cooperation of any recognized
12 federal, State, or municipal correctional agency or educational institution;

13 (12) to consult and cooperate with universities, colleges, and
14 institutions to develop all general and specialized courses of study for correctional
15 officers;

16 (13) to consult and cooperate with other units of the State concerned
17 with correctional training;

18 (14) subject to subsection (b) of this section, to develop and implement
19 specific program design and appropriate course curriculum and training for
20 Department of Juvenile Services employees; and

21 (15) to perform any other act that is necessary or appropriate to carry
22 out this subtitle.

23 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December
24 31, 2011, the Governor's Office of Crime Control and Prevention shall report to the
25 Senate Judicial Proceedings Committee and the House Judiciary Committee, in
26 accordance with § 2-1246 of the State Government Article, on the compliance by
27 electronic control device manufacturers with the relevant requirements and provisions
28 of this Act.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2009.