

# HOUSE BILL 539

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9lr2411  
CF SB 850

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

Introduced and read first time: February 5, 2009

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 2009

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## CHAPTER \_\_\_\_\_

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 are met;  
7 requiring a certain manufacturer to provide a certain law enforcement agency  
8 with prompt access to certain records; establishing penalties for a violation of  
9 this Act; providing for the construction of this Act; requiring the Police Training  
10 Commission to require that certain curriculum and minimum courses of study  
11 include certain training; requiring the Correctional Training Commission to  
12 require that certain curriculum include certain training; requiring the  
13 Governor's Office of Crime Control and Prevention to submit a certain report to  
14 certain committees on or before a certain date; defining a certain term certain  
15 terms; providing for the application of this Act; and generally relating to  
16 electronic control devices.

17 BY adding to

18 Article – Criminal Law

19 Section 4–109

20 Annotated Code of Maryland

21 (2002 Volume and 2008 Supplement)

22 ~~BY repealing and reenacting, with amendments,~~

23 ~~Article – Public Safety~~

24 ~~Section 3–207~~

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

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~Annotated Code of Maryland~~  
 2 ~~(2003 Volume and 2008 Supplement)~~

3 ~~BY repealing and reenacting, with amendments,~~  
 4 ~~Article—Correctional Services~~  
 5 ~~Section 8-208(a)~~  
 6 ~~Annotated Code of Maryland~~  
 7 ~~(2008 Replacement Volume and 2008 Supplement)~~

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

10 **Article - Criminal Law**

11 **4-109.**

12 ~~(A) (1) IN THIS SECTION, “ELECTRONIC CONTROL DEVICE” MEANS A~~

13 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
 14 MEANINGS INDICATED.

15 (2) “ELECTRONIC CONTROL DEVICE” MEANS A PORTABLE  
 16 DEVICE DESIGNED AS A WEAPON CAPABLE OF INJURING, IMMOBILIZING, OR  
 17 INFLECTING PAIN ON AN INDIVIDUAL BY THE DISCHARGE OF ELECTRICAL  
 18 CURRENT.

19 ~~(2) “ELECTRONIC CONTROL DEVICE” INCLUDES A STUN GUN AND~~  
 20 ~~A TASER.~~

21 (3) “CRIME OF VIOLENCE” HAS THE MEANING STATED IN §  
 22 14-101 OF THIS ARTICLE.

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

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

26 (2) HAS NEVER BEEN CONVICTED OF A ~~FELONY~~; CRIME OF  
 27 VIOLENCE OR A VIOLATION OF § 5-602, § 5-603, § 5-604, § 5-605, § 5-606, §  
 28 5-613, OR § 5-614 OF THIS ARTICLE; AND

29 (3) HAS REGISTERED THE ELECTRONIC CONTROL DEVICE WITH  
 30 THE MANUFACTURER; ~~AND.~~

1 ~~(4) HAS RECEIVED ADEQUATE TRAINING IN THE USE OF THE~~  
2 ~~ELECTRONIC CONTROL DEVICE FROM THE MANUFACTURER OR AN AGENT OF~~  
3 ~~THE MANUFACTURER.~~

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

6 (1) ~~THE ELECTRONIC CONTROL DEVICE AND ANY CARTRIDGE~~  
7 ~~ATTACHED TO THE ELECTRONIC CONTROL DEVICE EACH DISPLAY A SERIAL~~  
8 ~~NUMBER; AND AN INSTRUCTIONAL MANUAL OR AUDIO OR AUDIOVISUAL~~  
9 ~~INSTRUCTIONS ARE PROVIDED TO THE PURCHASER;~~

10 (2) ~~THE ELECTRONIC CONTROL DEVICE HAS A TRACKING SYSTEM~~  
11 ~~THAT ALLOWS LAW ENFORCEMENT TO FIND THE~~ THE MANUFACTURER  
12 MAINTAINS A RECORD OF THE ORIGINAL OWNER OF THE ELECTRONIC CONTROL  
13 DEVICE; AND

14 (3) THE SELLER HAS OBTAINED A STATE AND FEDERAL CRIMINAL  
15 HISTORY RECORDS CHECK REGARDING THE PURCHASER.

16 (D) A MANUFACTURER OF ELECTRONIC CONTROL DEVICES SHALL  
17 PROVIDE AN INVESTIGATING LAW ENFORCEMENT AGENCY WITH PROMPT  
18 ACCESS TO THE MANUFACTURER'S RECORDS ON ELECTRONIC CONTROL  
19 DEVICES AND CARTRIDGES SOLD IN THE STATE.

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

24 (2) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION  
25 WHILE COMMITTING A SEPARATE CRIME THAT IS A ~~FELONY~~ CRIME OF VIOLENCE  
26 IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT  
27 NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

28 (F) THIS SECTION DOES NOT PROHIBIT A LOCAL GOVERNMENT FROM  
29 ADOPTING A RESTRICTION OR REQUIREMENT CONCERNING THE POSSESSION OF  
30 AN ELECTRONIC CONTROL DEVICE THAT IS MORE STRINGENT THAN THE  
31 REQUIREMENTS OF THIS SECTION.

32 ~~Article—Public Safety~~

## HOUSE BILL 539

1 ~~Subject to the authority of the Secretary, the Commission has the following~~  
2 ~~powers and duties:~~

3 ~~(1) to establish standards for the approval and continuation of~~  
4 ~~approval of schools that conduct police entrance level and in-service training courses~~  
5 ~~required by the Commission, including State, regional, county, and municipal training~~  
6 ~~schools;~~

7 ~~(2) to approve and issue certificates of approval to police training~~  
8 ~~schools;~~

9 ~~(3) to inspect police training schools;~~

10 ~~(4) to revoke, for cause, the approval or certificate of approval issued~~  
11 ~~to a police training school;~~

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

13 ~~(i) curriculum;~~

14 ~~(ii) minimum courses of study;~~

15 ~~(iii) attendance requirements;~~

16 ~~(iv) eligibility requirements;~~

17 ~~(v) equipment and facilities;~~

18 ~~(vi) standards of operation; and~~

19 ~~(vii) minimum qualifications for instructors;~~

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

25 ~~(i) the sexual abuse of children;~~

26 ~~(ii) related evidentiary procedures; and~~

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

28 ~~(7) to certify and issue appropriate certificates to qualified instructors~~  
29 ~~for police training schools authorized by the Commission to offer police training~~  
30 ~~programs;~~

1           ~~(8) to verify that police officers have satisfactorily completed training~~  
2 ~~programs and issue diplomas to those police officers;~~

3           ~~(9) to conduct and operate police training schools authorized by the~~  
4 ~~Commission to offer police training programs;~~

5           ~~(10) to make a continuous study of entrance level and in-service~~  
6 ~~training methods and procedures;~~

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

9           ~~(12) to consult and cooperate with universities, colleges, and~~  
10 ~~institutions in the State to develop specialized courses of study for police officers in~~  
11 ~~police science and police administration;~~

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

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

18           ~~(15) TO REQUIRE, FOR ENTRANCE LEVEL POLICE TRAINING AND~~  
19 ~~ANNUALLY FOR IN SERVICE LEVEL POLICE TRAINING CONDUCTED BY THE~~  
20 ~~STATE AND EACH COUNTY AND MUNICIPAL POLICE TRAINING SCHOOL, THAT~~  
21 ~~THE CURRICULUM AND MINIMUM COURSES OF STUDY INCLUDE SPECIAL~~  
22 ~~TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED~~  
23 ~~IN § 4-109 OF THE CRIMINAL LAW ARTICLE, CONSISTENT WITH ESTABLISHED~~  
24 ~~LAW ENFORCEMENT STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL~~  
25 ~~PROVISIONS; AND~~

26           ~~[(15)] (16) to perform any other act that is necessary or appropriate to~~  
27 ~~carry out the powers and duties of the Commission under this subtitle.~~

28                           ~~Article — Correctional Services~~

29           ~~§ 208.~~

30           ~~(a) Subject to the authority of the Secretary, the Commission has the~~  
31 ~~following powers and duties:~~

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

1           ~~(2) to approve and issue certificates of approval to correctional~~  
2 ~~training schools;~~

3           ~~(3) to inspect correctional training schools;~~

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

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

7                   ~~(i) curriculum, INCLUDING ENTRANCE LEVEL AND ANNUAL~~  
8 ~~TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED~~  
9 ~~IN § 4-109 OF THE CRIMINAL LAW ARTICLE, CONSISTENT WITH ESTABLISHED~~  
10 ~~LAW ENFORCEMENT STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL~~  
11 ~~PROVISIONS;~~

12                   ~~(ii) courses of study;~~

13                   ~~(iii) attendance requirements;~~

14                   ~~(iv) eligibility requirements;~~

15                   ~~(v) equipment and facilities;~~

16                   ~~(vi) standards of operation; and~~

17                   ~~(vii) minimum qualifications for instructors;~~

18           ~~(6) to certify and issue appropriate certificates to qualified instructors~~  
19 ~~for approved correctional training schools;~~

20           ~~(7) to certify and issue appropriate certificates to correctional officers~~  
21 ~~who have satisfactorily completed training programs;~~

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

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

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

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

1           ~~(12) to consult and cooperate with universities, colleges, and~~  
2 ~~institutions to develop all general and specialized courses of study for correctional~~  
3 ~~officers;~~

4           ~~(13) to consult and cooperate with other units of the State concerned~~  
5 ~~with correctional training;~~

6           ~~(14) subject to subsection (b) of this section, to develop and implement~~  
7 ~~specific program design and appropriate course curriculum and training for~~  
8 ~~Department of Juvenile Services employees; and~~

9           ~~(15) to perform any other act that is necessary or appropriate to carry~~  
10 ~~out this subtitle.~~

11           ~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December~~  
12 ~~31, 2011, the Governor's Office of Crime Control and Prevention shall report to the~~  
13 ~~Senate Judicial Proceedings Committee and the House Judiciary Committee, in~~  
14 ~~accordance with § 2-1246 of the State Government Article, on the compliance by~~  
15 ~~electronic control device manufacturers with the relevant requirements and provisions~~  
16 ~~of this Act.~~

17           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
18 construed to apply only prospectively and may not be applied or interpreted to have  
19 any effect on or application to any electronic control device sold or purchased before  
20 the effective date of this Act.

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.