

HOUSE BILL 1345

E1, E3, R4
HB 161/08 – JUD

9lr3074

By: **Delegate Kipke**

Introduced and read first time: February 19, 2009

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal and Juvenile Law – Malicious Destruction to Property by Act of**
3 **Graffiti – Additional Penalty**

4 FOR the purpose of authorizing a juvenile court to order the Motor Vehicle
5 Administration to initiate an order to suspend, for a certain period, the driver's
6 license of a child in making a disposition of a finding that the child has
7 committed a certain malicious destruction to property by an act of graffiti
8 violation; enhancing the penalty for a conviction of causing malicious
9 destruction to property by an act of graffiti to include a certain suspension of a
10 driver's license; authorizing the court to order the Administration to initiate an
11 order to suspend, for a certain period, the driver's license of an adult convicted
12 of a certain malicious destruction to property offense by an act of graffiti;
13 requiring the Administration, on receiving a certain court order, to initiate an
14 action to suspend a driver's license of an individual for a period of time specified
15 by the court; and generally relating to an additional penalty for the malicious
16 destruction of property by an act of graffiti.

17 BY repealing and reenacting, with amendments,
18 Article – Courts and Judicial Proceedings
19 Section 3–8A–19(e)(4)
20 Annotated Code of Maryland
21 (2006 Replacement Volume and 2008 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Criminal Law
24 Section 6–301
25 Annotated Code of Maryland
26 (2002 Volume and 2008 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article – Transportation

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 16-206(a)(4)
2 Annotated Code of Maryland
3 (2006 Replacement Volume and 2008 Supplement)

4 BY repealing and reenacting, without amendments,
5 Article – Transportation
6 Section 16-206(c)(1), (2), and (5)
7 Annotated Code of Maryland
8 (2006 Replacement Volume and 2008 Supplement)

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

11 **Article – Courts and Judicial Proceedings**

12 3-8A-19.

13 (e) (4) (i) In making a disposition on a finding that the child has
14 committed a violation of Title 4, Subtitle 5 [or], § 6-301, § 9-504, or § 9-505 of the
15 Criminal Law Article, the court may order the Motor Vehicle Administration to
16 initiate an action, under the Maryland Vehicle Law, to suspend the driving privilege of
17 a child for a specified period not to exceed:

18 1. For a first offense, 6 months; and

19 2. For a second or subsequent offense, 1 year or until the
20 person is 21 years old, whichever is longer.

21 (ii) If a child subject to a suspension under this paragraph does
22 not possess the privilege to drive on the date of the disposition, the suspension shall
23 commence:

24 1. If the child is at an age that is eligible to obtain the
25 privilege to drive on the date of the disposition, on the date of the disposition; or

26 2. If the child is younger than an age that is eligible to
27 obtain the privilege to drive on the date of the disposition, on the date the child is
28 eligible to obtain driving privileges.

29 **Article – Criminal Law**

30 6-301.

31 (a) A person may not willfully and maliciously destroy, injure, or deface the
32 real or personal property of another.

1 (b) A person who, in violation of this section, causes damage of at least \$500
2 to the property is guilty of a misdemeanor and on conviction is subject to
3 imprisonment not exceeding 3 years or a fine not exceeding \$2,500 or both.

4 (c) A person who, in violation of this section, causes damage of less than
5 \$500 to the property is guilty of a misdemeanor and on conviction is subject to
6 imprisonment not exceeding 60 days or a fine not exceeding \$500 or both.

7 (d) (1) For purposes of this subsection, an act of "graffiti" means a
8 permanent drawing, permanent painting, or a permanent mark or inscription on the
9 property of another without the permission of the owner of the property.

10 (2) In addition to the penalties set forth in subsections (b) and (c) of
11 this section, the court:

12 (I) shall order a person convicted of causing malicious
13 destruction by an act of graffiti to pay restitution or perform community service or
14 both; AND

15 (II) **MAY ORDER THE MOTOR VEHICLE ADMINISTRATION TO**
16 **INITIATE AN ACTION, UNDER § 16-206(A)(4) OR (C) OF THE TRANSPORTATION**
17 **ARTICLE, TO SUSPEND THE DRIVER'S LICENSE OR DRIVING PRIVILEGE OF A**
18 **PERSON CONVICTED OF CAUSING MALICIOUS DESTRUCTION BY AN ACT OF**
19 **GRAFFITI FOR A SPECIFIED PERIOD NOT TO EXCEED:**

20 **1. FOR A FIRST OFFENSE, 6 MONTHS; AND**

21 **2. FOR A SECOND OR SUBSEQUENT OFFENSE, 1 YEAR**
22 **OR UNTIL THE PERSON IS 21 YEARS OLD, WHICHEVER IS LONGER.**

23 (3) Title 11, Subtitle 6 of the Criminal Procedure Article applies to an
24 order of restitution under this subsection.

25 (e) (1) Except as provided in paragraph (2) of this subsection, to
26 determine a penalty, the court may consider as one crime the aggregate value of
27 damage to each property resulting from one scheme or continuing course of conduct.

28 (2) If separate acts resulting in damage to the properties of one or
29 more owners are set forth by separate counts in one or more charging documents, the
30 separate counts may not be merged for sentencing.

31 (f) (1) The value of damage is not a substantive element of a crime under
32 this section and need not be stated in the charging document.

33 (2) The value of damage shall be based on the evidence and that value
34 shall be applied for the purpose of imposing the penalties established in this section.

1 (2) If a child subject to a suspension under § 3-8A-19(e) of the Courts
2 Article does not hold a license to operate a motor vehicle on the date of the court order,
3 the suspension shall commence:

4 (i) If the child is at least 16 years of age on the date of the
5 disposition, on the date of the disposition; or

6 (ii) If the child is younger than 16 years of age on the date of the
7 disposition, on the date the child reaches the child's 16th birthday.

8 (5) The Administration may modify a suspension under this
9 subsection or subsection (b) of this section or issue a restricted license if:

10 (i) The license is required for the purpose of attending an
11 alcohol education or alcoholic prevention or treatment program;

12 (ii) The child or individual is required to drive a motor vehicle in
13 the course of employment;

14 (iii) It finds that the individual's or child's employment would be
15 adversely affected because the individual or child has no reasonable alternative means
16 of transportation to or from a place of employment; or

17 (iv) It finds that the individual's or child's education would be
18 adversely affected because the individual or child has no reasonable alternative means
19 of transportation for educational purposes.

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