

SENATE BILL 850

E4

(9lr2460)

ENROLLED BILL

—*Judicial Proceedings / Judiciary*—

Introduced by **Senator Muse**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

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~~ *and*
6 *activated* in the State unless ~~the electronic control device meets~~ certain
7 requirements *are met*; requiring a certain manufacturer to provide a certain law
8 enforcement agency with prompt access to certain records; establishing
9 penalties for a violation of this Act; providing for the construction of this Act;
10 requiring the Police Training Commission to require that certain curriculum
11 and minimum courses of study include certain training for certain officers;
12 requiring the Correctional Training Commission to require that certain
13 curriculum include certain training for certain officers ~~and to establish certain~~
14 ~~standards~~; requiring the Governor’s Office of Crime Control and Prevention to
15 submit a certain report to certain committees on or before a certain date;

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.

Italics indicate opposite chamber / conference committee amendments.



1 defining ~~a certain term~~ *certain terms*; providing for the application of this Act;
 2 and generally relating to electronic control devices.

3 BY adding to
 4 Article – Criminal Law
 5 Section 4–109
 6 Annotated Code of Maryland
 7 (2002 Volume and 2008 Supplement)

8 BY repealing and reenacting, with amendments,
 9 Article – Public Safety
 10 Section 3–207
 11 Annotated Code of Maryland
 12 (2003 Volume and 2008 Supplement)

13 BY repealing and reenacting, with amendments,
 14 Article – Correctional Services
 15 Section 8–208(a)
 16 Annotated Code of Maryland
 17 (2008 Replacement Volume and 2008 Supplement)

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

20 **Article – Criminal Law**

21 **4–109.**

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

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
 24 MEANINGS INDICATED.

25 (2) “CRIME OF VIOLENCE” HAS THE MEANING STATED IN § 14–101
 26 OF THIS ARTICLE.

27 (3) “ELECTRONIC CONTROL DEVICE” MEANS A PORTABLE DEVICE
 28 DESIGNED AS A WEAPON CAPABLE OF INJURING, IMMOBILIZING, OR INFLECTING
 29 PAIN ON AN INDIVIDUAL BY THE DISCHARGE OF ELECTRICAL CURRENT.

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

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

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

2 (2) HAS NEVER BEEN CONVICTED OF A ~~FELONY~~ CRIME OF
3 VIOLENCE AS DEFINED IN § 14-101 OF THIS ARTICLE; OR A VIOLATION OF §
4 5-602, § 5-603, § 5-604, § 5-605, § 5-606, § 5-613, OR § 5-614 OF THIS ARTICLE.

5 (3) ~~HAS REGISTERED THE ELECTRONIC CONTROL DEVICE WITH~~
6 ~~THE MANUFACTURER; AND~~

7 (4) ~~HAS RECEIVED ADEQUATE TRAINING IN THE USE OF THE~~
8 ~~ELECTRONIC CONTROL DEVICE FROM THE MANUFACTURER OR AN AGENT OF~~
9 ~~THE MANUFACTURER COMPLETED AN ELECTRONIC CONTROL DEVICE SAFETY~~
10 ~~TRAINING COURSE THAT MEETS THE STANDARDS ESTABLISHED BY THE POLICE~~
11 ~~TRAINING COMMISSION UNDER § 3-207 OF THE PUBLIC SAFETY ARTICLE.~~

12 (C) AN ELECTRONIC CONTROL DEVICE MAY NOT BE SOLD, ~~POSSESSED,~~
13 ~~OR USED~~ AND ACTIVATED IN THE STATE UNLESS:

14 (1) ~~THE ELECTRONIC CONTROL DEVICE AND ANY CARTRIDGE~~
15 ~~ATTACHED TO THE ELECTRONIC CONTROL DEVICE EACH DISPLAY A SERIAL~~
16 ~~NUMBER; AND AN INSTRUCTIONAL MANUAL OR AUDIO OR AUDIOVISUAL~~
17 ~~INSTRUCTIONS ARE PROVIDED TO THE PURCHASER;~~

18 (2) ~~THE ELECTRONIC CONTROL DEVICE HAS A TRACKING SYSTEM~~
19 ~~THAT ALLOWS LAW ENFORCEMENT TO FIND~~ THE MANUFACTURER MAINTAINS A
20 RECORD OF THE ORIGINAL OWNER OF THE ELECTRONIC CONTROL DEVICE; AND

21 (3) THE MANUFACTURER OR SELLER HAS OBTAINED A STATE AND
22 FEDERAL CRIMINAL HISTORY RECORDS CHECK OF THE ORIGINAL OWNER TO
23 ENSURE COMPLIANCE WITH SUBSECTION (B)(2) OF THIS SECTION.

24 (D) A MANUFACTURER OF ELECTRONIC CONTROL DEVICES SHALL
25 PROVIDE AN INVESTIGATING LAW ENFORCEMENT AGENCY WITH PROMPT
26 ACCESS TO THE MANUFACTURER'S RECORDS ON ELECTRONIC CONTROL
27 DEVICES AND CARTRIDGES SOLD IN THE STATE.

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

32 (2) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION
33 WHILE COMMITTING A SEPARATE CRIME THAT IS A ~~FELONY~~ CRIME OF VIOLENCE

1 IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT
2 NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

3 (F) THIS SECTION DOES NOT PROHIBIT A LOCAL GOVERNMENT FROM
4 ADOPTING A RESTRICTION OR REQUIREMENT CONCERNING THE POSSESSION OF
5 AN ELECTRONIC CONTROL DEVICE THAT IS MORE STRINGENT THAN THE
6 REQUIREMENTS OF THIS SECTION.

7 **Article – Public Safety**

8 3–207.

9 Subject to the authority of the Secretary, the Commission has the following
10 powers and duties:

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

15 (2) to approve and issue certificates of approval to police training
16 schools;

17 (3) to inspect police training schools;

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

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

21 (i) curriculum;

22 (ii) minimum courses of study;

23 (iii) attendance requirements;

24 (iv) eligibility requirements;

25 (v) equipment and facilities;

26 (vi) standards of operation; and

27 (vii) minimum qualifications for instructors;

28 (6) to require, for entrance–level police training and at least every 3
29 years for in–service level police training conducted by the State and each county and

1 municipal police training school, that the curriculum and minimum courses of study
2 include special training, attention to, and study of the application and enforcement of
3 the criminal laws concerning rape and sexual offenses, including:

4 (i) the sexual abuse of children;

5 (ii) related evidentiary procedures; and

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

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

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

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

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

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

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

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

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

27 **(15) TO REQUIRE, FOR ENTRANCE-LEVEL POLICE TRAINING AND**
28 **ANNUALLY FOR IN-SERVICE LEVEL POLICE TRAINING CONDUCTED BY THE**
29 **STATE AND EACH COUNTY AND MUNICIPAL POLICE TRAINING SCHOOL, THAT**
30 **THE CURRICULUM AND MINIMUM COURSES OF STUDY INCLUDE, FOR POLICE**
31 **OFFICERS WHO ARE ISSUED AN ELECTRONIC CONTROL DEVICE BY A LAW**
32 **ENFORCEMENT AGENCY, SPECIAL TRAINING IN THE PROPER USE OF**
33 **ELECTRONIC CONTROL DEVICES, AS DEFINED IN § 4-109 OF THE CRIMINAL**

1 LAW ARTICLE, CONSISTENT WITH ESTABLISHED LAW ENFORCEMENT
2 STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL PROVISIONS; ~~AND AND~~

3 ~~(16) TO ESTABLISH STANDARDS FOR AN ELECTRONIC CONTROL~~
4 ~~DEVICE SAFETY TRAINING COURSE THAT MUST BE COMPLETED UNDER § 4-109~~
5 ~~OF THE CRIMINAL LAW ARTICLE; AND~~

6 [(15)] ~~(16)~~ ~~(17)~~ (16) to perform any other act that is necessary or
7 appropriate to carry out the powers and duties of the Commission under this subtitle.

8 Article - Correctional Services

9 8-208.

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

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

16 (2) to approve and issue certificates of approval to correctional
17 training schools;

18 (3) to inspect correctional training schools;

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

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

22 (i) curriculum, **INCLUDING ENTRANCE-LEVEL AND ANNUAL**
23 **TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED**
24 **IN § 4-109 OF THE CRIMINAL LAW ARTICLE, FOR POLICE CORRECTIONAL**
25 **OFFICERS WHO ARE ISSUED AN ELECTRONIC CONTROL DEVICE BY A LAW**
26 **ENFORCEMENT AGENCY, AS DEFINED IN § 4-109 OF THE CRIMINAL LAW**
27 **ARTICLE CORRECTIONAL UNIT,** CONSISTENT WITH ESTABLISHED LAW
28 ENFORCEMENT STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL
29 PROVISIONS;

30 (ii) courses of study;

31 (iii) attendance requirements;

32 (iv) eligibility requirements;

- 1 (v) equipment and facilities;
- 2 (vi) standards of operation; and
- 3 (vii) minimum qualifications for instructors;
- 4 (6) to certify and issue appropriate certificates to qualified instructors
5 for approved correctional training schools;
- 6 (7) to certify and issue appropriate certificates to correctional officers
7 who have satisfactorily completed training programs;
- 8 (8) to conduct and operate approved correctional training schools;
- 9 (9) to adopt regulations necessary to carry out this subtitle, including
10 regulations that establish and enforce standards for prior substance abuse by
11 individuals applying for certification as a correctional officer;
- 12 (10) to make a continuous study of correctional training methods and
13 procedures for all correctional training schools;
- 14 (11) to consult with and accept the cooperation of any recognized
15 federal, State, or municipal correctional agency or educational institution;
- 16 (12) to consult and cooperate with universities, colleges, and
17 institutions to develop all general and specialized courses of study for correctional
18 officers;
- 19 (13) to consult and cooperate with other units of the State concerned
20 with correctional training;
- 21 (14) subject to subsection (b) of this section, to develop and implement
22 specific program design and appropriate course curriculum and training for
23 Department of Juvenile Services employees; and
- 24 (15) to perform any other act that is necessary or appropriate to carry
25 out this subtitle.

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

SENATE BILL 850

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
2 construed to apply only prospectively and may not be applied or interpreted to have
3 any effect on or application to any electronic control device sold or purchased before
4 the effective date of this Act.

5 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
6 effect October 1, 2009.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.