

CHAPTER 321

(House Bill 539)

AN ACT concerning

Public Safety – Electronic Control Devices – Requirements

FOR the purpose of prohibiting a person from possessing or using a certain electronic control device unless the person meets certain requirements; prohibiting a certain electronic control device from being sold and activated, possessed, or used in the State unless the electronic control device meets certain requirements are met; requiring a certain manufacturer to provide a certain law enforcement agency with prompt access to certain records; establishing penalties for a violation of this Act; providing for the construction of this Act; requiring the Police Training Commission to require that certain curriculum and minimum courses of study include certain training for certain officers; requiring the Correctional Training Commission to require that certain curriculum include certain training for certain officers; requiring the Governor's Office of Crime Control and Prevention to submit a certain report to certain committees on or before a certain date; requiring the Police Training Commission to require that certain curriculum and minimum courses of study include certain training; requiring the Correctional Training Commission to require that certain curriculum include certain training; requiring the Governor's Office of Crime Control and Prevention to submit a certain report to certain committees on or before a certain date; defining a certain term certain terms; providing for the application of this Act; and generally relating to electronic control devices.

BY adding to

Article – Criminal Law
Section 4–109
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Safety
Section 3–207
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Correctional Services
Section 8–208(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

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

~~Article Public Safety~~

~~Section 3-207~~

~~Annotated Code of Maryland~~

~~(2003 Volume and 2008 Supplement)~~

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

~~Article Correctional Services~~

~~Section 8-208(a)~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2008 Supplement)~~

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

Article – Criminal Law

4-109.

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

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

~~(2) “CRIME OF VIOLENCE” HAS THE MEANING STATED IN § 14-101 OF THIS ARTICLE.~~

~~(2) (3) “ELECTRONIC CONTROL DEVICE” MEANS A PORTABLE DEVICE DESIGNED AS A WEAPON CAPABLE OF INJURING, IMMOBILIZING, OR INFILCTING PAIN ON AN INDIVIDUAL BY THE DISCHARGE OF ELECTRICAL CURRENT.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article – Public Safety

3-207.

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

- (1) to establish standards for the approval and continuation of approval of schools that conduct police entrance-level and in-service training courses required by the Commission, including State, regional, county, and municipal training schools;
- (2) to approve and issue certificates of approval to police training schools;
- (3) to inspect police training schools;
- (4) to revoke, for cause, the approval or certificate of approval issued to a police training school;
- (5) to establish the following for police training schools:
 - (i) curriculum;
 - (ii) minimum courses of study;
 - (iii) attendance requirements;
 - (iv) eligibility requirements;
 - (v) equipment and facilities;
 - (vi) standards of operation; and
 - (vii) minimum qualifications for instructors;
- (6) to require, for entrance-level police training and at least every 3 years for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include special training, attention to, and study of the application and enforcement of the criminal laws concerning rape and sexual offenses, including:

- (i) the sexual abuse of children;
- (ii) related evidentiary procedures; and
- (iii) the contact with and treatment of victims of these crimes;

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

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

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

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

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

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

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

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

(15) TO REQUIRE, FOR ENTRANCE-LEVEL POLICE TRAINING AND ANNUALLY FOR IN-SERVICE LEVEL POLICE TRAINING CONDUCTED BY THE STATE AND EACH COUNTY AND MUNICIPAL POLICE TRAINING SCHOOL, THAT THE CURRICULUM AND MINIMUM COURSES OF STUDY INCLUDE, FOR POLICE OFFICERS WHO ARE ISSUED AN ELECTRONIC CONTROL DEVICE BY A LAW ENFORCEMENT AGENCY, SPECIAL TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED IN § 4-109 OF THE CRIMINAL LAW ARTICLE, CONSISTENT WITH ESTABLISHED LAW ENFORCEMENT STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL PROVISIONS; AND

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

Article – Correctional Services

8-208.

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

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

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

(3) to inspect correctional training schools;

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

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

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

(ii) courses of study;

(iii) attendance requirements;

(iv) eligibility requirements;

(v) equipment and facilities;

(vi) standards of operation; and

(vii) minimum qualifications for instructors;

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

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

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

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

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

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

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

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

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

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

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

Article Public Safety

2-207.

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

- (1) ~~to establish standards for the approval and continuation of approval of schools that conduct police entrance level and in-service training courses required by the Commission, including State, regional, county, and municipal training schools;~~
- (2) ~~to approve and issue certificates of approval to police training schools;~~
- (3) ~~to inspect police training schools;~~
- (4) ~~to revoke, for cause, the approval or certificate of approval issued to a police training school;~~
- (5) ~~to establish the following for police training schools:~~
- (i) ~~curriculum;~~
- (ii) ~~minimum courses of study;~~
- (iii) ~~attendance requirements;~~
- (iv) ~~eligibility requirements;~~
- (v) ~~equipment and facilities;~~
- (vi) ~~standards of operation; and~~
- (vii) ~~minimum qualifications for instructors;~~
- (6) ~~to require, for entrance level police training and at least every 3 years for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include special training, attention to, and study of the application and enforcement of the criminal laws concerning rape and sexual offenses, including:~~
- (i) ~~the sexual abuse of children;~~
- (ii) ~~related evidentiary procedures; and~~
- (iii) ~~the contact with and treatment of victims of these crimes;~~
- (7) ~~to certify and issue appropriate certificates to qualified instructors for police training schools authorized by the Commission to offer police training programs;~~

- (8) to verify that police officers have satisfactorily completed training programs and issue diplomas to those police officers;
- (9) to conduct and operate police training schools authorized by the Commission to offer police training programs;
- (10) to make a continuous study of entrance level and in-service training methods and procedures;
- (11) to consult with and accept the cooperation of any recognized federal, State, or municipal law enforcement agency or educational institution;
- (12) to consult and cooperate with universities, colleges, and institutions in the State to develop specialized courses of study for police officers in police science and police administration;
- (13) to consult and cooperate with other agencies and units of the State concerned with police training;
- (14) to develop, with the cooperation of the Office of the Chief Medical Examiner and the Federal Bureau of Investigation, a uniform missing person report form to be available for use by each law enforcement agency of the State on or before October 1, 2008; [and]
- (15) TO REQUIRE, FOR ENTRANCE LEVEL POLICE TRAINING AND ANNUALLY FOR IN-SERVICE LEVEL POLICE TRAINING CONDUCTED BY THE STATE AND EACH COUNTY AND MUNICIPAL POLICE TRAINING SCHOOL, THAT THE CURRICULUM AND MINIMUM COURSES OF STUDY INCLUDE SPECIAL TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED IN § 4-109 OF THE CRIMINAL LAW ARTICLE, CONSISTENT WITH ESTABLISHED LAW ENFORCEMENT STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL PROVISIONS; AND**
- [15] (16) to perform any other act that is necessary or appropriate to carry out the powers and duties of the Commission under this subtitle.

Article Correctional Services

§ 208.

- (a) Subject to the authority of the Secretary, the Commission has the following powers and duties:
- (1) to prescribe standards for the approval and continuation of approval of schools that conduct correctional, parole, or probation entrance level and

~~in-service training courses required by the Commission, including State, regional, county, and municipal training schools;~~

- (2) ~~to approve and issue certificates of approval to correctional training schools;~~
- (3) ~~to inspect correctional training schools;~~
- (4) ~~to revoke, for cause, any approval or certificate of approval issued to a correctional training school;~~
- (5) ~~to prescribe the following for correctional training schools:~~
 - (i) ~~curriculum, INCLUDING ENTRANCE LEVEL AND ANNUAL TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED IN § 4-109 OF THE CRIMINAL LAW ARTICLE, CONSISTENT WITH ESTABLISHED LAW ENFORCEMENT STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL PROVISIONS;~~
 - (ii) ~~courses of study;~~
 - (iii) ~~attendance requirements;~~
 - (iv) ~~eligibility requirements;~~
 - (v) ~~equipment and facilities;~~
 - (vi) ~~standards of operation; and~~
 - (vii) ~~minimum qualifications for instructors;~~
- (6) ~~to certify and issue appropriate certificates to qualified instructors for approved correctional training schools;~~
- (7) ~~to certify and issue appropriate certificates to correctional officers who have satisfactorily completed training programs;~~
- (8) ~~to conduct and operate approved correctional training schools;~~
- (9) ~~to adopt regulations necessary to carry out this subtitle, including regulations that establish and enforce standards for prior substance abuse by individuals applying for certification as a correctional officer;~~
- (10) ~~to make a continuous study of correctional training methods and procedures for all correctional training schools;~~

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

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

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

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

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

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

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

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

Approved by the Governor, May 7, 2009.