

HOUSE BILL 862

E1
HB 328/09 – JUD

11r2551

By: **Delegate Niemann**
Introduced and read first time: February 11, 2011
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Mail Theft – Penalty**

3 FOR the purpose of prohibiting a person from knowingly and willfully removing,
4 taking, possessing, obtaining, or receiving mail under certain circumstances
5 without the permission of the United States Postal Service or the intended
6 recipient; providing penalties for a violation of this Act; repealing a certain
7 prohibition against opening a letter without permission that is rendered
8 inconsistent with this Act; providing that a person who violates this Act is
9 subject to a certain statute of limitations and may reserve a point or question
10 for a certain in banc review; providing that a prosecution under this Act does
11 not preclude a certain prosecution for theft; requiring a conviction for a violation
12 of this Act to merge for sentencing purposes into a certain conviction for theft
13 under certain circumstances; defining certain terms; and generally relating to
14 the theft of mail.

15 BY repealing
16 Article – Criminal Law
17 Section 3–905
18 Annotated Code of Maryland
19 (2002 Volume and 2010 Supplement)

20 BY adding to
21 Article – Criminal Law
22 Section 7–106.1
23 Annotated Code of Maryland
24 (2002 Volume and 2010 Supplement)

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

27 **Article – Criminal Law**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 [3-905.

2 (a) A person may not take and break open a letter that is not addressed to
3 the person without permission from the person to whom the letter is addressed or the
4 personal representative of the addressee's estate.

5 (b) A person who violates this section is guilty of a misdemeanor and on
6 conviction is subject to imprisonment for 6 days and a fine of \$15.]

7 **7-106.1.**

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

10 (2) "MAIL" MEANS MATERIAL PROCESSED OR INTENDED TO BE
11 PROCESSED FOR DISTRIBUTION BY THE POSTAL SERVICE, INCLUDING A
12 LETTER, POSTAL CARD, PACKAGE, BAG, OR OTHER SEALED ARTICLE.

13 (3) "MAIL CARRIER" MEANS A PERSON OR ENTITY THAT
14 DELIVERS MAIL ON BEHALF OF THE POSTAL SERVICE.

15 (4) "MAIL DEPOSITORY" MEANS:

16 (I) A MAILBOX, LETTER BOX, OR RECEPTACLE IN WHICH
17 MAIL IS DEPOSITED OR STORED;

18 (II) A POST OFFICE OR STATION OF A POST OFFICE;

19 (III) A MAIL ROUTE; OR

20 (IV) A VEHICLE USED BY THE POSTAL SERVICE FOR THE
21 DELIVERY OF MAIL.

22 (5) "POSTAL SERVICE" MEANS THE UNITED STATES POSTAL
23 SERVICE OR ANY OF ITS SUBSIDIARIES OR CONTRACTORS.

24 (B) A PERSON MAY NOT KNOWINGLY OR WILLFULLY AND WITHOUT
25 PERMISSION FROM THE POSTAL SERVICE OR THE INTENDED RECIPIENT:

26 (1) REMOVE MAIL FROM A MAIL DEPOSITORY;

27 (2) TAKE MAIL FROM A MAIL CARRIER;

1 **(3) OBTAIN CUSTODY OF MAIL BY INTENTIONALLY DECEIVING A**
2 **MAIL CARRIER, OR OTHER PERSON WHO RIGHTFULLY POSSESSES OR CONTROLS**
3 **THE MAIL, WITH A FALSE REPRESENTATION THAT IS KNOWN TO BE FALSE OR IS**
4 **MADE WITH INTENT TO DECEIVE;**

5 **(4) TAKE MAIL OF ANOTHER, OR THE CONTENTS OF SUCH MAIL,**
6 **THAT HAS BEEN LEFT FOR COLLECTION OR DELIVERY ON OR NEAR A MAIL**
7 **DEPOSITORY; OR**

8 **(5) RECEIVE, POSSESS, TRANSFER, BUY, OR CONCEAL MAIL**
9 **OBTAINED BY ACTS DESCRIBED IN ITEMS (1) THROUGH (4) OF THIS SUBSECTION**
10 **KNOWING OR HAVING REASON TO KNOW THAT THE MAIL WAS OBTAINED**
11 **ILLEGALLY.**

12 **(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
13 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**
14 **EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.**

15 **(D) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO § 5-106(B)**
16 **OF THE COURTS ARTICLE.**

17 **(E) (1) A PROSECUTION UNDER THIS SECTION DOES NOT PRECLUDE**
18 **PROSECUTION FOR THEFT UNDER § 7-104 OF THIS ARTICLE.**

19 **(2) IF A PERSON IS CONVICTED UNDER § 7-104 OF THIS ARTICLE**
20 **AND THIS SECTION FOR THE SAME ACT OR TRANSACTION, THE CONVICTION**
21 **UNDER THIS SECTION SHALL MERGE FOR SENTENCING PURPOSES INTO THE**
22 **CONVICTION UNDER § 7-104 OF THIS ARTICLE.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2011.