

HOUSE BILL 1343

L2, E4

7lr1475

By: **Howard County Delegation**

Introduced and read first time: February 10, 2017

Assigned to: Environment and Transportation

Reassigned: Judiciary, February 16, 2017

Committee Report: Favorable

House action: Adopted

Read second time: March 13, 2017

CHAPTER _____

1 AN ACT concerning

2 **Howard County – Fire and Explosive Investigator – Authority**

3 **Ho. Co. 24–17**

4 FOR the purpose of providing that under certain circumstances, a Howard County fire and
5 explosive investigator operating in Howard County has the same authority as the
6 State Fire Marshal and a full–time investigative and inspection assistant in the
7 Office of the State Fire Marshal to make arrests without a warrant and exercise
8 certain powers of arrest; authorizing a Howard County fire and explosive
9 investigator to exercise certain authority while operating outside Howard County
10 under certain circumstances; authorizing the Howard County Fire Chief to limit
11 certain authority of a fire and explosive investigator and to express the limitation in
12 writing; excluding a Howard County fire and explosive investigator from the
13 definition of “law enforcement officer” under the law relating to the Law
14 Enforcement Officers’ Bill of Rights; including a Howard County fire and explosive
15 investigator in the definition of “police officer” in connection with provisions of law
16 relating to the Maryland Police Training and Standards Commission and in the
17 definition of “law enforcement official” in connection with the authorized carrying of
18 a handgun by a person engaged in law enforcement; defining certain terms; requiring
19 the Maryland Police Training and Standards Commission to certify certain fire and
20 explosive investigators as police officers by a certain date under certain
21 circumstances; and generally relating to the authority of the Howard County fire and
22 explosive investigators.

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 BY repealing and reenacting, without amendments,
2 Article – Criminal Law
3 Section 4–201(a)
4 Annotated Code of Maryland
5 (2012 Replacement Volume and 2016 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Criminal Law
8 Section 4–201(d)
9 Annotated Code of Maryland
10 (2012 Replacement Volume and 2016 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article – Criminal Procedure
13 Section 2–208
14 Annotated Code of Maryland
15 (2008 Replacement Volume and 2016 Supplement)

16 BY adding to
17 Article – Criminal Procedure
18 Section 2–208.6
19 Annotated Code of Maryland
20 (2008 Replacement Volume and 2016 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Public Safety
23 Section 3–101(a) and 3–201(a)
24 Annotated Code of Maryland
25 (2011 Replacement Volume and 2016 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article – Public Safety
28 Section 3–101(e)(2) and 3–201(f)(2)
29 Annotated Code of Maryland
30 (2011 Replacement Volume and 2016 Supplement)

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

33 **Article – Criminal Law**

34 4–201.

35 (a) In this subtitle the following words have the meanings indicated.

36 (d) “Law enforcement official” means:

1 (1) a full-time member of a police force or other unit of the United States,
2 a state, a county, a municipal corporation, or other political subdivision of a state who is
3 responsible for the prevention and detection of crime and the enforcement of the laws of the
4 United States, a state, a county, a municipal corporation, or other political subdivision of a
5 state;

6 (2) a part-time member of a police force of a county or municipal
7 corporation who is certified by the county or municipal corporation as being trained and
8 qualified in the use of handguns;

9 (3) a fire and explosive investigator of the Prince George's County
10 Fire/EMS Department as defined in § 2-208.3 of the Criminal Procedure Article;

11 (4) a Montgomery County fire and explosive investigator as defined in §
12 2-208.1 of the Criminal Procedure Article;

13 (5) an Anne Arundel County or City of Annapolis fire and explosive
14 investigator as defined in § 2-208.2 of the Criminal Procedure Article;

15 (6) a Worcester County fire and explosive investigator as defined in §
16 2-208.4 of the Criminal Procedure Article; [or]

17 (7) a City of Hagerstown fire and explosive investigator as defined in §
18 2-208.5 of the Criminal Procedure Article; OR

19 **(8) A HOWARD COUNTY FIRE AND EXPLOSIVE INVESTIGATOR AS**
20 **DEFINED IN § 2-208.6 OF THE CRIMINAL PROCEDURE ARTICLE.**

21 Article – Criminal Procedure

22 2-208.

23 (a) (1) The State Fire Marshal or a full-time investigative and inspection
24 assistant of the Office of the State Fire Marshal may arrest a person without a warrant if
25 the State Fire Marshal or assistant has probable cause to believe:

26 (i) a felony that is a crime listed in paragraph (2) of this subsection
27 has been committed or attempted; and

28 (ii) the person to be arrested has committed or attempted to commit
29 the felony whether or not in the presence or within the view of the State Fire Marshal or
30 assistant.

31 (2) The powers of arrest set forth in paragraph (1) of this subsection apply
32 only to the crimes listed in this paragraph and to attempts, conspiracies, and solicitations
33 to commit these crimes:

- 1 (i) murder under § 2–201(4) of the Criminal Law Article;
- 2 (ii) setting fire to a dwelling or occupied structure under § 6–102 of
3 the Criminal Law Article;
- 4 (iii) setting fire to a structure under § 6–103 of the Criminal Law
5 Article;
- 6 (iv) a crime that relates to destructive devices under § 4–503 of the
7 Criminal Law Article; and
- 8 (v) making a false statement or rumor as to a destructive device
9 under § 9–504 of the Criminal Law Article.

10 (b) (1) The State Fire Marshal or a full–time investigative and inspection
11 assistant of the Office of the State Fire Marshal may arrest a person without a warrant if
12 the State Fire Marshal or assistant has probable cause to believe:

- 13 (i) the person has committed a crime listed in paragraph (2) of this
14 subsection; and
- 15 (ii) unless the person is arrested immediately, the person:
- 16 1. may not be apprehended;
- 17 2. may cause physical injury or property damage to another;
18 or
- 19 3. may tamper with, dispose of, or destroy evidence.

20 (2) The crimes referred to in paragraph (1) of this subsection are:

- 21 (i) a crime that relates to a device that is constructed to represent a
22 destructive device under § 9–505 of the Criminal Law Article;
- 23 (ii) malicious burning in the first or second degree under § 6–104 or
24 § 6–105 of the Criminal Law Article;
- 25 (iii) burning the contents of a trash container under § 6–108 of the
26 Criminal Law Article;
- 27 (iv) making a false alarm of fire under § 9–604 of the Criminal Law
28 Article;
- 29 (v) a crime that relates to burning or attempting to burn property as
30 part of a religious or ethnic crime under § 10–304 or § 10–305 of the Criminal Law Article;

1 (vi) a crime that relates to interference, obstruction, or false
2 representation of fire and safety personnel under § 6-602 or § 7-402 of the Public Safety
3 Article; and

4 (vii) threatening arson or attempting, causing, aiding, counseling, or
5 procuring arson in the first or second degree or malicious burning in the first or second
6 degree under Title 6, Subtitle 1 of the Criminal Law Article.

7 (c) (1) The State Fire Marshal or a full-time investigative and inspection
8 assistant in the Office of the State Fire Marshal may act under the authority granted by §
9 2-102 of this title to police officers as provided under paragraph (2) of this subsection.

10 (2) When acting under the authority granted by § 2-102 of this title, the
11 State Fire Marshal or a full-time investigative and inspection assistant in the Office of the
12 State Fire Marshal has the powers of arrest set forth in §§ 2-202, 2-203, and 2-204 of this
13 subtitle.

14 (d) (1) The State Fire Marshal or a full-time investigative and inspection
15 assistant in the Office of the State Fire Marshal who acts under the authority granted by
16 this section shall notify the following persons of an investigation or enforcement action:

17 (i) 1. the chief of police, if any, or chief's designee, when in a
18 municipal corporation;

19 2. the Police Commissioner or Police Commissioner's
20 designee, when in Baltimore City;

21 3. the chief of police or chief's designee, when in a county
22 with a county police department, except Baltimore City;

23 4. the sheriff or sheriff's designee, when in a county without
24 a county police department;

25 5. the Secretary of Natural Resources or Secretary's
26 designee, when on property owned, leased, operated by, or under the control of the
27 Department of Natural Resources; or

28 6. the respective chief of police or chief's designee, when on
29 property owned, leased, operated by, or under the control of the Maryland Transportation
30 Authority, Maryland Aviation Administration, or Maryland Port Administration; and

31 (ii) the Department of State Police barrack commander or
32 commander's designee, unless there is an agreement otherwise with the Department of
33 State Police.

34 (2) When the State Fire Marshal or a full-time investigative and
35 inspection assistant in the Office of the State Fire Marshal participates in a joint

1 investigation with officials from another state, federal, or local law enforcement unit, the
2 State Fire Marshal or a full-time investigative and inspection assistant in the Office of the
3 State Fire Marshal shall give the notice required under paragraph (1) of this subsection
4 reasonably in advance.

5 (e) A State Fire Marshal or a full-time investigative and inspection assistant in
6 the Office of the State Fire Marshal who acts under the authority granted by this section:

7 (1) has the same immunities from liability and exemptions as a State
8 Police officer in addition to any other immunities and exemptions to which the State Fire
9 Marshal or full-time investigative and inspection assistant is otherwise entitled; and

10 (2) remains at all times and for all purposes an employee of the employing
11 unit.

12 (f) (1) This section does not impair a right of arrest otherwise existing under
13 the Code.

14 (2) This section does not deprive a person of the right to receive a citation
15 for a traffic violation as provided in the Maryland Vehicle Law or a criminal violation as
16 provided by law or the Maryland Rules.

17 **2-208.6.**

18 (A) IN THIS SECTION, "FIRE AND EXPLOSIVE INVESTIGATOR" MEANS AN
19 INDIVIDUAL WHO:

20 (1) IS ASSIGNED FULL-TIME TO THE FIRE INVESTIGATIONS DIVISION
21 OF THE HOWARD COUNTY FIRE MARSHAL'S OFFICE AND IS A PAID EMPLOYEE;

22 (2) HAS BEEN EMPLOYED BY THE HOWARD COUNTY FIRE
23 DEPARTMENT AS A FIREFIGHTER FOR AT LEAST 5 YEARS;

24 (3) HAS SUCCESSFULLY COMPLETED A TRAINING PROGRAM FROM A
25 POLICE TRAINING SCHOOL APPROVED BY THE MARYLAND POLICE TRAINING AND
26 STANDARDS COMMISSION ESTABLISHED UNDER TITLE 3, SUBTITLE 2 OF THE
27 PUBLIC SAFETY ARTICLE; AND

28 (4) AT ALL TIMES MAINTAINS ACTIVE CERTIFICATION BY THE
29 MARYLAND POLICE TRAINING AND STANDARDS COMMISSION.

30 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A FIRE AND
31 EXPLOSIVE INVESTIGATOR HAS THE SAME AUTHORITY GRANTED TO THE STATE
32 FIRE MARSHAL OR A FULL-TIME INVESTIGATIVE AND INSPECTION ASSISTANT IN
33 THE OFFICE OF THE STATE FIRE MARSHAL UNDER § 2-208 OF THIS SUBTITLE:

1 **(1) WHILE OPERATING IN HOWARD COUNTY; AND**

2 **(2) WHILE OPERATING OUTSIDE HOWARD COUNTY WHEN:**

3 **(I) THE FIRE AND EXPLOSIVE INVESTIGATOR IS**
4 **PARTICIPATING IN A JOINT INVESTIGATION WITH OFFICIALS FROM ANOTHER STATE,**
5 **FEDERAL, OR LOCAL LAW ENFORCEMENT UNIT, AT LEAST ONE OF WHICH HAS LOCAL**
6 **JURISDICTION;**

7 **(II) THE FIRE AND EXPLOSIVE INVESTIGATOR IS RENDERING**
8 **ASSISTANCE TO ANOTHER LAW ENFORCEMENT OFFICER;**

9 **(III) THE FIRE AND EXPLOSIVE INVESTIGATOR IS ACTING AT THE**
10 **REQUEST OF A LAW ENFORCEMENT OFFICER OR STATE LAW ENFORCEMENT**
11 **OFFICER; OR**

12 **(IV) AN EMERGENCY EXISTS.**

13 **(C) THE HOWARD COUNTY FIRE CHIEF:**

14 **(1) MAY LIMIT THE AUTHORITY OF A FIRE AND EXPLOSIVE**
15 **INVESTIGATOR UNDER THIS SECTION; AND**

16 **(2) SHALL EXPRESS THE LIMITATION IN A WRITTEN POLICY.**

17 **Article – Public Safety**

18 3–101.

19 (a) In this subtitle the following words have the meanings indicated.

20 (e) (2) “Law enforcement officer” does not include:

21 (i) an individual who serves at the pleasure of the Police
22 Commissioner of Baltimore City;

23 (ii) an individual who serves at the pleasure of the appointing
24 authority of a charter county;

25 (iii) the police chief of a municipal corporation;

26 (iv) an officer who is in probationary status on initial entry into the
27 law enforcement agency except if an allegation of brutality in the execution of the officer’s
28 duties is made;

1 (v) a Montgomery County fire and explosive investigator as defined
2 in § 2–208.1 of the Criminal Procedure Article;

3 (vi) an Anne Arundel County or City of Annapolis fire and explosive
4 investigator as defined in § 2–208.2 of the Criminal Procedure Article;

5 (vii) a Prince George’s County fire and explosive investigator as
6 defined in § 2–208.3 of the Criminal Procedure Article;

7 (viii) a Worcester County fire and explosive investigator as defined in
8 § 2–208.4 of the Criminal Procedure Article; [or]

9 (ix) a City of Hagerstown fire and explosive investigator as defined
10 in § 2–208.5 of the Criminal Procedure Article; OR

11 **(X) A HOWARD COUNTY FIRE AND EXPLOSIVE INVESTIGATOR**
12 **AS DEFINED IN § 2–208.6 OF THE CRIMINAL PROCEDURE ARTICLE.**

13 3–201.

14 (a) In this subtitle the following words have the meanings indicated.

15 (f) (2) “Police officer” includes:

16 (i) a member of the Field Enforcement Bureau of the Comptroller’s
17 Office;

18 (ii) the State Fire Marshal or a deputy State fire marshal;

19 (iii) an investigator of the Intelligence and Investigative Division of
20 the Department;

21 (iv) a Montgomery County fire and explosive investigator as defined
22 in § 2–208.1 of the Criminal Procedure Article;

23 (v) an Anne Arundel County or City of Annapolis fire and explosive
24 investigator as defined in § 2–208.2 of the Criminal Procedure Article;

25 (vi) a Prince George’s County fire and explosive investigator as
26 defined in § 2–208.3 of the Criminal Procedure Article;

27 (vii) a Worcester County fire and explosive investigator as defined in
28 § 2–208.4 of the Criminal Procedure Article; [and]

1 (viii) a City of Hagerstown fire and explosive investigator as defined
2 in § 2–208.5 of the Criminal Procedure Article; AND

3 (IX) A HOWARD COUNTY FIRE AND EXPLOSIVE INVESTIGATOR
4 AS DEFINED IN § 2–208.6 OF THE CRIMINAL PROCEDURE ARTICLE.

5 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Police Training
6 and Standards Commission shall certify as a police officer each Howard County fire and
7 explosive investigator who meets the requirements of § 2–208.6 of the Criminal Procedure
8 Article on October 1, 2017.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.