

Laws
of the
State of Maryland

At the Session of the General Assembly Begun and Held in the
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and Ending on the Ninth Day of April 2012

VOLUME III

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Chapter 261

(Senate Bill 567)

AN ACT concerning

~~Telecommunications~~ Communications Taxes – Reform Commission and ~~Moratorium~~

FOR the purpose of establishing the ~~Telecommunications~~ Communications Tax Reform Commission; providing for the composition, chair, and staffing of the Commission; prohibiting a member of the Commission from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Commission to assess the feasibility and fiscal implications of a competitively neutral ~~telecommunications~~ communications tax and fee system that eliminates the disparate treatment of similar ~~telecommunications~~ communications service providers; requiring the Commission to examine certain taxes and fees in conducting its assessment; requiring the Comptroller and the State Department of Assessments and Taxation to collect data from the State, local governments, and ~~telecommunications~~ communications service providers concerning revenue collected from current ~~telecommunications~~ communications taxes and fees; requiring that the data collected be provided to the Commission by a certain date; prohibiting certain data collected from ~~telecommunications~~ communications service providers from being publicly disclosed unless it is aggregated in a certain manner; requiring a State or local government agency or a ~~telecommunications~~ communications service provider to cooperate reasonably with data collection efforts under this Act; authorizing the Comptroller or the State Department of Assessments and Taxation to subpoena a State or local government agency or a ~~telecommunications~~ communications service provider that fails to cooperate reasonably with data collection under this Act; authorizing a petition to a circuit court to compel compliance with a subpoena; requiring the Commission to report its findings and recommendations to the Governor and the General Assembly on or before ~~a certain date~~ dates; ~~prohibiting the State or a county government from imposing a tax or fee on a telecommunications service that is not in effect on a certain date during a certain period; prohibiting the State or a county government from increasing a tax or fee on a telecommunications service above the amount in effect on a certain date during a certain period; defining a certain term;~~ providing for the termination of this Act; and generally relating to the ~~Telecommunications~~ Communications Tax Reform Commission.

Preamble

WHEREAS, Competition and changes in technology have expanded the types of ~~telecommunications~~ communications services available to businesses and consumers in Maryland; and

WHEREAS, Most State and local taxes and fees on ~~telecommunications~~ communications services were adopted before these changes in technology and the emergence of competition; and

WHEREAS, Current tax and fee structures may no longer be suitable for the current ~~telecommunications~~ communications marketplace; and

WHEREAS, Taxes and fees on ~~telecommunications~~ communications services should treat providers and consumers the same regardless of the technology or platform used to provide the services; and

WHEREAS, Tax policy should encourage investment in ~~telecommunications~~ communications networks because ~~telecommunications~~ communications services are vital to the State's economic growth and competitiveness; and

WHEREAS, The burden of collecting and remitting taxes and fees on ~~telecommunications~~ communications services is borne by providers of the services, and service providers should participate in any discussions about restructuring ~~telecommunications~~ communications taxes and fees; and

WHEREAS, The State ~~and~~, the counties, and the municipal corporations receive revenues from ~~telecommunications~~ communications taxes and fees and should participate in any discussions about restructuring ~~telecommunications~~ communications taxes and fees; and

WHEREAS, More information about the impact of ~~telecommunications~~ communications tax and fee restructuring on consumers and governments is necessary so that the General Assembly may consider ~~telecommunications~~ communications tax and fee restructuring legislation during the ~~2013~~ 2014 session of the General Assembly; and

WHEREAS, It is the intent of the General Assembly that all parties with an interest in ~~telecommunications~~ communications taxes and fees in Maryland work together to develop recommendations on restructuring ~~telecommunications~~ communications taxes and fees; and

WHEREAS, A Commission of qualified individuals representing the interests most affected by ~~telecommunications~~ communications tax and fee restructuring should study the issues and submit a report and any proposed legislation to the General Assembly for consideration during the ~~2013~~ 2014 session of the General Assembly; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a ~~Telecommunications~~ Communications Tax Reform Commission.

(b) The Commission consists of the following members:

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) the Comptroller, or the Comptroller's designee;

(4) the Director of the State Department of Assessments and Taxation, or the Director's designee; and

(5) the following members appointed by the Governor:

(i) ~~two~~ four representatives of the Maryland Association of Counties, representing different geographic regions of the State; and

(ii) two representatives of the Maryland Municipal League, one representing a municipality with a relatively small population and one representing a municipality with a relatively large population;

(iii) two citizens of the State who are consumers of communications services;

(iv) one representative of a labor union representing workers in the communications industry;

(v) one representative of the Tech Council of Maryland;

(vi) one representative of the Maryland Chamber of Commerce;
and

~~(ii)~~ (vii) one representative of each of the following telecommunications communications carriers:

1. local exchange;
2. interexchange;
3. cable television;
4. wireless; and
5. satellite.

- (c) The Governor shall designate the chair of the Commission.
- (d) The Comptroller and the State Department of Assessments and Taxation shall provide staff for the Commission.
- (e) A member of the Commission:
- (1) may not receive compensation as a member of the Commission; but
 - (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.
- (f) The Commission shall assess the:
- (1) feasibility and fiscal implications for the State and local governments of a modernized, competitively neutral ~~telecommunications~~ communications tax and fee system that ~~encourages investment in broadband networks and~~ eliminates the disparate treatment of similar ~~telecommunications~~ communications service providers; and
 - (2) efficacy of tax and other incentives to encourage investment in broadband networks and emerging technologies.
- (g) In conducting the assessment required under subsection (f) of this section, the Commission shall examine the following taxes and fees as they relate to consumers and providers of ~~telecommunications~~ communications services:
- (1) State and local property taxes;
 - (2) the public service company franchise tax imposed under Title 8, Subtitle 4 of the Tax – General Article;
 - (3) sales and use taxes;
 - (4) the corporate income tax imposed under Title 10 of the Tax – General Article;
 - (5) local ~~telecommunications~~ communications taxes; and fees; and
 - (6) ~~local cable television franchise fees and public, education, and government access channel fees; and~~
 - (7) any other ~~telecommunications~~ communications tax or fee that the Commission determines is relevant to the assessment.
- (h) (1) The Comptroller and the State Department of Assessments and Taxation shall collect data from the State and local governments to determine the

amount of revenue collected by the State and ~~each county government~~ local governments from all ~~current~~ relevant taxes and fees on ~~telecommunications~~ communications services during fiscal year 2012.

(2) The Comptroller and the State Department of Assessments and Taxation shall collect data from ~~telecommunications~~ communications service providers to determine the amount of revenue remitted to the State and ~~each county government~~ local governments by each ~~telecommunications~~ communications service provider in relevant taxes and fees on ~~telecommunications~~ communications services during fiscal year ~~2011~~ 2012.

(3) Subject to paragraph (4) of this subsection, the Comptroller and the State Department of Assessments and Taxation shall provide the information required to be collected under paragraphs (1) and (2) of this subsection to the Commission promptly on receipt of the information or by ~~September~~ December 15, 2012, whichever is earlier.

(4) Data collected from a ~~telecommunications~~ communications service provider under paragraph (2) of this subsection may not be disclosed to the public unless it is aggregated so that market share and other sensitive market information for individual providers cannot be determined.

(5) (i) State government agencies, ~~county~~ local governments, and ~~telecommunications~~ communications service providers shall cooperate reasonably with the data collection efforts undertaken by the Comptroller and the State Department of Assessments and Taxation under paragraphs (1) and (2) of this subsection.

(ii) The Comptroller or the State Department of Assessments and Taxation may subpoena a State or local government agency or ~~telecommunications~~ communications service provider that fails to cooperate reasonably with data collection efforts undertaken under paragraphs (1) and (2) of this subsection.

(iii) If a person fails to comply with a subpoena issued under subparagraph (ii) of this paragraph, the Comptroller or the State Department of Assessments and Taxation may petition a circuit court to order compliance with the subpoena.

(i) (1) On or before December 31, 2012, the Commission shall make an interim report of its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

(2) On or before ~~January 1, 2013~~ June 30, 2013, the Commission shall ~~report~~ make a final report of its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

(j) (1) ~~In this subsection, "telecommunications service" means:~~

~~(i) local exchange, interexchange, and wireless telephone service;~~

~~(ii) cable television service; or~~

~~(iii) satellite television service.~~

~~(2) Notwithstanding any other law, the State or a county government may not:~~

~~(i) impose a tax or fee on telecommunications service providers or consumers of telecommunications services during the period from June 1, 2012, until June 30, 2013, both inclusive, unless the tax or fee is in effect on May 31, 2012; or~~

~~(ii) increase the rate or amount of any tax or fee on telecommunications service providers or consumers of telecommunications services above the rate or amount in effect on May 31, 2012, during the period from June 1, 2012, until June 30, 2013, both inclusive.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012. It shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2012.

Chapter 262

(House Bill 563)

AN ACT concerning

~~Telecommunications~~ Communications Taxes – Reform Commission and Moratorium

FOR the purpose of establishing the ~~Telecommunications~~ Communications Tax Reform Commission; providing for the composition, chair, and staffing of the Commission; prohibiting a member of the Commission from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Commission to assess the feasibility and fiscal implications of a competitively neutral ~~telecommunications~~ communications tax and fee system that eliminates the disparate treatment of similar ~~telecommunications~~ communications service providers; requiring the Commission to examine certain

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(3) the Comptroller, or the Comptroller's designee;

(4) the Director of the State Department of Assessments and Taxation, or the Director's designee; and

(5) the following members appointed by the Governor:

(i) ~~two~~ four representatives of the Maryland Association of Counties, representing different geographic regions of the State; and

(ii) two representatives of the Maryland Municipal League, one representing a municipality with a relatively small population and one representing a municipality with a relatively large population;

(iii) two citizens of the State who are consumers of communications services;

(iv) one representative of a labor union representing workers in the communications industry;

(v) one representative of the Tech Council of Maryland;

(vi) one representative of the Maryland Chamber of Commerce;
and

~~(vii)~~ (vii) one representative of each of the following telecommunications communications carriers:

1. local exchange;
2. interexchange;
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(c) The Governor shall designate the chair of the Commission.

(d) The Comptroller and the State Department of Assessments and Taxation shall provide staff for the Commission.

(e) A member of the Commission:

- (1) may not receive compensation as a member of the Commission; but
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(f) The Commission shall assess the:

(1) feasibility and fiscal implications for the State and local governments of a modernized, competitively neutral ~~telecommunications~~

communications tax and fee system that encourages investment in broadband networks and eliminates the disparate treatment of similar telecommunications communications service providers; and

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(g) In conducting the assessment required under subsection (f) of this section, the Commission shall examine the following taxes and fees as they relate to consumers and providers of ~~telecommunications~~ communications services:

- (1) State and local property taxes;
- (2) the public service company franchise tax imposed under Title 8, Subtitle 4 of the Tax – General Article;
- (3) sales and use taxes;
- (4) the corporate income tax imposed under Title 10 of the Tax – General Article;
- (5) local ~~telecommunications~~ communications taxes; and fees; and
- (6) ~~local cable television franchise fees and public, education, and government access channel fees; and~~
- ~~(7)~~ any other ~~telecommunications~~ communications tax or fee that the Commission determines is relevant to the assessment.

(h) (1) The Comptroller and the State Department of Assessments and Taxation shall collect data from the State and local governments to determine the amount of revenue collected by the State and ~~each county government~~ local governments from all ~~current~~ relevant taxes and fees on ~~telecommunications~~ communications services during fiscal year 2012.

(2) The Comptroller and the State Department of Assessments and Taxation shall collect data from ~~telecommunications~~ communications service providers to determine the amount of revenue remitted to the State and ~~each county government~~ local governments by each ~~telecommunications~~ communications service provider in relevant taxes and fees on ~~telecommunications~~ communications services during fiscal year ~~2011~~ 2012.

(3) Subject to paragraph (4) of this subsection, the Comptroller and the State Department of Assessments and Taxation shall provide the information required to be collected under paragraphs (1) and (2) of this subsection to the Commission promptly on receipt of the information or by ~~September~~ December 15, 2012, whichever is earlier.

(4) Data collected from a ~~telecommunications~~ communications service provider under paragraph (2) of this subsection may not be disclosed to the public unless it is aggregated so that market share and other sensitive market information for individual providers cannot be determined.

(5) (i) State government agencies, ~~county~~ local governments, and ~~telecommunications~~ communications service providers shall cooperate reasonably with the data collection efforts undertaken by the Comptroller and the State Department of Assessments and Taxation under paragraphs (1) and (2) of this subsection.

(ii) The Comptroller or the State Department of Assessments and Taxation may subpoena a State or local government agency or ~~telecommunications~~ communications service provider that fails to cooperate reasonably with data collection efforts undertaken under paragraphs (1) and (2) of this subsection.

(iii) If a person fails to comply with a subpoena issued under subparagraph (ii) of this paragraph, the Comptroller or the State Department of Assessments and Taxation may petition a circuit court to order compliance with the subpoena.

(i) (1) On or before December 31, 2012, the Commission shall make an interim report of its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

(2) On or before ~~January 1, 2013~~ June 30, 2013, the Commission shall ~~report~~ make a final report of its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

~~(j) (1) In this subsection, "telecommunications service" means:~~

(i) ~~local exchange, interexchange, and wireless telephone service;~~

~~(ii) cable television service; or~~

~~(iii) satellite television service.~~

~~(2) Notwithstanding any other law, the State or a county government may not:~~

~~(i) impose a tax or fee on telecommunications service providers or consumers of telecommunications services during the period from June 1, 2012, until June 30, 2013, both inclusive, unless the tax or fee is in effect on May 31, 2012; or~~

~~(ii) increase the rate or amount of any tax or fee on telecommunications service providers or consumers of telecommunications services above the rate or amount in effect on May 31, 2012, during the period from June 1, 2012, until June 30, 2013, both inclusive.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012. It shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2012.

Chapter 263

(Senate Bill 581)

AN ACT concerning

Maryland Historical Trust – National Register of Historic Property ~~Designation~~ Places – Essex Skypark

FOR the purpose of requiring that, on or before a certain date, the Director of the Maryland Historical Trust ~~designate~~ determine whether a certain property ~~as a historic property under~~ is eligible for listing in the National Register of Historic Places in accordance with a certain provision of law; and generally relating to the Maryland Historical Trust.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, on or before August 1, 2012, the Director of the Maryland Historical Trust shall ~~designate~~ determine whether Essex Skypark ~~as a historic property under~~ is eligible for listing in the National Register of Historic Places in accordance with Title 5A of the State Finance and Procurement Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 264

(House Bill 1108)

AN ACT concerning

**Maryland Historical Trust – National Register of Historic Property
Designation Places – Essex Skypark**

FOR the purpose of requiring that, on or before a certain date, the Director of the Maryland Historical Trust ~~designate~~ determine whether a certain property ~~as a historic property under~~ is eligible for listing in the National Register of Historic Places in accordance with a certain provision of law; and generally relating to the Maryland Historical Trust.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, on or before August 1, 2012, the Director of the Maryland Historical Trust shall ~~designate~~ determine whether Essex Skypark ~~as a historic property under~~ is eligible for listing in the National Register of Historic Places in accordance with Title 5A of the State Finance and Procurement Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 265

(Senate Bill 602)

AN ACT concerning

**Public Safety – Building Performance Standards – ~~Fire and Life Safety~~
Automatic Fire Sprinkler Systems**

FOR the purpose of prohibiting a local jurisdiction, with a certain exception ~~exceptions,~~ from adopting local amendments to the Maryland Building Performance Standards if the local amendments weaken ~~fire and life safety~~ certain automatic fire sprinkler systems provisions contained in the Standards; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; providing for the application of this Act; and generally relating to the authority of local jurisdictions to amend the Maryland Building Performance Standards.

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 12–504

Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 12–504

Annotated Code of Maryland

(2011 Replacement Volume)

(As enacted by Chapter 369 of the Acts of the General Assembly of 2011)

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

Article – Public Safety

12–504.

(a) **(1)** A local jurisdiction may adopt local amendments to the Standards if the local amendments do not:

~~(1)~~ **(1)** prohibit the minimum implementation and enforcement activities set forth in § 12–505 of this subtitle; [or]

~~(2)~~ **(II)** weaken energy conservation and efficiency provisions contained in the Standards; **OR**

~~(3)~~ **(III) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WEAKEN ~~FIRE AND LIFE SAFETY~~ THE AUTOMATIC FIRE SPRINKLER SYSTEMS PROVISIONS FOR TOWNHOUSES AND ONE- AND TWO-FAMILY DWELLINGS CONTAINED IN THE STANDARDS.**

(2) PARAGRAPH (1)(III) OF THIS SUBSECTION DOES NOT APPLY TO:

(I) STANDARDS GOVERNING ISSUANCE OF A BUILDING PERMIT FOR A PROPERTY NOT CONNECTED TO AN ELECTRICAL UTILITY; OR

(II) UNTIL JANUARY 1, 2016, STANDARDS GOVERNING ISSUANCE OF A BUILDING PERMIT FOR A NEW ONE- OR TWO-FAMILY DWELLING CONSTRUCTED ON:

1. A LOT SUBJECT TO A VALID UNEXPIRED PUBLIC WORKS UTILITY AGREEMENT THAT WAS EXECUTED BEFORE MARCH 1, 2011; OR

2. A LOT SERVED BY AN EXISTING WATER SERVICE LINE FROM A WATER MAIN TO THE PROPERTY LINE THAT:

- A. IS LESS THAN A NOMINAL 1-INCH SIZE;**
- B. IS APPROVED AND OWNED BY THE PUBLIC OR PRIVATE WATER SYSTEM THAT OWNS THE MAINS;**
- C. WAS INSTALLED BEFORE MARCH 1, 2011; AND**
- D. IS FULLY OPERATIONAL FROM THE PUBLIC OR PRIVATE MAIN TO A CURB STOP OR METER PIT LOCATED AT THE PROPERTY LINE.**

(b) If a local jurisdiction adopts a local amendment to the Standards, the Standards as amended by the local jurisdiction apply in the local jurisdiction.

(c) If a local amendment conflicts with the Standards, the local amendment prevails in the local jurisdiction.

(d) A local jurisdiction that adopts a local amendment to the Standards shall ensure that the local amendment is adopted in accordance with applicable local law.

(e) To keep the database established under this subtitle current, a local jurisdiction that adopts a local amendment to the Standards shall provide a copy of the local amendment to the Department:

- (1) at least 15 days before the effective date of the amendment; or
- (2) within 5 days after the adoption of an emergency local amendment.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Public Safety

12–504.

(a) (1) A local jurisdiction may adopt local amendments to the Standards if the local amendments do not:

(i) prohibit the minimum implementation and enforcement activities set forth in § 12–505 of this subtitle; [or]

(ii) weaken energy conservation and efficiency provisions contained in the Standards; **OR**

(III) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, WEAKEN ~~FIRE AND LIFE SAFETY~~ THE AUTOMATIC FIRE SPRINKLER

SYSTEMS PROVISIONS FOR TOWNHOUSES AND ONE- AND TWO-FAMILY DWELLINGS CONTAINED IN THE STANDARDS.

(2) (i) Regardless of whether the International Green Construction Code is adopted by the Department under § 12-503(d) of this subtitle, a local jurisdiction may adopt the International Green Construction Code.

(ii) A local jurisdiction may make local amendments to the International Green Construction Code.

(3) PARAGRAPH (1)(III) OF THIS SUBSECTION DOES NOT APPLY TO:

(I) STANDARDS GOVERNING ISSUANCE OF A BUILDING PERMIT FOR A PROPERTY NOT CONNECTED TO AN ELECTRICAL UTILITY;OR

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1. A LOT SUBJECT TO A VALID UNEXPIRED PUBLIC WORKS UTILITY AGREEMENT THAT WAS EXECUTED BEFORE MARCH 1, 2011; OR

2. A LOT SERVED BY AN EXISTING WATER SERVICE LINE FROM A WATER MAIN TO THE PROPERTY LINE THAT:

A. IS LESS THAN A NOMINAL 1-INCH SIZE;

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D. IS FULLY OPERATIONAL FROM THE PUBLIC OR PRIVATE MAIN TO A CURB STOP OR METER PIT LOCATED AT THE PROPERTY LINE.

(b) If a local jurisdiction adopts a local amendment to the Standards, the Standards as amended by the local jurisdiction apply in the local jurisdiction.

(c) If a local amendment conflicts with the Standards, the local amendment prevails in the local jurisdiction.

(d) A local jurisdiction that adopts a local amendment to the Standards shall ensure that the local amendment is adopted in accordance with applicable local law.

(e) To keep the database established under this subtitle current, a local jurisdiction that adopts a local amendment to the Standards shall provide a copy of the local amendment to the Department:

- (1) at least 15 days before the effective date of the amendment; or
- (2) within 5 days after the adoption of an emergency local amendment.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of Chapter 369 of the Acts of the General Assembly of 2011. If Section 2 of this Act takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.

SECTION 4. 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 building permit for which an application is submitted before the effective date of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 266

(House Bill 366)

AN ACT concerning

**Public Safety – Building Performance Standards – ~~Fire and Life Safety~~
Automatic Fire Sprinkler Systems**

FOR the purpose of prohibiting a local jurisdiction, ~~with a certain exception~~ exceptions, from adopting local amendments to the Maryland Building Performance Standards if the local amendments weaken ~~fire and life safety~~ certain automatic fire sprinkler systems provisions contained in the Standards; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; providing for the application of this Act; and generally relating to the authority of local jurisdictions to amend the Maryland Building Performance Standards.

BY repealing and reenacting, with amendments,
Article – Public Safety
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(I) STANDARDS GOVERNING ISSUANCE OF A BUILDING PERMIT FOR A PROPERTY NOT CONNECTED TO AN ELECTRICAL UTILITY; OR

(II) UNTIL JANUARY 1, 2016, STANDARDS GOVERNING ISSUANCE OF A BUILDING PERMIT FOR A NEW ONE- OR TWO-FAMILY DWELLING CONSTRUCTED ON:

1. A LOT SUBJECT TO A VALID UNEXPIRED PUBLIC WORKS UTILITY AGREEMENT THAT WAS EXECUTED BEFORE MARCH 1, 2011; OR

2. A LOT SERVED BY AN EXISTING WATER SERVICE LINE FROM A WATER MAIN TO THE PROPERTY LINE THAT:

A. IS LESS THAN A NOMINAL 1-INCH SIZE;

B. IS APPROVED AND OWNED BY THE PUBLIC OR PRIVATE WATER SYSTEM THAT OWNS THE MAINS;

C. WAS INSTALLED BEFORE MARCH 1, 2011; AND

D. IS FULLY OPERATIONAL FROM THE PUBLIC OR PRIVATE MAIN TO A CURB STOP OR METER PIT LOCATED AT THE PROPERTY LINE.

(b) If a local jurisdiction adopts a local amendment to the Standards, the Standards as amended by the local jurisdiction apply in the local jurisdiction.

(c) If a local amendment conflicts with the Standards, the local amendment prevails in the local jurisdiction.

(d) A local jurisdiction that adopts a local amendment to the Standards shall ensure that the local amendment is adopted in accordance with applicable local law.

(e) To keep the database established under this subtitle current, a local jurisdiction that adopts a local amendment to the Standards shall provide a copy of the local amendment to the Department:

(1) at least 15 days before the effective date of the amendment; or

(2) within 5 days after the adoption of an emergency local amendment.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Public Safety

12–504.

(a) (1) A local jurisdiction may adopt local amendments to the Standards if the local amendments do not:

(i) prohibit the minimum implementation and enforcement activities set forth in § 12–505 of this subtitle; [or]

(ii) weaken energy conservation and efficiency provisions contained in the Standards; **OR**

(III) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, WEAKEN ~~FIRE AND LIFE SAFETY~~ THE AUTOMATIC FIRE SPRINKLER SYSTEMS PROVISIONS FOR TOWNHOUSES AND ONE- AND TWO-FAMILY DWELLINGS CONTAINED IN THE STANDARDS.

(2) (i) Regardless of whether the International Green Construction Code is adopted by the Department under § 12-503(d) of this subtitle, a local jurisdiction may adopt the International Green Construction Code.

(ii) A local jurisdiction may make local amendments to the International Green Construction Code.

(3) PARAGRAPH (1)(III) OF THIS SUBSECTION DOES NOT APPLY TO:

(I) STANDARDS GOVERNING ISSUANCE OF A BUILDING PERMIT FOR A PROPERTY NOT CONNECTED TO AN ELECTRICAL UTILITY; OR

(II) UNTIL JANUARY 1, 2016, STANDARDS GOVERNING ISSUANCE OF A BUILDING PERMIT FOR A NEW ONE- OR TWO-FAMILY DWELLING CONSTRUCTED ON:

1. A LOT SUBJECT TO A VALID UNEXPIRED PUBLIC WORKS UTILITY AGREEMENT THAT WAS EXECUTED BEFORE MARCH 1, 2011; OR

2. A LOT SERVED BY AN EXISTING WATER SERVICE LINE FROM A WATER MAIN TO THE PROPERTY LINE THAT:

A. IS LESS THAN A NOMINAL 1-INCH SIZE;

B. IS APPROVED AND OWNED BY THE PUBLIC OR PRIVATE WATER SYSTEM THAT OWNS THE MAINS;

C. WAS INSTALLED BEFORE MARCH 1, 2011; AND

D. IS FULLY OPERATIONAL FROM THE PUBLIC OR PRIVATE MAIN TO A CURB STOP OR METER PIT LOCATED AT THE PROPERTY LINE.

(b) If a local jurisdiction adopts a local amendment to the Standards, the Standards as amended by the local jurisdiction apply in the local jurisdiction.

(c) If a local amendment conflicts with the Standards, the local amendment prevails in the local jurisdiction.

(d) A local jurisdiction that adopts a local amendment to the Standards shall ensure that the local amendment is adopted in accordance with applicable local law.

(e) To keep the database established under this subtitle current, a local jurisdiction that adopts a local amendment to the Standards shall provide a copy of the local amendment to the Department:

- (1) at least 15 days before the effective date of the amendment; or
- (2) within 5 days after the adoption of an emergency local amendment.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of Chapter 369 of the Acts of the General Assembly of 2011. If Section 2 of this Act takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.

SECTION 4. 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 building permit for which an application is submitted before the effective date of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 267

(Senate Bill 603)

AN ACT concerning

Health Care Practitioners – Licensed Dentists, Physicians, and Podiatrists – Personally Preparing and Dispensing Prescription Drugs and Devices

FOR the purpose of requiring certain dentists, physicians, and podiatrists to comply with certain dispensing, labeling, inspection, packaging, recall procedure, *and* record keeping, requirements as a condition of being allowed to personally prepare and dispense prescription drugs or devices and to comply with certain purchase, verification, reporting, and continuing education requirements as a condition of being allowed to personally prepare and dispense prescription drugs ~~or devices~~; requiring the State Board of Pharmacy, the State Board of Dental Examiners, the State Board of Physicians, and the State Board of Podiatric Medical Examiners to report certain information to the Division of Drug Control on an annual basis; requiring the Division of Drug Control to enter and inspect

certain offices during certain time periods; requiring the Division of Drug Control to report the results of these inspections to certain licensing boards; requiring certain licensing boards to charge a certain fee to certain holders of dispensing permits in a certain amount; requiring the revenues collected by the boards to be paid into the General Fund of the State; providing that a certain fee shall apply to dispensing permits issued or renewed on or after a certain date; providing for a certain phase-in of a certain continuing education requirement; providing for a delayed effective date; and generally relating to the personal preparation and dispensing of prescription drugs or devices by dentists, physicians, and podiatrists.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 12–102
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY adding to
Article – Health Occupations
Section 12–102.1 and 12–102.2
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

12–102.

(a) (1) In this section the following terms have the meanings indicated.

(2) “In the public interest” means the dispensing of drugs or devices by a licensed dentist, physician, or podiatrist to a patient when a pharmacy is not conveniently available to the patient.

(3) “Personally preparing and dispensing” means that the licensed dentist, physician, or podiatrist:

(i) Is physically present on the premises where the prescription is filled; and

(ii) Performs a final check of the prescription before it is provided to the patient.

(b) This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

(c) This title does not prohibit:

(1) A licensed veterinarian from personally preparing and dispensing the veterinarian's prescriptions;

(2) A licensed dentist, physician, or podiatrist from personally preparing and dispensing the dentist's, physician's, or podiatrist's prescriptions when:

(i) The dentist, physician, or podiatrist:

1. Has applied to the board of licensure in this State which licensed the dentist, physician, or podiatrist;

2. Has demonstrated to the satisfaction of that board that the dispensing of prescription drugs or devices by the dentist, physician, or podiatrist is in the public interest;

3. Has received a written permit from that board to dispense prescription drugs or devices except that a written permit is not required in order to dispense starter dosages or samples without charge; and

4. Posts a sign conspicuously positioned and readable regarding the process for resolving incorrectly filled prescriptions or includes written information regarding the process with each prescription dispensed;

(ii) The person for whom the drugs or devices are prescribed is a patient of the prescribing dentist, physician, or podiatrist;

(iii) The dentist, physician, or podiatrist does not have a substantial financial interest in a pharmacy; and

(iv) The dentist, physician, or podiatrist:

1. Complies with the **DISPENSING AND** labeling requirements [of § 12-505] of this title;

2. Records the dispensing of the prescription drug or device on the patient's chart;

3. Allows the Division of Drug Control to enter and inspect the dentist's, physician's, or podiatrist's office at all reasonable hours **AND IN ACCORDANCE WITH § 12-102.1 OF THIS SUBTITLE;**

4. **ON INSPECTION BY THE DIVISION OF DRUG CONTROL, SIGNS AND DATES AN ACKNOWLEDGMENT FORM PROVIDED BY THE**

DIVISION OF DRUG CONTROL RELATING TO THE REQUIREMENTS OF THIS SECTION;

[4.] **5.** Except for starter dosages or samples without charge, provides the patient with a written prescription, maintains prescription files in accordance with § 12-403(b)(13) of this title, and maintains a separate file for Schedule II prescriptions;

[5.] **6.** Does not direct patients to a single pharmacist or pharmacy in accordance with § 12-403(b)(8) of this title; [and]

[6.] **7.** Does not receive remuneration for referring patients to a pharmacist or pharmacy; [or]

8. COMPLIES WITH THE CHILD RESISTANT PACKAGING REQUIREMENTS REGARDING PRESCRIPTION DRUGS UNDER TITLE 22, SUBTITLE 3 OF THE HEALTH – GENERAL ARTICLE;

9. COMPLIES WITH DRUG RECALLS;

10. MAINTAINS BIENNIAL INVENTORIES AND COMPLIES WITH ANY OTHER FEDERAL AND STATE RECORD-KEEPING REQUIREMENTS RELATING TO CONTROLLED DANGEROUS SUBSTANCES;

11. PURCHASES PRESCRIPTION DRUGS ~~OR DEVICES~~ FROM A PHARMACY OR WHOLESALE DISTRIBUTOR WHO HOLDS A PERMIT ISSUED BY THE BOARD OF PHARMACY, AS VERIFIED BY THE BOARD OF PHARMACY;

12. ANNUALLY REPORTS TO THE RESPECTIVE BOARD OF LICENSURE WHETHER THE DENTIST, PHYSICIAN, OR PODIATRIST HAS PERSONALLY PREPARED AND DISPENSED PRESCRIPTION DRUGS ~~OR DEVICES~~ WITHIN THE PREVIOUS YEAR; AND

13. COMPLETES TEN CONTINUING EDUCATION CREDITS OVER A 5-YEAR PERIOD RELATING TO THE PREPARING AND DISPENSING OF PRESCRIPTION DRUGS ~~AND DEVICES~~, OFFERED BY THE ACCREDITATION COUNCIL FOR PHARMACY EDUCATION (ACPE) OR AS APPROVED BY THE SECRETARY, IN CONSULTATION WITH EACH RESPECTIVE BOARD OF LICENSURE, AS A CONDITION OF PERMIT RENEWAL; OR

(3) A hospital-based clinic from dispensing prescriptions to its patients.

(d) This title does not prohibit:

(1) A licensed veterinarian from personally dispensing a drug or device sample to a patient of the veterinarian; or

(2) A licensed dentist, licensed physician, or licensed podiatrist from personally dispensing a drug or device sample to a patient of the licensed dentist, licensed physician, or licensed podiatrist if:

(i) The sample complies with the labeling requirements of § 12-505 of this title;

(ii) No charge is made for the sample; and

(iii) The authorized prescriber enters an appropriate record in the patient's chart.

(e) (1) This title does not prohibit a dentist, physician, or podiatrist from administering a prescription drug or device in the course of treating a patient.

(2) For the purposes of paragraph (1) of this subsection, "administering" means the direct introduction of a single dosage of a drug or device at a given time, whether by injection or other means, and whether in liquid, tablet, capsule, or other form.

(f) (1) This title does not prohibit a dentist, physician, or podiatrist from personally dispensing a starter dosage of a prescription drug or device to a patient of the dentist, physician, or podiatrist, provided that:

(i) The starter dosage complies with the labeling requirements of § 12-505 of this title;

(ii) No charge is made for the starter dosage; and

(iii) The dentist, physician, or podiatrist enters an appropriate record on the patient's chart.

(2) For the purposes of paragraph (1) of this subsection, "starter dosage" means an amount of drug or device sufficient to begin therapy:

(i) Of short duration of 72 hours or less; or

(ii) Prior to obtaining a larger quantity of the drug or device to complete the therapy.

(g) This title does not prohibit a dentist, physician, or podiatrist from dispensing a prescription drug or device in the course of treating a patient:

- (1) At a medical facility or clinic that specializes in the treatment of medical cases reimbursable through workers' compensation insurance;
 - (2) At a medical facility or clinic that is operated on a nonprofit basis;
 - (3) At a health center that operates on a campus of an institution of higher education; or
 - (4) At a public health facility, a medical facility under contract with a State or local health department, or a facility funded with public funds.
- (h) This title does not limit the right of a general merchant to sell:
- (1) Any nonprescription drug or device;
 - (2) Any commonly used household or domestic remedy; or
 - (3) Any farm remedy or ingredient for a spraying solution, in bulk or otherwise.

(I) THE BOARD OF PHARMACY, THE BOARD OF DENTAL EXAMINERS, THE BOARD OF PHYSICIANS, AND THE BOARD OF PODIATRIC MEDICAL EXAMINERS ANNUALLY SHALL REPORT TO THE DIVISION OF DRUG CONTROL:

(1) THE NAMES AND ADDRESSES OF ITS LICENSEES WHO ARE AUTHORIZED TO PERSONALLY PREPARE AND DISPENSE PRESCRIPTION DRUGS ~~AND DEVICES~~; AND

(2) THE NAMES AND ADDRESSES OF ITS LICENSEES WHO HAVE REPORTED, IN ACCORDANCE WITH SUBSECTION (C)(2)(IV)12 OF THIS SECTION, THAT THEY HAVE PERSONALLY PREPARED AND DISPENSED PRESCRIPTION DRUGS ~~OR DEVICES~~ WITHIN THE PREVIOUS YEAR.

[i] (J) A dentist, physician, or podiatrist who fails to comply with the provisions of this section governing the dispensing of prescription drugs or devices shall:

- (1) Have the dispensing permit revoked; and
- (2) Be subject to disciplinary actions by the appropriate licensing board.

12-102.1.

(A) THE DIVISION OF DRUG CONTROL SHALL ENTER AND INSPECT THE OFFICE OF A DENTIST, PHYSICIAN, OR PODIATRIST WHO HOLDS:

(1) AN INITIAL DISPENSING PERMIT:

(i) WITHIN 6 MONTHS AFTER RECEIVING THE REPORT REQUIRED UNDER § 12-102(I)(1) OF THIS SUBTITLE; AND

(ii) AT LEAST ONE MORE TIME DURING THE DURATION OF THE PERMIT; AND

(2) A RENEWED DISPENSING PERMIT AT LEAST TWO TIMES DURING THE DURATION OF THE PERMIT.

(B) THE DIVISION OF DRUG CONTROL PROMPTLY SHALL REPORT THE RESULTS OF THE INSPECTIONS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION TO THE RESPECTIVE BOARD OF LICENSURE.

12-102.2.

(A) THE BOARD OF DENTAL EXAMINERS, THE BOARD OF PHYSICIANS, AND THE BOARD OF PODIATRIC MEDICAL EXAMINERS SHALL CHARGE A FEE TO A DENTIST, PHYSICIAN, OR PODIATRIST WHO HOLDS A DISPENSING PERMIT IN AN AMOUNT THAT WILL PRODUCE FUNDS TO APPROXIMATE BUT NOT EXCEED THE DOCUMENTED COSTS TO THE DIVISION OF DRUG CONTROL FOR INSPECTIONS OF DISPENSING PERMIT HOLDERS.

(B) REVENUES COLLECTED BY THE BOARD OF DENTAL EXAMINERS, THE BOARD OF PHYSICIANS, AND THE BOARD OF PODIATRIC MEDICAL EXAMINERS UNDER THIS SECTION SHALL BE PAID INTO THE GENERAL FUND OF THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding § 12-102(c)(2)(iv)13 of the Health Occupations Article, as enacted by Section 1 of this Act, a dentist, physician, or podiatrist who holds a dispensing permit issued by the respective board of licensure shall complete continuing education credits as a condition of permit renewal as follows:

(1) if the permit expires in ~~2013~~ 2014, the dentist, physician, or podiatrist shall complete two continuing education credits as a condition of permit renewal;

(2) if the permit expires in ~~2014~~ 2015, the dentist, physician, or podiatrist shall complete four continuing education credits as a condition of permit renewal;

(3) if the permit expires in ~~2015~~ 2016, the dentist, physician, or podiatrist shall complete six continuing education credits as a condition of permit renewal;

(4) if the permit expires in ~~2016~~ 2017, the dentist, physician, or podiatrist shall complete eight continuing education credits as a condition of permit renewal; and

(5) if the permit expires in or after ~~2017~~ 2018, the dentist, physician, or podiatrist shall complete ten continuing education credits as a condition of permit renewal.

SECTION 3. AND BE IT FURTHER ENACTED, That the fee charged under § 12-102.2 of the Health Occupations Article, as enacted by Section 1 of this Act, shall apply to dispensing permits issued or renewed on or after July 1, 2013.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, ~~2012~~ 2013.

Approved by the Governor, May 2, 2012.

Chapter 268

(Senate Bill 604)

AN ACT concerning

Motor Vehicle Insurance – Uninsured Motorist Coverage – Effect of Consent to Offer of Settlement

FOR the purpose of providing that written consent by an uninsured motorist insurer to acceptance of a certain settlement offer may not be construed to limit the right of the uninsured motorist insurer to raise certain issues in an action against the uninsured motorist insurer and does not constitute an admission by the uninsured motorist insurer as to any issue raised in the action; and generally relating to uninsured motorist coverage.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 19-511

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Insurance

19–511.

(a) If an injured person receives a written offer from a motor vehicle insurance liability insurer or that insurer's authorized agent to settle a claim for bodily injury or death, and the amount of the settlement offer, in combination with any other settlements arising out of the same occurrence, would exhaust the bodily injury or death limits of the applicable liability insurance policies, bonds, and securities, the injured person shall send by certified mail, to any insurer that provides uninsured motorist coverage for the bodily injury or death, a copy of the liability insurer's written settlement offer.

(b) Within 60 days after receipt of the notice required under subsection (a) of this section, the uninsured motorist insurer shall send to the injured person:

(1) written consent to acceptance of the settlement offer and to the execution of releases; or

(2) written refusal to consent to acceptance of the settlement offer.

(c) Within 30 days after a refusal to consent to acceptance of a settlement offer under subsection (b)(2) of this section, the uninsured motorist insurer shall pay to the injured person the amount of the settlement offer.

(d) (1) Payment as described in subsection (c) of this section shall preserve the uninsured motorist insurer's subrogation rights against the liability insurer and its insured.

(2) Receipt by the injured person of the payment described in subsection (c) of this section shall constitute the assignment, up to the amount of the payment, of any recovery on behalf of the injured person that is subsequently paid from the applicable liability insurance policies, bonds, and securities.

(e) The injured person may accept the liability insurer's settlement offer and execute releases in favor of the liability insurer and its insured without prejudice to any claim the injured person may have against the uninsured motorist insurer:

(1) on receipt of written consent to acceptance of the settlement offer and to the execution of releases; or

(2) if the uninsured motorist insurer has not met the requirements of subsection (b) or subsection (c) of this section.

(F) WRITTEN CONSENT BY AN UNINSURED MOTORIST INSURER TO ACCEPTANCE OF A SETTLEMENT OFFER UNDER SUBSECTION (B)(1) OF THIS SECTION:

(1) MAY NOT BE CONSTRUED TO LIMIT THE RIGHT OF THE UNINSURED MOTORIST INSURER TO RAISE ANY ISSUE RELATING TO LIABILITY OR DAMAGES IN AN ACTION AGAINST THE UNINSURED MOTORIST INSURER; AND

(2) DOES NOT CONSTITUTE AN ADMISSION BY THE UNINSURED MOTORIST INSURER AS TO ANY ISSUE RAISED IN AN ACTION AGAINST THE UNINSURED MOTORIST INSURER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 269

(House Bill 715)

AN ACT concerning

Motor Vehicle Insurance – Uninsured Motorist Coverage – Effect of Consent to Offer of Settlement

FOR the purpose of providing that written consent by an uninsured motorist insurer to acceptance of a certain settlement offer may not be construed to limit the right of the uninsured motorist insurer to raise certain issues in an action against the uninsured motorist insurer and does not constitute an admission by the uninsured motorist insurer as to any issue raised in the action; and generally relating to uninsured motorist coverage.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 19–511

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Insurance

19-511.

(a) If an injured person receives a written offer from a motor vehicle insurance liability insurer or that insurer's authorized agent to settle a claim for bodily injury or death, and the amount of the settlement offer, in combination with any other settlements arising out of the same occurrence, would exhaust the bodily injury or death limits of the applicable liability insurance policies, bonds, and securities, the injured person shall send by certified mail, to any insurer that provides uninsured motorist coverage for the bodily injury or death, a copy of the liability insurer's written settlement offer.

(b) Within 60 days after receipt of the notice required under subsection (a) of this section, the uninsured motorist insurer shall send to the injured person:

(1) written consent to acceptance of the settlement offer and to the execution of releases; or

(2) written refusal to consent to acceptance of the settlement offer.

(c) Within 30 days after a refusal to consent to acceptance of a settlement offer under subsection (b)(2) of this section, the uninsured motorist insurer shall pay to the injured person the amount of the settlement offer.

(d) (1) Payment as described in subsection (c) of this section shall preserve the uninsured motorist insurer's subrogation rights against the liability insurer and its insured.

(2) Receipt by the injured person of the payment described in subsection (c) of this section shall constitute the assignment, up to the amount of the payment, of any recovery on behalf of the injured person that is subsequently paid from the applicable liability insurance policies, bonds, and securities.

(e) The injured person may accept the liability insurer's settlement offer and execute releases in favor of the liability insurer and its insured without prejudice to any claim the injured person may have against the uninsured motorist insurer:

(1) on receipt of written consent to acceptance of the settlement offer and to the execution of releases; or

(2) if the uninsured motorist insurer has not met the requirements of subsection (b) or subsection (c) of this section.

(F) WRITTEN CONSENT BY AN UNINSURED MOTORIST INSURER TO ACCEPTANCE OF A SETTLEMENT OFFER UNDER SUBSECTION (B)(1) OF THIS SECTION:

(1) MAY NOT BE CONSTRUED TO LIMIT THE RIGHT OF THE UNINSURED MOTORIST INSURER TO RAISE ANY ISSUE RELATING TO LIABILITY OR DAMAGES IN AN ACTION AGAINST THE UNINSURED MOTORIST INSURER; AND

(2) DOES NOT CONSTITUTE AN ADMISSION BY THE UNINSURED MOTORIST INSURER AS TO ANY ISSUE RAISED IN AN ACTION AGAINST THE UNINSURED MOTORIST INSURER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 270

(Senate Bill 606)

AN ACT concerning

Finance and Procurement – State Treasury – Collateral

FOR the purpose of clarifying the types of collateral that may be used under certain provisions of law to include a certain letter of credit if the letter meets certain requirements of the State Treasurer's office; correcting a certain reference; and generally relating to letters of credit used as collateral.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–202
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – State Finance and Procurement

6–202.

Collateral that may be used under this subtitle shall be:

(1) an obligation of the United States or any of its agencies;

- agencies;
- (2) an obligation guaranteed by the United States or by any of its agencies;
 - (3) an obligation insured by the United States;
 - (4) an obligation of the State or any of its units or instrumentalities;
 - (5) an obligation of a county of the State or any of its agencies;
 - (6) an obligation of a municipal corporation in the State or any of its agencies;
 - (7) an obligation of any other governmental authority in the State;
 - (8) an obligation of the Inter–America Development Bank;
 - (9) an obligation of the World Bank;
 - (10) an obligation of the following government–sponsored enterprises:
 - (i) the Federal Home Loan [Bank System] **BANKS**;
 - (ii) the Federal Home Loan Mortgage Corporation;
 - (iii) the Federal National Mortgage Association;
 - (iv) the Farm Credit System;
 - (v) the Federal Agricultural Mortgage Corporation; and
 - (vi) the Student Loan Marketing Association;
 - (11) a surety bond if:
 - (i) subject to the terms and conditions of the bond, it is irrevocable and absolute;
 - (ii) the surety bond is issued by an insurance company authorized to do business in this State;
 - (iii) the issuer of the surety bonds does not provide surety bonds for any one financial institution in an amount that exceeds 10% of the surety bond insurer’s policyholders’ surplus and contingency reserve, net of reinsurance; and
 - (iv) the claims–paying ability of the authorized insurance company is rated, at all relevant times, in the highest category by at least two nationally recognized rating agencies acceptable to the Treasurer; **[or]**

(12) an obligation or security of, or other interest in, any open–end or closed–end management type investment company or investment trust registered under the provisions of the federal Investment Company Act of 1940, 15 U.S.C. § 80a–1 et seq., if:

(i) the portfolio of the open–end or closed–end management type investment company or investment trust is limited to direct obligations of the United States government and to repurchase agreements fully collateralized by United States government obligations; and

(ii) the open–end or closed–end management type investment company or investment trust takes delivery of that collateral, either directly or through an authorized custodian; **OR**

(13) A LETTER OF CREDIT ISSUED BY A FEDERAL HOME LOAN BANK IF THE LETTER OF CREDIT MEETS THE CONDITIONS UNDER THE GUIDELINES ISSUED BY THE STATE TREASURER’S OFFICE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 271

(House Bill 868)

AN ACT concerning

Finance and Procurement – State Treasury – Collateral

FOR the purpose of clarifying the types of collateral that may be used under certain provisions of law to include a certain letter of credit if the letter meets certain requirements of the State Treasurer’s office; correcting a certain reference; and generally relating to letters of credit used as collateral.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–202
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – State Finance and Procurement

6–202.

Collateral that may be used under this subtitle shall be:

- (1) an obligation of the United States or any of its agencies;
- (2) an obligation guaranteed by the United States or by any of its agencies;
- (3) an obligation insured by the United States;
- (4) an obligation of the State or any of its units or instrumentalities;
- (5) an obligation of a county of the State or any of its agencies;
- (6) an obligation of a municipal corporation in the State or any of its agencies;
- (7) an obligation of any other governmental authority in the State;
- (8) an obligation of the Inter–America Development Bank;
- (9) an obligation of the World Bank;
- (10) an obligation of the following government–sponsored enterprises:
 - (i) the Federal Home Loan **[Bank System] BANKS**;
 - (ii) the Federal Home Loan Mortgage Corporation;
 - (iii) the Federal National Mortgage Association;
 - (iv) the Farm Credit System;
 - (v) the Federal Agricultural Mortgage Corporation; and
 - (vi) the Student Loan Marketing Association;
- (11) a surety bond if:
 - (i) subject to the terms and conditions of the bond, it is irrevocable and absolute;

(ii) the surety bond is issued by an insurance company authorized to do business in this State;

(iii) the issuer of the surety bonds does not provide surety bonds for any one financial institution in an amount that exceeds 10% of the surety bond insurer's policyholders' surplus and contingency reserve, net of reinsurance; and

(iv) the claims-paying ability of the authorized insurance company is rated, at all relevant times, in the highest category by at least two nationally recognized rating agencies acceptable to the Treasurer; [or]

(12) an obligation or security of, or other interest in, any open-end or closed-end management type investment company or investment trust registered under the provisions of the federal Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., if:

(i) the portfolio of the open-end or closed-end management type investment company or investment trust is limited to direct obligations of the United States government and to repurchase agreements fully collateralized by United States government obligations; and

(ii) the open-end or closed-end management type investment company or investment trust takes delivery of that collateral, either directly or through an authorized custodian; **OR**

(13) A LETTER OF CREDIT ISSUED BY A FEDERAL HOME LOAN BANK IF THE LETTER OF CREDIT MEETS THE CONDITIONS UNDER THE GUIDELINES ISSUED BY THE STATE TREASURER'S OFFICE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 272

(Senate Bill 607)

AN ACT concerning

**Business Occupations – Plumbers and Gas Fitters – Apprentice License
Renewal**

FOR the purpose of prohibiting the State Board of Plumbing from renewing certain apprentice plumber licenses or apprentice natural gas fitters licenses for more than a certain number of consecutive terms under certain circumstances; *establishing a certain exception*; and generally relating to the license renewal of apprentice plumbers and apprentice natural gas fitters.

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 12–101(b) and (c) and 12–307(c) and (g)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 12–308(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY adding to
Article – Business Occupations and Professions
Section 12–308.1
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Business Occupations and Professions

12–101.

(b) “Apprentice natural gas fitter” means, unless the context requires otherwise, an individual who is licensed by the Board to assist a master natural gas fitter in providing natural gas services while:

(1) under the direction and control of the master natural gas fitter;
and

(2) in training to become a journeyman natural gas fitter.

(c) “Apprentice plumber” means, unless the context requires otherwise, an individual who is licensed by the Board to assist a master plumber or a holder of a limited master plumber license in providing plumbing services while:

(1) under the direction and control of the master plumber or holder of the limited master plumber license; and

- (2) in training to become a journey plumber.

12-307.

(c) While an apprentice plumber license is in effect, it authorizes the licensee to assist in providing plumbing services only under the direction and control of a master plumber or a holder of a limited master plumber license.

(g) While an apprentice natural gas fitters license is in effect, it authorizes the licensee to provide natural gas service only under the direction and control of a licensed master natural gas fitter.

12-308.

(a) [Unless] **SUBJECT TO § 12-308.1 OF THIS SUBTITLE, UNLESS** a license is renewed for a 2-year term as provided in this section, the license expires on the first May 1 that comes:

- (1) after the effective date of the license; and
- (2) in an odd-numbered year.

12-308.1.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, FOR AN APPRENTICE PLUMBER OR APPRENTICE NATURAL GAS FITTER ISSUED AN INITIAL LICENSE ON OR AFTER OCTOBER 1, 2012, THE BOARD MAY NOT RENEW THE LICENSE FOR MORE THAN THREE CONSECUTIVE TERMS IF THE LICENSEE HAS NOT TAKEN OR REGISTERED TO TAKE A JOURNEY PLUMBER EXAMINATION OR JOURNEYMAN GAS FITTERS EXAMINATION.

(B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, IF AN APPRENTICE PLUMBER OR APPRENTICE NATURAL GAS FITTER FAILS A JOURNEY PLUMBER EXAMINATION OR JOURNEYMAN GAS FITTERS EXAMINATION, THE BOARD ~~MAY~~ SHALL RENEW THE APPRENTICE PLUMBER LICENSE OR APPRENTICE NATURAL GAS FITTERS LICENSE FOR AN ADDITIONAL 2-YEAR TERM FOR EACH FAILED EXAMINATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 273**(Senate Bill 609)**

AN ACT concerning

Task Force on the Establishment of a Statewide Spay/Neuter Fund – Sunset Extension

FOR the purpose of altering the date by which the Task Force on the Establishment of a Statewide Spay/Neuter Fund is required to report its findings and legislative recommendations to the Governor and certain committees of the General Assembly; extending the termination date of the Task Force; and generally relating to the Task Force on the Establishment of a Statewide Spay/Neuter Fund.

BY repealing and reenacting, with amendments,
Chapter 266 of the Acts of the General Assembly of 2011
Section 1 and 2

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

Chapter 266 of the Acts of 2011

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force on the Establishment of a Statewide Spay/Neuter Fund.

(b) The Task Force consists of the following members:

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Agriculture, or the Secretary's designee; and

(4) the following members, appointed by the Governor:

(i) one representative of the Maryland Association of Counties;

(ii) one representative of the Humane Society of the United States;

- Association;
- (iii) one representative of the Maryland Veterinary Medical Association;
 - (iv) one representative of Maryland Votes for Animals;
 - (v) one representative of the Howard County Animal Advocates;
 - (vi) one representative of the Baltimore Animal Rescue and Care Shelter;
 - (vii) one representative of the Professional Animal Workers of Maryland, Inc.;
 - (viii) one representative of the Maryland SPCA;
 - (ix) one representative of the Pet Food Institute;
 - (x) one representative of the Pet Industry Joint Advisory Council; and
 - (xi) two representatives of other private or public organizations with experience and interest in spay/neuter programs.

(c) The President of the Senate and the Speaker of the House of Delegates jointly shall designate the chair of the Task Force.

(d) The Department of Legislative Services shall provide staff for the Task Force.

(e) A member of the Task Force:

- (1) may not receive compensation as a member of the Task Force; but
- (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

- (1) collect and review data on the number of spay/neuter services performed each year in the State and the unmet need for the services;
- (2) review ongoing successful local spay/neuter programs in the State;
- (3) review spay/neuter programs in other states and identify best practices;

(4) review and make recommendations regarding the most appropriate funding mechanism for a spay/neuter fund; and

(5) make recommendations regarding the establishment of a spay/neuter fund that best meets the needs of the State.

(g) On or before January 1, [2012] **2013**, the Task Force shall report its findings and legislative recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011. It shall remain effective for a period of [1 year] **2 YEARS** and, at the end of June 30, [2012] **2013**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 274

(House Bill 936)

AN ACT concerning

Task Force on the Establishment of a Statewide Spay/Neuter Fund – Sunset Extension

FOR the purpose of altering the date by which the Task Force on the Establishment of a Statewide Spay/Neuter Fund is required to report its findings and legislative recommendations to the Governor and certain committees of the General Assembly; extending the termination date of the Task Force; and generally relating to the Task Force on the Establishment of a Statewide Spay/Neuter Fund.

BY repealing and reenacting, with amendments,
Chapter 266 of the Acts of the General Assembly of 2011
Section 1 and 2

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

Chapter 266 of the Acts of 2011

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force on the Establishment of a Statewide Spay/Neuter Fund.

(b) The Task Force consists of the following members:

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Agriculture, or the Secretary's designee; and

(4) the following members, appointed by the Governor:

(i) one representative of the Maryland Association of Counties;

(ii) one representative of the Humane Society of the United States;

(iii) one representative of the Maryland Veterinary Medical Association;

(iv) one representative of Maryland Votes for Animals;

(v) one representative of the Howard County Animal Advocates;

(vi) one representative of the Baltimore Animal Rescue and Care Shelter;

(vii) one representative of the Professional Animal Workers of Maryland, Inc.;

(viii) one representative of the Maryland SPCA;

(ix) one representative of the Pet Food Institute;

(x) one representative of the Pet Industry Joint Advisory Council; and

(xi) two representatives of other private or public organizations with experience and interest in spay/neuter programs.

(c) The President of the Senate and the Speaker of the House of Delegates jointly shall designate the chair of the Task Force.

(d) The Department of Legislative Services shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) collect and review data on the number of spay/neuter services performed each year in the State and the unmet need for the services;

(2) review ongoing successful local spay/neuter programs in the State;

(3) review spay/neuter programs in other states and identify best practices;

(4) review and make recommendations regarding the most appropriate funding mechanism for a spay/neuter fund; and

(5) make recommendations regarding the establishment of a spay/neuter fund that best meets the needs of the State.

(g) On or before January 1, [2012] **2013**, the Task Force shall report its findings and legislative recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011. It shall remain effective for a period of [1 year] **2 YEARS** and, at the end of June 30, [2012] **2013**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 275**(Senate Bill 627)**

AN ACT concerning

Multiple Jurisdictions – Alcoholic Beverages – Class B and Class BLX Licenses – Restaurants

FOR the purpose of altering the requirement for an alcoholic beverages licensee in Anne Arundel County to be issued a certain Class BLX license for a restaurant; authorizing a business in which a parent company has a direct or indirect interest and that operates using a certain trademark used in connection with restaurant services to obtain a Class B beer license, Class B beer and wine license, or a Class B beer, wine and liquor license for certain premises used as a restaurant; requiring an applicant for a certain license to apply for the license in a certain manner and pay a certain fee; limiting the granting of a certain license to a certain purpose of providing alcoholic beverages for consumption on the licensed premises only; making a certain exception; establishing that certain provisions of law do not limit the rights of certain persons to obtain certain licenses; providing that the granting of a certain license is not subject to certain provisions of law limiting the number of permitted licenses; establishing that a certain provision of law does not authorize the issuance of more licenses than the maximum number of licenses permitted in a certain county, the City of Annapolis, or Baltimore City; defining certain terms; and generally relating to the obtaining of a Class B beer license, Class B beer and wine license, or a Class B beer, wine and liquor license by a business in which a parent company has a direct or indirect interest and that operates using a trademark used in connection with restaurant services altering the maximum number of Class B licenses and Class BLX licenses in Anne Arundel County, Baltimore City, Baltimore County, Calvert County, Charles County, Howard County, Montgomery County, and Prince George's County that certain persons may hold or in which certain persons may have a direct or indirect interest; making a stylistic change; and generally relating to Class B and Class BLX licenses in certain jurisdictions.

BY repealing and reenacting, without amendments,

Article 2B – Alcoholic Beverages

Section ~~9-102(a)~~ 6-201(f)(1), (r)(1)(i) and (6)(i), 8-202.1(a) and (c)(1), and 9-102.1(a) and (b)(4)Annotated Code of Maryland
(2011 Replacement Volume)BY ~~adding to~~ repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section ~~9-102(a-2)~~ 6-201(f)(4)(vi) and (r)(6)(iii), 8-202.1(g)(1), (h), (m), and (n), 9-102(b-3A), (o)(1) and (2), (p), and 9-102.1(o)(1)

Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

~~9-102.~~

~~(a) (1) No more than one license provided by this article, except by way of renewal or as otherwise provided in this section, shall be issued in any county or Baltimore City, to any person, or for the use of any partnership, corporation, unincorporated association, or limited liability company, in Baltimore City or any county of the State.~~

~~(2) No more than one license shall be issued for the same premises except as provided in §§ 2-201 through 2-208, 2-301, and 6-701 and Title 7.5 of this article.~~

~~(3) This subsection may not be construed to apply to § 6-201(r)(4), (15), (17), and (18), § 7-101(b) and (c), § 8-202(g)(2)(ii) and (iii), § 8-217(e), § 8-508, § 8-902, § 9-217(b-1), or § 12-202 of this article.~~

~~(A-2) (1) (i) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(ii) “INDIRECT INTEREST” MEANS ONE OR MORE OF THE FOLLOWING CONDITIONS EXIST BETWEEN TWO PERSONS, CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS, LIMITED PARTNERSHIPS, JOINT VENTURES, ASSOCIATIONS, OR ANY OTHER COMBINATION OF PERSONS, WHETHER NATURAL OR OTHERWISE:~~

- ~~1. A COMMON PARENT COMPANY;~~
- ~~2. A LICENSING AGREEMENT;~~
- ~~3. A CONCESSION AGREEMENT;~~
- ~~4. MEMBERSHIP IN A CHAIN OF BUSINESSES COMMONLY OWNED AND OPERATED AND SO PORTRAYED TO THE PUBLIC;~~
- ~~5. SHARING OF DIRECTORS OR STOCKHOLDERS;~~
- ~~6. COMMON DIRECT OR INDIRECT SHARING OF PROFIT FROM THE SALE OF ALCOHOLIC BEVERAGES; OR~~

~~7. SHARING OF A COMMON TRADE NAME, TRADEMARK, LOGO, THEME, OR MODE OF OPERATION IDENTIFIABLE BY THE PUBLIC, EXCEPT HOTELS AND MOTELS.~~

~~(III) "PARENT COMPANY" MEANS A CORPORATION, THE SECURITIES OF WHICH ARE EXEMPT FROM REGISTRATION UNDER § 11-601(8) OR (12) OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE THAT OWNS OR CONTROLS, DIRECTLY OR INDIRECTLY, AT LEAST THREE RESTAURANT REGISTERED BRANDS.~~

~~(IV) "RESTAURANT REGISTERED BRAND" MEANS A TRADEMARK THAT IS REGISTERED WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE USED IN CONNECTION WITH RESTAURANT SERVICES.~~

~~(2) (I) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A BUSINESS IN WHICH A PARENT COMPANY HAS A DIRECT OR INDIRECT INTEREST AND THAT OPERATES USING A RESTAURANT REGISTERED BRAND OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY THE PARENT COMPANY, MAY OBTAIN A CLASS B BEER LICENSE, A CLASS B BEER AND WINE LICENSE, OR A CLASS B BEER, WINE AND LIQUOR LICENSE FOR PREMISES USED AND OCCUPIED AS A BONA FIDE RESTAURANT, AS DEFINED BY THE RULES AND REGULATIONS OF THE LOCAL BOARD OF LICENSE COMMISSIONERS OR THE BALTIMORE CITY BOARD OF LIQUOR LICENSE COMMISSIONERS.~~

~~(II) FOR AN APPLICANT TO OBTAIN A LICENSE UNDER THIS SUBSECTION, THE APPLICANT SHALL APPLY FOR THE LICENSE IN THE REGULAR MANNER AND PAY THE USUAL FEE.~~

~~(3) EXCEPT AS OTHERWISE PROVIDED UNDER § 12-107.1 OF THIS ARTICLE, THE ISSUANCE OF A LICENSE AS PROVIDED IN THIS SUBSECTION IS LIMITED TO THE PURPOSE OF PROVIDING ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE LICENSED PREMISES ONLY, WITH NO OFF-SALE PRIVILEGES TO BE EXERCISED BY THE LICENSEE.~~

~~(4) (I) NOTHING IN THIS SUBSECTION LIMITS THE RIGHTS OF A PERSON TO OBTAIN A CLASS B BEER LICENSE, CLASS B BEER AND WINE LICENSE, OR A CLASS B BEER, WINE AND LIQUOR LICENSE AS PROVIDED BY ANY OTHER PROVISION OF THIS ARTICLE.~~

~~(II) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE ISSUANCE OF A LICENSE AS PROVIDED IN THIS SUBSECTION IS NOT SUBJECT TO ANY OTHER PROVISION OF THIS ARTICLE THAT LIMITS THE NUMBER OF PERMITTED LICENSES.~~

~~(H) NOTHING IN THIS SUBSECTION AUTHORIZES THE ISSUANCE OF MORE CLASS B BEER LICENSES, CLASS B BEER AND WINE LICENSES, OR CLASS B BEER, WINE AND LIQUOR LICENSES TO RESTAURANTS USING THE SAME RESTAURANT REGISTERED BRAND IN A COUNTY, THE CITY OF ANNAPOLIS, OR BALTIMORE CITY THAN THE MAXIMUM NUMBER OF LICENSES PERMITTED BY THAT COUNTY, THE CITY OF ANNAPOLIS, OR BALTIMORE CITY:~~

- ~~1. TO AN INDIVIDUAL OR A SOLE PROPRIETOR; OR~~
- ~~2. FOR USE OF A PARTNERSHIP, A CORPORATION, AN UNINCORPORATED ASSOCIATION, OR A LIMITED LIABILITY COMPANY.~~

6-201.

(f) (1) This subsection applies only in Calvert County.

(4) (vi) Notwithstanding any other provision of this article, an individual, corporation, limited liability company, partnership, limited partnership, joint venture, association, or other person or combination of persons may not have a direct or indirect interest in any combination in more than [3] 4 Class B and Class BLX licenses.

(r) (1) (i) This subsection applies only in Prince George's County.

(6) (i) There is a Class BLX license, which is a special Class B license.

(iii) 1. Class BLX licenses may be issued only to luxury type restaurants, a term which shall be defined by the regulations of the Board.

2. The restaurant shall have a minimum capital investment of [\$800,000] \$1,000,000 for dining room facilities and kitchen equipment, which sum may not include the cost of land, buildings or a lease.

3. The restaurant shall have a minimum seating capacity of 100 persons.

4. The Board has complete discretion as to whom these licenses may be issued, the number to be issued, and whether an existing license holder of an alcoholic beverages license may also have an interest in one Class BLX license.

5. Subject to sub-subparagraphs 6, 7, and 8 of this subparagraph, an individual or corporation may hold not more than [6] 10 Class BLX licenses.

6. A license holder may be issued a fifth BLX license only if the date of application for a fifth license is at least 1 year after the date the license holder was issued the fourth license.

7. A license holder may be issued a sixth BLX license only if the date of application for a sixth license is at least 1 year after the date the license holder was issued the fifth license.

8. In determining whether to issue a fifth [or], sixth, SEVENTH, EIGHTH, NINTH, OR TENTH BLX license to a single license holder, the Board of License Commissioners for Prince George's County:

A. Shall consider the number of licensed establishments existing in the area surrounding the site of the proposed licensed establishment; and

B. May issue the additional license only if the Board determines that the proposed licensed establishment will enhance the recreational, business, and economic development of the area.

9. This license is limited and restricted to the purpose of providing alcoholic beverages for consumption on the licensed premises only, with no off-sale privileges to be exercised.

10. The residency requirements specified in § 9-101 of this article as it pertains to Prince George's County do not apply to Class BLX licenses.

8-202.1.

(a) This section applies only in Anne Arundel County.

(c) (1) There is a 7-day Class BLX (deluxe restaurant) (on-sale) beer, wine and liquor license.

(g) (1) A licensee may hold not more than [six] 10 licenses of any class in accordance with this section.

(h) (1) Except as provided in paragraph (2) of this subsection, a license that was issued on or before June 30, 2006, and in which a licensee holds a direct interest or an indirect interest:

(i) Shall be counted against the maximum number of [six] 10 licenses that the licensee may hold under this section; but

(ii) Is exempt from subsections (i) through (l) of this section.

(2) A Class H license that was issued in the period beginning on March 14, 2005, and ending on December 1, 2005, may not be counted against the maximum number of [six] 10 licenses that the licensee may hold under this section.

(m) (1) A licensee may be issued a fifth license if[:

(1) The] THE license sought is a Class BLX license[; and].

(2) The restaurant for which the FIFTH license is sought[:

(i) Is located in a community revitalization zone with a designation in the series "A" through "P", inclusive, as shown on the map adopted by the Anne Arundel County Council by Bill 97-01; or

(ii) Is located anywhere else in the county, if at least one restaurant for which a license was issued to the licensee is already located in a community revitalization zone] MAY BE LOCATED ANYWHERE IN THE COUNTY.

(n) (1) A licensee may be issued a sixth, SEVENTH, EIGHTH, NINTH, OR TENTH license if the license sought is a Class BLX license.

(2) The restaurant for which the license is sought may be located anywhere in the county.

9-102.

(b-3A) (1) Notwithstanding any other provisions of this section, AND SUBJECT TO SUBSECTIONS (B-3B) AND (B-3C) OF THIS SECTION, in Baltimore City or Baltimore County, the holder of a Class B, (on-sale — hotels and restaurants) beer, wine and liquor license under this article, by making application in the regular manner and paying the usual fee may obtain an additional Class B, (on-sale — hotels and restaurants) beer, wine and liquor license for premises used and occupied as a bona fide restaurant, as may be defined by the rules and regulations of the Board of License Commissioners for Baltimore City or Baltimore County, provided that said restaurant has a minimum capital investment of \$500,000 for restaurant facilities, which sum shall not include the cost of land or buildings, and has a minimum seating capacity of 125 persons.

(2) Nothing contained herein shall permit the issuance of more than [three (3)] FIVE such licenses to any person, or for the use of any partnership, corporation, unincorporated association, or limited liability company in Baltimore City or Baltimore County.

(3) The granting of additional licenses hereunder shall be limited and restricted to the purpose of providing alcoholic beverages for consumption on the licensed premises only, with no off-sale privileges to be exercised therewith.

(o) (1) Subject to paragraphs (2) and (3) of this subsection, and notwithstanding any other provision of law, in Howard County, the Board of License Commissioners may issue 2 Class B (on-sale) beer, wine and liquor licenses and [3] 7 Class BLX (luxury restaurant) (on-sale) beer, wine and liquor licenses, or [5] 9 Class BLX (luxury restaurant) (on-sale) beer, wine and liquor licenses for separate premises:

(i) To an individual; or

(ii) For the use of a partnership, corporation, or unincorporated association.

(2) A person, including a corporation, limited liability company, partnership, limited partnership, joint venture, association, or other combination of persons, whether natural or otherwise and for whatever reason formed, may not have a direct or indirect interest in any combination of more than [5] 9 Class B and Class BLX licenses.

(p) Notwithstanding subsection (a) of this section, in Charles County, the Board of License Commissioners may issue [1] 2 additional Class BLX alcoholic beverages [license] LICENSES for use in a luxury-type restaurant for each Charles County Class BLX licensee who applies.

9-102.1.

(a) This section applies only in Montgomery County.

(b) (4) “License” means a Class B beer, wine and liquor on-sale only license.

(o) (1) A licensee that holds an original license, may obtain a maximum of [five] 9 additional licenses and may not hold more than [six] 10 licenses altogether.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 276

(Senate Bill 640)

AN ACT concerning

Public Safety – Possession of Firearms – Crimes Committed in Other States

FOR the purpose of prohibiting a person from possessing a regulated firearm, rifle, or shotgun if the person was previously convicted of an offense under the laws of another state or the United States that would constitute a certain crime if committed in this State; and generally relating to restrictions on possession of a regulated firearm, rifle, or shotgun.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 5–133(c)(1) and 5–206(a)
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article – Public Safety

5–133.

(c) (1) A person may not possess a regulated firearm if the person was previously convicted of:

(i) a crime of violence; [or]

(ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–612, § 5–613, or § 5–614 of the Criminal Law Article; **OR**

(III) AN OFFENSE UNDER THE LAWS OF ANOTHER STATE OR THE UNITED STATES THAT WOULD CONSTITUTE ONE OF THE CRIMES LISTED IN ITEM (I) OR (II) OF THIS PARAGRAPH IF COMMITTED IN THIS STATE.

5–206.

(a) A person may not possess a rifle or shotgun if the person was previously convicted of:

(1) a crime of violence; [or]

(2) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–612, § 5–613, or § 5–614 of the Criminal Law Article; **OR**

(3) AN OFFENSE UNDER THE LAWS OF ANOTHER STATE OR THE UNITED STATES THAT WOULD CONSTITUTE ONE OF THE CRIMES LISTED IN ITEM (1) OR (2) OF THIS SUBSECTION IF COMMITTED IN THIS STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 277

(House Bill 209)

AN ACT concerning

Public Safety – Possession of Firearms – Crimes Committed in Other States

FOR the purpose of prohibiting a person from possessing a regulated firearm, rifle, or shotgun if the person was previously convicted of an offense under the laws of another state or the United States that would constitute a certain crime if committed in this State; and generally relating to restrictions on possession of a regulated firearm, rifle, or shotgun.

BY repealing and reenacting, with amendments,

Article – Public Safety
Section 5–133(c)(1) and 5–206(a)
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article – Public Safety

5–133.

(c) (1) A person may not possess a regulated firearm if the person was previously convicted of:

(i) a crime of violence; [or]

(ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–612, § 5–613, or § 5–614 of the Criminal Law Article; **OR**

(III) AN OFFENSE UNDER THE LAWS OF ANOTHER STATE OR THE UNITED STATES THAT WOULD CONSTITUTE ONE OF THE CRIMES LISTED IN ITEM (I) OR (II) OF THIS PARAGRAPH IF COMMITTED IN THIS STATE.

5-206.

(a) A person may not possess a rifle or shotgun if the person was previously convicted of:

(1) a crime of violence; [or]

(2) a violation of § 5-602, § 5-603, § 5-604, § 5-605, § 5-612, § 5-613, or § 5-614 of the Criminal Law Article; OR

(3) AN OFFENSE UNDER THE LAWS OF ANOTHER STATE OR THE UNITED STATES THAT WOULD CONSTITUTE ONE OF THE CRIMES LISTED IN ITEM (1) OR (2) OF THIS SUBSECTION IF COMMITTED IN THIS STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 278

(Senate Bill 649)

AN ACT concerning

Environment – Asbestos Worker Protection

FOR the purpose of adding to the General Assembly's findings related to protecting the safety of asbestos removers; requiring the Department of the Environment to verify certain information before accrediting an individual to engage in an asbestos occupation; authorizing the Department to include the costs of examination administration in setting certain fees; altering the circumstances under which a certain penalty may be composed; increasing the maximum penalty that may be imposed for certain violations; ~~establishing a minimum penalty under a certain circumstance~~; requiring certain penalties and fines to be paid into the Asbestos Worker Protection Fund and providing for the uses of the Fund; establishing the Fund as a special, nonlapsing fund; requiring the Department to administer the Fund; requiring the State Treasurer to hold the Fund and the Comptroller to account for the Fund; specifying the contents of the Fund; providing for the investment of money in and expenditures from the

Fund; exempting certain interest earnings from a requirement that certain interest accrue to the General Fund; altering the definition of a certain term; defining a certain term; and generally relating to asbestos worker protection.

BY repealing and reenacting, without amendments,
Article – Environment
Section 6–401(a) and (d)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 6–402, 6–417, and 6–422
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY adding to
Article – Environment
Section 6–425 to be under the new part “Part V. Asbestos Worker Protection Fund”
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Environment

6–401.

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

(d) “Business entity” means a partnership, firm, association, corporation, sole proprietorship, or other business concern.

6–402.

The General Assembly finds:

(1) That exposure to asbestos, a known carcinogenic agent, creates a significant hazard to the health of the people of this State;

(2) That projects to remove asbestos expose increasing numbers of asbestos removers to this hazard; [and]

(3) That it is in the public interest to protect asbestos removers from this hazard by requiring adherence to strict safety standards on asbestos removal projects; AND

(4) THAT STRICTER PENALTIES AND INDEPENDENT TESTING ARE NEEDED TO SAFEGUARD THE HEALTH OF ASBESTOS REMOVERS IN THE STATE.

6-417.

(a) **(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) "BUSINESS ENTITY" INCLUDES ANY PERSON DESIGNATED TO MANAGE OR SUPERVISE THE REMOVAL OR ENCAPSULATION OF ASBESTOS.

(3) "INDEPENDENT TESTING ORGANIZATION" MEANS AN ENTITY THAT IS NOT IN ANY WAY AFFILIATED WITH A BUSINESS ENTITY THAT EMPLOYS AN INDIVIDUAL TO REMOVE OR ENCAPSULATE ASBESTOS IN THE STATE.

(B) (1) Unless the individual is accredited by the Department, an individual may not engage in an asbestos occupation.

(2) The Department shall accredit an individual **ONLY** upon [submittal of proof to the Department] **VERIFYING** that the individual [has]:

(I) IS AT LEAST 18 YEARS OLD;

(II) HAS EITHER:

[(i)] 1. Successfully completed [and passed] a training program and any required refresher program approved by the Department[;

(ii) Successfully completed and passed a training program and any required refresher program approved by] **OR** the United States Environmental Protection Agency; or

[(iii)] 2. Acquired and maintained current accreditation from an EPA-approved state accreditation plan of another state; **AND**

(III) HAS PASSED AN APPLICABLE ASBESTOS OCCUPATION EXAMINATION PROVIDED AND ADMINISTERED BY THE DEPARTMENT OR BY AN

INDEPENDENT TESTING ORGANIZATION ACTING ON BEHALF OF THE DEPARTMENT.

(3) The Department may accept as proof of accreditation a certificate showing successful completion of any approved training program **AND EXAMINATION**, and any required refresher program.

[(b)] (C) (1) The Department shall adopt regulations establishing standards and procedures that are consistent with federal law for the accreditation of asbestos occupations.

(2) The regulations shall include standards for:

- (i) Training course approval and review;
- (ii) Examinations for accreditation of applicants;
- (iii) Annual refresher courses and renewal of accreditation;
- (iv) Denial, suspension, and revocation of accreditation; and
- (v) Procedures for implementing this accreditation plan.

[(c)] (D) The Department shall set reasonable fees sufficient to cover the Department's direct and indirect costs in **ADMINISTERING THE EXAMINATION**, approving training programs, including the cost of applications, issuance and renewal of training course approvals and reviews, on-site audits, record keeping, and other related activities.

6-422.

(a) (1) A person who ~~willfully~~ violates any provision of this subtitle or any rule or regulation adopted under this subtitle is liable for a civil penalty not exceeding ~~[\$5,000]~~ **\$25,000** to be collected in a civil action.

(2) Each day a violation continues is a separate violation under this subsection.

(3) If the Attorney General concurs, the Secretary may compromise and settle any claim for a civil penalty under this subtitle, ~~BUT IN NO EVENT SHALL THE PENALTY IMPOSED BE LESS THAN \$2,000 PER VIOLATION.~~

(b) A person who knowingly and willfully violates any provision of this subtitle or any rule or regulation adopted under this subtitle is guilty of a misdemeanor and, on conviction, is subject:

(1) For a first offense, to a fine not exceeding \$20,000; or

(2) For a second or subsequent offense, to a fine not exceeding \$25,000, or imprisonment not exceeding 2 years or both.

(C) ANY PENALTIES AND FINES COLLECTED UNDER THIS SUBTITLE SHALL BE PAID INTO THE ASBESTOS WORKER PROTECTION FUND, ESTABLISHED UNDER § 6-425 OF THIS SUBTITLE, AND USED ONLY FOR ASBESTOS WORKER PROTECTION AND ENFORCEMENT ACTIVITIES UNDER THIS SUBTITLE.

6-423. RESERVED.

6-424. RESERVED.

PART V. ASBESTOS WORKER PROTECTION FUND.

6-425.

(A) IN THIS SECTION, "FUND" MEANS THE ASBESTOS WORKER PROTECTION FUND.

(B) THERE IS AN ASBESTOS WORKER PROTECTION FUND.

(C) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(E) THE FUND CONSISTS OF:

(1) ALL PENALTIES AND FINES COLLECTED UNDER § 6-422 OF THIS SUBTITLE;

(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(3) INVESTMENT EARNINGS OF THE FUND; AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(F) IN ACCORDANCE WITH THE STATE BUDGET, THE FUND SHALL BE USED ONLY FOR ASBESTOS WORKER PROTECTION AND ENFORCEMENT ACTIVITIES UNDER THIS SUBTITLE.

(G) (1) THE STATE TREASURER SHALL INVEST THE MONEY IN THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(H) MONEY EXPENDED FROM THE FUND FOR ENFORCEMENT ACTIVITIES IS SUPPLEMENTAL TO, AND IS NOT INTENDED TO TAKE THE PLACE OF, FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR ASBESTOS WORKER PROTECTION AND ENFORCEMENT ACTIVITIES.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

1. Maryland Housing Loan Funds of 1976, 1978, 1979, and 1984;
2. Microsoft Cost Share Fund;
3. Subsequent Injury Fund;
4. Uninsured Employers' Fund;
5. State Agency Loan Program Fund;
6. Jane E. Lawton Conservation Loan Program;
7. Energy Overcharge Restitution Fund;
8. PEPCO/Connectiv Settlement Fund;

9. Baseball Capital Improvements Fund;
10. State Victims of Crime Fund;
11. Juvenile Accountability Incentive Block Grant Fund;
12. Victim and Witness Protection and Relocation Fund;
13. Unclaimed Restitution – Victims of Crime;
14. Justice Assistance Grant;
15. Byrne Justice Assistance Grant;
16. Maryland Election Modernization Fund;
17. Scriven Estate Fund;
18. Volunteer Company Assistance Fund;
19. Radoff Memorial Fund;
20. Archives Endowment Account within the Archives
Fund;
21. Ellefson Endowment Fund;
22. Albert C. Ritchie Memorial Fund;
23. Rate Stabilization Fund;
24. Maryland Health Insurance Plan Fund;
25. Fair Campaign Financing Fund;
26. State Employees and Retirees Health and Welfare
Benefits Fund;
27. Major Information Technology Development Project
Fund;
28. State Retirement Agency Funds;
29. Postretirement Health Benefits Trust Fund;
30. Maryland Emergency Medical System Operations
Fund;

31. State Wildlife Management and Protection Fund;
32. Fisheries Management and Protection Fund;
33. Ocean Beach Replenishment Fund;
34. Community Services Trust Fund;
35. Waiting List Equity Fund;
36. Health Care Coverage Fund;
37. Health Services Cost Review Commission Fund;
38. Hospital Uncompensated Care Fund;
39. funds in the accounts of Morgan State University;
40. funds in the accounts of St. Mary's College of Maryland;
41. funds in the accounts of the University System of Maryland;
42. Maryland Prepaid College Trust Fund;
43. Nurse Support Program Assistance Fund;
44. funds in the accounts of the Baltimore City Community College;
45. Education Trust Fund;
46. Section 8 construction and administration funds administered by the Department of Housing and Community Development;
47. MacArthur Grant Fund;
48. all special funds within the Department of Business and Economic Development;
49. Maryland Water Quality Revolving Loan Fund;
50. Maryland Drinking Water Revolving Loan Fund;
51. Bay Restoration Fund;

52. Migratory Game Bird Fund;
53. Deer Stamp Fund;
54. Wildlife Habitat Incentive Fund;
55. Fisheries Research and Development Fund;
56. Strategic Energy Investment Fund;
57. Criminal Injuries Compensation Fund;
58. 50% of the interest from the 9-1-1 Trust Fund;
59. all accounts within the State Reserve Fund;
60. local revenue accounts collected by the Judiciary;
61. Assistive Technology Loan Fund;
62. Veterans Trust Fund; [and]
63. Transportation Trust Fund; AND
64. **ASBESTOS WORKER PROTECTION FUND.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 279

(House Bill 1262)

AN ACT concerning

Environment – Asbestos Worker Protection

FOR the purpose of adding to the General Assembly's findings related to protecting the safety of asbestos removers; requiring the Department of the Environment to verify certain information before accrediting an individual to engage in an asbestos occupation; authorizing the Department to include the costs of examination administration in setting certain fees; altering the circumstances

under which a certain penalty may be composed; increasing the maximum penalty that may be imposed for certain violations; ~~establishing a minimum penalty under a certain circumstance;~~ requiring certain penalties and fines to be paid into the Asbestos Worker Protection Fund and providing for the uses of the Fund; establishing the Fund as a special, nonlapsing fund; requiring the Department to administer the Fund; requiring the State Treasurer to hold the Fund and the Comptroller to account for the Fund; specifying the contents of the Fund; providing for the investment of money in and expenditures from the Fund; exempting certain interest earnings from a requirement that certain interest accrue to the General Fund; altering the definition of a certain term; defining a certain term; and generally relating to asbestos worker protection.

BY repealing and reenacting, without amendments,

Article – Environment

Section 6–401(a) and (d)

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 6–402, 6–417, and 6–422

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY adding to

Article – Environment

Section 6–425 to be under the new part “Part V. Asbestos Worker Protection Fund”

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 6–226(a)(2)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – Environment

6–401.

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

(d) "Business entity" means a partnership, firm, association, corporation, sole proprietorship, or other business concern.

6-402.

The General Assembly finds:

(1) That exposure to asbestos, a known carcinogenic agent, creates a significant hazard to the health of the people of this State;

(2) That projects to remove asbestos expose increasing numbers of asbestos removers to this hazard; [and]

(3) That it is in the public interest to protect asbestos removers from this hazard by requiring adherence to strict safety standards on asbestos removal projects; **AND**

(4) THAT STRICTER PENALTIES AND INDEPENDENT TESTING ARE NEEDED TO SAFEGUARD THE HEALTH OF ASBESTOS REMOVERS IN THE STATE.

6-417.

(a) **(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) "BUSINESS ENTITY" INCLUDES ANY PERSON DESIGNATED TO MANAGE OR SUPERVISE THE REMOVAL OR ENCAPSULATION OF ASBESTOS.

(3) "INDEPENDENT TESTING ORGANIZATION" MEANS AN ENTITY THAT IS NOT IN ANY WAY AFFILIATED WITH A BUSINESS ENTITY THAT EMPLOYS AN INDIVIDUAL TO REMOVE OR ENCAPSULATE ASBESTOS IN THE STATE.

(B) (1) Unless the individual is accredited by the Department, an individual may not engage in an asbestos occupation.

(2) The Department shall accredit an individual **ONLY** upon [submittal of proof to the Department] **VERIFYING** that the individual [has]:

(I) IS AT LEAST 18 YEARS OLD;

(II) HAS EITHER:

[(i)] 1. Successfully completed [and passed] a training program and any required refresher program approved by the Department[;

(ii) Successfully completed and passed a training program and any required refresher program approved by] **OR** the United States Environmental Protection Agency; or

[(iii)] **2.** Acquired and maintained current accreditation from an EPA–approved state accreditation plan of another state; **AND**

(III) HAS PASSED AN APPLICABLE ASBESTOS OCCUPATION EXAMINATION PROVIDED AND ADMINISTERED BY THE DEPARTMENT OR BY AN INDEPENDENT TESTING ORGANIZATION ACTING ON BEHALF OF THE DEPARTMENT.

(3) The Department may accept as proof of accreditation a certificate showing successful completion of any approved training program **AND EXAMINATION**, and any required refresher program.

[(b)] (C) (1) The Department shall adopt regulations establishing standards and procedures that are consistent with federal law for the accreditation of asbestos occupations.

(2) The regulations shall include standards for:

- (i) Training course approval and review;
- (ii) Examinations for accreditation of applicants;
- (iii) Annual refresher courses and renewal of accreditation;
- (iv) Denial, suspension, and revocation of accreditation; and
- (v) Procedures for implementing this accreditation plan.

[(c)] (D) The Department shall set reasonable fees sufficient to cover the Department’s direct and indirect costs in **ADMINISTERING THE EXAMINATION**, approving training programs, including the cost of applications, issuance and renewal of training course approvals and reviews, on–site audits, record keeping, and other related activities.

6–422.

(a) (1) A person who ~~willfully~~ violates any provision of this subtitle or any rule or regulation adopted under this subtitle is liable for a civil penalty not exceeding **[\$5,000] \$25,000** to be collected in a civil action.

(2) Each day a violation continues is a separate violation under this subsection.

(3) If the Attorney General concurs, the Secretary may compromise and settle any claim for a civil penalty under this subtitle, ~~BUT IN NO EVENT SHALL THE PENALTY IMPOSED BE LESS THAN \$2,000 PER VIOLATION.~~

(b) A person who knowingly and willfully violates any provision of this subtitle or any rule or regulation adopted under this subtitle is guilty of a misdemeanor and, on conviction, is subject:

(1) For a first offense, to a fine not exceeding \$20,000; or

(2) For a second or subsequent offense, to a fine not exceeding \$25,000, or imprisonment not exceeding 2 years or both.

(C) ANY PENALTIES AND FINES COLLECTED UNDER THIS SUBTITLE SHALL BE PAID INTO THE ASBESTOS WORKER PROTECTION FUND, ESTABLISHED UNDER § 6-425 OF THIS SUBTITLE, AND USED ONLY FOR ASBESTOS WORKER PROTECTION AND ENFORCEMENT ACTIVITIES UNDER THIS SUBTITLE.

6-423. RESERVED.

6-424. RESERVED.

PART V. ASBESTOS WORKER PROTECTION FUND.

6-425.

(A) IN THIS SECTION, "FUND" MEANS THE ASBESTOS WORKER PROTECTION FUND.

(B) THERE IS AN ASBESTOS WORKER PROTECTION FUND.

(C) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(E) THE FUND CONSISTS OF:

(1) ALL PENALTIES AND FINES COLLECTED UNDER § 6-422 OF THIS SUBTITLE;

(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(3) INVESTMENT EARNINGS OF THE FUND; AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(F) IN ACCORDANCE WITH THE STATE BUDGET, THE FUND SHALL BE USED ONLY FOR ASBESTOS WORKER PROTECTION AND ENFORCEMENT ACTIVITIES UNDER THIS SUBTITLE.

(G) (1) THE STATE TREASURER SHALL INVEST THE MONEY IN THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(H) MONEY EXPENDED FROM THE FUND FOR ENFORCEMENT ACTIVITIES IS SUPPLEMENTAL TO, AND IS NOT INTENDED TO TAKE THE PLACE OF, FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR ASBESTOS WORKER PROTECTION AND ENFORCEMENT ACTIVITIES.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

1. Maryland Housing Loan Funds of 1976, 1978, 1979, and 1984;
2. Microsoft Cost Share Fund;
3. Subsequent Injury Fund;
4. Uninsured Employers' Fund;

5. State Agency Loan Program Fund;
6. Jane E. Lawton Conservation Loan Program;
7. Energy Overcharge Restitution Fund;
8. PEPCO/Connectiv Settlement Fund;
9. Baseball Capital Improvements Fund;
10. State Victims of Crime Fund;
11. Juvenile Accountability Incentive Block Grant Fund;
12. Victim and Witness Protection and Relocation Fund;
13. Unclaimed Restitution – Victims of Crime;
14. Justice Assistance Grant;
15. Byrne Justice Assistance Grant;
16. Maryland Election Modernization Fund;
17. Scriven Estate Fund;
18. Volunteer Company Assistance Fund;
19. Radoff Memorial Fund;
20. Archives Endowment Account within the Archives
Fund;
21. Ellefson Endowment Fund;
22. Albert C. Ritchie Memorial Fund;
23. Rate Stabilization Fund;
24. Maryland Health Insurance Plan Fund;
25. Fair Campaign Financing Fund;
26. State Employees and Retirees Health and Welfare
Benefits Fund;

- Fund;
27. Major Information Technology Development Project
28. State Retirement Agency Funds;
29. Postretirement Health Benefits Trust Fund;
- Fund;
30. Maryland Emergency Medical System Operations
31. State Wildlife Management and Protection Fund;
32. Fisheries Management and Protection Fund;
33. Ocean Beach Replenishment Fund;
34. Community Services Trust Fund;
35. Waiting List Equity Fund;
36. Health Care Coverage Fund;
37. Health Services Cost Review Commission Fund;
38. Hospital Uncompensated Care Fund;
39. funds in the accounts of Morgan State University;
- Maryland;
40. funds in the accounts of St. Mary's College of
- Maryland;
41. funds in the accounts of the University System of
42. Maryland Prepaid College Trust Fund;
43. Nurse Support Program Assistance Fund;
44. funds in the accounts of the Baltimore City
- Community College;
45. Education Trust Fund;
46. Section 8 construction and administration funds administered by the Department of Housing and Community Development;
47. MacArthur Grant Fund;

48. all special funds within the Department of Business and Economic Development;
49. Maryland Water Quality Revolving Loan Fund;
50. Maryland Drinking Water Revolving Loan Fund;
51. Bay Restoration Fund;
52. Migratory Game Bird Fund;
53. Deer Stamp Fund;
54. Wildlife Habitat Incentive Fund;
55. Fisheries Research and Development Fund;
56. Strategic Energy Investment Fund;
57. Criminal Injuries Compensation Fund;
58. 50% of the interest from the 9-1-1 Trust Fund;
59. all accounts within the State Reserve Fund;
60. local revenue accounts collected by the Judiciary;
61. Assistive Technology Loan Fund;
62. Veterans Trust Fund; [and]
63. Transportation Trust Fund; AND
64. **ASBESTOS WORKER PROTECTION FUND.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

AN ACT concerning

Public Safety – Impersonating a Police Officer – WMATA Metro Transit Police

FOR the purpose of prohibiting a person from falsely representing that the person is a member of the Washington Metropolitan Area Transit Authority (WMATA) Metro Transit Police under certain circumstances; prohibiting a person from having, using, wearing, or displaying a certain identification or simulation or imitation of a certain identification of a member of the WMATA Metro Transit Police except under certain circumstances; authorizing a person to have a certain identification with the appropriate authority of the WMATA Metro Transit Police; altering a certain definition; and generally relating to impersonating a member of the WMATA Metro Transit Police.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 3–502
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article – Public Safety

3–502.

- (a) In this section, “police officer” means a member of:
- (1) a police force of this State or another state;
 - (2) a police force of a county or municipal corporation of this State or another state;
 - (3) the United States Secret Service Uniformed Division;
 - (4) the United States Park Police;
 - (5) THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY (WMATA) METRO TRANSIT POLICE;**
 - [5] (6)** the Federal Bureau of Investigation;
 - [6] (7)** the Drug Enforcement Administration; or

[(7)] (8) a division of a federal agency the primary duties of which are the investigation, apprehension, or detention of individuals suspected or convicted of federal crimes.

(b) A person may not, with fraudulent design on person or property, falsely represent that the person is a police officer, special police officer, sheriff, deputy sheriff, or constable.

(c) Except as provided in subsection (e) of this section, a person may not have, use, wear, or display a uniform, shield, button, ornament, badge, identification, or shoulder patch adopted by the Department of State Police to be worn by its members, insignia, or emblem of office, as is worn by a police officer, sheriff, deputy sheriff, or constable.

(d) A person may not, for the purpose of deception, have a simulation or imitation of an article described in subsection (c) of this section as is worn by a police officer, sheriff, deputy sheriff, or constable.

(e) A person may have, use, wear, or display an article described in subsection (c) of this section with the appropriate authority of:

- (1) the Secretary of State Police;
- (2) a police force of another state;
- (3) the Police Commissioner of Baltimore City;
- (4) the chief of police of a county or municipal corporation of this State or another state;
- (5) a sheriff or deputy sheriff;
- (6) a constable;
- (7) the United States Secret Service Uniformed Division;
- (8) the United States Park Police;
- (9) THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY (WMATA) METRO TRANSIT POLICE;**

[(9)] (10) the Federal Bureau of Investigation;

[(10)] (11) the Drug Enforcement Administration; or

[(11)] (12) a division of a federal agency the primary duties of which are the investigation, apprehension, or detention of individuals suspected or convicted of federal crimes.

(f) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding \$2,000 or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 281

(House Bill 631)

AN ACT concerning

Public Safety – Impersonating a Police Officer – WMATA Metro Transit Police

FOR the purpose of prohibiting a person from falsely representing that the person is a member of the Washington Metropolitan Area Transit Authority (WMATA) Metro Transit Police under certain circumstances; prohibiting a person from having, using, wearing, or displaying a certain identification or simulation or imitation of a certain identification of a member of the WMATA Metro Transit Police except under certain circumstances; authorizing a person to have a certain identification with the appropriate authority of the WMATA Metro Transit Police; altering a certain definition; and generally relating to impersonating a member of the WMATA Metro Transit Police.

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 3–502

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Public Safety

3–502.

- (a) In this section, "police officer" means a member of:
- (1) a police force of this State or another state;
 - (2) a police force of a county or municipal corporation of this State or another state;
 - (3) the United States Secret Service Uniformed Division;
 - (4) the United States Park Police;
 - (5) THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY (WMATA) METRO TRANSIT POLICE;**
 - ~~[(5)] (6)~~ the Federal Bureau of Investigation;
 - ~~[(6)] (7)~~ the Drug Enforcement Administration; or
 - ~~[(7)] (8)~~ a division of a federal agency the primary duties of which are the investigation, apprehension, or detention of individuals suspected or convicted of federal crimes.
- (b) A person may not, with fraudulent design on person or property, falsely represent that the person is a police officer, special police officer, sheriff, deputy sheriff, or constable.
- (c) Except as provided in subsection (e) of this section, a person may not have, use, wear, or display a uniform, shield, button, ornament, badge, identification, or shoulder patch adopted by the Department of State Police to be worn by its members, insignia, or emblem of office, as is worn by a police officer, sheriff, deputy sheriff, or constable.
- (d) A person may not, for the purpose of deception, have a simulation or imitation of an article described in subsection (c) of this section as is worn by a police officer, sheriff, deputy sheriff, or constable.
- (e) A person may have, use, wear, or display an article described in subsection (c) of this section with the appropriate authority of:
- (1) the Secretary of State Police;
 - (2) a police force of another state;
 - (3) the Police Commissioner of Baltimore City;

(4) the chief of police of a county or municipal corporation of this State or another state;

(5) a sheriff or deputy sheriff;

(6) a constable;

(7) the United States Secret Service Uniformed Division;

(8) the United States Park Police;

(9) THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY (WMATA) METRO TRANSIT POLICE;

[(9)] (10) the Federal Bureau of Investigation;

[(10)] (11) the Drug Enforcement Administration; or

[(11)] (12) a division of a federal agency the primary duties of which are the investigation, apprehension, or detention of individuals suspected or convicted of federal crimes.

(f) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding \$2,000 or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 282

(Senate Bill 655)

AN ACT concerning

Residential Multiple Occupancy Buildings – Master Meters – Heating, Ventilation, and Air Conditioning Services

FOR the purpose of repealing the termination provision of a certain provision on the use of master meters for certain heating, ventilation, and air conditioning services in certain residential multiple occupancy buildings; and generally relating to residential multiple occupancy buildings.

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section 7–304.1
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Chapter 315 of the Acts of the General Assembly of 2010
Section 2

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

Article – Public Utilities

7–304.1.

(a) In this section, “master meter” means a meter used to measure, for billing purposes, the total amount of electricity or natural gas used in a building by a heating, ventilation, and air conditioning system, including the combined use from all individually leased or owned units and all common areas.

(b) The Commission may authorize the use of a master meter in a residential multiple occupancy building for heating, ventilation, and air conditioning services without requiring individual metering or submetering for heating, ventilation, and air conditioning services as provided under § 7–303 or § 7–304 of this subtitle if:

(1) the utility bill for heating, ventilation, and air conditioning services for each individually leased or owned occupancy unit is included in the rent for that unit;

(2) the Commission is satisfied that the use of the master meter for heating, ventilation, and air conditioning services will result in a net savings of energy over the energy savings that would result from individual metering or submetering for heating, ventilation, and air conditioning services; and

(3) each individually leased or owned occupancy unit:

(i) has individual metered service for other energy services; and

(ii) directly receives the utility bill for the other energy services.

(c) Before authorizing the use of a master meter for heating, ventilation, and air conditioning services, the Commission may review the proposed allocation of heating, ventilation, and air conditioning system expenses among individual units and common areas served by the master meter.

(d) In accordance with § 7–301 of this subtitle, an electric company or a gas company may inspect and test a master meter authorized for use by the Commission under this section.

Chapter 315 of the Acts of 2010

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. [It shall remain effective for a period of 3 years and, at the end of June 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 283

(House Bill 913)

AN ACT concerning

Residential Multiple Occupancy Buildings – Master Meters – Heating, Ventilation, and Air Conditioning Services

FOR the purpose of repealing the termination provision of a certain provision on the use of master meters for certain heating, ventilation, and air conditioning services in certain residential multiple occupancy buildings; and generally relating to residential multiple occupancy buildings.

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section 7–304.1
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Chapter 315 of the Acts of the General Assembly of 2010
Section 2

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

Article – Public Utilities

7-304.1.

(a) In this section, "master meter" means a meter used to measure, for billing purposes, the total amount of electricity or natural gas used in a building by a heating, ventilation, and air conditioning system, including the combined use from all individually leased or owned units and all common areas.

(b) The Commission may authorize the use of a master meter in a residential multiple occupancy building for heating, ventilation, and air conditioning services without requiring individual metering or submetering for heating, ventilation, and air conditioning services as provided under § 7-303 or § 7-304 of this subtitle if:

(1) the utility bill for heating, ventilation, and air conditioning services for each individually leased or owned occupancy unit is included in the rent for that unit;

(2) the Commission is satisfied that the use of the master meter for heating, ventilation, and air conditioning services will result in a net savings of energy over the energy savings that would result from individual metering or submetering for heating, ventilation, and air conditioning services; and

(3) each individually leased or owned occupancy unit:

(i) has individual metered service for other energy services; and

(ii) directly receives the utility bill for the other energy services.

(c) Before authorizing the use of a master meter for heating, ventilation, and air conditioning services, the Commission may review the proposed allocation of heating, ventilation, and air conditioning system expenses among individual units and common areas served by the master meter.

(d) In accordance with § 7-301 of this subtitle, an electric company or a gas company may inspect and test a master meter authorized for use by the Commission under this section.

Chapter 315 of the Acts of 2010

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. [It shall remain effective for a period of 3 years and, at the end of June 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 284

(Senate Bill 666)

AN ACT concerning

Carroll County – Property Tax Credit for Housing Units at Independent Living Retirement Communities

FOR the purpose of authorizing the governing body of Carroll County or of a municipal corporation in Carroll County to grant, by law, a tax credit against the county or municipal corporation property tax imposed on certain housing units at independent living retirement communities; authorizing the governing body of Carroll County or of a municipal corporation in Carroll County to provide, by law, for certain provisions necessary to carry out the tax credit; specifying that the full benefit of the tax credit be assigned to certain residents; providing for the application of this Act; defining a certain term; and generally relating to a property tax credit in Carroll County for certain housing units in certain independent living retirement communities.

BY adding to

Article – Tax – Property

Section 9–308(f)

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

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

Article – Tax – Property

9–308.

(F) (1) ~~(F)~~ IN THIS SUBSECTION, “INDEPENDENT LIVING RETIREMENT COMMUNITY” MEANS A ~~CONTINUING CARE~~ COMMUNITY OR FACILITY FOR THE AGED THAT:

(1) 1. PROVIDES CONTINUING CARE AS DEFINED IN § 10–401 OF THE HUMAN SERVICES ARTICLE;

2. IS LICENSED AS A RELATED INSTITUTION UNDER TITLE 19, SUBTITLE 3 OF THE HEALTH – GENERAL ARTICLE; ~~AND~~

3. IS CERTIFIED BY THE DEPARTMENT OF AGING;

AND

4. IS EXEMPT FROM FEDERAL INCOME TAX UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE OR IS OWNED OR OPERATED BY A PERSON THAT IS EXEMPT FROM FEDERAL INCOME TAX UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE; OR

(II) OFFERS AN AGE-RESTRICTED LIFE OCCUPANCY AGREEMENT AND REQUIRES PAYMENT OF AN ENTRANCE FEE.

~~(H) "INDEPENDENT LIVING RETIREMENT COMMUNITY" INCLUDES ANY COMMUNITY OR FACILITY THAT OFFERS A LIFE OCCUPANCY AGREEMENT.~~

(2) THE GOVERNING BODY OF CARROLL COUNTY OR OF A MUNICIPAL CORPORATION IN CARROLL COUNTY MAY GRANT, BY LAW, A TAX CREDIT AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX IMPOSED ON THAT PORTION OF THE REAL PROPERTY OWNED BY AN INDEPENDENT LIVING RETIREMENT COMMUNITY THAT IS USED AS HOUSING UNITS.

(3) THE GOVERNING BODY OF CARROLL COUNTY OR OF A MUNICIPAL CORPORATION IN CARROLL COUNTY MAY PROVIDE, BY LAW, FOR:

(I) THE AMOUNT AND DURATION OF THE TAX CREDIT UNDER THIS SUBSECTION;

(II) ADDITIONAL ELIGIBILITY CRITERIA FOR THE TAX CREDIT UNDER THIS SUBSECTION;

(III) REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE TAX CREDIT UNDER THIS SUBSECTION; AND

(IV) ANY OTHER PROVISION NECESSARY TO CARRY OUT THE TAX CREDIT UNDER THIS SUBSECTION.

(4) IF THE GOVERNING BODY OF CARROLL COUNTY OR OF A MUNICIPAL CORPORATION IN CARROLL COUNTY AUTHORIZES A TAX CREDIT UNDER THIS SUBSECTION, THE FULL BENEFIT OF THE TAX CREDIT SHALL BE ASSIGNED TO RESIDENTS OF THE INDEPENDENT LIVING RETIREMENT COMMUNITY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012, and shall be applicable to all taxable years beginning after June 30, 2012.

Approved by the Governor, May 2, 2012.

Chapter 285

(Senate Bill 668)

AN ACT concerning

Corporations and Associations – Electric Cooperatives – Electronic Notices and Voting

FOR the purpose of authorizing a certain electric cooperative to provide notice of each meeting of its members by electronic transmission under certain circumstances; authorizing a certain person to waive notice of a meeting of the members of an electric cooperative by electronic transmission under certain circumstances; authorizing voting by members of an electric cooperative by electronic transmission under certain circumstances; requiring, under certain circumstances, the bylaws of an electric cooperative to establish the conditions under which voting by electronic transmission is allowed; and generally relating to electric cooperatives.

BY repealing and reenacting, without amendments,
Article – Corporations and Associations
Section 1–101(a) and (m)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 5–617 and 5–619
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

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

Article – Corporations and Associations

1–101.

(a) In this article, unless the context clearly requires otherwise, the following words have the meanings indicated.

(m) "Electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that:

(1) May be retained, retrieved, and reviewed by a recipient of the communication; and

(2) May be reproduced directly in paper form by a recipient through an automated process.

5-617.

(a) (1) Except as otherwise provided in this subtitle, notice of each meeting of the members shall be mailed **OR PROVIDED BY ELECTRONIC TRANSMISSION** to each member not less than 10 days or more than 90 days before the date of the meeting.

(2) The notice shall state:

(i) The time and place of the meeting; and

(ii) If the meeting is a special meeting, the purpose of the meeting.

(b) (1) A person entitled to notice of a meeting may waive notice in writing **OR BY ELECTRONIC TRANSMISSION** either before or after the meeting.

(2) If a person entitled to notice of a meeting attends the meeting, the person's presence shall constitute a waiver of notice of the meeting, unless the person participates in the meeting solely to object to the transaction of any business because the meeting has not been legally called or convened.

5-619.

(a) Each member of a cooperative is entitled to one vote on each matter submitted to a vote at a meeting of the members.

(b) (1) Except as provided in paragraph (2) of this subsection, voting shall be in person.

(2) (i) If the bylaws so provide, voting also may be by proxy, [or] by mail, **OR BY ELECTRONIC TRANSMISSION**[, or both].

(ii) If the bylaws provide for voting by proxy, [or] by mail, **OR BY ELECTRONIC TRANSMISSION**, they also shall establish the conditions under which voting by proxy, [or] by mail, **OR BY ELECTRONIC TRANSMISSION** is allowed.

(c) A person may not vote by proxy for more than three members at any meeting of the members.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 286

(House Bill 623)

AN ACT concerning

Corporations and Associations – Electric Cooperatives – Electronic Notices and Voting

FOR the purpose of authorizing a certain electric cooperative to provide notice of each meeting of its members by electronic transmission under certain circumstances; authorizing a certain person to waive notice of a meeting of the members of an electric cooperative by electronic transmission under certain circumstances; authorizing voting by members of an electric cooperative by electronic transmission under certain circumstances; requiring, under certain circumstances, the bylaws of an electric cooperative to establish the conditions under which voting by electronic transmission is allowed; and generally relating to electric cooperatives.

BY repealing and reenacting, without amendments,
Article – Corporations and Associations
Section 1–101(a) and (m)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 5–617 and 5–619
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

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

Article – Corporations and Associations

1–101.

(a) In this article, unless the context clearly requires otherwise, the following words have the meanings indicated.

(m) “Electronic transmission” means any form of communication, not directly involving the physical transmission of paper, that creates a record that:

(1) May be retained, retrieved, and reviewed by a recipient of the communication; and

(2) May be reproduced directly in paper form by a recipient through an automated process.

5–617.

(a) (1) Except as otherwise provided in this subtitle, notice of each meeting of the members shall be mailed **OR PROVIDED BY ELECTRONIC TRANSMISSION** to each member not less than 10 days or more than 90 days before the date of the meeting.

(2) The notice shall state:

(i) The time and place of the meeting; and

(ii) If the meeting is a special meeting, the purpose of the meeting.

(b) (1) A person entitled to notice of a meeting may waive notice in writing **OR BY ELECTRONIC TRANSMISSION** either before or after the meeting.

(2) If a person entitled to notice of a meeting attends the meeting, the person’s presence shall constitute a waiver of notice of the meeting, unless the person participates in the meeting solely to object to the transaction of any business because the meeting has not been legally called or convened.

5–619.

(a) Each member of a cooperative is entitled to one vote on each matter submitted to a vote at a meeting of the members.

(b) (1) Except as provided in paragraph (2) of this subsection, voting shall be in person.

(2) (i) If the bylaws so provide, voting also may be by proxy, [or] by mail, **OR BY ELECTRONIC TRANSMISSION**[, or both].

(ii) If the bylaws provide for voting by proxy, [or] by mail, **OR BY ELECTRONIC TRANSMISSION**, they also shall establish the conditions under which voting by proxy, [or] by mail, **OR BY ELECTRONIC TRANSMISSION** is allowed.

(c) A person may not vote by proxy for more than three members at any meeting of the members.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 287

(Senate Bill 674)

AN ACT concerning

Primary and Secondary Education – Online Courses and Services – ~~Local Approval and Reporting Requirements~~ Development or Review and Approval

FOR the purpose of ~~authorizing a county board of education to procure certain online courses and services that the county board has approved as being high quality and in alignment with certain State standards; requiring a certain county board that has approved an online course to submit a certain report to the State Department of Education~~ authorizing certain county boards of education to request that the State Department of Education develop or review and approve certain online courses and services; requiring the Department to determine within a certain period of time whether a certain delegation will be made; requiring the Department to develop or review and approve certain courses and services within a certain period of time under certain circumstances; authorizing the Department to delegate certain authority to certain county boards under certain circumstances; authorizing certain county boards to set certain fees under certain circumstances; requiring certain county boards to remit certain fees to the Department under certain circumstances; requiring certain county boards to request certain approval from the Department under certain circumstances; requiring the Department to approve or deny certain requests within a certain period of time; authorizing the State Board of Education to set reasonable fees for the costs incurred by the Department for the development of online courses or the review and approval of online courses

and services; requiring the Department to ensure that certain courses and services require certain access for certain students; making stylistic changes; making this Act an emergency measure; and generally relating to the approval of and the reporting requirements for online courses by county boards of education.

BY repealing and reenacting, with amendments,
 Article – Education
 Section 7–1002
 Annotated Code of Maryland
 (2008 Replacement Volume and 2011 Supplement)

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

Article – Education

7–1002.

(a) The Department shall provide Maryland virtual learning opportunities that include:

- (1) Offering a distance–learning program to provide Maryland public school students with equal opportunities to develop a strong academic foundation;
- (2) Offering expanded educational choices not otherwise available to students through [on–line] **ONLINE** courses and services; and
- (3) Expanding the professional development opportunities available to educational staff in Maryland public schools through [on–line] **ONLINE** courses and services.

(b) **(1) (I) A COUNTY BOARD MAY REQUEST THAT THE DEPARTMENT DEVELOP OR REVIEW AND APPROVE ONLINE COURSES AND SERVICES UNDER PARAGRAPH (2) OF THIS SUBSECTION.**

(II) WITHIN 15 DAYS AFTER THE RECEIPT OF A REQUEST UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT SHALL DETERMINE WHETHER THE DEVELOPMENT OR REVIEW AND APPROVAL OF THE ONLINE COURSES AND SERVICES SHALL BE DELEGATED TO A COUNTY BOARD UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION.

(III) IF THE DEPARTMENT DOES NOT DELEGATE THE DEVELOPMENT OR REVIEW AND APPROVAL OF THE ONLINE COURSES AND SERVICES TO A COUNTY BOARD, THE DEPARTMENT SHALL DEVELOP OR REVIEW AND APPROVE ONLINE COURSES AND SERVICES UNDER PARAGRAPH (2) OF THIS

SUBSECTION WITHIN 120 DAYS AFTER THE RECEIPT OF A REQUEST MADE BY A COUNTY BOARD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

~~(2) (I) [With] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WITH the approval of the State Board and the State Superintendent~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, the Department shall:

~~[(1) (I)]~~ 1. A. Develop [on-line] ONLINE courses and services; OR

~~[(2) (II)]~~ B. ~~Procure~~ REVIEW AND APPROVE [on-line] ONLINE courses and services;

~~[(3) (III)]~~ 2. Develop standards for teachers and other school system employees for the offering of courses or services on the Internet or through other developing technologies; and

~~[(4) (IV)]~~ 3. Review courses and courseware to assure quality and alignment with the Maryland content standards and other appropriate standards.

~~(2) (I) A COUNTY BOARD MAY PROCURE ONLINE COURSES AND SERVICES THAT THE COUNTY BOARD HAS APPROVED AS HIGH QUALITY AND IN ALIGNMENT WITH THE MARYLAND CONTENT STANDARDS AND OTHER APPROPRIATE STANDARDS.~~

~~(II) A COUNTY BOARD THAT APPROVES AN ONLINE COURSE UNDER THIS PARAGRAPH SHALL SUBMIT A REPORT TO THE DEPARTMENT THAT INCLUDES THE INFORMATION REQUIRED BY AND IN THE MANNER DETERMINED BY THE DEPARTMENT.~~

(II) SUBJECT TO SUBPARAGRAPH (V) OF THIS PARAGRAPH, THE DEPARTMENT MAY DELEGATE THE AUTHORITY TO DEVELOP OR REVIEW AND APPROVE ONLINE COURSES AND SERVICES TO A COUNTY BOARD.

(III) IF THE DEPARTMENT DELEGATES THE AUTHORITY TO DEVELOP OR REVIEW AND APPROVE ONLINE COURSES AND SERVICES TO A COUNTY BOARD, THE COUNTY BOARD MAY IMPOSE REASONABLE FEES TO BE PAID BY THE VENDOR TO COVER THE COST OF REVIEWING AND APPROVING ONLINE COURSES AND SERVICES.

(IV) A COUNTY BOARD SHALL REMIT 15% OF THE FEES COLLECTED UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH TO THE DEPARTMENT.

(v) 1. A COUNTY BOARD SHALL REQUEST APPROVAL OF THE ONLINE COURSE FROM THE DEPARTMENT WHEN THE COUNTY BOARD HAS COMPLETED THE DEVELOPMENT OR REVIEW AND APPROVAL OF ONLINE COURSES AND SERVICES.

2. WITHIN 45 DAYS AFTER A REQUEST UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE DEPARTMENT SHALL APPROVE OR DISAPPROVE THE ONLINE COURSE BASED ON CRITERIA AND GUIDELINES DEVELOPED BY THE DEPARTMENT.

(c) (1) There is a Maryland Virtual Learning Opportunities Fund.

(2) The State Board may set reasonable fees for [on-line] ~~ONLINE~~:

(i) DEVELOPING OR REVIEWING ONLINE courses and services; **AND**

(ii) PROCESSING APPROVALS FOR ONLINE COURSES AND SERVICES.

(3) The fees charged shall be set so as to produce funds to support maintenance of Maryland virtual learning opportunities.

(4) The State Board shall pay all funds collected under this subtitle to the Comptroller of the State.

(5) The Comptroller shall distribute the fees to the Maryland Virtual Learning Opportunities Fund.

(6) The Fund is a continuing, nonlapsing fund not subject to § 7-302 of the State Finance and Procurement Article.

(7) Any unspent portions of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund to be used for the purposes specified in this subtitle.

(8) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2-1220 of the State Government Article.

(d) The State Board may adopt regulations to implement the provisions of this section.

(e) The Department shall submit to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly, on or before September 1, 2004, a report on the progress of the Maryland Virtual Learning Opportunities Program, including a description of the available [on-line] ~~ONLINE~~ courses and services.

SECTION 2. AND BE IT FURTHER ENACTED, That the State Department of Education shall:

(1) ensure that online courses and services developed or reviewed and approved include specifications that allow for access by students with disabilities, including blindness, in accordance with the technical standards for electronic and information technology issued under subsection (A)(2) of Section 508 of the federal Rehabilitation Act of 1973, 29 U.S.C. 794(A)(2) or any other appropriate accessibility standard; and

(2) establish a means for ensuring that online courses and services that fail to meet the requirements of paragraph (1) of this section are prohibited from use.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 2, 2012.

Chapter 288

(House Bill 1219)

AN ACT concerning

Primary and Secondary Education – Online Courses and Services – ~~Local Approval and Reporting Requirements~~ Development or Review and Approval

FOR the purpose of ~~authorizing a county board of education to procure certain online courses and services that the county board has approved as being high quality and in alignment with certain State standards; requiring a certain county board that has approved an online course to submit a certain report to the State Department of Education~~ authorizing certain county boards of education to request that the State Department of Education develop or review and approve certain online courses and services; requiring the Department to determine within a certain period of time whether a certain delegation will be made; requiring the Department to develop or review and approve certain courses and services within a certain period of time under certain circumstances; authorizing the Department to delegate certain authority to certain county boards under certain circumstances; authorizing certain county boards to set

certain fees under certain circumstances; requiring certain county boards to remit certain fees to the Department under certain circumstances; requiring certain county boards to request certain approval from the Department under certain circumstances; requiring the Department to approve or deny certain requests within a certain period of time; authorizing the State Board of Education to set reasonable fees for the costs incurred by the Department for the development of online courses or the review and approval of online courses and services; requiring the Department to ensure that certain courses and services require certain access for certain students; making stylistic changes; making this Act an emergency measure; and generally relating to the approval of and the reporting requirements for online courses ~~by county boards of education.~~

BY repealing and reenacting, with amendments,
 Article – Education
 Section 7–1002
 Annotated Code of Maryland
 (2008 Replacement Volume and 2011 Supplement)

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

Article – Education

7–1002.

(a) The Department shall provide Maryland virtual learning opportunities that include:

(1) Offering a distance–learning program to provide Maryland public school students with equal opportunities to develop a strong academic foundation;

(2) Offering expanded educational choices not otherwise available to students through [on–line] **ONLINE** courses and services; and

(3) Expanding the professional development opportunities available to educational staff in Maryland public schools through [on–line] **ONLINE** courses and services.

(b) **(1) (I) A COUNTY BOARD MAY REQUEST THAT THE DEPARTMENT DEVELOP OR REVIEW AND APPROVE ONLINE COURSES AND SERVICES UNDER PARAGRAPH (2) OF THIS SUBSECTION.**

(II) WITHIN 15 DAYS AFTER THE RECEIPT OF A REQUEST UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT SHALL DETERMINE WHETHER THE DEVELOPMENT OR REVIEW AND APPROVAL OF THE

ONLINE COURSES AND SERVICES SHALL BE DELEGATED TO A COUNTY BOARD UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION.

(III) IF THE DEPARTMENT DOES NOT DELEGATE THE DEVELOPMENT OR REVIEW AND APPROVAL OF THE ONLINE COURSES AND SERVICES TO A COUNTY BOARD, THE DEPARTMENT SHALL DEVELOP OR REVIEW AND APPROVE ONLINE COURSES AND SERVICES UNDER PARAGRAPH (2) OF THIS SUBSECTION WITHIN 120 DAYS AFTER THE RECEIPT OF A REQUEST MADE BY A COUNTY BOARD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(2) (I) [With] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WITH the approval of the State Board and the State Superintendent SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, the Department shall:

[(1)] (H) 1. A. Develop [on-line] ONLINE courses and services; OR

[(2)] (H) B. Procure REVIEW AND APPROVE [on-line] ONLINE courses and services;

[(3)] (H) 2. Develop standards for teachers and other school system employees for the offering of courses or services on the Internet or through other developing technologies; and

[(4)] (H) 3. Review courses and courseware to assure quality and alignment with the Maryland content standards and other appropriate standards.

~~(2) (I) A COUNTY BOARD MAY PROCURE ONLINE COURSES AND SERVICES THAT THE COUNTY BOARD HAS APPROVED AS HIGH QUALITY AND IN ALIGNMENT WITH THE MARYLAND CONTENT STANDARDS AND OTHER APPROPRIATE STANDARDS.~~

~~(II) A COUNTY BOARD THAT APPROVES AN ONLINE COURSE UNDER THIS PARAGRAPH SHALL SUBMIT A REPORT TO THE DEPARTMENT THAT INCLUDES THE INFORMATION REQUIRED BY AND IN THE MANNER DETERMINED BY THE DEPARTMENT.~~

(II) SUBJECT TO SUBPARAGRAPH (V) OF THIS PARAGRAPH, THE DEPARTMENT MAY DELEGATE THE AUTHORITY TO DEVELOP OR REVIEW AND APPROVE ONLINE COURSES AND SERVICES TO A COUNTY BOARD.

(III) IF THE DEPARTMENT DELEGATES THE AUTHORITY TO DEVELOP OR REVIEW AND APPROVE ONLINE COURSES AND SERVICES TO A COUNTY BOARD, THE COUNTY BOARD MAY IMPOSE REASONABLE FEES TO BE

PAID BY THE VENDOR TO COVER THE COST OF REVIEWING AND APPROVING ONLINE COURSES AND SERVICES.

(IV) A COUNTY BOARD SHALL REMIT 15% OF THE FEES COLLECTED UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH TO THE DEPARTMENT.

(v) 1. A COUNTY BOARD SHALL REQUEST APPROVAL OF THE ONLINE COURSE FROM THE DEPARTMENT WHEN THE COUNTY BOARD HAS COMPLETED THE DEVELOPMENT OR REVIEW AND APPROVAL OF ONLINE COURSES AND SERVICES.

2. WITHIN 45 DAYS AFTER A REQUEST UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE DEPARTMENT SHALL APPROVE OR DISAPPROVE THE ONLINE COURSE BASED ON CRITERIA AND GUIDELINES DEVELOPED BY THE DEPARTMENT.

(c) (1) There is a Maryland Virtual Learning Opportunities Fund.

(2) The State Board may set reasonable fees for [on-line] ~~ONLINE~~:

(I) DEVELOPING OR REVIEWING ONLINE courses and services; AND

(II) PROCESSING APPROVALS FOR ONLINE COURSES AND SERVICES.

(3) The fees charged shall be set so as to produce funds to support maintenance of Maryland virtual learning opportunities.

(4) The State Board shall pay all funds collected under this subtitle to the Comptroller of the State.

(5) The Comptroller shall distribute the fees to the Maryland Virtual Learning Opportunities Fund.

(6) The Fund is a continuing, nonlapsing fund not subject to § 7-302 of the State Finance and Procurement Article.

(7) Any unspent portions of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund to be used for the purposes specified in this subtitle.

(8) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2-1220 of the State Government Article.

(d) The State Board may adopt regulations to implement the provisions of this section.

(e) The Department shall submit to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly, on or before September 1, 2004, a report on the progress of the Maryland Virtual Learning Opportunities Program, including a description of the available [on–line] **ONLINE** courses and services.

SECTION 2. AND BE IT FURTHER ENACTED, That the State Department of Education shall:

(1) ensure that online courses and services developed or reviewed and approved include specifications that allow for access by students with disabilities, including blindness, in accordance with the technical standards for electronic and information technology issued under subsection (A)(2) of Section 508 of the federal Rehabilitation Act of 1973, 29 U.S.C. 794(A)(2) or any other appropriate accessibility standard; and

(2) establish a means for ensuring that online courses and services that fail to meet the requirements of paragraph (1) of this section are prohibited from use.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 2, 2012.

Chapter 289

(Senate Bill 680)

AN ACT concerning

State Personnel Management System – Criminal History Records Check

FOR the purpose of authorizing certain appointing authorities in the State Personnel Management System to request from the Criminal Justice Information System Central Repository State and national criminal history records checks for certain prospective and current employees; establishing certain procedures to apply for a criminal history records check; requiring the Central Repository to forward criminal history record information to the current or prospective

employee under certain circumstances; providing that certain information is confidential and may be used only for certain purposes; authorizing a person who is the subject of a criminal history records check under this Act to contest certain information in the record; authorizing the Secretary of Budget and Management to adopt certain regulations, guidelines, and policies to implement this Act; defining a certain term; and generally relating to State and national criminal history records checks for certain prospective and current employees in the State Personnel Management System.

BY adding to

Article – State Personnel and Pensions

Section 7–103

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – State Personnel and Pensions

7–103.

(A) IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(B) (1) AN APPOINTING AUTHORITY MAY REQUEST A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FROM THE CENTRAL REPOSITORY FOR:

(I) A PERSON WHO IS SELECTED FOR A POSITION IN THE STATE PERSONNEL MANAGEMENT SYSTEM; OR

(II) A CURRENT EMPLOYEE WHO IS ELIGIBLE AND IS BEING RECOMMENDED FOR TRANSFER, PROMOTION, OR REASSIGNMENT TO A POSITION IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(2) THE APPOINTING AUTHORITY SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH PROSPECTIVE OR CURRENT EMPLOYEE FOR WHOM A RECORDS CHECK IS SOUGHT UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE APPOINTING AUTHORITY SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(I) TWO COMPLETE SETS OF THE PROSPECTIVE OR CURRENT EMPLOYEE'S LEGIBLE FINGERPRINTS TAKEN IN A FORMAT APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(II) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO CRIMINAL HISTORY RECORD INFORMATION; AND

(III) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(4) IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE PROSPECTIVE OR CURRENT EMPLOYEE AND THE APPOINTING AUTHORITY THE PROSPECTIVE OR CURRENT EMPLOYEE'S CRIMINAL HISTORY RECORD INFORMATION.

(5) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SUBSECTION:

(I) IS CONFIDENTIAL AND MAY NOT BE REDISSEMINATED;
AND

(II) MAY BE USED ONLY FOR EMPLOYMENT PURPOSES AUTHORIZED UNDER DIVISION I OF THIS ARTICLE.

(C) A PERSON WHO IS THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.

(D) THE SECRETARY MAY ADOPT REGULATIONS, GUIDELINES, AND POLICIES TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 290**(Senate Bill 689)**

AN ACT concerning

Education – Maryland Advisory Council for Virtual Learning – Establishment

FOR the purpose of establishing the Maryland Advisory Council for Virtual Learning within the Department of Education; requiring the Department to provide staff for the Council; establishing the mission of the Council; identifying the membership of the Council; establishing the membership term; requiring the State Superintendent or the Governor to appoint a member in the event of a vacancy; requiring the Council members to elect the Council chair; prohibiting a member from receiving compensation except under certain circumstances; establishing a quorum of the Council; requiring the Council to meet for a certain number of times; establishing the responsibilities of the Council; requiring the Council to submit a certain report by a certain time; defining a certain term; and generally relating to the Maryland Advisory Council for Virtual Learning.

BY adding to

Article – Education

Section 7–10B–01 through 7–10B–06 to be under the new subtitle “Subtitle 10B. Maryland Advisory Council for Virtual Learning”

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

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

Article – Education**SUBTITLE 10B. MARYLAND ADVISORY COUNCIL FOR VIRTUAL LEARNING.****7–10B–01.**

IN THIS SUBTITLE, “COUNCIL” MEANS THE MARYLAND ADVISORY COUNCIL FOR VIRTUAL LEARNING.

7–10B–02.

(A) THERE IS A MARYLAND ADVISORY COUNCIL FOR VIRTUAL LEARNING IN THE DEPARTMENT.

(B) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT FOR THE COUNCIL.

7-10B-03.

THE MISSION OF THE COUNCIL IS TO ENCOURAGE AND SUPPORT THE EDUCATION OF STUDENTS IN ACCORDANCE WITH NATIONAL STANDARDS OF ONLINE LEARNING AND STATE LAW.

7-10B-04.

(A) THE COUNCIL CONSISTS OF THE FOLLOWING ~~15~~ MEMBERS:

(1) THE STATE SUPERINTENDENT OR THE STATE SUPERINTENDENT'S DESIGNEE;

(2) THE DIRECTOR OF THE MARYLAND VIRTUAL LEARNING OPPORTUNITIES OFFICE WITHIN THE DEPARTMENT;

(3) ~~ONE MEMBER~~ TWO MEMBERS OF THE SENATE OF MARYLAND APPOINTED BY THE PRESIDENT OF THE SENATE;

(4) ~~ONE MEMBER~~ TWO MEMBERS OF THE HOUSE OF DELEGATES OF MARYLAND APPOINTED BY THE SPEAKER OF THE HOUSE;

(5) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

(I) ONE LOCAL SUPERINTENDENT OF SCHOOLS;

(II) ONE REPRESENTATIVE OF THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION;

(III) ONE REPRESENTATIVE OF THE MARYLAND PARENT TEACHER ASSOCIATION; ~~AND~~

(IV) TWO REPRESENTATIVES OF VIRTUAL LEARNING PROVIDERS;

(V) ONE REPRESENTATIVE OF THE BUSINESS COMMUNITY;

(VI) ONE PARENT OF A STUDENT PARTICIPATING IN DIGITAL LEARNING OPPORTUNITIES;

(VII) ONE SCHOOL TEACHER ENGAGED IN DIGITAL INSTRUCTION;

(VIII) ONE MEMBER OF THE BALTIMORE TEACHERS UNION;

(IX) ONE MEMBER OF THE MARYLAND STATE EDUCATION ASSOCIATION; AND

(X) ONE CHARTER SCHOOL ADVOCATE; AND

(6) SIX MEMBERS APPOINTED BY THE DEPARTMENT THAT ARE EMPLOYEES OF LOCAL SCHOOLS THAT HAVE EXCELLED IN THE ABILITY TO INCORPORATE TECHNOLOGY INTO THE CLASSROOM.

(B) IN MAKING THE APPOINTMENTS REQUIRED UNDER THIS SECTION, THE GOVERNOR AND THE DEPARTMENT SHALL ENSURE THAT THE COUNCIL IS REPRESENTATIVE OF:

(1) ALL GEOGRAPHIC AREAS OF THE STATE; AND

(2) ALL LEVELS OF EDUCATION, INCLUDING EARLY CHILDHOOD LEARNING, ELEMENTARY SCHOOL, MIDDLE SCHOOL, AND HIGH SCHOOL.

(C) (1) THE TERM OF A MEMBER APPOINTED UNDER THIS SECTION IS 3 YEARS.

(2) THE TERMS OF MEMBERS SHALL BE STAGGERED.

(3) AT THE END OF A TERM, A MEMBER SHALL CONTINUE TO SERVE UNTIL A SUCCESSOR IS APPOINTED.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SHALL SERVE FOR THE REMAINDER OF THE TERM OR UNTIL A SUCCESSOR IS APPOINTED.

(D) THE GOVERNOR OR THE DEPARTMENT SHALL APPOINT A SUCCESSOR IN THE EVENT OF A VACANCY ON THE COUNCIL.

(E) FROM AMONG THE MEMBERS OF THE COUNCIL, A CHAIR SHALL BE ELECTED FOR A 3-YEAR TERM.

(F) A MEMBER OF THE COUNCIL MAY NOT RECEIVE COMPENSATION BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

7-10B-05.

(A) A MAJORITY OF THE MEMBERS THEN SERVING ON THE COUNCIL IS A QUORUM.

(B) (1) THE COUNCIL SHALL MEET AT LEAST 4 TIMES DURING EACH ACADEMIC YEAR.

(2) THE COUNCIL MAY HOLD ADDITIONAL MEETINGS IN ORDER TO CARRY OUT ITS RESPONSIBILITIES.

7-10B-06.

(A) THE COUNCIL SHALL MAKE RECOMMENDATIONS REGARDING:

~~(1) EXAMINE ALL STATE INITIATIVES TO PROVIDE DIGITAL CONTENT TO STUDENTS IN PRIMARY, SECONDARY, AND HIGHER EDUCATION, INCLUDING PILOT PROGRAMS FUNDED BY LOCAL, STATE, FEDERAL, OR PRIVATE FUNDS;~~

~~(2) ENSURE THAT STUDENTS FROM ALL GEOGRAPHIC LOCATIONS IN THE STATE HAVE ACCESS TO DIGITAL LEARNING;~~

~~(3) REQUEST INFORMATION FROM TEXTBOOK PUBLISHERS ABOUT THE DEVELOPMENT OF DIGITAL TEXTBOOKS AND OTHER DIGITAL CONTENT;~~

~~(4) EXAMINE DATA REGARDING THE USE OF DIGITAL LEARNING TOOLS INCLUDING ONLINE LEARNING;~~

~~(5) CREATE STANDARDS FOR:~~

~~(I) AWARDING CREDITS;~~

~~(II) STUDENT ENROLLMENT;~~

~~(III) VERIFICATION OF ATTENDANCE; AND~~

~~(IV) ASSESSMENT OF STUDENT PERFORMANCE;~~

~~(6) MAKE RECOMMENDATIONS ON THE FOLLOWING:~~

~~(I) HIGH QUALITY DIGITAL CONTENT TO PROVIDE FREE ACCESS FOR STUDENTS IN KINDERGARTEN THROUGH GRADE 12 ENROLLED IN PUBLIC SCHOOLS, PRIVATE SCHOOLS, OR HOME SCHOOLS;~~

~~(II)~~ (1) HIGH QUALITY PROFESSIONAL DEVELOPMENT FOR TEACHERS AND PRINCIPALS REGARDING DIGITAL INSTRUCTION OR BLENDING DIGITAL CONTENT WITH TRADITIONAL CLASSROOM INSTRUCTION;

~~(III)~~ (2) FUNDING STRATEGIES TO PROVIDE HIGH QUALITY, INNOVATIVE OPTIONS IN COURSE PROVIDERS AND DELIVERY;

~~(IV)~~ (3) STUDENT ASSESSMENT AND ACCOUNTABILITY;

~~(V)~~ (4) INFRASTRUCTURE NECESSARY TO SUPPORT DIGITAL LEARNING;

~~(VI)~~ (5) MOBILE LEARNING AND MOBILE LEARNING APPLICATIONS;

~~(VII)~~ (6) ALIGNING RESOURCES AND DIGITAL LEARNING INITIATIVES OF ALL STATE AGENCIES;

~~(VIII)~~ (7) COORDINATION OF DIGITAL LEARNING PROGRAMS TO PREVENT REDUNDANCY AND INEFFICIENCY;

~~(IX)~~ (8) PLANNING FOR CHANGES IN TECHNOLOGY AND DIGITAL LEARNING;

~~(X)~~ (9) EXPANDED CURRICULUM FOR MATHEMATICS, SCIENCE, FOREIGN LANGUAGE, AND ADVANCED PLACEMENT COURSES;

~~(XI)~~ (10) INCREASING EDUCATION OPPORTUNITIES FOR AT-RISK, HOME-BOUND, SPECIAL NEEDS, AND ALTERNATIVE EDUCATION STUDENTS; AND

~~(XII)~~ (11) IMPLEMENTATION PLANS FOR PROVIDING DIGITAL LEARNING OPPORTUNITIES TO ALL STUDENTS IN THE STATE; .

~~(7) REVIEW AND APPROVE ONLINE COURSES; AND~~

~~(8) (B) PERFORM~~ THE COUNCIL SHALL PERFORM ANY OTHER TASKS TO CARRY OUT THE MISSION OF THE COUNCIL.

~~(B) (C)~~ ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE COUNCIL SHALL REPORT ITS RECOMMENDATIONS TO THE STATE SUPERINTENDENT AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY HOUSE COMMITTEE ON WAYS AND MEANS AND THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 291

(House Bill 745)

AN ACT concerning

Education – Maryland Advisory Council for Virtual Learning – Establishment

FOR the purpose of establishing the Maryland Advisory Council for Virtual Learning within the Department of Education; requiring the Department to provide staff for the Council; establishing the mission of the Council; identifying the membership of the Council; establishing the membership term; requiring the State Superintendent or the Governor to appoint a member in the event of a vacancy; requiring the Council members to elect the Council chair; prohibiting a member from receiving compensation except under certain circumstances; establishing a quorum of the Council; requiring the Council to meet for a certain number of times; establishing the responsibilities of the Council; requiring the Council to submit a certain report by a certain time; defining a certain term; and generally relating to the Maryland Advisory Council for Virtual Learning.

BY adding to

Article – Education

Section 7–10B–01 through 7–10B–06 to be under the new subtitle “Subtitle 10B.
Maryland Advisory Council for Virtual Learning”

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

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

Article – Education

SUBTITLE 10B. MARYLAND ADVISORY COUNCIL FOR VIRTUAL LEARNING.

7–10B–01.

IN THIS SUBTITLE, “COUNCIL” MEANS THE MARYLAND ADVISORY COUNCIL FOR VIRTUAL LEARNING.

7-10B-02.

(A) THERE IS A MARYLAND ADVISORY COUNCIL FOR VIRTUAL LEARNING IN THE DEPARTMENT.

(B) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT FOR THE COUNCIL.

7-10B-03.

THE MISSION OF THE COUNCIL IS TO ENCOURAGE AND SUPPORT THE EDUCATION OF STUDENTS IN ACCORDANCE WITH NATIONAL STANDARDS OF ONLINE LEARNING AND STATE LAW.

7-10B-04.

(A) THE COUNCIL CONSISTS OF THE FOLLOWING ~~15~~ MEMBERS:

(1) THE STATE SUPERINTENDENT OR THE STATE SUPERINTENDENT'S DESIGNEE;

(2) THE DIRECTOR OF THE MARYLAND VIRTUAL LEARNING OPPORTUNITIES OFFICE WITHIN THE DEPARTMENT;

(3) ~~ONE MEMBER~~ TWO MEMBERS OF THE SENATE OF MARYLAND APPOINTED BY THE PRESIDENT OF THE SENATE;

(4) ~~ONE MEMBER~~ TWO MEMBERS OF THE HOUSE OF DELEGATES OF MARYLAND APPOINTED BY THE SPEAKER OF THE HOUSE;

(5) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

(I) ONE LOCAL SUPERINTENDENT OF SCHOOLS;

(II) ONE REPRESENTATIVE OF THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION;

(III) ONE REPRESENTATIVE OF THE MARYLAND PARENT TEACHER ASSOCIATION; ~~AND~~

(IV) TWO REPRESENTATIVES OF VIRTUAL LEARNING PROVIDERS;

(V) ONE REPRESENTATIVE OF THE BUSINESS COMMUNITY;

(VI) ONE PARENT OF A STUDENT PARTICIPATING IN DIGITAL LEARNING OPPORTUNITIES;

(VII) ONE SCHOOL TEACHER ENGAGED IN DIGITAL INSTRUCTION;

(VIII) ONE MEMBER OF THE BALTIMORE TEACHERS UNION;

(IX) ONE MEMBER OF THE MARYLAND STATE EDUCATION ASSOCIATION; AND

(X) ONE CHARTER SCHOOL ADVOCATE; AND

(6) SIX MEMBERS APPOINTED BY THE DEPARTMENT THAT ARE EMPLOYEES OF LOCAL SCHOOLS THAT HAVE EXCELLED IN THE ABILITY TO INCORPORATE TECHNOLOGY INTO THE CLASSROOM.

(B) IN MAKING THE APPOINTMENTS REQUIRED UNDER THIS SECTION, THE GOVERNOR AND THE DEPARTMENT SHALL ENSURE THAT THE COUNCIL IS REPRESENTATIVE OF:

(1) ALL GEOGRAPHIC AREAS OF THE STATE; AND

(2) ALL LEVELS OF EDUCATION, INCLUDING EARLY CHILDHOOD LEARNING, ELEMENTARY SCHOOL, MIDDLE SCHOOL, AND HIGH SCHOOL.

(C) (1) THE TERM OF A MEMBER APPOINTED UNDER THIS SECTION IS 3 YEARS.

(2) THE TERMS OF MEMBERS SHALL BE STAGGERED.

(3) AT THE END OF A TERM, A MEMBER SHALL CONTINUE TO SERVE UNTIL A SUCCESSOR IS APPOINTED.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SHALL SERVE FOR THE REMAINDER OF THE TERM OR UNTIL A SUCCESSOR IS APPOINTED.

(D) THE GOVERNOR OR THE DEPARTMENT SHALL APPOINT A SUCCESSOR IN THE EVENT OF A VACANCY ON THE COUNCIL.

(E) FROM AMONG THE MEMBERS OF THE COUNCIL, A CHAIR SHALL BE ELECTED FOR A 3-YEAR TERM.

(F) A MEMBER OF THE COUNCIL MAY NOT RECEIVE COMPENSATION BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

7-10B-05.

(A) A MAJORITY OF THE MEMBERS THEN SERVING ON THE COUNCIL IS A QUORUM.

(B) (1) THE COUNCIL SHALL MEET AT LEAST 4 TIMES DURING EACH ACADEMIC YEAR.

(2) THE COUNCIL MAY HOLD ADDITIONAL MEETINGS IN ORDER TO CARRY OUT ITS RESPONSIBILITIES.

7-10B-06.

(A) THE COUNCIL SHALL MAKE RECOMMENDATIONS REGARDING:

~~(1) EXAMINE ALL STATE INITIATIVES TO PROVIDE DIGITAL CONTENT TO STUDENTS IN PRIMARY, SECONDARY, AND HIGHER EDUCATION, INCLUDING PILOT PROGRAMS FUNDED BY LOCAL, STATE, FEDERAL, OR PRIVATE FUNDS;~~

~~(2) ENSURE THAT STUDENTS FROM ALL GEOGRAPHIC LOCATIONS IN THE STATE HAVE ACCESS TO DIGITAL LEARNING;~~

~~(3) REQUEST INFORMATION FROM TEXTBOOK PUBLISHERS ABOUT THE DEVELOPMENT OF DIGITAL TEXTBOOKS AND OTHER DIGITAL CONTENT;~~

~~(4) EXAMINE DATA REGARDING THE USE OF DIGITAL LEARNING TOOLS INCLUDING ONLINE LEARNING;~~

~~(5) CREATE STANDARDS FOR:~~

~~(I) AWARDING CREDITS;~~

~~(II) STUDENT ENROLLMENT;~~

~~(III) VERIFICATION OF ATTENDANCE; AND~~

~~(IV) ASSESSMENT OF STUDENT PERFORMANCE;~~

~~(6) MAKE RECOMMENDATIONS ON THE FOLLOWING:~~

~~(i) HIGH QUALITY DIGITAL CONTENT TO PROVIDE FREE ACCESS FOR STUDENTS IN KINDERGARTEN THROUGH GRADE 12 ENROLLED IN PUBLIC SCHOOLS, PRIVATE SCHOOLS, OR HOME SCHOOLS;~~

~~(ii) (1) HIGH QUALITY PROFESSIONAL DEVELOPMENT FOR TEACHERS AND PRINCIPALS REGARDING DIGITAL INSTRUCTION OR BLENDING DIGITAL CONTENT WITH TRADITIONAL CLASSROOM INSTRUCTION;~~

~~(iii) (2) FUNDING STRATEGIES TO PROVIDE HIGH QUALITY, INNOVATIVE OPTIONS IN COURSE PROVIDERS AND DELIVERY;~~

~~(iv) (3) STUDENT ASSESSMENT AND ACCOUNTABILITY;~~

~~(v) (4) INFRASTRUCTURE NECESSARY TO SUPPORT DIGITAL LEARNING;~~

~~(vi) (5) MOBILE LEARNING AND MOBILE LEARNING APPLICATIONS;~~

~~(vii) (6) ALIGNING RESOURCES AND DIGITAL LEARNING INITIATIVES OF ALL STATE AGENCIES;~~

~~(viii) (7) COORDINATION OF DIGITAL LEARNING PROGRAMS TO PREVENT REDUNDANCY AND INEFFICIENCY;~~

~~(ix) (8) PLANNING FOR CHANGES IN TECHNOLOGY AND DIGITAL LEARNING;~~

~~(x) (9) EXPANDED CURRICULUM FOR MATHEMATICS, SCIENCE, FOREIGN LANGUAGE, AND ADVANCED PLACEMENT COURSES;~~

~~(xi) (10) INCREASING EDUCATION OPPORTUNITIES FOR AT-RISK, HOME-BOUND, SPECIAL NEEDS, AND ALTERNATIVE EDUCATION STUDENTS; AND~~

~~(xii) (11) IMPLEMENTATION PLANS FOR PROVIDING DIGITAL LEARNING OPPORTUNITIES TO ALL STUDENTS IN THE STATE;~~

~~(7) REVIEW AND APPROVE ONLINE COURSES; AND~~

~~(8) (B) PERFORM THE COUNCIL SHALL PERFORM ANY OTHER TASKS TO CARRY OUT THE MISSION OF THE COUNCIL.~~

~~(B)~~ (C) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE COUNCIL SHALL REPORT ITS RECOMMENDATIONS TO THE STATE SUPERINTENDENT AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ~~THE GENERAL ASSEMBLY~~ HOUSE COMMITTEE ON WAYS AND MEANS AND THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 292

(Senate Bill 741)

AN ACT concerning

Vehicle Laws – U.S. Foreign Service Members Absent from State – Effective Period of Driver's License

FOR the purpose of establishing that a Maryland driver's license held by a member of the Foreign Service of the United States residing outside the State, or the spouse or dependent of the Foreign Service member residing outside the State with the Foreign Service member, shall remain in full force and effect during the absence; authorizing an extension for a certain period of time of the effective period of a Maryland driver's license after the return to the State of a member of the Foreign Service, or the spouse or dependent of a member of the Foreign Service, under certain circumstances and subject to certain requirements; and generally relating to the effective period of drivers' licenses of Foreign Service members.

BY renumbering

Article – Transportation

Section 16-115(e) through (j), respectively

to be Section 16-115(f) through (k), respectively

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Transportation

Section 16-115(a)(1) through (3)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 16–115(a)(4)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY adding to
Article – Transportation
Section 16–115(e)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 16–115(e) through (j), respectively, of Article – Transportation of the Annotated Code of Maryland be renumbered to be Section(s) 16–115(f) through (k), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Transportation

16–115.

(a) (1) Subject to paragraph (5) of this subsection, a license issued under this title to a driver at least 21 years old shall expire on the birth date of the licensee at the end of a period of not more than 5 years determined in regulations adopted by the Administration following the issuance of the license.

(2) Subject to paragraph (5) of this subsection, a license issued under this title to a driver under the age of 21 years shall expire not later than 60 days after the driver’s 21st birthday.

(3) A license is renewable on the presentation of an application, the payment of the renewal fee required by § 16–111.1 of this subtitle, and satisfactory completion of the examination required or authorized by subsection (h) of this section:

(i) Within 6 months before its expiration; or

(ii) When a driver qualifies for a corrected license issued under § 16–114.1(c) of this subtitle.

(4) Except as provided in subsection [(e)] (F) of this section, the Administration may not renew an individual’s license for more than one consecutive term without requiring the individual to appear in person at an office of the Administration.

(E) (1) A LICENSE HELD BY AN INDIVIDUAL WHO IS A MEMBER OF THE FOREIGN SERVICE OF THE UNITED STATES AND IS ABSENT FROM THE STATE DUE TO EMPLOYMENT IN THE FOREIGN SERVICE, OR A LICENSE HELD BY THE SPOUSE OR A DEPENDENT OF THE INDIVIDUAL WHO IS RESIDING WITH THE INDIVIDUAL OUTSIDE THE STATE, SHALL REMAIN IN FULL FORCE AND EFFECT DURING THE ABSENCE.

(2) A LICENSE HELD BY AN INDIVIDUAL DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL ALSO REMAIN IN EFFECT, IF IT WOULD OTHERWISE HAVE EXPIRED UNDER THIS SECTION, FOR A PERIOD OF 30 DAYS FOLLOWING THE DATE OF THE INDIVIDUAL'S RETURN TO THE STATE, OR THE INDIVIDUAL'S SEPARATION FROM EMPLOYMENT IN THE FOREIGN SERVICE OF THE UNITED STATES IF:

(I) THE INDIVIDUAL HAS IN THE INDIVIDUAL'S IMMEDIATE POSSESSION, TOGETHER WITH THE INDIVIDUAL'S DRIVER'S LICENSE, DOCUMENTATION ACCEPTABLE TO THE ADMINISTRATION INDICATING THAT:

1. THE INDIVIDUAL IS A MEMBER OF THE FOREIGN SERVICE OF THE UNITED STATES, OR THE SPOUSE OR A DEPENDENT OF A MEMBER OF THE FOREIGN SERVICE OF THE UNITED STATES AND RESIDES OUTSIDE THE STATE; OR

2. THE INDIVIDUAL WAS FORMERLY A MEMBER OF THE FOREIGN SERVICE OF THE UNITED STATES, OR THE SPOUSE OR A DEPENDENT OF A FORMER MEMBER OF THE FOREIGN SERVICE, AND HAS RETURNED TO THE STATE ON SEPARATION OF THE MEMBER FROM EMPLOYMENT WITH THE FOREIGN SERVICE; AND

(II) THE LICENSE IS NOT OTHERWISE SUSPENDED, REVOKED, OR CANCELED UNDER THIS TITLE DURING THE 30-DAY PERIOD.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 293

(Senate Bill 744)

AN ACT concerning

**Health Insurance – Habilitative Services – Required Coverage ~~and~~,
Workgroup, and Technical Advisory Group**

FOR the purpose of ~~altering the age under which certain insurers, nonprofit health service plans, and health maintenance organizations must provide coverage of habilitative services;~~ specifying the format in which certain insurers, nonprofit health service plans, and health maintenance organizations must provide a certain notice about the coverage ~~must be provided~~ of habilitative services; requiring that certain determinations made by certain insurers, nonprofit health service plans, and health maintenance organizations be made in accordance with certain regulations beginning on a certain date; requiring the Department of Health and Mental Hygiene, in consultation with the Maryland Insurance Commissioner, to establish a technical advisory group on the medically necessary and appropriate use of habilitative services to treat autism and autism spectrum disorders; establishing the composition of the technical advisory group; requiring the technical advisory group to develop certain recommendations and obtain certain input; requiring the Commissioner, on or before a certain date, to adopt certain regulations based on the recommendations of the technical advisory group; requiring the ~~Maryland Insurance~~ Commissioner to establish a workgroup on access to habilitative services benefits; specifying the composition of the workgroup; requiring the workgroup to make certain determinations; requiring the Commissioner to ~~report~~ submit certain reports on the findings and recommendations of the workgroup, on or before a certain date certain dates, to certain legislative committees; altering a certain definition; providing for the construction of this Act; and generally relating to health insurance coverage of habilitative services.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–835

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Insurance

15–835.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Congenital or genetic birth defect” means a defect existing at or from birth, including a hereditary defect.

(ii) “Congenital or genetic birth defect” includes, but is not limited to:

1. autism or an autism spectrum disorder; [and]
2. cerebral palsy;
3. **INTELLECTUAL DISABILITY;**
4. **DOWN SYNDROME;**
5. **SPINA BIFIDA; ~~AND~~**
6. **HYDROENCEPHALOCELE; AND**
7. **CONGENITAL OR GENETIC DEVELOPMENTAL DISABILITIES.**

(3) “Habilitative services” means services, including occupational therapy, physical therapy, and speech therapy, for the treatment of a child with a congenital or genetic birth defect to enhance the child’s ability to function.

(4) “Managed care system” means a method that an insurer, a nonprofit health service plan, or a health maintenance organization uses to review and preauthorize a treatment plan that a health care practitioner develops for a covered person using a variety of cost containment methods to control utilization, quality, and claims.

(b) This section applies to:

(1) insurers and nonprofit health service plans that provide hospital, medical, or surgical benefits to individuals or groups on an expense-incurred basis under health insurance policies or contracts that are issued or delivered in the State; and

(2) health maintenance organizations that provide hospital, medical, or surgical benefits to individuals or groups under contracts that are issued or delivered in the State.

(c) (1) An entity subject to this section shall provide coverage of habilitative services for children under the age of ~~19~~ **21** years and may do so through a managed care system.

(2) An entity subject to this section is not required to provide reimbursement for habilitative services delivered through early intervention or school services.

(d) An entity subject to this section shall provide notice annually to its insureds and enrollees about the coverage required under this section:

- (1) IN PRINT; AND
- (2) ON ITS WEB SITE.

(e) A determination by an entity subject to this section denying a request for habilitative services or denying payment for habilitative services on the grounds that a condition or disease is not a congenital or genetic birth defect is considered an “adverse decision” under § 15–10A–01 of this title.

(F) BEGINNING NOVEMBER 1, 2013, A DETERMINATION BY AN ENTITY SUBJECT TO THIS SECTION OF WHETHER HABILITATIVE SERVICES COVERED UNDER THIS SECTION ARE MEDICALLY NECESSARY AND APPROPRIATE TO TREAT AUTISM AND AUTISM SPECTRUM DISORDERS SHALL BE MADE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSIONER.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Department of Health and Mental Hygiene, in consultation with the Maryland Insurance Commissioner, shall establish a technical advisory group on the medically necessary and appropriate use of habilitative services to treat autism and autism spectrum disorders.

(b) The technical advisory group shall be composed of individuals with expertise in the treatment of children with autism and autism spectrum disorders.

(c) The technical advisory group shall develop recommendations for the medically necessary and appropriate use of habilitative services to treat autism and autism spectrum disorders.

(d) When making a recommendation, the technical advisory group shall consider whether the recommendation is:

- (1) objective;
- (2) clinically valid;
- (3) compatible with established principles of health care; and
- (4) flexible enough to allow deviations from norms when justified on a case by case basis.

(e) In its work, the technical advisory group shall obtain input from the public, including input from:

(1) parents of children with autism and autism spectrum disorders;
and

(2) the insurers, nonprofit health service plans, and health maintenance organizations that are subject to § 15–835 of the Insurance Article, as enacted by Section 1 of this Act.

(f) Based on the recommendations of the technical advisory group, the Commissioner, on or before November 1, 2013, shall adopt regulations that relate to the medically necessary and appropriate use of habilitative services to treat autism and autism spectrum disorders for purposes of § 15–835 of the Insurance Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Insurance Commissioner shall establish a workgroup on access to habilitative services benefits.

(b) The workgroup shall consist of :

(1) one member of the Senate of Maryland, appointed by the President of the Senate;

(2) one member of the House of Delegates, appointed by the Speaker of the House; and

(3) physical therapists, occupational therapists, speech pathologists, pediatricians, K–12 and early intervention educators, a parent of a ~~special-needs~~ child with special needs, and representatives of insurers, the Maryland Insurance Administration, the Maryland Health Care Commission, the Maryland State Department of Education, the Maryland Developmental Disabilities Council, the Maryland Department of Disabilities, and the Department of Health and Mental Hygiene.

(c) The workgroup shall determine:

(1) whether children who are entitled to and would benefit from habilitative services under health insurance policies or contracts or health maintenance organization contracts are actually receiving them;

(2) if the children are not receiving the habilitative services, the reasons why; ~~and~~

(3) any actions needed to promote optimum use of the habilitative services to:

- (i) maximize outcomes for children; and
- (ii) reduce long-term costs to the education and health care systems; and

(4) the costs and benefits associated with expanding habilitative services coverage to individuals under the age of 26 years.

(d) (1) On or before November 1, 2012, the Commissioner shall submit an interim report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee on the findings and recommendations of the workgroup.

(2) On or before November 1, 2013, the Commissioner shall submit a final report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee on the findings and recommendations of the workgroup.

SECTION 4. AND BE IT FURTHER ENACTED, That the changes made under Section 1 of this Act to the definition of “congenital or genetic birth defect” in § 15-835(a)(2) of the Insurance Article are intended to clarify the scope of coverage of services required under § 15-835 as it existed before the effective date of this Act, and are not intended, and may not be interpreted or construed, to expand the coverage of services required under § 15-835 as it existed before the effective date of this Act.

SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 294

(House Bill 1055)

AN ACT concerning

Health Insurance – Habilitative Services – Required Coverage ~~and~~, Workgroup, and Technical Advisory Group

FOR the purpose of ~~altering the age under which certain insurers, nonprofit health service plans, and health maintenance organizations must provide coverage of habilitative services~~, specifying the format in which certain insurers, nonprofit

health service plans, and health maintenance organizations must provide a certain notice about the coverage ~~must be provided~~ of habilitative services; requiring that certain determinations made by certain insurers, nonprofit health service plans, and health maintenance organizations be made in accordance with certain regulations beginning on a certain date; requiring the Department of Health and Mental Hygiene, in consultation with the Maryland Insurance Commissioner, to establish a technical advisory group on the medically necessary and appropriate use of habilitative services to treat autism and autism spectrum disorders; establishing the composition of the technical advisory group; requiring the technical advisory group to develop certain recommendations and obtain certain input; requiring the Commissioner, on or before a certain date, to adopt certain regulations based on the recommendations of the technical advisory group; requiring the ~~Maryland Insurance~~ Commissioner to establish a workgroup on access to habilitative services benefits; specifying the composition of the workgroup; requiring the workgroup to make certain determinations; requiring the Commissioner to ~~report~~ submit certain reports on the findings and recommendations of the workgroup, on or before ~~a certain date~~ certain dates, to certain legislative committees; altering a certain definition; providing for the construction of this Act; and generally relating to health insurance coverage of habilitative services.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–835

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Insurance

15–835.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Congenital or genetic birth defect” means a defect existing at or from birth, including a hereditary defect.

(ii) “Congenital or genetic birth defect” includes, but is not limited to:

1. autism or an autism spectrum disorder; [and]
2. cerebral palsy;
3. **INTELLECTUAL DISABILITY;**

4. DOWN SYNDROME;
5. SPINA BIFIDA;
6. HYDROENCEPHALOCELE; AND
7. ~~DEVELOPMENTAL DISORDERS (LEARNING, READING, MATHEMATICS, SPEECH, AND SPELLING)~~ CONGENITAL OR GENETIC DEVELOPMENTAL DISABILITIES.

(3) “Habilitative services” means services, including occupational therapy, physical therapy, and speech therapy, for the treatment of a child with a congenital or genetic birth defect to enhance the child’s ability to function.

(4) “Managed care system” means a method that an insurer, a nonprofit health service plan, or a health maintenance organization uses to review and preauthorize a treatment plan that a health care practitioner develops for a covered person using a variety of cost containment methods to control utilization, quality, and claims.

(b) This section applies to:

(1) insurers and nonprofit health service plans that provide hospital, medical, or surgical benefits to individuals or groups on an expense-incurred basis under health insurance policies or contracts that are issued or delivered in the State; and

(2) health maintenance organizations that provide hospital, medical, or surgical benefits to individuals or groups under contracts that are issued or delivered in the State.

(c) (1) An entity subject to this section shall provide coverage of habilitative services for children under the age of ~~19~~ **21** years and may do so through a managed care system.

(2) An entity subject to this section is not required to provide reimbursement for habilitative services delivered through early intervention or school services.

(d) An entity subject to this section shall provide notice annually to its insureds and enrollees about the coverage required under this section:

- (1) IN PRINT; AND
- (2) ON ITS WEB SITE.

(e) A determination by an entity subject to this section denying a request for habilitative services or denying payment for habilitative services on the grounds that a condition or disease is not a congenital or genetic birth defect is considered an "adverse decision" under § 15–10A–01 of this title.

(F) BEGINNING NOVEMBER 1, 2013, A DETERMINATION BY AN ENTITY SUBJECT TO THIS SECTION OF WHETHER HABILITATIVE SERVICES COVERED UNDER THIS SECTION ARE MEDICALLY NECESSARY AND APPROPRIATE TO TREAT AUTISM AND AUTISM SPECTRUM DISORDERS SHALL BE MADE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSIONER.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Department of Health and Mental Hygiene, in consultation with the Maryland Insurance Commissioner, shall establish a technical advisory group on the medically necessary and appropriate use of habilitative services to treat autism and autism spectrum disorders.

(b) The technical advisory group shall be composed of individuals with expertise in the treatment of children with autism and autism spectrum disorders.

(c) The technical advisory group shall develop recommendations for the medically necessary and appropriate use of habilitative services to treat autism and autism spectrum disorders.

(d) When making a recommendation, the technical advisory group shall consider whether the recommendation is:

(1) objective;

(2) clinically valid;

(3) compatible with established principles of health care; and

(4) flexible enough to allow deviations from norms when justified on a case by case basis.

(e) In its work, the technical advisory group shall obtain input from the public, including input from:

(1) parents of children with autism and autism spectrum disorders;

and

(2) the insurers, nonprofit health service plans, and health maintenance organizations that are subject to § 15–835 of the Insurance Article, as enacted by Section 1 of this Act.

(f) Based on the recommendations of the technical advisory group, the Commissioner, on or before November 1, 2013, shall adopt regulations that relate to the medically necessary and appropriate use of habilitative services to treat autism and autism spectrum disorders for purposes of § 15–835 of the Insurance Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Insurance Commissioner shall establish a workgroup on access to habilitative services benefits.

(b) The workgroup shall consist of:

(1) one member of the Senate of Maryland, appointed by the President of the Senate;

(2) one member of the House of Delegates, appointed by the Speaker of the House; and

(3) physical therapists, occupational therapists, speech pathologists, ~~pediatricians~~, K–12 and early intervention educators, a parent of a ~~special-needs~~ child with special needs, and representatives of insurers, the Maryland Insurance Administration, the Maryland Health Care Commission, the Maryland State Department of Education, the Maryland Developmental Disabilities Council, the Maryland Department of Disabilities, and the Department of Health and Mental Hygiene.

(c) The workgroup shall determine:

(1) whether children who are entitled to and would benefit from habilitative services under health insurance policies or contracts or health maintenance organization contracts are actually receiving them;

(2) if the children are not receiving the habilitative services, the reasons why; ~~and~~

(3) any actions needed to promote optimum use of the habilitative services to:

(i) maximize outcomes for children; and

(ii) reduce long-term costs to the education and health care systems; and

(4) the costs and benefits associated with expanding habilitative services coverage to individuals under the age of 26 years.

(d) (1) On or before November 1, 2012, the Commissioner shall submit an interim report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee on the findings and recommendations of the workgroup.

(2) On or before November 1, 2013, the Commissioner shall submit a final report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee on the findings and recommendations of the workgroup.

SECTION 4. AND BE IT FURTHER ENACTED, That the changes made under Section 1 of this Act to the definition of “congenital or genetic birth defect” in § 15-835(a)(2) of the Insurance Article are intended to clarify the scope of coverage of services required under § 15-835 as it existed before the effective date of this Act, and are not intended, and may not be interpreted or construed, to expand the coverage of services required under § 15-835 as it existed before the effective date of this Act.

SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 295

(Senate Bill 749)

AN ACT concerning

Physicians – Sharing of Information with Maryland Health Care Commission

FOR the purpose of adding the Maryland Health Care Commission to the list of entities to which the Health Services Cost Review Commission may disclose certain physician information; requiring the State Board of Physicians to disclose information contained in a record to the Maryland Health Care Commission for a certain purpose; adding the Maryland Health Care Commission to the list of entities that must adopt regulations for a certain transfer of information in a record; altering the date by which the regulations must be adopted; and generally relating to sharing information about physicians with the Maryland Health Care Commission for the purpose of

identifying practice patterns and investigating quality or utilization of care in certain regulated entities.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–218
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 14–411(a) and (b)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 14–411(d) and (e)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Health – General

19–218.

(a) The Commission shall require each facility to give the Commission information that:

- (1) Concerns the total financial needs of the facility;
- (2) Concerns its current and expected resources to meet its total financial needs;
- (3) Includes the effect of any proposal made, under Subtitle 1 of this title, on comprehensive health planning; and
- (4) Includes physician information sufficient to identify practice patterns of individual physicians across all facilities.

(b) The identities of individual physicians are confidential and are not discoverable or admissible in evidence in a civil or criminal proceeding, and may only be disclosed to the following:

- (1) The utilization review committee of a Maryland hospital;

- (2) The Medical and Chirurgical Faculty of the State of Maryland;
- (3) The State Board of Physicians;
- (4) The Office of Health Care Quality in the Department; [or]
- (5) THE MARYLAND HEALTH CARE COMMISSION; OR**

[(5)] (6) An investigatory body under the State or federal government.

Article – Health Occupations

14–411.

(a) In this section, “record” means the proceedings, records, or files of the Board.

(b) Except as otherwise expressly provided in this section and § 14–411.1 of this subtitle, the Board or any of its investigatory bodies may not disclose any information contained in a record.

(d) The Board shall disclose any information contained in a record to:

(1) A committee of a hospital, health maintenance organization, or related institution if:

(i) The committee of a medical hospital staff concerned with physician discipline or other committee of a hospital, health maintenance organization, or related institution requests the information in writing;

(ii) The Board has issued an order as to a licensed physician on whom the information is requested; and

(iii) The Board determines that the information requested is necessary for an investigation or action of the committee as to a medical privilege of a licensed physician; or

(2) The Secretary, the Office of Health Care Quality in the Department, **THE MARYLAND HEALTH CARE COMMISSION**, or the Health Services Cost Review Commission for the purpose of investigating quality or utilization of care in any entity regulated by the Office of Health Care Quality or the Health Services Cost Review Commission.

(e) On or before January 1, [2012] **2013**, the Board, the Secretary, **THE MARYLAND HEALTH CARE COMMISSION**, and the Health Services Cost Review Commission jointly shall adopt regulations for the efficient and secure transfer, under subsection (d)(2) of this section, of any information in a record that may indicate that an investigation of an entity regulated by the Office of Health Care Quality, **THE MARYLAND HEALTH CARE COMMISSION**, or the Health Services Cost Review Commission may be appropriate.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 296

(House Bill 1140)

AN ACT concerning

Physicians – Sharing of Information with Maryland Health Care Commission

FOR the purpose of adding the Maryland Health Care Commission to the list of entities to which the Health Services Cost Review Commission may disclose certain physician information; requiring the State Board of Physicians to disclose information contained in a record to the Maryland Health Care Commission for a certain purpose; adding the Maryland Health Care Commission to the list of entities that must adopt regulations for a certain transfer of information in a record; altering the date by which the regulations must be adopted; and generally relating to sharing information about physicians with the Maryland Health Care Commission for the purpose of identifying practice patterns and investigating quality or utilization of care in certain regulated entities.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19–218

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 14–411(a) and (b)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 14–411(d) and (e)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Health – General

19–218.

(a) The Commission shall require each facility to give the Commission information that:

- (1) Concerns the total financial needs of the facility;
- (2) Concerns its current and expected resources to meet its total financial needs;
- (3) Includes the effect of any proposal made, under Subtitle 1 of this title, on comprehensive health planning; and
- (4) Includes physician information sufficient to identify practice patterns of individual physicians across all facilities.

(b) The identities of individual physicians are confidential and are not discoverable or admissible in evidence in a civil or criminal proceeding, and may only be disclosed to the following:

- (1) The utilization review committee of a Maryland hospital;
 - (2) The Medical and Chirurgical Faculty of the State of Maryland;
 - (3) The State Board of Physicians;
 - (4) The Office of Health Care Quality in the Department; [or]
 - (5) THE MARYLAND HEALTH CARE COMMISSION; OR**
- [(5)] (6)** An investigatory body under the State or federal government.

Article – Health Occupations

14–411.

(a) In this section, “record” means the proceedings, records, or files of the Board.

(b) Except as otherwise expressly provided in this section and § 14–411.1 of this subtitle, the Board or any of its investigatory bodies may not disclose any information contained in a record.

(d) The Board shall disclose any information contained in a record to:

(1) A committee of a hospital, health maintenance organization, or related institution if:

(i) The committee of a medical hospital staff concerned with physician discipline or other committee of a hospital, health maintenance organization, or related institution requests the information in writing;

(ii) The Board has issued an order as to a licensed physician on whom the information is requested; and

(iii) The Board determines that the information requested is necessary for an investigation or action of the committee as to a medical privilege of a licensed physician; or

(2) The Secretary, the Office of Health Care Quality in the Department, **THE MARYLAND HEALTH CARE COMMISSION**, or the Health Services Cost Review Commission for the purpose of investigating quality or utilization of care in any entity regulated by the Office of Health Care Quality or the Health Services Cost Review Commission.

(e) On or before January 1, [2012] **2013**, the Board, the Secretary, **THE MARYLAND HEALTH CARE COMMISSION**, and the Health Services Cost Review Commission jointly shall adopt regulations for the efficient and secure transfer, under subsection (d)(2) of this section, of any information in a record that may indicate that an investigation of an entity regulated by the Office of Health Care Quality, **THE MARYLAND HEALTH CARE COMMISSION**, or the Health Services Cost Review Commission may be appropriate.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 297**(Senate Bill 756)**

AN ACT concerning

**Governor's Advisory Commission on Maryland Wine and Grape Growing –
Membership**

FOR the purpose of altering the membership of the Governor's Advisory Commission on Maryland Wine and Grape Growing; and generally relating to the Governor's Advisory Commission on Maryland Wine and Grape Growing.

BY repealing and reenacting, without amendments,
Article – Agriculture
Section 10–1201(a) and (b)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 10–1203(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

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

Article – Agriculture

10–1201.

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

(b) “Commission” means the Governor's Advisory Commission on Maryland Wine and Grape Growing.

10–1203.

(a) (1) The Commission consists of [9] **10** members.

(2) Of the [9] **10** Commission members:

(i) 2 members shall represent wineries of the State;

(ii) 2 members shall represent grape growers of the State;

(iii) 1 member shall be a representative of the Office of the Comptroller;

(iv) 1 member shall represent the College of Agriculture and Natural Resources of the University of Maryland;

(v) 1 member shall be a member of the House of Delegates appointed by the Speaker of the House;

(vi) 1 member shall be a member of the Senate appointed by the President of the Senate; [and]

(VII) 1 MEMBER SHALL BE A REPRESENTATIVE OF THE OFFICE OF TOURISM DEVELOPMENT DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT; AND

[(vii)] (VIII) 1 member shall be a representative of the Department.

(3) The Governor shall appoint the appointed members and shall designate a chairman from among the members.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 298

(House Bill 839)

AN ACT concerning

Governor's Advisory Commission on Maryland Wine and Grape Growing – Membership

FOR the purpose of altering the membership of the Governor's Advisory Commission on Maryland Wine and Grape Growing; and generally relating to the Governor's Advisory Commission on Maryland Wine and Grape Growing.

BY repealing and reenacting, without amendments,
Article – Agriculture
Section 10–1201(a) and (b)
Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Agriculture

Section 10–1203(a)

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

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

Article – Agriculture

10–1201.

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

(b) “Commission” means the Governor’s Advisory Commission on Maryland Wine and Grape Growing.

10–1203.

(a) (1) The Commission consists of **[9] 10** members.

(2) Of the **[9] 10** Commission members:

(i) 2 members shall represent wineries of the State;

(ii) 2 members shall represent grape growers of the State;

(iii) 1 member shall be a representative of the Office of the Comptroller;

(iv) 1 member shall represent the College of Agriculture and Natural Resources of the University of Maryland;

(v) 1 member shall be a member of the House of Delegates appointed by the Speaker of the House;

(vi) 1 member shall be a member of the Senate appointed by the President of the Senate; **[and]**

(VII) 1 MEMBER SHALL BE A REPRESENTATIVE OF THE ~~OFFICE OF TOURISM~~ DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT; AND

[(vii)] (VIII) 1 member shall be a representative of the Department.

(3) The Governor shall appoint the appointed members and shall designate a chairman from among the members.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 299

(Senate Bill 764)

AN ACT concerning

Fraudulent Insurance Acts – Individual Sureties – Contracts of Surety Insurance

FOR the purpose of establishing that it is a fraudulent insurance act for an individual surety to make a certain representation or to issue a contract of surety insurance, except as provided in certain provisions of law; ~~establishing that it is a fraudulent insurance act for a person to knowingly or willfully assist a person to obtain a contract of surety insurance from an individual surety, except as provided in certain provisions of law; establishing that it is a fraudulent insurance act for a person to knowingly or willfully make a certain false or fraudulent statement or representation about certain assets pledged by an individual surety or to knowingly or willfully fail to return certain money or premiums paid for a contract of surety insurance under certain circumstances;~~ establishing certain penalties for certain violations of this Act; defining a certain term; requiring the Maryland Insurance Administration to conduct a certain analysis of certain practices of corporate sureties and individual sureties; requiring the Administration to consult with certain persons or entities; requiring the Administration to consider certain items, make certain determinations, and conduct certain surveys and reviews in a certain analysis; requiring the Administration to submit certain reports to certain committees of the General Assembly on or before certain dates; and generally relating to individual sureties, contracts of surety insurance, and fraudulent insurance acts.

BY adding to

Article – Insurance

Section 27–406.1

Annotated Code of Maryland

(2011 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 27–408

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Insurance

27–406.1.

(A) IN THIS SECTION, “INDIVIDUAL SURETY” MEANS A PERSON THAT:

(1) ISSUES ~~CONTRACT~~ SURETY BONDS OR CONTRACTS OF SURETY INSURANCE; AND

(2) DOES NOT HAVE A CERTIFICATE OF AUTHORITY ISSUED BY THE COMMISSIONER.

(B) ~~EXCEPT AS PROVIDED IN §§ 13 207 AND 17 104 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, IT~~ IT IS A FRAUDULENT INSURANCE ACT FOR AN INDIVIDUAL SURETY TO: SOLICIT OR ISSUE A SURETY BOND OR CONTRACT OF SURETY INSURANCE EXCEPT AS PROVIDED IN:

(1) §§ 13–207 AND 17–104 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(2) FOR AN UNCOMPENSATED PERSON, §§ 5–203 AND 5–204 OF THE CRIMINAL PROCEDURE ARTICLE.

~~(1) REPRESENT THAT IT HAS THE LEGAL AUTHORITY TO ISSUE A CONTRACT OF SURETY INSURANCE; OR~~

~~(2) ISSUE A CONTRACT OF SURETY INSURANCE.~~

~~(C) EXCEPT AS PROVIDED IN §§ 13 207 AND 17 104 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, IT IS A FRAUDULENT INSURANCE ACT FOR A PERSON TO KNOWINGLY OR WILLFULLY ASSIST A PERSON TO OBTAIN A CONTRACT OF SURETY INSURANCE FROM AN INDIVIDUAL SURETY.~~

~~(D) IT IS A FRAUDULENT INSURANCE ACT FOR A PERSON TO:~~

~~(1) KNOWINGLY OR WILLFULLY MAKE A FALSE OR FRAUDULENT STATEMENT OR REPRESENTATION AS TO THE EXISTENCE, VALUE, OR MARKETABILITY OF ANY ASSETS PLEDGED BY AN INDIVIDUAL SURETY TO SECURE ITS OBLIGATIONS UNDER A CONTRACT OF SURETY INSURANCE; OR~~

~~(2) KNOWINGLY OR WILLFULLY FAIL TO RETURN ANY MONEY OR PREMIUMS PAID FOR A CONTRACT OF SURETY INSURANCE ISSUED BY AN INDIVIDUAL SURETY IF THE CONTRACT OF SURETY INSURANCE IS REJECTED OR NOT ACCEPTED BY THE GOVERNMENTAL ENTITY OR PERSON THAT REQUIRES THE CONTRACT OF SURETY INSURANCE.~~

27-408.

(a) (1) A person that violates § 27-407 of this subtitle, or another provision of this subtitle in which the claim or act that is the subject of the fraud has a value of \$300 or more is guilty of a felony and on conviction, for each violation, is subject to:

(i) liability for restoring to the victim the property taken or the value of the property taken; and

(ii) 1. for a violation of any provision of § 27-403 of this subtitle, a fine, the maximum of which is the greater of three times the value of the claim or act that is the subject of the fraud and \$10,000 and the minimum of which is \$500, or imprisonment not exceeding 15 years or both; and

2. for a violation of any provision of § 27-404, § 27-405, § 27-406, **§ 27-406.1**, § 27-407, or § 27-407.1 of this subtitle, a fine not exceeding \$10,000 or imprisonment not exceeding 15 years or both.

(2) A person that violates a provision of this subtitle in which the claim or act that is the subject of the fraud has a value of less than \$300 is guilty of a misdemeanor and on conviction, for each violation, is subject to:

(i) liability for restoring to the victim the property taken or the value of the property taken; and

(ii) 1. for a violation of any provision of § 27-403 of this subtitle, a fine, the maximum of which is the greater of three times the value of the claim or act that is the subject of the fraud and \$10,000 and the minimum of which is \$500, or imprisonment not exceeding 18 months or both; and

2. for a violation of any provision of § 27-404, § 27-405, § 27-406, **§ 27-406.1**, § 27-407, or § 27-407.1 of this subtitle, a fine not exceeding \$10,000 or imprisonment not exceeding 18 months or both.

(b) (1) The penalties imposed under this section may be imposed separately from and consecutively to or concurrently with a sentence for another offense based on the act that constitutes a violation of this subtitle.

(2) Each act of solicitation under § 27–407 of this subtitle constitutes a separate violation for purposes of the penalties imposed under this section.

(3) Notwithstanding any other provision of law, a fine imposed under this section is mandatory and not subject to suspension.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) In accordance with the provisions of § 2–205 of the Insurance Article, the Maryland Insurance Administration shall conduct an analysis of the practices of corporate sureties and individual sureties in the State, as specified under this section.

(b) In conducting the analysis, the Administration shall consult with any person or entity that the Administration determines appropriate, including corporate sureties, individual sureties, insurance producers, contractors, the Department of Transportation, the Department of General Services, and the Maryland Property and Casualty Insurance Guaranty Corporation.

(c) In its analysis, the Administration shall:

(1) consider whether individual sureties should be licensed or otherwise regulated like other surety insurers in order to solicit or issue surety bonds or contracts of surety insurance;

(2) determine whether individual sureties have issued or attempted to issue surety bonds or contracts of surety insurance for the State, counties, or municipalities since authorized to issue surety bonds or contracts of surety insurance under Chapter 299 of the Acts of the General Assembly of 2006, Chapter 266 of the Acts of the General Assembly of 2008, and other applicable provisions of law, and, if so, the number of surety bonds or contracts of surety insurance issued, the number of surety bonds or contracts of surety insurance rejected, and the reasons for any rejection of the surety bonds or contracts of surety insurance;

(3) consider whether and how the law, as enacted under Chapter 299 of the Acts of the General Assembly of 2006 and Chapter 266 of the Acts of the General Assembly of 2008, should be expanded to allow individual sureties to issue surety bonds or contracts of surety insurance to subcontractors;

(4) determine whether individual sureties are authorized to issue surety bonds or contracts of surety insurance in other states and, if so, how individual sureties are regulated in those states;

(5) determine whether corporate sureties or individual sureties have been sanctioned for issuing surety bonds or contracts of surety insurance in the State and other states and the reasons for the sanctions;

(6) conduct a review of:

(i) all corporate sureties that issued surety bonds or contracts of surety insurance in the State and that were declared insolvent or placed under receivership of the Administration within the last 10 years;

(ii) the impact of the insolvency or receivership of the corporate sureties on the availability of surety bonds or contracts of surety insurance in the market;

(iii) the impact of the affected surety bonds on surety bond users and insurance producers; and

(iv) the notice requirements that the Administration provides to surety bond users, insurance producers, and the public in the event of the insolvency or receivership of a corporate surety;

(7) conduct a survey of the Maryland Property and Casualty Insurance Guaranty Corporation to determine:

(i) the number of claims submitted to and paid by the Corporation as a result of an insolvency of a corporate surety in the last 10 years;

(ii) whether contributions provided by surety insurers to the Corporation are adequate for future claims related to insolvent surety insurers;

(iii) the existing statutory requirements of items covered by the Corporation in the event of the insolvency of a corporate surety; and

(iv) whether loss of paid premiums or collateral of surety bond principal and any other covered items should be expanded;

(8) consider whether the laws and regulations for licensing and regulating corporate sureties are adequate, including whether the current risk-based capital standards are adequate to prevent the insolvency of corporate sureties;

(9) consider whether the laws and regulations regulating corporate sureties or individual sureties are adequate to prevent the issuance of fraudulent surety bonds or contracts of surety insurance by corporate sureties or individual sureties;

(10) conduct a survey of the Board of Public Works, the Department of Transportation, the Department of General Services, and a representative sample of

corporate sureties and individual sureties, if appropriate, for each year beginning with 2004, that includes:

(i) the percentage of the total surety bonds or contracts of surety insurance that surety insurers issued in the State on construction projects to minority business enterprises, as compared to the surety bonds or contracts of surety insurance that surety insurers issued on construction projects to nonminority business enterprises; and

(ii) the percentage of the total surety bonds or contracts of surety insurance that surety insurers rejected in the State that would have been issued to minority business enterprises on construction projects, as compared to the surety bonds or contracts of surety insurance that surety insurers rejected that would have been issued to nonminority business enterprises on construction projects;

(11) conduct a survey of a representative sample of contractors that have held a surety bond or contract of surety insurance issued by an insolvent surety insurer to determine the method each contractor used to acquire a new surety bond or contract of surety insurance and any additional costs or difficulties the contractor experienced in acquiring a new surety bond or contract of surety insurance;

(12) consider whether there are any programs, including the Maryland State Bond Development and Financing Authority and the United States Small Business Administration Bond Guaranty and Lending Program, that enhance the availability of surety bonds or contracts of surety insurance for new, emerging, and small businesses, including businesses that qualify as minority business enterprises; and

(13) consider the need to establish licensure requirements that are specific for surety insurance producers who sell surety bonds or contracts of surety insurance.

(d) (1) On or before December 1, 2012, the Administration shall submit an interim report, in accordance with § 2-1246 of the State Government Article, on its findings and recommendations to the Senate Finance Committee, the Senate Education, Health, and Environmental Affairs Committee, the House Economic Matters Committee, and the House Health and Government Operations Committee.

(2) On or before December 1, 2013, the Administration shall submit a final report, in accordance with § 2-1246 of the State Government Article, on its findings and recommendations to the Senate Finance Committee, the Senate Education, Health, and Environmental Affairs Committee, the House Economic Matters Committee, and the House Health and Government Operations Committee.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 300

(House Bill 885)

AN ACT concerning

Fraudulent Insurance Acts – Individual Sureties – Contracts of Surety Insurance

FOR the purpose of establishing that it is a fraudulent insurance act for an individual surety to make a certain representation or to issue a contract of surety insurance, except as provided in certain provisions of law; ~~establishing that it is a fraudulent insurance act for a person to knowingly or willfully assist a person to obtain a contract of surety insurance from an individual surety, except as provided in certain provisions of law; establishing that it is a fraudulent insurance act for a person to knowingly or willfully make a certain false or fraudulent statement or representation about certain assets pledged by an individual surety or to knowingly or willfully fail to return certain money or premiums paid for a contract of surety insurance under certain circumstances;~~ establishing certain penalties for certain violations of this Act; defining a certain term; requiring the Maryland Insurance Administration to conduct a certain analysis of certain practices of corporate sureties and individual sureties; requiring the Administration to consult with certain persons or entities; requiring the Administration to consider certain items, make certain determinations, and conduct certain surveys and reviews in a certain analysis; requiring the Administration to submit certain reports to certain committees of the General Assembly on or before certain dates; and generally relating to individual sureties, contracts of surety insurance, and fraudulent insurance acts.

BY adding to

Article – Insurance
Section 27–406.1
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Insurance
Section 27–408
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article – Insurance

27-406.1.

(A) IN THIS SECTION, “INDIVIDUAL SURETY” MEANS A PERSON THAT:

(1) ISSUES ~~CONTRACT~~ SURETY BONDS OR CONTRACTS OF SURETY INSURANCE; AND

(2) DOES NOT HAVE A CERTIFICATE OF AUTHORITY ISSUED BY THE COMMISSIONER.

(B) ~~EXCEPT AS PROVIDED IN §§ 13-207 AND 17-104 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, IT~~ IT IS A FRAUDULENT INSURANCE ACT FOR AN INDIVIDUAL SURETY TO: SOLICIT OR ISSUE A SURETY BOND OR CONTRACT OF SURETY INSURANCE EXCEPT AS PROVIDED IN:

(1) §§ 13-207 AND 17-104 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(2) FOR AN UNCOMPENSATED PERSON, §§ 5-203 AND 5-204 OF THE CRIMINAL PROCEDURE ARTICLE.

~~(1) REPRESENT THAT IT HAS THE LEGAL AUTHORITY TO ISSUE A CONTRACT OF SURETY INSURANCE; OR~~

~~(2) ISSUE A CONTRACT OF SURETY INSURANCE.~~

~~(C) EXCEPT AS PROVIDED IN §§ 13-207 AND 17-104 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, IT IS A FRAUDULENT INSURANCE ACT FOR A PERSON TO KNOWINGLY OR WILLFULLY ASSIST A PERSON TO OBTAIN A CONTRACT OF SURETY INSURANCE FROM AN INDIVIDUAL SURETY.~~

~~(D) IT IS A FRAUDULENT INSURANCE ACT FOR A PERSON TO:~~

~~(1) KNOWINGLY OR WILLFULLY MAKE A FALSE OR FRAUDULENT STATEMENT OR REPRESENTATION AS TO THE EXISTENCE, VALUE, OR MARKETABILITY OF ANY ASSETS PLEDGED BY AN INDIVIDUAL SURETY TO SECURE ITS OBLIGATIONS UNDER A CONTRACT OF SURETY INSURANCE; OR~~

~~(2) KNOWINGLY OR WILLFULLY FAIL TO RETURN ANY MONEY OR PREMIUMS PAID FOR A CONTRACT OF SURETY INSURANCE ISSUED BY AN~~

~~INDIVIDUAL SURETY IF THE CONTRACT OF SURETY INSURANCE IS REJECTED OR NOT ACCEPTED BY THE GOVERNMENTAL ENTITY OR PERSON THAT REQUIRES THE CONTRACT OF SURETY INSURANCE.~~

27-408.

(a) (1) A person that violates § 27-407 of this subtitle, or another provision of this subtitle in which the claim or act that is the subject of the fraud has a value of \$300 or more is guilty of a felony and on conviction, for each violation, is subject to:

(i) liability for restoring to the victim the property taken or the value of the property taken; and

(ii) 1. for a violation of any provision of § 27-403 of this subtitle, a fine, the maximum of which is the greater of three times the value of the claim or act that is the subject of the fraud and \$10,000 and the minimum of which is \$500, or imprisonment not exceeding 15 years or both; and

2. for a violation of any provision of § 27-404, § 27-405, § 27-406, **§ 27-406.1**, § 27-407, or § 27-407.1 of this subtitle, a fine not exceeding \$10,000 or imprisonment not exceeding 15 years or both.

(2) A person that violates a provision of this subtitle in which the claim or act that is the subject of the fraud has a value of less than \$300 is guilty of a misdemeanor and on conviction, for each violation, is subject to:

(i) liability for restoring to the victim the property taken or the value of the property taken; and

(ii) 1. for a violation of any provision of § 27-403 of this subtitle, a fine, the maximum of which is the greater of three times the value of the claim or act that is the subject of the fraud and \$10,000 and the minimum of which is \$500, or imprisonment not exceeding 18 months or both; and

2. for a violation of any provision of § 27-404, § 27-405, § 27-406, **§ 27-406.1**, § 27-407, or § 27-407.1 of this subtitle, a fine not exceeding \$10,000 or imprisonment not exceeding 18 months or both.

(b) (1) The penalties imposed under this section may be imposed separately from and consecutively to or concurrently with a sentence for another offense based on the act that constitutes a violation of this subtitle.

(2) Each act of solicitation under § 27-407 of this subtitle constitutes a separate violation for purposes of the penalties imposed under this section.

(3) Notwithstanding any other provision of law, a fine imposed under this section is mandatory and not subject to suspension.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) In accordance with the provisions of § 2–205 of the Insurance Article, the Maryland Insurance Administration shall conduct an analysis of the practices of corporate sureties and individual sureties in the State, as specified under this section.

(b) In conducting the analysis, the Administration shall consult with any person or entity that the Administration determines appropriate, including corporate sureties, individual sureties, insurance producers, contractors, the Department of Transportation, the Department of General Services, and the Maryland Property and Casualty Insurance Guaranty Corporation.

(c) In its analysis, the Administration shall:

(1) consider whether individual sureties should be licensed or otherwise regulated like other surety insurers in order to solicit or issue surety bonds or contracts of surety insurance;

(2) determine whether individual sureties have issued or attempted to issue surety bonds or contracts of surety insurance for the State, counties, or municipalities since authorized to issue surety bonds or contracts of surety insurance under Chapter 299 of the Acts of the General Assembly of 2006, Chapter 266 of the Acts of the General Assembly of 2008, and other applicable provisions of law, and, if so, the number of surety bonds or contracts of surety insurance issued, the number of surety bonds or contracts of surety insurance rejected, and the reasons for any rejection of the surety bonds or contracts of surety insurance;

(3) consider whether and how the law, as enacted under Chapter 299 of the Acts of the General Assembly of 2006 and Chapter 266 of the Acts of the General Assembly of 2008, should be expanded to allow individual sureties to issue surety bonds or contracts of surety insurance to subcontractors;

(4) determine whether individual sureties are authorized to issue surety bonds or contracts of surety insurance in other states and, if so, how individual sureties are regulated in those states;

(5) determine whether corporate sureties or individual sureties have been sanctioned for issuing surety bonds or contracts of surety insurance in the State and other states and the reasons for the sanctions;

(6) conduct a review of:

(i) all corporate sureties that issued surety bonds or contracts of surety insurance in the State and that were declared insolvent or placed under receivership of the Administration within the last 10 years;

(ii) the impact of the insolvency or receivership of the corporate sureties on the availability of surety bonds or contracts of surety insurance in the market;

(iii) the impact of the affected surety bonds on surety bond users and insurance producers; and

(iv) the notice requirements that the Administration provides to surety bond users, insurance producers, and the public in the event of the insolvency or receivership of a corporate surety;

(7) conduct a survey of the Maryland Property and Casualty Insurance Guaranty Corporation to determine:

(i) the number of claims submitted to and paid by the Corporation as a result of an insolvency of a corporate surety in the last 10 years;

(ii) whether contributions provided by surety insurers to the Corporation are adequate for future claims related to insolvent surety insurers;

(iii) the existing statutory requirements of items covered by the Corporation in the event of the insolvency of a corporate surety; and

(iv) whether loss of paid premiums or collateral of surety bond principal and any other covered items should be expanded;

(8) consider whether the laws and regulations for licensing and regulating corporate sureties are adequate, including whether the current risk-based capital standards are adequate to prevent the insolvency of corporate sureties;

(9) consider whether the laws and regulations regulating corporate sureties or individual sureties are adequate to prevent the issuance of fraudulent surety bonds or contracts of surety insurance by corporate sureties or individual sureties;

(10) conduct a survey of the Board of Public Works, the Department of Transportation, the Department of General Services, and a representative sample of corporate sureties and individual sureties, if appropriate, for each year beginning with 2004, that includes:

(i) the percentage of the total surety bonds or contracts of surety insurance that surety insurers issued in the State on construction projects to minority business enterprises, as compared to the surety bonds or contracts of surety

insurance that surety insurers issued on construction projects to nonminority business enterprises; and

(ii) the percentage of the total surety bonds or contracts of surety insurance that surety insurers rejected in the State that would have been issued to minority business enterprises on construction projects, as compared to the surety bonds or contracts of surety insurance that surety insurers rejected that would have been issued to nonminority business enterprises on construction projects;

(11) conduct a survey of a representative sample of contractors that have held a surety bond or contract of surety insurance issued by an insolvent surety insurer to determine the method each contractor used to acquire a new surety bond or contract of surety insurance and any additional costs or difficulties the contractor experienced in acquiring a new surety bond or contract of surety insurance;

(12) consider whether there are any programs, including the Maryland State Bond Development and Financing Authority and the United States Small Business Administration Bond Guaranty and Lending Program, that enhance the availability of surety bonds or contracts of surety insurance for new, emerging, and small businesses, including businesses that qualify as minority business enterprises; and

(13) consider the need to establish licensure requirements that are specific for surety insurance producers who sell surety bonds or contracts of surety insurance.

(d) (1) On or before December 1, 2012, the Administration shall submit an interim report, in accordance with § 2-1246 of the State Government Article, on its findings and recommendations to the Senate Finance Committee, the Senate Education, Health, and Environmental Affairs Committee, the House Economic Matters Committee, and the House Health and Government Operations Committee.

(2) On or before December 1, 2013, the Administration shall submit a final report, in accordance with § 2-1246 of the State Government Article, on its findings and recommendations to the Senate Finance Committee, the Senate Education, Health, and Environmental Affairs Committee, the House Economic Matters Committee, and the House Health and Government Operations Committee.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 301**(Senate Bill 787)**

AN ACT concerning

**Estates and Trusts – Maryland Uniform Principal and Income Act – Certain
Payments to and from Trusts**

FOR the purpose of establishing certain requirements concerning allocation of principal and income for a distribution to a marital trust from an individual retirement account, qualified retirement plan account, or certain similar account or plan, or annuity; requiring a trustee of a marital trust to perform certain duties on request of a surviving spouse under certain circumstances; requiring a marital trust to increase receipts payable to a beneficiary under certain circumstances; requiring payment of income tax on receipts from a certain business entity to be charged in a certain manner; altering a certain definition; defining a certain term; providing for the application of certain provisions of this Act; and generally relating to the Maryland Uniform Principal and Income Act and certain payments to and from certain trusts.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 15–516 and 15–527
Annotated Code of Maryland
(2011 Replacement Volume and 2011 Supplement)

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

Article – Estates and Trusts

15–516.

(a) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) (I) [In this section, “payment”] **“PAYMENT”** means a payment that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payer in exchange for future payments.

[(2)] (II) “Payment” includes:

1. [a] A payment made in money or property from the payer’s general assets or from a separate fund created by the payer[, including]; **OR**

2. FOR THE PURPOSES OF SUBSECTION (D), (E), (F), OR (G) OF THIS SECTION, ANY PAYMENT FROM A SEPARATE FUND, REGARDLESS OF THE REASON FOR THE PAYMENT.

(3) "SEPARATE FUND" INCLUDES a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.

(b) To the extent that a payment is characterized as interest ~~or a dividend or a payment made in lieu of interest~~ [or], a dividend, **OR A PAYMENT MADE IN LIEU OF INTEREST OR A DIVIDEND**, a trustee shall allocate [it] **THE PAYMENT** to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

(c) If no part of a payment is characterized as interest, a dividend, or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income 10 percent of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not "required to be made" to the extent that it is made because the trustee exercises a right of withdrawal.

(d) [If, to obtain an estate tax marital deduction for a trust, a trustee must allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction.] **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (E) OF THIS SECTION, SUBSECTIONS (F) AND (G) OF THIS SECTION APPLY, AND SUBSECTIONS (B) AND (C) OF THIS SECTION DO NOT APPLY, IN DETERMINING THE ALLOCATION OF A PAYMENT MADE FROM A SEPARATE FUND TO:**

(1) A TRUST TO WHICH AN ELECTION TO QUALIFY FOR A MARITAL DEDUCTION UNDER § 2056(B)(7) OF THE INTERNAL REVENUE CODE OF 1986 HAS BEEN MADE; OR

(2) A TRUST THAT QUALIFIES FOR THE MARITAL DEDUCTION UNDER § 2056(B)(5) OF THE INTERNAL REVENUE CODE OF 1986.

(E) SUBSECTIONS (D), (F), AND (G) OF THIS SECTION DO NOT APPLY IF, AND TO THE EXTENT THAT, THE SERIES OF PAYMENTS WOULD, WITHOUT THE APPLICATION OF SUBSECTION (D) OF THIS SECTION, QUALIFY FOR THE MARITAL DEDUCTION UNDER § 2056(B)(7)(C) OF THE INTERNAL REVENUE CODE OF 1986.

(F) (1) A TRUSTEE SHALL DETERMINE THE INTERNAL INCOME OF EACH SEPARATE FUND FOR THE ACCOUNTING PERIOD AS IF THE SEPARATE FUND WERE A TRUST SUBJECT TO THIS SUBTITLE.

(2) ON REQUEST OF THE SURVIVING SPOUSE, THE TRUSTEE SHALL DEMAND THAT THE PERSON ADMINISTERING THE SEPARATE FUND DISTRIBUTE THE INTERNAL INCOME TO THE TRUST.

(3) THE TRUSTEE SHALL ALLOCATE:

(I) A PAYMENT FROM THE SEPARATE FUND TO INCOME TO THE EXTENT OF THE AMOUNT OF THE INTERNAL INCOME OF THE SEPARATE FUND AND DISTRIBUTE THAT AMOUNT TO THE SURVIVING SPOUSE; AND

(II) THE BALANCE OF THE PAYMENT TO PRINCIPAL.

(4) ON REQUEST OF THE SURVIVING SPOUSE, THE TRUSTEE SHALL ALLOCATE PRINCIPAL TO INCOME TO THE EXTENT THE INTERNAL INCOME OF THE SEPARATE FUND EXCEEDS PAYMENTS MADE FROM THE SEPARATE FUND TO THE TRUST DURING THE ACCOUNTING PERIOD.

(G) (1) IF A TRUSTEE CANNOT DETERMINE THE INTERNAL INCOME OF A SEPARATE FUND BUT CAN DETERMINE THE VALUE OF THE SEPARATE FUND, THE INTERNAL INCOME OF THE SEPARATE FUND IS DEEMED TO EQUAL 4% OF THE FUND'S VALUE, ACCORDING TO THE MOST RECENT STATEMENT OF VALUE BEFORE THE BEGINNING OF THE ACCOUNTING PERIOD.

(2) IF THE TRUSTEE CANNOT DETERMINE BOTH THE INTERNAL INCOME OF THE SEPARATE FUND AND THE FUND'S VALUE, THE INTERNAL INCOME OF THE FUND IS DEEMED TO EQUAL THE PRODUCT OF THE INTEREST RATE AND THE PRESENT VALUE OF THE EXPECTED FUTURE PAYMENTS, AS DETERMINED UNDER § 7520 OF THE INTERNAL REVENUE CODE OF 1986 FOR THE MONTH PRECEDING THE ACCOUNTING PERIOD FOR WHICH THE COMPUTATION IS MADE.

[(e)] (H) This section does not apply to payments to which § 15–517 of this subtitle applies.

15–527.

(a) A tax required to be paid by a trustee based on receipts allocated to income shall be paid from income.

(b) A tax required to be paid by a trustee based on receipts allocated to principal shall be paid from principal, even if the tax is called an income tax by the taxing authority.

(c) A tax required to be paid by a trustee on the trust's share of an entity's taxable income shall be paid [proportionately]:

(1) From income to the extent that receipts from the entity are allocated **ONLY** to income; [and]

(2) From principal to the extent that[:

(i) Receipts] **RECEIPTS** from the entity are allocated **ONLY** to principal; [and

(ii) The trust's share of the entity's taxable income exceeds the total receipts described in paragraphs (1) and (2)(i) of this subsection]

(3) PROPORTIONATELY FROM PRINCIPAL AND INCOME TO THE EXTENT THAT RECEIPTS FROM THE ENTITY ARE ALLOCATED TO BOTH INCOME AND PRINCIPAL; AND

(4) FROM PRINCIPAL TO THE EXTENT THAT THE TAX EXCEEDS THE TOTAL RECEIPTS FROM THE ENTITY.

(d) [For purposes of this section, receipts allocated to principal or income must be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax] **AFTER APPLYING SUBSECTIONS (A) THROUGH (C) OF THIS SECTION, THE TRUSTEE SHALL ADJUST INCOME OR PRINCIPAL RECEIPTS TO THE EXTENT THAT THE TRUST'S TAXES ARE REDUCED BECAUSE THE TRUST RECEIVES A DEDUCTION FOR PAYMENTS MADE TO A BENEFICIARY.**

SECTION 2. AND BE IT FURTHER ENACTED, That § 15-516 of the Estates and Trusts Article, as enacted by Section 1 of this Act, applies to a trust described in § 15-516(d) on and after the following dates:

(1) if the trust is not funded on or before October 1, 2012, the date of the decedent's death;

(2) if the trust is initially funded in calendar year 2012, the date of the decedent's death; or

(3) if the trust is not described in item (1) or (2) of this section, January 1, 2012.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this Act, this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 302

(House Bill 772)

AN ACT concerning

Estates and Trusts – Maryland Uniform Principal and Income Act – Certain Payments to and from Trusts

FOR the purpose of establishing certain requirements concerning allocation of principal and income for a distribution to a marital trust from an individual retirement account, qualified retirement plan account, or certain similar account or plan, or annuity; requiring a trustee of a marital trust to perform certain duties on request of a surviving spouse under certain circumstances; requiring a marital trust to increase receipts payable to a beneficiary under certain circumstances; requiring payment of income tax on receipts from a certain business entity to be charged in a certain manner; altering a certain definition; defining a certain term; providing for the application of certain provisions of this Act; and generally relating to the Maryland Uniform Principal and Income Act and certain payments to and from certain trusts.

BY repealing and reenacting, with amendments,

Article – Estates and Trusts

Section 15–516 and 15–527

Annotated Code of Maryland

(2011 Replacement Volume and 2011 Supplement)

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

Article – Estates and Trusts

15–516.

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

(2) (I) [In this section, “payment”] “PAYMENT” means a payment that a trustee may receive over a fixed number of years or during the life of one or

more individuals because of services rendered or property transferred to the payer in exchange for future payments.

[(2)] (II) "Payment" includes:

1. [a] A payment made in money or property from the payer's general assets or from a separate fund created by the payer[, including]; OR

2. FOR THE PURPOSES OF SUBSECTION (D), (E), (F), OR (G) OF THIS SECTION, ANY PAYMENT FROM A SEPARATE FUND, REGARDLESS OF THE REASON FOR THE PAYMENT.

(3) "SEPARATE FUND" INCLUDES a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.

(b) To the extent that a payment is characterized as interest ~~or a dividend or a payment made in lieu of interest~~ [or], a dividend, **OR A PAYMENT MADE IN LIEU OF INTEREST OR A DIVIDEND**, a trustee shall allocate [it] **THE PAYMENT** to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

(c) If no part of a payment is characterized as interest, a dividend, or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income 10 percent of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not "required to be made" to the extent that it is made because the trustee exercises a right of withdrawal.

(d) [If, to obtain an estate tax marital deduction for a trust, a trustee must allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction.] **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (E) OF THIS SECTION, SUBSECTIONS (F) AND (G) OF THIS SECTION APPLY, AND SUBSECTIONS (B) AND (C) OF THIS SECTION DO NOT APPLY, IN DETERMINING THE ALLOCATION OF A PAYMENT MADE FROM A SEPARATE FUND TO:**

(1) A TRUST TO WHICH AN ELECTION TO QUALIFY FOR A MARITAL DEDUCTION UNDER § 2056(B)(7) OF THE INTERNAL REVENUE CODE OF 1986 HAS BEEN MADE; OR

(2) A TRUST THAT QUALIFIES FOR THE MARITAL DEDUCTION UNDER § 2056(B)(5) OF THE INTERNAL REVENUE CODE OF 1986.

(E) SUBSECTIONS (D), (F), AND (G) OF THIS SECTION DO NOT APPLY IF, AND TO THE EXTENT THAT, THE SERIES OF PAYMENTS WOULD, WITHOUT THE APPLICATION OF SUBSECTION (D) OF THIS SECTION, QUALIFY FOR THE MARITAL DEDUCTION UNDER § 2056(B)(7)(C) OF THE INTERNAL REVENUE CODE OF 1986.

(F) (1) A TRUSTEE SHALL DETERMINE THE INTERNAL INCOME OF EACH SEPARATE FUND FOR THE ACCOUNTING PERIOD AS IF THE SEPARATE FUND WERE A TRUST SUBJECT TO THIS SUBTITLE.

(2) ON REQUEST OF THE SURVIVING SPOUSE, THE TRUSTEE SHALL DEMAND THAT THE PERSON ADMINISTERING THE SEPARATE FUND DISTRIBUTE THE INTERNAL INCOME TO THE TRUST.

(3) THE TRUSTEE SHALL ALLOCATE:

(I) A PAYMENT FROM THE SEPARATE FUND TO INCOME TO THE EXTENT OF THE AMOUNT OF THE INTERNAL INCOME OF THE SEPARATE FUND AND DISTRIBUTE THAT AMOUNT TO THE SURVIVING SPOUSE; AND

(II) THE BALANCE OF THE PAYMENT TO PRINCIPAL.

(4) ON REQUEST OF THE SURVIVING SPOUSE, THE TRUSTEE SHALL ALLOCATE PRINCIPAL TO INCOME TO THE EXTENT THE INTERNAL INCOME OF THE SEPARATE FUND EXCEEDS PAYMENTS MADE FROM THE SEPARATE FUND TO THE TRUST DURING THE ACCOUNTING PERIOD.

(G) (1) IF A TRUSTEE CANNOT DETERMINE THE INTERNAL INCOME OF A SEPARATE FUND BUT CAN DETERMINE THE VALUE OF THE SEPARATE FUND, THE INTERNAL INCOME OF THE SEPARATE FUND IS DEEMED TO EQUAL 4% OF THE FUND'S VALUE, ACCORDING TO THE MOST RECENT STATEMENT OF VALUE BEFORE THE BEGINNING OF THE ACCOUNTING PERIOD.

(2) IF THE TRUSTEE CANNOT DETERMINE BOTH THE INTERNAL INCOME OF THE SEPARATE FUND AND THE FUND'S VALUE, THE INTERNAL INCOME OF THE FUND IS DEEMED TO EQUAL THE PRODUCT OF THE INTEREST RATE AND THE PRESENT VALUE OF THE EXPECTED FUTURE PAYMENTS, AS DETERMINED UNDER § 7520 OF THE INTERNAL REVENUE CODE OF 1986 FOR THE MONTH PRECEDING THE ACCOUNTING PERIOD FOR WHICH THE COMPUTATION IS MADE.

[(e)] (H) This section does not apply to payments to which § 15–517 of this subtitle applies.

15–527.

(a) A tax required to be paid by a trustee based on receipts allocated to income shall be paid from income.

(b) A tax required to be paid by a trustee based on receipts allocated to principal shall be paid from principal, even if the tax is called an income tax by the taxing authority.

(c) A tax required to be paid by a trustee on the trust's share of an entity's taxable income shall be paid **[proportionately]**:

(1) From income to the extent that receipts from the entity are allocated **ONLY** to income; **[and]**

(2) From principal to the extent that**[:]**

(i) **Receipts] RECEIPTS** from the entity are allocated **ONLY** to principal; **[and]**

(ii) The trust's share of the entity's taxable income exceeds the total receipts described in paragraphs (1) and (2)(i) of this subsection**]**

(3) PROPORTIONATELY FROM PRINCIPAL AND INCOME TO THE EXTENT THAT RECEIPTS FROM THE ENTITY ARE ALLOCATED TO BOTH INCOME AND PRINCIPAL; AND

(4) FROM PRINCIPAL TO THE EXTENT THAT THE TAX EXCEEDS THE TOTAL RECEIPTS FROM THE ENTITY.

(d) **[For purposes of this section, receipts allocated to principal or income must be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax] AFTER APPLYING SUBSECTIONS (A) THROUGH (C) OF THIS SECTION, THE TRUSTEE SHALL ADJUST INCOME OR PRINCIPAL RECEIPTS TO THE EXTENT THAT THE TRUST'S TAXES ARE REDUCED BECAUSE THE TRUST RECEIVES A DEDUCTION FOR PAYMENTS MADE TO A BENEFICIARY.**

SECTION 2. AND BE IT FURTHER ENACTED, That § 15–516 of the Estates and Trusts Article, as enacted by Section 1 of this Act, applies to a trust described in § 15–516(d) on and after the following dates:

(1) if the trust is not funded on or before October 1, 2012, the date of the decedent's death;

(2) if the trust is initially funded in calendar year 2012, the date of the decedent's death; or

(3) if the trust is not described in item (1) or (2) of this section, January 1, 2012.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this Act, this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 303

(Senate Bill 794)

AN ACT concerning

Horse Racing – Purse Dedication Account – Use of Funds for Operating Assistance

FOR the purpose of ~~repealing a restriction that limits to a certain calendar year~~ authorizing for certain calendar years the use of certain Purse Dedication Account funds for operating assistance by the Ocean Downs Race Course and Rosecroft Raceway to support a minimum of a certain number of live racing days at each of these race courses; authorizing the use of certain revenues from the Purse Dedication Account for certain operating expenses at certain racetracks; placing certain conditions on the receipt of certain grants from the Purse Dedication Account; requiring certain racing licensees to provide certain information to the Secretary of Labor, Licensing, and Regulation under certain circumstances; *prohibiting certain funds from being used to contribute to a campaign finance entity or make an independent expenditure*; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the use of Purse Dedication Account funds by the Ocean Downs Race Course and Rosecroft Raceway for operating assistance.

BY repealing and reenacting, without amendments,

Article – State Government

Section 9–1A–28(e), (f), and (h)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 9–1A–28(g)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY renumbering

Article – State Government

Section 9–1A–28(g) and (h), respectively

to be Section 9–1A–28(i) and (j), respectively

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

(As enacted by Chapter 412 of the Acts of the General Assembly of 2011)

BY adding to

Article – State Government

Section 9–1A–28(g) and (h)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

(As enacted by Chapter 412 of the Acts of the General Assembly of 2011)

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

Article – State Government

9–1A–28.

(e) The amount of funds allocated to standardbred purses and the Standardbred Race Fund shall be allocated as follows:

(1) 89% to standardbred purses at Rosecroft Raceway, Ocean Downs Race Course, and the racecourse in Allegany County, allocated based on the number of live racing days at each track location; and

(2) 11% to the Standardbred Race Fund.

(f) From the amount provided to thoroughbred purses, the State Racing Commission shall pay an annual grant of \$100,000 to Fair Hill, as defined under § 11–811 of the Business Regulation Article.

(g) **(1)** Of the amount provided from the Purse Dedication Account under subsection (e)(1) of this section:

~~(1)~~ **(1)** for Ocean Downs Race Course, up to \$1,200,000 ~~ANNUALLY~~ **EACH YEAR FOR CALENDAR YEARS 2012, 2013, 2014, AND 2015** may be used to provide operating assistance to support a minimum of 40 ANNUAL live racing days

[for calendar year 2012 only] **FOR CALENDAR YEARS 2012, 2013, 2014, AND 2015 ONLY** unless the racing licensee is prevented by weather, acts of God, or other circumstances beyond the racing licensee's control; and

~~(2)~~ **(II)** for Rosecroft Raceway, up to \$1,200,000 ~~ANNUALLY EACH YEAR FOR CALENDAR YEARS 2012, 2013, 2014, AND 2015~~ may be used to provide operating assistance to support a minimum of 40 ANNUAL live racing days [for calendar year 2012 only] **FOR CALENDAR YEARS 2012, 2013, 2014, AND 2015 ONLY** unless the racing licensee is prevented by weather, acts of God, or other circumstances beyond the racing licensee's control.

(2) FUNDS RECEIVED BY OCEAN DOWNS RACE COURSE OR ROSECROFT RACEWAY UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE USED TO CONTRIBUTE TO A CAMPAIGN FINANCE ENTITY UNDER TITLE 13 OF THE ELECTION LAW ARTICLE OR MAKE AN INDEPENDENT EXPENDITURE AS DEFINED IN § 1-101 OF THE ELECTION LAW ARTICLE.

(h) (1) To obtain operating assistance under this section:

(i) a holder of a racing license to race at Ocean Downs Race Course or Rosecroft Raceway may apply to the Secretary of Labor, Licensing, and Regulation for the reimbursement of expenditures made by the racing licensee to conduct the annual live racing schedule; and

(ii) a holder of a racing license to race at Rosecroft Raceway shall:

1. agree to rehire workers employed at the facility prior to the end of live racing on June 27, 2008; and

2. recognize collective bargaining agreements that were in place as of June 1, 2008.

(2) (i) On the completion of the review of the application by a certified public accountant, the Secretary may authorize the reimbursement of expenditures by the racing licensee that are necessary to conduct the annual live racing schedule.

(ii) Expenditures eligible for reimbursement under subparagraph (i) of this paragraph shall include the ordinary and reasonable costs of conducting the race meetings, pari-mutuel wagering, and stabling activities of the racing licensee, net of ordinary income and receipts.

(iii) The reimbursement calculation under subparagraph (ii) of this paragraph may not include:

1. extraordinary income and expense–related items, including extraordinary litigation expenses;
 2. lobbying fees;
 3. capital investments, including predevelopment costs;
- or
4. prior year adjustments and claims.

(3) All costs associated with the racing licensee's application shall be paid by the racing licensee.

(4) In support of the racing licensee's application and request for reimbursement submitted under paragraph (1) of this subsection, the racing licensee shall provide to the Secretary:

- (i) monthly financial information requested by the Secretary, in a form satisfactory to the Secretary; and
- (ii) an annual audited financial statement.

(5) A racing licensee may not receive assistance under this section while the racing licensee is a party to a proceeding challenging the issuance or denial of a video lottery operation license.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 9–1A–28(g) and (h), respectively, of Article – State Government of the Annotated Code of Maryland be renumbered to be Section(s) 9–1A–28(i) and (j), respectively.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – State Government

9–1A–28.

(e) The amount of funds allocated to standardbred purses and the Standardbred Race Fund shall be allocated as follows:

- (1) 89% to standardbred purses at Rosecroft Raceway, Ocean Downs Race Course, and the racecourse in Allegany County, allocated based on the number of live racing days at each track location; and
- (2) 11% to the Standardbred Race Fund.

(f) From the amount provided to thoroughbred purses, the State Racing Commission shall pay an annual grant of \$100,000 to Fair Hill, as defined under § 11-811 of the Business Regulation Article.

(G) **(1)** OF THE AMOUNT PROVIDED FROM THE PURSE DEDICATION ACCOUNT UNDER SUBSECTION (E)(1) OF THIS SECTION:

~~(1)~~ **(I)** FOR OCEAN DOWNS RACE COURSE, UP TO \$1,200,000 ~~ANNUALLY~~ **EACH YEAR FOR CALENDAR YEARS 2012, 2013, 2014, AND 2015** MAY BE USED TO PROVIDE OPERATING ASSISTANCE TO SUPPORT A MINIMUM OF 40 ANNUAL LIVE RACING DAYS **FOR CALENDAR YEARS 2012, 2013, 2014, AND 2015** UNLESS THE RACING LICENSEE IS PREVENTED BY WEATHER, ACTS OF GOD, OR OTHER CIRCUMSTANCES BEYOND THE RACING LICENSEE'S CONTROL; AND

~~(2)~~ **(II)** FOR ROSECROFT RACEWAY, UP TO \$1,200,000 ~~ANNUALLY~~ **EACH YEAR FOR CALENDAR YEARS 2012, 2013, 2014, AND 2015** MAY BE USED TO PROVIDE OPERATING ASSISTANCE TO SUPPORT A MINIMUM OF 40 ANNUAL LIVE RACING DAYS **FOR CALENDAR YEARS 2012, 2013, 2014, AND 2015** UNLESS THE RACING LICENSEE IS PREVENTED BY WEATHER, ACTS OF GOD, OR OTHER CIRCUMSTANCES BEYOND THE RACING LICENSEE'S CONTROL.

(2) FUNDS RECEIVED BY OCEAN DOWNS RACE COURSE OR ROSECROFT RACEWAY UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE USED TO CONTRIBUTE TO A CAMPAIGN FINANCE ENTITY UNDER TITLE 13 OF THE ELECTION LAW ARTICLE OR MAKE AN INDEPENDENT EXPENDITURE AS DEFINED IN § 1-101 OF THE ELECTION LAW ARTICLE.

(H) (1) TO OBTAIN OPERATING ASSISTANCE UNDER THIS SECTION:

(I) A HOLDER OF A RACING LICENSE TO RACE AT OCEAN DOWNS RACE COURSE OR ROSECROFT RACEWAY MAY APPLY TO THE SECRETARY OF LABOR, LICENSING, AND REGULATION FOR THE REIMBURSEMENT OF EXPENDITURES MADE BY THE RACING LICENSEE TO CONDUCT THE ANNUAL LIVE RACING SCHEDULE; AND

(II) A HOLDER OF A RACING LICENSE TO RACE AT ROSECROFT RACEWAY SHALL:

1. AGREE TO REHIRE WORKERS EMPLOYED AT THE FACILITY PRIOR TO THE END OF LIVE RACING ON JUNE 27, 2008; AND

2. RECOGNIZE COLLECTIVE BARGAINING AGREEMENTS THAT WERE IN PLACE AS OF JUNE 1, 2008.

(2) (I) ON THE COMPLETION OF THE REVIEW OF THE APPLICATION BY A CERTIFIED PUBLIC ACCOUNTANT, THE SECRETARY MAY AUTHORIZE THE REIMBURSEMENT OF EXPENDITURES BY THE RACING LICENSEE THAT ARE NECESSARY TO CONDUCT THE ANNUAL LIVE RACING SCHEDULE.

(II) EXPENDITURES ELIGIBLE FOR REIMBURSEMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE THE ORDINARY AND REASONABLE COSTS OF CONDUCTING THE RACE MEETINGS, PARI-MUTUEL WAGERING, AND STABLING ACTIVITIES OF THE RACING LICENSEE, NET OF ORDINARY INCOME AND RECEIPTS.

(III) THE REIMBURSEMENT CALCULATION UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH MAY NOT INCLUDE:

1. EXTRAORDINARY INCOME AND EXPENSE-RELATED ITEMS, INCLUDING EXTRAORDINARY LITIGATION EXPENSES;

2. LOBBYING FEES;

3. CAPITAL INVESTMENTS, INCLUDING PREDEVELOPMENT COSTS; OR

4. PRIOR YEAR ADJUSTMENTS AND CLAIMS.

(3) ALL COSTS ASSOCIATED WITH THE RACING LICENSEE'S APPLICATION SHALL BE PAID BY THE RACING LICENSEE.

(4) IN SUPPORT OF THE RACING LICENSEE'S APPLICATION AND REQUEST FOR REIMBURSEMENT SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE RACING LICENSEE SHALL PROVIDE TO THE SECRETARY:

(I) MONTHLY FINANCIAL INFORMATION REQUESTED BY THE SECRETARY, IN A FORM SATISFACTORY TO THE SECRETARY; AND

(II) AN ANNUAL AUDITED FINANCIAL STATEMENT.

(5) A RACING LICENSEE MAY NOT RECEIVE ASSISTANCE UNDER THIS SECTION WHILE THE RACING LICENSEE IS A PARTY TO A PROCEEDING CHALLENGING THE ISSUANCE OR DENIAL OF A VIDEO LOTTERY OPERATION LICENSE.

SECTION 4. AND BE IT FURTHER ENACTED, That Sections 2 and 3 of this Act shall take effect on the taking effect of the termination provision specified in Section 5 of Chapter 412 of the Acts of the General Assembly of 2011. If that termination provision takes effect, Section 1 of this Act shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 4 of this Act, this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 304

(Senate Bill 797)

AN ACT concerning

Courts and Judicial Proceedings – Witnesses – Privileged Communications or Information Between Labor Organization and Member Involving Labor Organizations

FOR the purpose of prohibiting a labor organization or an agent of a labor organization from being compelled to disclose ~~in certain proceedings~~ under certain circumstances certain communications or information ~~acquired from a member~~ received or acquired in confidence while acting in a representative capacity concerning an employee grievance; requiring a labor organization or its agent to disclose a communication or information in a certain manner under certain circumstances; providing certain exceptions; prohibiting a certain inference from being drawn from a certain refusal; providing that the provisions of federal or State labor law control under certain circumstances; defining certain terms; providing for the application and construction of this Act; and generally relating to ~~privileged~~ certain communications or information.

BY adding to

Article – Courts and Judicial Proceedings

Section 9–124

Annotated Code of Maryland

(2006 Replacement Volume and 2011 Supplement)

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

Article – Courts and Judicial Proceedings

9-124.

(A) (1) IN THIS SECTION, ~~“LABOR”~~ THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) ~~“EMPLOYEE”~~ “EMPLOYEE” MEANS AN INDIVIDUAL REPRESENTED BY A LABOR ORGANIZATION REGARDLESS OF WHETHER THE INDIVIDUAL IS A MEMBER OF THE LABOR ORGANIZATION.

(3) “LABOR ORGANIZATION” MEANS AN ORGANIZATION THAT REPRESENTS OR SEEKS TO REPRESENT WORKERS FOR THE PURPOSES OF COLLECTIVE BARGAINING.

(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OR ~~(C)~~ (D) OF THIS SECTION, A LABOR ORGANIZATION OR AN AGENT OF A LABOR ORGANIZATION MAY NOT BE COMPELLED TO DISCLOSE, IN ANY COURT, ADMINISTRATIVE, ARBITRATION, OR OTHER PROCEEDING, ANY COMMUNICATION OR INFORMATION ~~AN AGENT OF THE LABOR ORGANIZATION ACQUIRED FROM A MEMBER OF THE LABOR ORGANIZATION IN THE COURSE OF THE AGENT’S PROFESSIONAL DUTIES OR WHILE ACTING IN THE AGENT’S REPRESENTATIVE CAPACITY~~ THE LABOR ORGANIZATION OR AGENT RECEIVED OR ACQUIRED IN CONFIDENCE FROM A MEMBER OF THE LABOR ORGANIZATION AN EMPLOYEE WHILE THE LABOR ORGANIZATION OR AGENT WAS ACTING IN A REPRESENTATIVE CAPACITY CONCERNING AN EMPLOYEE GRIEVANCE.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A CRIMINAL PROCEEDING.

(3) AN EMPLOYEE’S PRIVILEGE UNDER THIS SUBSECTION APPLIES ONLY TO THE EXTENT THAT:

(I) A COMMUNICATION OR INFORMATION IS GERMANE TO A GRIEVANCE OF THE EMPLOYEE; AND

(II) THE GRIEVANCE OF THE EMPLOYEE IS A SUBJECT MATTER OF AN INVESTIGATION, A GRIEVANCE PROCEEDING, OR A CIVIL COURT, ADMINISTRATIVE, ARBITRATION, OR OTHER CIVIL PROCEEDING.

(4) AN EMPLOYEE’S PRIVILEGE UNDER THIS SUBSECTION CONTINUES AFTER TERMINATION OF:

(I) THE EMPLOYEE’S EMPLOYMENT; OR

(II) THE REPRESENTATIVE RELATIONSHIP OF THE LABOR ORGANIZATION OR ITS AGENT WITH THE EMPLOYEE.

(5) AN EMPLOYEE'S PRIVILEGE UNDER THIS SUBSECTION PROTECTS THE COMMUNICATION OR INFORMATION RECEIVED OR ACQUIRED BY THE LABOR ORGANIZATION OR ITS AGENT, BUT DOES NOT PROTECT THE EMPLOYEE FROM BEING COMPELLED TO DISCLOSE, TO THE EXTENT PROVIDED BY LAW, THE FACTS UNDERLYING THE COMMUNICATION OR INFORMATION.

(C) A LABOR ORGANIZATION OR ITS AGENT SHALL DISCLOSE TO THE EMPLOYER AS SOON AS POSSIBLE A COMMUNICATION OR INFORMATION DESCRIBED IN SUBSECTION (B)(1) OF THIS SECTION TO THE EXTENT THE LABOR ORGANIZATION OR ITS AGENT REASONABLY BELIEVES NECESSARY TO PREVENT CERTAIN DEATH OR SUBSTANTIAL BODILY HARM.

~~(D)~~ (D) A LABOR ORGANIZATION OR ITS AGENT MAY DISCLOSE A COMMUNICATION OR INFORMATION DESCRIBED IN SUBSECTION (B) OF THIS SECTION:

~~(1) TO THE EXTENT NECESSARY TO PREVENT THE COMMISSION OF A CRIME THAT IS LIKELY TO RESULT IN A CLEAR, IMMINENT RISK OF SERIOUS PHYSICAL INJURY TO OR DEATH OF ANOTHER INDIVIDUAL;~~

(1) TO THE EXTENT THE LABOR ORGANIZATION OR ITS AGENT REASONABLY BELIEVES NECESSARY TO:

(I) PREVENT THE EMPLOYEE FROM COMMITTING A CRIME, FRAUD, OR ANY ACT IN VIOLATION OF A COLLECTIVE BARGAINING AGREEMENT OR CONTRACTUAL AGREEMENT THAT IS REASONABLY CERTAIN TO RESULT IN SUBSTANTIAL INJURY TO THE FINANCIAL INTERESTS OR PROPERTY OF ANOTHER AND IN FURTHERANCE OF WHICH THE EMPLOYEE HAS USED OR IS USING THE SERVICES OF THE LABOR ORGANIZATION OR ITS AGENT;

(II) PREVENT, MITIGATE, OR RECTIFY SUBSTANTIAL INJURY TO THE FINANCIAL INTERESTS OR PROPERTY OF ANOTHER THAT IS REASONABLY CERTAIN TO RESULT OR HAS RESULTED FROM THE EMPLOYEE'S COMMISSION OF A CRIME, FRAUD, OR ANY ACT IN VIOLATION OF A COLLECTIVE BARGAINING AGREEMENT OR CONTRACTUAL AGREEMENT IN FURTHERANCE OF WHICH THE EMPLOYEE HAS USED THE SERVICES OF THE LABOR ORGANIZATION OR ITS AGENT;

(III) SECURE LEGAL ADVICE ABOUT THE COMPLIANCE OF THE LABOR ORGANIZATION OR ITS AGENT WITH A COURT ORDER OR OTHER LAW

OR THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT OR CONTRACTUAL AGREEMENT;

(IV) ESTABLISH A CLAIM OR DEFENSE ON BEHALF OF THE LABOR ORGANIZATION OR ITS AGENT IN A CONTROVERSY BETWEEN THE EMPLOYEE AND THE LABOR ORGANIZATION OR ITS AGENT, TO ESTABLISH A DEFENSE TO A CRIMINAL CHARGE OR CIVIL CLAIM AGAINST THE LABOR ORGANIZATION OR ITS AGENT BASED ON CONDUCT IN WHICH THE EMPLOYEE WAS INVOLVED, OR TO RESPOND TO ALLEGATIONS IN ANY PROCEEDING CONCERNING THE PERFORMANCE OF PROFESSIONAL DUTIES BY THE LABOR ORGANIZATION OR ITS AGENT ON BEHALF OF THE EMPLOYEE; OR

(V) COMPLY WITH A COURT ORDER OR OTHER LAW OR THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT OR CONTRACTUAL AGREEMENT;

(2) TO THE EXTENT THE COMMUNICATION OR INFORMATION CONSTITUTES AN ADMISSION THAT THE ~~LABOR ORGANIZATION MEMBER~~ EMPLOYEE HAS COMMITTED A CRIME;

~~(2)~~ (3) IN ANY COURT, ADMINISTRATIVE, ARBITRATION, OR OTHER PROCEEDING AGAINST:

(I) THE AGENT OF THE LABOR ORGANIZATION IN THE AGENT'S PERSONAL OR OFFICIAL REPRESENTATIVE CAPACITY; OR

(II) THE LABOR ORGANIZATION, ANY AFFILIATED OR SUBORDINATE BODY OF THE LABOR ORGANIZATION, OR ANY AGENT OF THE LABOR ORGANIZATION OR ITS AFFILIATED OR SUBORDINATE BODY;

~~(3)~~ (4) IF THE LABOR ORGANIZATION HAS OBTAINED THE WRITTEN OR ORAL CONSENT OF THE ~~LABOR ORGANIZATION MEMBER~~ EMPLOYEE;

~~(4)~~ (5) IF THE ~~LABOR ORGANIZATION MEMBER~~ EMPLOYEE IS DECEASED OR HAS BEEN ADJUDICATED INCOMPETENT BY A COURT OF COMPETENT JURISDICTION AND THE LABOR ORGANIZATION HAS OBTAINED THE WRITTEN OR ORAL CONSENT OF THE PERSONAL REPRESENTATIVE OF THE ~~MEMBER'S~~ EMPLOYEE'S ESTATE OR OF THE ~~MEMBER'S~~ EMPLOYEE'S GUARDIAN;
OR

~~(5)~~ (6) WHEN REQUIRED BY COURT ORDER; OR

(7) TO THE EXTENT THAT THE EMPLOYEE WAIVES THE CONFIDENTIALITY OF THE COMMUNICATION OR INFORMATION.

~~(D)~~ (E) AN ADVERSE INFERENCE MAY NOT BE DRAWN BASED ON THE REFUSAL OF A LABOR ORGANIZATION OR AN AGENT OF A LABOR ORGANIZATION TO DISCLOSE A COMMUNICATION OR ANY INFORMATION UNDER SUBSECTION ~~(C)(2)~~ ~~(C)(3)~~ (D)(3) OF THIS SECTION.

~~(E)~~ (F) IN THE EVENT OF A CONFLICT BETWEEN THE APPLICATION OF THIS SECTION AND ANY FEDERAL OR STATE LABOR LAW, THE PROVISIONS OF THE FEDERAL OR STATE LAW SHALL CONTROL.

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 collective bargaining agreement or contractual agreement in effect on the effective date of this Act.

SECTION 3. 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 communication or information received or acquired by a labor organization or an agent of a labor organization before the effective date of this Act.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 305

(Senate Bill 804)

AN ACT concerning

Human Services – Service Animal Trainers – Nondiscrimination

FOR the purpose of altering certain provisions of law establishing certain rights and privileges for individuals with disabilities to include certain service animal trainers; altering certain provisions of law relating to the use of service animals by individuals with disabilities to include service animal trainers; altering a certain definition; and generally relating to nondiscrimination against service animal trainers.

BY repealing and reenacting, with amendments,

Article – Human Services
Section 7–701(h) and 7–704
Annotated Code of Maryland
(2007 Volume and 2011 Supplement)

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

Article – Human Services

7–701.

(h) “Service animal trainer” means a person who trains **OR RAISES** service animals for individuals with disabilities, **WHETHER THE PERSON IS A PROFESSIONAL OR VOLUNTEER.**

7–704.

(a) Individuals with disabilities [and], the parents of a minor child with a disability, **AND SERVICE ANIMAL TRAINERS WHO ARE ACCOMPANIED BY AN ANIMAL BEING TRAINED OR RAISED AS A SERVICE ANIMAL** have the same right as individuals without disabilities to the full and free use of the roads, sidewalks, public buildings, public facilities, and other public places.

(b) (1) Individuals with disabilities [and], the parents of a minor child with a disability, **AND SERVICE ANIMAL TRAINERS WHO ARE ACCOMPANIED BY AN ANIMAL BEING TRAINED OR RAISED AS A SERVICE ANIMAL** are entitled to full and equal rights and privileges with respect to common carriers and other public conveyances or modes of transportation, places of public accommodations, and other places to which the general public is invited, subject only to any conditions and limitations of general application established by law.

(2) The failure of a blind or visually impaired pedestrian to carry a cane predominantly white or metallic in color, with or without a red tip, or an individual with a disability or a parent of a minor child with a disability to use a service animal wearing an orange license tag or orange collar and on a leash, or to use a service animal in a place, accommodation, or conveyance listed in paragraph (1) of this subsection does not constitute contributory negligence per se.

(c) (1) This subsection does not apply to any accommodations or single family residence in which the occupants offer for compensation not more than one room.

(2) An individual with a disability [or], a parent of a minor child with a disability, **OR A SERVICE ANIMAL TRAINER WHO IS ACCOMPANIED BY AN ANIMAL BEING TRAINED OR RAISED AS A SERVICE ANIMAL** is entitled to the same

access as other members of the general public to housing accommodations in the State, subject to any conditions and limitations of general application established by law.

(3) An individual with a disability [or], a parent of a minor child with a disability, **OR A SERVICE ANIMAL TRAINER** who has, obtains, or may wish to obtain a service animal **OR AN ANIMAL TO BE TRAINED OR RAISED AS A SERVICE ANIMAL** is entitled to full and equal access to housing accommodations.

(4) An individual with a disability [or], a parent of a minor child with a disability, **OR A SERVICE ANIMAL TRAINER** who is accompanied by a service animal **OR AN ANIMAL BEING TRAINED OR RAISED AS A SERVICE ANIMAL** may not be required to pay extra compensation for the service animal, but the individual may be liable for damages to the premises or facilities that the service animal causes.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 306

(Senate Bill 814)

AN ACT concerning

Public Safety – Elevators – ~~Board Membership, Accessibility Lifts, and Lift Mechanics~~ Accessibility Lift Mechanic License

FOR the purpose of ~~altering the membership of the Elevator Safety Review Board to add a member representing the elevator interior renovation industry and a member representing the accessibility lift industry;~~ authorizing the Elevator Safety Review Board to establish certain fees for the application, issuance, and renewal of licenses issued to certain accessibility lift mechanics; requiring the Board to adopt certain regulations to certify a licensed accessibility lift mechanic as an accessibility lift mechanic specialist; establishing that certain persons are not required to obtain certain licenses to conduct certain activities; authorizing an accessibility lift mechanic to provide the services of an accessibility lift mechanic specialist until the Board adopts certain regulations; requiring a person to be licensed by the Board as an accessibility lift mechanic before providing certain services; establishing requirements for an applicant for an accessibility lift mechanic license; authorizing a licensed accessibility lift mechanic to provide certain services; authorizing the Board to issue a certain conditional license for a certain period under certain circumstances; providing

for a delayed effective date; defining certain terms; making conforming changes; and generally relating to accessibility lift mechanics.

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 12–801, ~~12–820(a)~~, 12–824, and 12–826(e)

Annotated Code of Maryland

(2011 Replacement Volume)

BY adding to

Article – Public Safety

Section ~~12–826(e)~~ 12–826(e) and (g), 12–827(d), and 12–832(e)

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Public Safety

12–801.

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

~~(A-1) “ACCESSIBILITY LIFT” MEANS A COMMERCIAL STAIRWAY CHAIRLIFT, VERTICAL PLATFORM LIFT, LIMITED USE/LIMITED APPLICATION (LULA) ELEVATOR, INCLINE PLATFORM LIFT, OR PRIVATE RESIDENCE ELEVATOR.~~

(B) “ACCESSIBILITY LIFT MECHANIC” MEANS A PERSON WHO IS ENGAGED IN ERECTING, CONSTRUCTING, WIRING, ALTERING, REPLACING, MAINTAINING, REPAIRING, DISMANTLING, OR SERVICING COMMERCIAL STAIRWAY CHAIRLIFTS, VERTICAL PLATFORM LIFTS, OR INCLINE PLATFORM LIFTS.

(C) “ACCESSIBILITY LIFT MECHANIC SPECIALIST” MEANS A PERSON WHO IS LICENSED AS AN ACCESSIBILITY LIFT MECHANIC AND HAS BEEN CERTIFIED BY THE BOARD TO ERECT, CONSTRUCT, WIRE, ALTER, REPLACE, MAINTAIN, REPAIR, DISMANTLE, OR SERVICE PRIVATE RESIDENTIAL ELEVATORS.

~~(D)~~ (D) “Board” means the Elevator Safety Review Board.

~~(E)~~ (E) “Certificate” means a certificate of registration and inspection issued by the Commissioner to operate an elevator unit.

~~(d)~~ **(F)** “Commissioner” means the Commissioner of Labor and Industry or an authorized representative of the Commissioner of Labor and Industry.

~~(e)~~ **(G)** “Dumbwaiter” means a hoisting and lowering machine equipped with a car of limited capacity and size that moves in guides in a substantially vertical direction and is used exclusively for carrying material.

~~(f)~~ **(H)** “Elevator” means a hoisting and lowering machine equipped with a car or platform that moves in guides in a substantially vertical direction and serves two or more floors of a building or structure.

~~(g)~~ **(I)** “Elevator contractor” means a person who is engaged in the business of erecting, constructing, wiring, altering, replacing, maintaining, repairing, dismantling, or servicing elevator OR ACCESSIBILITY LIFT units.

~~(h)~~ **(J)** “Elevator mechanic” means a person who is engaged in erecting, constructing, wiring, altering, replacing, maintaining, repairing, dismantling, or servicing elevator OR ACCESSIBILITY LIFT units.

~~(i)~~ **(K)** “Elevator refinisher” means a person who is engaged in the refinishing of existing metal and wood elements in elevator cabs, including the stripping of old lacquer on wood and bronze items, staining wood to match existing finishes, cleaning, polishing, oxidizing, painting, lacquering, and the removing of scratches to maintain existing finishes.

~~(j)~~ **(L)** “Elevator renovator contractor” means a person who is engaged in the business of performing work:

- (1) on the interior of an elevator involving the removal or installation of the nonstructural surface of the elevator’s wall, ceiling, floor, rail, or handle; and
- (2) that does not affect the elevator’s moving operation.

~~(k)~~ **(M)** “Elevator renovator mechanic” means a person who performs work:

- (1) on the interior of an elevator involving the removal or installation of the nonstructural surface of the elevator’s wall, ceiling, floor, rail, or handle; and
- (2) that does not affect the elevator’s moving operation.

~~(l)~~ **(N)** “Elevator unit” includes an elevator, escalator, dumbwaiter, and moving walk.

~~(m)~~ **(O)** “Escalator” means a power driven, inclined, continuous stairway used for raising and lowering passengers.

~~(n)~~ **(P)** “License” includes:

(1) AN ACCESSIBILITY LIFT MECHANIC LICENSE;

~~(1)~~ **(2)** an elevator contractor license;

~~(2)~~ **(3)** an elevator mechanic license;

~~(3)~~ **(4)** an elevator renovator contractor license; ~~{and}~~

~~(4)~~ **(5)** an elevator renovator mechanic license; ~~AND~~

~~(5)~~ **~~A LIFT MECHANIC LICENSE.~~**

~~(o)~~ **~~“LIFT MECHANIC” MEANS A PERSON WHO IS ENGAGED IN ERECTING, CONSTRUCTING, WIRING, ALTERING, REPLACING, MAINTAINING, REPAIRING, DISMANTLING, OR SERVICING ACCESSIBILITY LIFTS OR DUMBWAITERS.~~**

~~[(o)]~~ ~~(p)~~ **(Q)** “Moving walk” means a type of passenger-carrying device on which passengers stand or walk and in which the passenger-carrying surface remains parallel to its direction of motion and is uninterrupted.

~~[(p)]~~ ~~(q)~~ **(R)** “Safety Code” means the American National Standard/American Society of Mechanical Engineers Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, known as ANSI A17.1-1971, and all subsequent amendments and revisions to it, as adopted by the Commissioner.

~~[(q)]~~ ~~(r)~~ **(S)** “Secretary” means the Secretary of Labor, Licensing, and Regulation.

~~[(r)]~~ ~~(s)~~ **(T)** “Third-party qualified elevator inspector” means an inspector who:

(1) meets the qualifications, insurance requirements, and procedures established by the Commissioner; and

(2) is certified by an organization accredited by the American Society of Mechanical Engineers in accordance with the American National Standard/American Society of Mechanical Engineers Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, known as ANSI A17.1-1971, and all subsequent amendments, and any related consensus standards.

~~12-820.~~

~~(a)~~ ~~(1)~~ ~~The Board consists of the following [nine] ELEVEN members:~~

- ~~(i) as an ex officio member, the Commissioner; and~~
- ~~(ii) [eight] TEN members appointed by the Governor with the advice of the Secretary and with the advice and consent of the Senate.~~
- ~~(2) Of the [eight] TEN appointed members of the Board:~~
 - ~~(i) one shall represent a major elevator manufacturing company or its authorized representative;~~
 - ~~(ii) one shall represent an elevator servicing company;~~
 - ~~(iii) one shall represent the architectural design profession;~~
 - ~~(iv) one shall represent a municipal corporation in the State;~~
 - ~~(v) one shall represent a building owner or manager;~~
 - ~~(vi) one shall represent labor involved in the installation, maintenance, and repair of elevators; [and]~~
 - ~~(VII) ONE SHALL REPRESENT THE ELEVATOR INTERIOR RENOVATION INDUSTRY;~~
 - ~~(VIII) ONE SHALL REPRESENT THE ACCESSIBILITY LIFT INDUSTRY; AND~~
 - ~~[(vii)] (IX) two shall be members of the public.~~

12-824.

(a) The Board shall establish fees for the application, issuance, and renewal of licenses issued under Part III of this subtitle.

(b) The total amount of fees established under subsection (a) of this section may not exceed, for the 2-year term of the license:

(1) \$100 per year for an elevator mechanic [or], elevator renovator mechanic, **OR ACCESSIBILITY LIFT MECHANIC**; and

(2) \$150 per year for an elevator contractor or elevator renovator contractor.

(c) Each fee for the application, issuance, and renewal of licenses collected by the Board shall be paid into the Elevator Safety Review Board Fund established under this subtitle.

12-826.

(E) EXCEPT AS OTHERWISE PROVIDED IN PART III OF THIS SUBTITLE, A PERSON SHALL BE LICENSED BY THE BOARD AS ~~AN ACCESSIBILITY LIFT MECHANIC BEFORE THE PERSON ERECTS, CONSTRUCTS, WIRES, ALTERS, REPLACES, MAINTAINS, REPAIRS, DISMANTLES, OR SERVICES ACCESSIBILITY LIFTS OR DUMBWAITERS IN THE STATE~~ COMMERCIAL STAIRWAY CHAIRLIFTS, VERTICAL PLATFORM LIFTS, OR INCLINE PLATFORM LIFTS IN THE STATE.

[(e)] (F) (1) A licensed elevator contractor is not required for removing or dismantling an elevator unit if:

(i) the elevator unit is destroyed as a result of a complete demolition of a building; or

(ii) a hoistway or wellway is demolished back to the basic support structure.

(2) (i) An individual who works as an elevator apprentice under the direct supervision of a licensed elevator mechanic or licensed elevator renovator mechanic need not obtain a license.

(ii) An individual commonly known as an elevator helper who works under the direct supervision of a licensed elevator mechanic or a licensed elevator renovator mechanic need not obtain a license.

(3) An elevator refinisher need not obtain a license.

(4) A CRANE MECHANIC PERFORMING WORK ON ELEVATORS OR LIFTS LOCATED ON A PORT FACILITY OWNED, LEASED, OR OPERATED BY THE MARYLAND PORT ADMINISTRATION NEED NOT OBTAIN A LICENSE.

(5) A PERSON INSTALLING A RESIDENTIAL STAIRWAY CHAIRLIFT NEED NOT OBTAIN A LICENSE.

(6) A PERSON WHO IS LICENSED UNDER THIS SUBTITLE AS AN ELEVATOR MECHANIC NEED NOT OBTAIN A LICENSE TO PROVIDE THE SERVICES DESCRIBED IN SUBSECTION (E) OF THIS SECTION.

(G) (1) THE BOARD SHALL ADOPT REGULATIONS, INCLUDING EDUCATION AND EXPERIENCE REQUIREMENTS, TO CERTIFY ACCESSIBILITY

LIFT MECHANIC SPECIALISTS TO ERECT, CONSTRUCT, WIRE, ALTER, REPLACE, MAINTAIN, REPAIR, DISMANTLE, OR SERVICE PRIVATE RESIDENTIAL ELEVATORS.

(2) UNTIL THE BOARD ADOPTS REGULATIONS TO CERTIFY ACCESSIBILITY LIFT MECHANIC SPECIALISTS TO PERFORM WORK ON PRIVATE RESIDENTIAL ELEVATORS, AN ACCESSIBILITY LIFT MECHANIC MAY PROVIDE THE SERVICES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(3) A CANDIDATE ACTIVELY COMPLETING THE CERTIFICATION REQUIREMENTS ADOPTED BY THE BOARD UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY CONTINUE TO PERFORM THAT WORK WITHOUT CERTIFICATION FOR UP TO 4 YEARS AFTER THE EFFECTIVE DATE OF THE REGULATIONS.

12-827.

(D) (1) AN APPLICANT FOR ~~AN~~ AN ACCESSIBILITY LIFT MECHANIC LICENSE SHALL:

~~(1)~~ ~~(H)~~ (I) 1. HAVE AN ACCEPTABLE COMBINATION OF DOCUMENTED EXPERIENCE AND EDUCATION CREDITS, WITH AT LEAST 3 YEARS OF RECENT AND ACTIVE EXPERIENCE IN THE ACCESSIBILITY LIFT INDUSTRY, IN CONSTRUCTION, MAINTENANCE, AND SERVICE OR REPAIR, AS VERIFIED BY CURRENT AND PREVIOUS EMPLOYERS; AND

~~(H)~~ 2. PASS A WRITTEN EXAMINATION ADMINISTERED BY THE BOARD ON THE SAFETY CODE;

~~(2)~~ ~~(H)~~ (II) 1. HAVE AN ACCEPTABLE COMBINATION OF DOCUMENTED EXPERIENCE AND EDUCATION CREDITS, WITH AT LEAST 3 YEARS OF RECENT AND ACTIVE EXPERIENCE IN THE ACCESSIBILITY LIFT INDUSTRY, IN CONSTRUCTION, MAINTENANCE, AND SERVICE OR REPAIR, AS VERIFIED BY CURRENT AND PREVIOUS EMPLOYERS; AND

~~(H)~~ 2. HAVE A CERTIFICATE FROM AN ORGANIZATION PROVIDING AN EDUCATION PROGRAM FOR THE ACCESSIBILITY INDUSTRY, SUCH AS THE CERTIFIED ACCESSIBILITY TECHNICIAN PROGRAM OR AN EQUIVALENT PROGRAM; OR

~~(3)~~ (III) HAVE A CERTIFICATE OF COMPLETION OF AN APPRENTICESHIP PROGRAM FOR ACCESSIBILITY MECHANICS THAT HAS STANDARDS SUBSTANTIALLY EQUIVALENT TO THOSE OF PART III OF THIS SUBTITLE AND IS REGISTERED WITH THE BUREAU OF APPRENTICESHIP AND

TRAINING OF THE U.S. DEPARTMENT OF LABOR OR A STATE APPRENTICESHIP COUNCIL.

(2) THE BOARD MAY ISSUE A CONDITIONAL LICENSE UNDER THIS SUBSECTION THAT IS EFFECTIVE UNTIL JANUARY 1, 2017, TO A CANDIDATE ACTIVELY COMPLETING THE EDUCATIONAL REQUIREMENTS DESCRIBED IN PARAGRAPH (1)(II)2 OF THIS SUBSECTION.

12-832.

(E) WHILE ~~A LIFT~~ AN ACCESSIBILITY LIFT MECHANIC LICENSE IS IN EFFECT, ~~THE~~ THE LICENSE AUTHORIZES THE LICENSEE TO ERECT, CONSTRUCT, WIRE, ALTER, REPLACE, MAINTAIN, REPAIR, DISMANTLE, AND SERVICE ~~ACCESSIBILITY LIFTS AND DUMBWAITERS~~ COMMERCIAL STAIRWAY CHAIRLIFTS, VERTICAL PLATFORM LIFTS, OR INCLINE PLATFORM LIFTS UNDER THE DIRECT SUPERVISION OF A LICENSED ELEVATOR CONTRACTOR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2012~~ January 1, 2013.

Approved by the Governor, May 2, 2012.

Chapter 307

(House Bill 89)

AN ACT concerning

Public Safety – Elevators – Accessibility Lift Mechanic License

FOR the purpose of authorizing the Elevator Safety Review Board to establish certain fees for the application, issuance, and renewal of licenses issued to certain accessibility lift mechanics; requiring the Board to adopt certain regulations to certify a licensed accessibility lift mechanic as an accessibility lift mechanic specialist; establishing that certain persons are not required to obtain certain licenses to conduct certain activities; authorizing an accessibility lift mechanic to provide the services of an accessibility lift mechanic specialist until the Board adopts certain regulations; requiring a person to be licensed by the Board as ~~a~~ an accessibility lift mechanic before providing certain services; establishing requirements for an applicant for ~~a~~ an accessibility lift mechanic license; authorizing a licensed accessibility lift mechanic to provide certain services; authorizing the Board to issue a certain conditional license for a certain period under certain circumstances; providing for a delayed effective date; defining a certain term; and generally relating to accessibility lift mechanics.

~~BY repealing and reenacting, without amendments,
Article – Public Safety
Section 12-801(a)
Annotated Code of Maryland
(2003 Volume and 2011 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Public Safety
Section ~~12-801(e) through (r)~~ 12-801, 12-824, and 12-826(e)
Annotated Code of Maryland
(2003 Volume and 2011 Supplement)

BY adding to
Article – Public Safety
Section ~~12-801(e)~~, 12-826(e) and (g), 12-827(d), and 12-832(e)
Annotated Code of Maryland
(2003 Volume and 2011 Supplement)

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

Article – Public Safety

12-801.

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

~~(B)~~ **(B)** “LIFT “ACCESSIBILITY LIFT MECHANIC” MEANS A PERSON WHO IS ENGAGED IN ERECTING, CONSTRUCTING, WIRING, ALTERING, REPLACING, MAINTAINING, REPAIRING, DISMANTLING, OR SERVICING COMMERCIAL STAIRWAY CHAIRLIFTS, VERTICAL PLATFORM LIFTS, LIMITED USE/LIMITED APPLICATION (LULA) ELEVATORS, INCLINE PLATFORM LIFTS, PRIVATE RESIDENCE ELEVATORS, OR DUMBWAITERS OR INCLINE PLATFORM LIFTS.

(C) “ACCESSIBILITY LIFT MECHANIC SPECIALIST” MEANS A PERSON WHO IS LICENSED AS AN ACCESSIBILITY LIFT MECHANIC AND HAS BEEN CERTIFIED BY THE BOARD TO ERECT, CONSTRUCT, WIRE, ALTER, REPLACE, MAINTAIN, REPAIR, DISMANTLE, OR SERVICE PRIVATE RESIDENTIAL ELEVATORS.

(b) (D) “Board” means the Elevator Safety Review Board.

(c) (E) “Certificate” means a certificate of registration and inspection issued by the Commissioner to operate an elevator unit.

[(d)] (F) “Commissioner” means the Commissioner of Labor and Industry or an authorized representative of the Commissioner of Labor and Industry.

[(e)] (G) “Dumbwaiter” means a hoisting and lowering machine equipped with a car of limited capacity and size that moves in guides in a substantially vertical direction and is used exclusively for carrying material.

[(f)] (H) “Elevator” means a hoisting and lowering machine equipped with a car or platform that moves in guides in a substantially vertical direction and serves two or more floors of a building or structure.

[(g)] (I) “Elevator contractor” means a person who is engaged in the business of erecting, constructing, wiring, altering, replacing, maintaining, repairing, dismantling, or servicing elevator OR ACCESSIBILITY LIFT units.

[(h)] (J) “Elevator mechanic” means a person who is engaged in erecting, constructing, wiring, altering, replacing, maintaining, repairing, dismantling, or servicing elevator OR ACCESSIBILITY LIFT units.

[(i)] (K) “Elevator refinisher” means a person who is engaged in the refinishing of existing metal and wood elements in elevator cabs, including the stripping of old lacquer on wood and bronze items, staining wood to match existing finishes, cleaning, polishing, oxidizing, painting, lacquering, and the removing of scratches to maintain existing finishes.

[(j)] (L) “Elevator renovator contractor” means a person who is engaged in the business of performing work:

(1) on the interior of an elevator involving the removal or installation of the nonstructural surface of the elevator’s wall, ceiling, floor, rail, or handle; and

(2) that does not affect the elevator’s moving operation.

[(k)] (M) “Elevator renovator mechanic” means a person who performs work:

(1) on the interior of an elevator involving the removal or installation of the nonstructural surface of the elevator’s wall, ceiling, floor, rail, or handle; and

(2) that does not affect the elevator’s moving operation.

[(l)] (N) “Elevator unit” includes an elevator, escalator, dumbwaiter, and moving walk.

[(m)] (O) “Escalator” means a power driven, inclined, continuous stairway used for raising and lowering passengers.

~~[(n)]~~ **(P)** “License” includes:

(1) AN ACCESSIBILITY LIFT MECHANIC LICENSE;

~~[(1)]~~ **(2)** an elevator contractor license;

~~[(2)]~~ **(3)** an elevator mechanic license;

~~[(3)]~~ **(4)** an elevator renovator contractor license; and

~~[(4)]~~ **(5)** an elevator renovator mechanic license.

~~[(o)]~~ ~~(P)~~ **(Q)** “Moving walk” means a type of passenger-carrying device on which passengers stand or walk and in which the passenger-carrying surface remains parallel to its direction of motion and is uninterrupted.

~~[(p)]~~ ~~(Q)~~ **(R)** “Safety Code” means the American National Standard/American Society of Mechanical Engineers Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, known as ANSI A17.1–1971, and all subsequent amendments and revisions to it, as adopted by the Commissioner.

~~[(q)]~~ ~~(R)~~ **(S)** “Secretary” means the Secretary of Labor, Licensing, and Regulation.

~~[(r)]~~ ~~(S)~~ **(T)** “Third-party qualified elevator inspector” means an inspector who:

(1) meets the qualifications, insurance requirements, and procedures established by the Commissioner; and

(2) is certified by an organization accredited by the American Society of Mechanical Engineers in accordance with the American National Standard/American Society of Mechanical Engineers Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, known as ANSI A17.1–1971, and all subsequent amendments, and any related consensus standards.

12–824.

(a) The Board shall establish fees for the application, issuance, and renewal of licenses issued under Part III of this subtitle.

(b) The total amount of fees established under subsection (a) of this section may not exceed, for the 2-year term of the license:

(1) \$100 per year for an elevator mechanic [or], elevator renovator mechanic, ~~OR LIFT~~ ACCESSIBILITY LIFT MECHANIC; and

(2) \$150 per year for an elevator contractor or elevator renovator contractor.

(c) Each fee for the application, issuance, and renewal of licenses collected by the Board shall be paid into the Elevator Safety Review Board Fund established under this subtitle.

12-826.

(E) EXCEPT AS OTHERWISE PROVIDED IN PART III OF THIS SUBTITLE, A PERSON SHALL BE LICENSED BY THE BOARD AS ~~A~~ AN ACCESSIBILITY LIFT MECHANIC BEFORE THE PERSON ERECTS, CONSTRUCTS, WIRES, ALTERS, REPLACES, MAINTAINS, REPAIRS, DISMANTLES, OR SERVICES COMMERCIAL STAIRWAY CHAIRLIFTS, VERTICAL PLATFORM LIFTS, LIMITED USE/LIMITED APPLICATION (LULA) ELEVATORS, INCLINE PLATFORM LIFTS, PRIVATE RESIDENCE ELEVATORS, OR DUMBWAITERS OR INCLINE PLATFORM LIFTS IN THE STATE.

[(e)] (F) (1) A licensed elevator contractor is not required for removing or dismantling an elevator unit if:

(i) the elevator unit is destroyed as a result of a complete demolition of a building; or

(ii) a hoistway or wellway is demolished back to the basic support structure.

(2) (i) An individual who works as an elevator apprentice under the direct supervision of a licensed elevator mechanic or licensed elevator renovator mechanic need not obtain a license.

(ii) An individual commonly known as an elevator helper who works under the direct supervision of a licensed elevator mechanic or a licensed elevator renovator mechanic need not obtain a license.

(3) An elevator refinisher need not obtain a license.

(4) A CRANE MECHANIC PERFORMING WORK ON ELEVATORS OR LIFTS LOCATED ON A PORT FACILITY OWNED, LEASED, OR OPERATED BY THE MARYLAND PORT ADMINISTRATION NEED NOT OBTAIN A LICENSE.

(5) A PERSON INSTALLING A RESIDENTIAL STAIRWAY CHAIRLIFT NEED NOT OBTAIN A LICENSE.

(6) A PERSON WHO IS LICENSED UNDER THIS SUBTITLE AS AN ELEVATOR MECHANIC NEED NOT OBTAIN A LICENSE TO PROVIDE THE SERVICES DESCRIBED IN SUBSECTION (E) OF THIS SECTION.

(G) (1) THE BOARD SHALL ADOPT REGULATIONS, INCLUDING EDUCATION AND EXPERIENCE REQUIREMENTS, TO CERTIFY ACCESSIBILITY LIFT MECHANIC SPECIALISTS TO ERECT, CONSTRUCT, WIRE, ALTER, REPLACE, MAINTAIN, REPAIR, DISMANTLE, OR SERVICE PRIVATE RESIDENTIAL ELEVATORS.

(2) UNTIL THE BOARD ADOPTS REGULATIONS TO CERTIFY ACCESSIBILITY LIFT MECHANIC SPECIALISTS TO PERFORM WORK ON PRIVATE RESIDENTIAL ELEVATORS, AN ACCESSIBILITY LIFT MECHANIC MAY PROVIDE THE SERVICES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(3) A CANDIDATE ACTIVELY COMPLETING THE CERTIFICATION REQUIREMENTS ADOPTED BY THE BOARD UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY CONTINUE TO PERFORM THAT WORK WITHOUT CERTIFICATION FOR UP TO 4 YEARS AFTER THE EFFECTIVE DATE OF THE REGULATIONS.

12-827.

(D) (1) AN APPLICANT FOR ~~A~~ AN ACCESSIBILITY LIFT MECHANIC LICENSE SHALL:

~~(H)~~ ~~(I)~~ 1. HAVE AN ACCEPTABLE COMBINATION OF DOCUMENTED EXPERIENCE AND EDUCATION CREDITS, WITH AT LEAST 3 YEARS OF RECENT AND ACTIVE EXPERIENCE IN THE ACCESSIBILITY LIFT INDUSTRY, IN CONSTRUCTION, MAINTENANCE, AND SERVICE OR REPAIR, AS VERIFIED BY CURRENT AND PREVIOUS EMPLOYERS; AND

~~(H)~~ 2. PASS A WRITTEN EXAMINATION ADMINISTERED BY THE BOARD ON THE SAFETY CODE;

~~(2)~~ ~~(H)~~ (II) 1. HAVE AN ACCEPTABLE COMBINATION OF DOCUMENTED EXPERIENCE AND EDUCATION CREDITS, WITH AT LEAST 3 YEARS OF RECENT AND ACTIVE EXPERIENCE IN THE ACCESSIBILITY LIFT INDUSTRY, IN CONSTRUCTION, MAINTENANCE, AND SERVICE OR REPAIR, AS VERIFIED BY CURRENT AND PREVIOUS EMPLOYERS; AND

~~(H)~~ 2. HAVE A CERTIFICATE FROM AN ORGANIZATION PROVIDING AN EDUCATION PROGRAM FOR THE ACCESSIBILITY INDUSTRY, SUCH

AS THE CERTIFIED ACCESSIBILITY TECHNICIAN PROGRAM OR AN EQUIVALENT PROGRAM; OR

~~(3)~~ (III) HAVE A CERTIFICATE OF COMPLETION OF AN APPRENTICESHIP PROGRAM FOR ACCESSIBILITY MECHANICS THAT HAS STANDARDS SUBSTANTIALLY EQUIVALENT TO THOSE OF PART III OF THIS SUBTITLE AND IS REGISTERED WITH THE BUREAU OF APPRENTICESHIP AND TRAINING OF THE U.S. DEPARTMENT OF LABOR OR A STATE APPRENTICESHIP COUNCIL.

(2) THE BOARD MAY ISSUE A CONDITIONAL LICENSE UNDER THIS SUBSECTION THAT IS EFFECTIVE UNTIL JANUARY 1, 2017, TO A CANDIDATE ACTIVELY COMPLETING THE EDUCATIONAL REQUIREMENTS DESCRIBED IN PARAGRAPH (1)(II)2 OF THIS SUBSECTION.

12-832.

(E) WHILE A ~~LIFT~~ AN ACCESSIBILITY LIFT MECHANIC LICENSE IS IN EFFECT, THE LICENSE AUTHORIZES THE LICENSEE TO ERECT, CONSTRUCT, WIRE, ALTER, REPLACE, MAINTAIN, REPAIR, DISMANTLE, AND SERVICE COMMERCIAL STAIRWAY CHAIRLIFTS, VERTICAL PLATFORM LIFTS, ~~LIMITED USE/LIMITED APPLICATION (LULA) ELEVATORS, INCLINE PLATFORM LIFTS, PRIVATE RESIDENCE ELEVATORS, AND DUMBWAITERS~~ OR INCLINE PLATFORM LIFTS UNDER THE DIRECT SUPERVISION OF A LICENSED ELEVATOR CONTRACTOR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2012~~ January 1, 2013.

Approved by the Governor, May 2, 2012.

Chapter 308

(Senate Bill 853)

AN ACT concerning

Baltimore County – Public School Employees – Collective Bargaining Units

FOR the purpose of altering the definition of “public school employee” as it relates to collective bargaining units of employees in Baltimore County; altering the composition of a certain unit of certain employees in Baltimore County; ~~establishing a certain unit of certain employees~~ including a unit of certain

supervisory employees among certain units authorized in Baltimore County; providing for a delayed effective date; and generally relating to collective bargaining units for public school employees in Baltimore County.

BY repealing and reenacting, with amendments,

Article – Education

Section 6–401(e), 6–404(c), and 6–505(c)

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

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

Article – Education

6–401.

(e) (1) “Public school employee” means a certificated professional individual who is employed by a public school employer or an individual of equivalent status in Baltimore City, except for a county superintendent or an individual designated by the public school employer to act in a negotiating capacity as provided in § 6–408(c) of this subtitle.

(2) In Montgomery County, “public school employees” include:

(i) Certificated and noncertificated substitute teachers employed by the public school employer for at least 7 days before March 1 of the school fiscal year ending June 30, 1978, and each year after; and

(ii) Home and hospital teachers employed by the public school employer for at least 7 days before March 1 of the school fiscal year ending June 30, 2000, and each year after.

(3) In Baltimore County, “public school employee” includes[:

(i) A] A secondary school nurse, an elementary school nurse, and a special school nurse[; and

(ii) Supervisory noncertificated employees as defined under § 6–501(i) of this title].

(4) In Frederick County, “public school employee” includes a social worker employed by a public school employer.

(5) In Prince George’s County, “public school employee” includes home and hospital teachers and Junior Reserve Officer Training Corps (JROTC) instructors.

(6) In Calvert County, Charles County, and Garrett County, “public school employee” includes Junior Reserve Officer Training Corps (JROTC) instructors.

(7) In Carroll County, “public school employee” includes:

(i) A registered nurse; and

(ii) Supervisory noncertificated employees as defined under § 6–501(i) of this title.

6–404.

(c) (1) There may not be more than two units in a county.

(2) In Baltimore County, one of the [two] units shall consist of employees [whose position requires an administrative and supervisory certificate and supervisory noncertificated employees as defined under § 6–501(i) of this title] **WHO ARE ADMINISTRATIVE AND SUPERVISORY CERTIFICATED EMPLOYEES**. The second unit shall consist of all other public school employees as defined under § 6–401(e)(1) and (3) of this subtitle.

6–505.

(c) (1) Except as provided in [paragraph (5)] **PARAGRAPHS (3) AND (5)** of this subsection, there may not be more than three units in a county and a unit may not include both supervisory and nonsupervisory employees.

(2) If a county has more than three recognized units and, as of July 1, 1974, the units have exclusive representation for collective negotiations, these units may continue as negotiating units.

(3) In Baltimore County~~], there~~†:

~~(I) **THERE** shall [only] be three nonsupervisory units, [in addition to the supervisory unit defined under § 6–404(c)(2) of this title]; **AND**~~

~~(II) **ONE NONCERTIFICATED INCLUDING ONE UNIT OF SUPERVISORY EMPLOYEES AS DEFINED IN § 6–501(I) OF THIS SUBTITLE.**~~

(4) In Carroll County, beginning on October 1, 2007:

(i) There shall be no more than three units; and

(ii) All units shall be nonsupervisory units.

(5) In Baltimore City, the public school employer may designate a fourth unit composed of all Baltimore City school police officers, as defined in § 4–318 of this article, up to and including the rank of lieutenant.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2012.

Chapter 309

(Senate Bill 856)

AN ACT concerning

Courts and Judicial Proceedings – Maryland Mediation Confidentiality Act

FOR the purpose of establishing that certain communications made in the course of and relating to certain mediations may not be disclosed by the mediators, parties to the mediations, or certain persons who participate in or are present for the mediations, under certain circumstances; establishing certain exceptions for certain communications; providing for the application of this Act; defining certain terms; providing that this Act may be cited as the Maryland Mediation Confidentiality Act; and generally relating to confidentiality of mediation communications.

BY adding to

Article – Courts and Judicial Proceedings

Section 3–1801 through 3–1806 to be under the new subtitle “Subtitle 18. Maryland Mediation Confidentiality Act”

Annotated Code of Maryland

(2006 Replacement Volume and 2011 Supplement)

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

Article – Courts and Judicial Proceedings

SUBTITLE 18. MARYLAND MEDIATION CONFIDENTIALITY ACT.

3–1801.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “MEDIATION” MEANS A PROCESS IN WHICH PARTIES WORK WITH ONE OR MORE IMPARTIAL MEDIATORS WHO ASSIST THE PARTIES IN REACHING A VOLUNTARY AGREEMENT FOR THE RESOLUTION OF A DISPUTE OR ISSUES THAT ARE PART OF A DISPUTE.

(C) (1) “MEDIATION COMMUNICATION” MEANS A COMMUNICATION, WHETHER BY SPEECH, WRITING, OR CONDUCT, MADE AS PART OF A MEDIATION.

(2) “MEDIATION COMMUNICATION” INCLUDES A COMMUNICATION MADE FOR THE PURPOSE OF CONSIDERING, INITIATING, CONTINUING, RECONVENING, OR EVALUATING A MEDIATION OR A MEDIATOR.

(D) “MEDIATOR” MEANS AN INDIVIDUAL WHO:

(1) ASSISTS PARTIES IN REACHING THEIR OWN VOLUNTARY AGREEMENT FOR THE RESOLUTION OF A DISPUTE; AND

(2) ~~HAS COMPLETED AT LEAST 40 HOURS OF BASIC MEDIATION TRAINING; AND~~

~~(3)~~ ADHERES TO THE MARYLAND STANDARD OF CONDUCT FOR MEDIATORS.

~~(D)~~ (E) “PARTY” MEANS A PERSON THAT PARTICIPATES IN A MEDIATION AND WHOSE AGREEMENT IS NECESSARY TO RESOLVE THE DISPUTE.

3-1802.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS SUBTITLE APPLIES TO A MEDIATION IN WHICH ~~THE~~:

(1) THE PARTIES:

~~(1)~~ (I) ARE REQUIRED TO MEDIATE BY LAW OR ARE REFERRED TO MEDIATION BY AN ADMINISTRATIVE AGENCY OR ARBITRATOR; OR

~~(2)~~ (II) AGREE IN WRITING THAT THE MEDIATION COMMUNICATIONS WILL REMAIN CONFIDENTIAL; AND

(2) THE MEDIATOR STATES IN WRITING TO ANY AND ALL PARTIES TO THE MEDIATION THAT THE MEDIATOR HAS READ AND, CONSISTENT WITH STATE LAW, WILL ABIDE BY THE MARYLAND STANDARD OF CONDUCT FOR MEDIATORS DURING THE MEDIATION.

(B) THIS SUBTITLE DOES NOT APPLY TO A MEDIATION:

(1) TO WHICH TITLE 17 OF THE MARYLAND RULES APPLIES;

(2) RELATING TO THE ESTABLISHMENT, NEGOTIATION, ADMINISTRATION, OR TERMINATION OF A COLLECTIVE BARGAINING RELATIONSHIP;

(3) RELATING TO A DISPUTE THAT IS PENDING UNDER, OR IS PART OF THE PROCESSES ESTABLISHED BY, A COLLECTIVE BARGAINING AGREEMENT UNLESS THE DISPUTE HAS BEEN FILED WITH AN ADMINISTRATIVE AGENCY OR COURT;

(4) RELATING TO AN ACTION TO ENFORCE AN AGREEMENT TO ARBITRATE UNDER COMMON LAW, THE FEDERAL ARBITRATION ACT, THE MARYLAND UNIFORM ARBITRATION ACT UNDER SUBTITLE 2 OF THIS TITLE, OR THE MARYLAND INTERNATIONAL COMMERCIAL ARBITRATION ACT UNDER SUBTITLE 2B OF THIS TITLE;

(5) RELATING TO AN ACTION TO FORECLOSE A LIEN AGAINST AN OWNER-OCCUPIED RESIDENTIAL PROPERTY SUBJECT TO FORECLOSURE MEDIATION CONDUCTED BY THE OFFICE OF ADMINISTRATIVE HEARINGS UNDER MARYLAND RULE 14-209.1;

(6) ARISING FROM A REFERRAL OF A MATTER TO A MASTER, EXAMINER, AUDITOR, OR PARENTING COORDINATOR UNDER MARYLAND RULES 2-541, 2-542, 2-543, OR 9-205.2;

(7) CONDUCTED BY A JUDGE WHO MIGHT MAKE A RULING ON A CASE BASED ON THE DISPUTE; OR

(8) IN WHICH THE PARTIES AND THE MEDIATOR, BY A WRITTEN AND SIGNED AGREEMENT MADE IN ADVANCE OF THE MEDIATION, AGREE TO EXCLUDE ALL OR PART OF THE MEDIATION COMMUNICATIONS FROM THE APPLICATION OF THIS SUBTITLE.

3-1803.

(A) EXCEPT AS PROVIDED IN § 3-1804 OF THIS SUBTITLE, A MEDIATOR OR ANY PERSON PRESENT OR OTHERWISE PARTICIPATING IN A MEDIATION AT THE REQUEST OF A MEDIATOR:

(1) SHALL MAINTAIN THE CONFIDENTIALITY OF ALL MEDIATION COMMUNICATIONS; AND

(2) MAY NOT DISCLOSE OR BE COMPELLED TO DISCLOSE MEDIATION COMMUNICATIONS IN ANY JUDICIAL, ADMINISTRATIVE, OR OTHER PROCEEDING.

(B) EXCEPT AS PROVIDED IN § 3-1804 OF THIS SUBTITLE:

(1) A PARTY TO A MEDIATION AND ANY PERSON PRESENT OR OTHERWISE PARTICIPATING IN THE MEDIATION AT THE REQUEST OF A PARTY MAY NOT DISCLOSE OR BE COMPELLED TO DISCLOSE MEDIATION COMMUNICATIONS IN ANY JUDICIAL, ADMINISTRATIVE, OR OTHER PROCEEDING; AND

(2) THE PARTIES MAY ENTER INTO A WRITTEN AGREEMENT TO MAINTAIN THE CONFIDENTIALITY OF ALL MEDIATION COMMUNICATIONS AND MAY REQUIRE ANY PERSON PRESENT OR OTHERWISE PARTICIPATING IN THE MEDIATION AT THE REQUEST OF A PARTY TO MAINTAIN THE CONFIDENTIALITY OF ALL MEDIATION COMMUNICATIONS;~~AND~~

~~(2) ANY PERSON PRESENT OR OTHERWISE PARTICIPATING IN THE MEDIATION AT THE REQUEST OF A PARTY MAY NOT DISCLOSE OR BE COMPELLED TO DISCLOSE MEDIATION COMMUNICATIONS IN ANY JUDICIAL, ADMINISTRATIVE, OR OTHER PROCEEDING.~~

3-1804.

(A) A DOCUMENT SIGNED BY THE PARTIES THAT RECORDS POINTS OF AGREEMENT EXPRESSED BY THE PARTIES OR THAT CONSTITUTES AN AGREEMENT REACHED BY THE PARTIES AS A RESULT OF MEDIATION IS NOT CONFIDENTIAL UNLESS THE PARTIES AGREE OTHERWISE IN WRITING.

(B) IN ADDITION TO ANY OTHER DISCLOSURE REQUIRED BY LAW, A MEDIATOR, A PARTY, OR A PERSON WHO WAS PRESENT OR WHO OTHERWISE PARTICIPATED IN A MEDIATION AT THE REQUEST OF THE MEDIATOR OR A PARTY MAY DISCLOSE MEDIATION COMMUNICATIONS:

(1) TO A POTENTIAL VICTIM OR TO THE APPROPRIATE LAW ENFORCEMENT AUTHORITY TO THE EXTENT THAT THE MEDIATOR, PARTY, OR PERSON REASONABLY BELIEVES THE DISCLOSURE IS NECESSARY TO PREVENT ~~SERIOUS~~ BODILY HARM OR DEATH TO THE POTENTIAL VICTIM;

(2) TO THE EXTENT NECESSARY TO ASSERT OR DEFEND AGAINST ALLEGATIONS OF MEDIATOR MISCONDUCT OR NEGLIGENCE;

(3) TO THE EXTENT NECESSARY TO ASSERT OR DEFEND AGAINST ALLEGATIONS OF PROFESSIONAL MISCONDUCT OR MALPRACTICE BY A PARTY OR ANY PERSON WHO WAS PRESENT OR WHO OTHERWISE PARTICIPATED IN THE MEDIATION AT THE REQUEST OF A PARTY, EXCEPT THAT A MEDIATOR MAY NOT BE COMPELLED TO PARTICIPATE IN A PROCEEDING ARISING OUT OF THE DISCLOSURE; OR

(4) TO THE EXTENT NECESSARY TO ASSERT OR DEFEND AGAINST A CLAIM OR DEFENSE THAT, BECAUSE OF FRAUD, DURESS, OR MISREPRESENTATION, A CONTRACT ARISING OUT OF A MEDIATION SHOULD BE RESCINDED OR DAMAGES SHOULD BE AWARDED.

(c) A COURT MAY ORDER MEDIATION COMMUNICATIONS TO BE DISCLOSED ONLY TO THE EXTENT THAT THE COURT DETERMINES THAT THE DISCLOSURE IS NECESSARY TO PREVENT ~~A MANIFEST~~ AN INJUSTICE OR HARM TO THE PUBLIC INTEREST THAT IS OF SUFFICIENT MAGNITUDE IN THE PARTICULAR CASE TO OUTWEIGH THE INTEGRITY OF MEDIATION PROCEEDINGS ~~IN GENERAL BY REDUCING THE CONFIDENCE OF PARTIES IN FUTURE CASES THAT THEIR COMMUNICATIONS WILL REMAIN CONFIDENTIAL.~~

3-1805.

MEDIATION COMMUNICATIONS THAT ARE CONFIDENTIAL UNDER THIS SUBTITLE ARE NOT SUBJECT TO DISCOVERY, BUT INFORMATION THAT IS OTHERWISE ADMISSIBLE OR SUBJECT TO DISCOVERY DOES NOT BECOME INADMISSIBLE OR PROTECTED FROM DISCLOSURE SOLELY BY REASON OF ITS USE IN MEDIATION.

3-1806.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND MEDIATION CONFIDENTIALITY ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 310

(Senate Bill 858)

AN ACT concerning

Public Library – Essential Community Service – Designation

FOR the purpose of designating public libraries as providing essential community services during an emergency for certain purposes; and generally relating to public libraries.

BY adding to

Article – Public Safety

Section 14–110.2

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Public Safety

14–110.2.

A PUBLIC LIBRARY SHALL BE DESIGNATED AS PROVIDING AN ESSENTIAL COMMUNITY SERVICE DURING AN EMERGENCY AS DESCRIBED UNDER THE FEDERAL EMERGENCY MANAGEMENT AGENCY PUBLIC ASSISTANCE PROGRAM PROVISIONS RELATING TO FEDERAL DISASTER ASSISTANCE AND TEMPORARY RELOCATION FACILITIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 311

(House Bill 1001)

AN ACT concerning

Public Library – Essential Community Service – Designation

FOR the purpose of designating public libraries as providing essential community services during an emergency for certain purposes; and generally relating to public libraries.

BY adding to

Article – Public Safety
Section 14–110.2
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article – Public Safety

14–110.2.

A PUBLIC LIBRARY SHALL BE DESIGNATED AS PROVIDING AN ESSENTIAL COMMUNITY SERVICE DURING AN EMERGENCY AS DESCRIBED UNDER THE FEDERAL EMERGENCY MANAGEMENT AGENCY PUBLIC ASSISTANCE PROGRAM PROVISIONS RELATING TO FEDERAL DISASTER ASSISTANCE AND TEMPORARY RELOCATION FACILITIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 312

(Senate Bill 868)

AN ACT concerning

**Residential Child and Youth Care Practitioners – Certification
– Modifications**

FOR the purpose of requiring the State Board for Certification of Residential Child Care Program Professionals, in consultation with the Children’s Cabinet, to establish a tiered certification structure for residential child and youth care practitioners; requiring the Board to establish training requirements for the residential child and youth care practitioners certified by the Board; requiring, instead of authorizing, the Board to set reasonable fees for certain services; authorizing the Board to waive ~~certain~~ the fees under certain circumstances; prohibiting the Board from requiring fees for the examination of qualified certified residential child and youth care practitioner applicants; establishing certain exceptions to the requirement that residential child and youth care

practitioners be certified on or before a certain date; requiring, with certain exceptions, an applicant for a certificate as a residential child and youth care practitioner to have successfully completed a certain training program; requiring the Board to establish requirements and procedures for waiving the training program requirement for applicants with certain degrees under certain circumstances; requiring the Board to waive certain requirements for applicants who apply for certification on or before a certain date and present to the Board evidence of certain experience; requiring the Board to adopt regulations for approved training programs for residential child and youth care practitioners; requiring the regulations to include certain items; requiring the Board to post a list of approved training programs on its Web site; altering and repealing certain provisions of law relating to the age and training of direct care staff of residential child care programs that conflict with certain statutory requirements and requirements of this Act relating to residential child and youth care practitioners; providing for a delayed effective date for certain provisions of this Act; and generally relating to the certification of residential child and youth care practitioners by the State Board for Certification of Residential Child Care Program Professionals.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 20–101(c)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 20–205, 20–206, 20–301(b), and 20–302.1
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY adding to
Article – Health Occupations
Section 20–302.2
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Human Services
Section 8–704(10) and 8–1002
Annotated Code of Maryland
(2007 Volume and 2011 Supplement)

BY repealing
Article – Human Services
Section 8–1003
Annotated Code of Maryland

(2007 Volume and 2011 Supplement)

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

Article – Health Occupations

20–101.

(c) “Board” means the State Board for Certification of Residential Child Care Program Professionals.

20–205.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board in consultation with the Children’s Cabinet shall:

(1) Adopt regulations to carry out the provisions of this subtitle;

(2) Establish standards for the certification of applicants;

(3) Conduct a continuing study and investigation of program administrators and residential child and youth care practitioners to improve:

(i) Certification standards; and

(ii) Procedures for enforcing these standards; [and]

(4) ESTABLISH A TIERED CERTIFICATION STRUCTURE FOR RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONERS; AND

[(4)] (5) Devise examinations and adopt investigative procedures to:

(i) Determine whether program administrators and residential child and youth care practitioners meet the standards adopted by the Board; and

(ii) Assure that program administrators and residential child and youth care practitioners continue to meet these standards.

(b) In addition to the duties set forth elsewhere in this title, the Board shall:

(1) Maintain a registry of all program administrators and residential child and youth care practitioners certified by the Board;

(2) Submit an annual report to the Governor and Children’s Cabinet;

(3) Adopt a code of ethics that the Board considers appropriate and applicable to the program administrators and residential child and youth care practitioners certified by the Board;

(4) Establish continuing education requirements for the program administrators [and the residential child and youth care practitioners] certified by the Board;

(5) ESTABLISH TRAINING AND CONTINUING EDUCATION REQUIREMENTS FOR THE RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONERS CERTIFIED BY THE BOARD;

[(5)] **(6)** Adopt an official seal; and

[(6)] **(7)** Create committees as it deems appropriate to advise the Board on special issues.

20–206.

(a) The Board:

(1) [may] ~~MAY~~ SHALL set reasonable fees for: ~~the~~

(I) THE issuance and renewal of certificates;

(II) APPROVING TRAINING PROGRAMS FOR RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONERS; and ~~its~~

(III) ITS other services;

(2) MAY WAIVE THE FEES, BASED ON DEMONSTRATED NEED, AS DETERMINED BY THE BOARD; AND

(3) MAY NOT REQUIRE FEES FOR THE EXAMINATION OF QUALIFIED CERTIFIED RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER APPLICANTS UNDER THIS TITLE.

(b) The Board shall pay all money collected under this title into the General Fund of the State.

20–301.

(b) **(1)** [On] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SECTION, ON or before October 1, 2015, an individual shall receive a certificate from**

the Board before the individual may be a residential child and youth care practitioner in this State.

(2) THIS SUBSECTION DOES NOT APPLY TO:

(I) AN EMPLOYEE OF THE MARYLAND SCHOOL FOR THE BLIND WHO IS A RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER AND HOLDS A CURRENT PARAPROFESSIONAL CERTIFICATE; OR

(II) FOR UP TO 180 DAYS, AN INDIVIDUAL PARTICIPATING IN A BOARD-APPROVED TRAINING PROGRAM.

20-302.1.

(a) To qualify for a certificate as a residential child and youth care practitioner, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall have completed a State and national criminal history records check.

(d) The applicant shall be:

(1) At least 21 years old; or

(2) At least 18 years old and have earned at least an associate's or bachelor's degree from an accredited college or university.

(e) The applicant shall have:

(1) A high school diploma or equivalent and have successfully completed an approved training program;

(2) At least 2 years experience in the human service field and sponsorship from a certified program administrator; or

(3) An associate's or bachelor's degree from an accredited college or university.

(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE APPLICANT SHALL HAVE SUCCESSFULLY COMPLETED A TRAINING PROGRAM APPROVED UNDER § 20-302.2 OF THIS SUBTITLE.

(2) (I) AN APPLICANT WHO HAS AN ASSOCIATE'S OR BACHELOR'S DEGREE FROM AN ACCREDITED COLLEGE OR UNIVERSITY MAY BE WAIVED FROM THE TRAINING PROGRAM REQUIREMENT, IF THE APPLICANT PASSES AN EXAMINATION AND MEETS OTHER REQUIREMENTS ESTABLISHED BY THE BOARD UNDER THIS SUBTITLE.

(II) THE BOARD SHALL ESTABLISH REQUIREMENTS AND PROCEDURES FOR WAIVING THE TRAINING PROGRAM REQUIREMENT FOR AN APPLICANT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

[(f)] (G) The applicant shall pass an examination given by the Board under this subtitle.

(H) THE BOARD SHALL WAIVE THE EDUCATION, EXPERIENCE, TRAINING, AND EXAMINATION REQUIREMENTS OF THIS SECTION FOR AN APPLICANT WHO:

(1) APPLIES FOR CERTIFICATION ON OR BEFORE OCTOBER 1, 2015; AND

(2) PRESENTS TO THE BOARD SATISFACTORY EVIDENCE THAT THE APPLICANT WORKED AS A RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER IN THE STATE FOR AT LEAST 2 YEARS BEFORE OCTOBER 1, 2015.

20-302.2.

(A) THE BOARD SHALL ADOPT REGULATIONS FOR APPROVED TRAINING PROGRAMS FOR RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONERS.

(B) SUCCESSFUL COMPLETION OF AN APPROVED TRAINING PROGRAM SHALL PREPARE AN INDIVIDUAL FOR CERTIFICATION AS A RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER.

(C) THE REGULATIONS SHALL:

(1) REQUIRE AN APPROVED TRAINING PROGRAM TO PROVIDE A FUNDAMENTAL WORKING KNOWLEDGE OF THE VARIED ASPECTS OF PERFORMING THE DIRECT RESPONSIBILITIES RELATED TO ACTIVITIES OF DAILY LIVING, SELF-HELP, AND SOCIALIZATION TO CHILDREN AND YOUTH IN RESIDENTIAL CHILD CARE PROGRAMS;

(2) ESTABLISH A PROCESS FOR APPROVING RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER TRAINING PROGRAMS; AND

(3) ESTABLISH THE CONTACT HOURS, CURRICULUM, FORMAT, AND FEES FOR APPROVED TRAINING PROGRAMS.

(C) THE BOARD SHALL POST A LIST OF APPROVED TRAINING PROGRAMS ON ITS WEB SITE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Human Services

8–704.

A contract awarded or renewed between an agency and a provider for a residential child care program shall:

(10) require [the provider and the employees of the provider who have direct contact with children in the residential child care program to be at least 21 years of age] **THE RESIDENTIAL CHILD CARE PROGRAM TO HAVE CERTIFIED RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONERS, AS REQUIRED UNDER § 20–301 OF THE HEALTH OCCUPATIONS ARTICLE;** and

8–1002.

[Except for provisions relating to direct care staff under § 8–1003 of this subtitle, this] **THIS** subtitle does not apply to:

(1) a shelter care facility or residential respite program licensed by the Department of Human Resources; or

(2) a detention center or shelter care facility operated by or under contract with the Department of Juvenile Services.

[8–1003.

The Department of Juvenile Services, the Department of Human Resources, the Department of Health and Mental Hygiene, and the Governor’s Office for Children shall jointly adopt regulations requiring each member of a direct care staff to:

(1) be at least 21 years old; and

(2) complete a training program that is approved by the agency that licensed the residential child care program.]

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2015.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 313

(House Bill 862)

AN ACT concerning

Residential Child and Youth Care Practitioners – Certification – Modifications

FOR the purpose of requiring the State Board for Certification of Residential Child Care Program Professionals, in consultation with the Children's Cabinet, to establish a tiered certification structure for residential child and youth care practitioners; requiring the Board to establish training requirements for the residential child and youth care practitioners certified by the Board; requiring, instead of authorizing, the Board to set reasonable fees for certain services; authorizing the Board to waive ~~certain the~~ fees under certain circumstances; prohibiting the Board from requiring fees for the examination of qualified certified residential child and youth care practitioner applicants; establishing certain exceptions to the requirement that residential child and youth care practitioners be certified on or before a certain date; requiring, with certain exceptions, an applicant for a certificate as a residential child and youth care practitioner to have successfully completed a certain training program; requiring the Board to establish requirements and procedures for waiving the training program requirement for applicants with certain degrees under certain circumstances; requiring the Board to waive certain requirements for applicants who apply for certification on or before a certain date and present to the Board evidence of certain experience; requiring the Board to adopt regulations for approved training programs for residential child and youth care practitioners; requiring the regulations to include certain items; requiring the Board to post a list of approved training programs on its Web site; altering and repealing certain provisions of law relating to the age and training of direct care staff of residential child care programs that conflict with certain statutory requirements and requirements of this Act relating to residential child and youth care practitioners; providing for a delayed effective date for certain provisions of this Act; and generally relating to the certification of residential

child and youth care practitioners by the State Board for Certification of Residential Child Care Program Professionals.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 20–101(c)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 20–205, 20–206, 20–301(b), and 20–302.1
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY adding to
Article – Health Occupations
Section 20–302.2
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Human Services
Section 8–704(10) and 8–1002
Annotated Code of Maryland
(2007 Volume and 2011 Supplement)

BY repealing
Article – Human Services
Section 8–1003
Annotated Code of Maryland
(2007 Volume and 2011 Supplement)

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

Article – Health Occupations

20–101.

(c) “Board” means the State Board for Certification of Residential Child Care Program Professionals.

20–205.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board in consultation with the Children’s Cabinet shall:

- (1) Adopt regulations to carry out the provisions of this subtitle;
- (2) Establish standards for the certification of applicants;
- (3) Conduct a continuing study and investigation of program administrators and residential child and youth care practitioners to improve:
 - (i) Certification standards; and
 - (ii) Procedures for enforcing these standards; [and]

(4) ESTABLISH A TIERED CERTIFICATION STRUCTURE FOR RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONERS; AND

- [(4)] (5)** Devise examinations and adopt investigative procedures to:
- (i) Determine whether program administrators and residential child and youth care practitioners meet the standards adopted by the Board; and
 - (ii) Assure that program administrators and residential child and youth care practitioners continue to meet these standards.

(b) In addition to the duties set forth elsewhere in this title, the Board shall:

- (1) Maintain a registry of all program administrators and residential child and youth care practitioners certified by the Board;
- (2) Submit an annual report to the Governor and Children's Cabinet;
- (3) Adopt a code of ethics that the Board considers appropriate and applicable to the program administrators and residential child and youth care practitioners certified by the Board;
- (4) Establish continuing education requirements for the program administrators [and the residential child and youth care practitioners] certified by the Board;

(5) ESTABLISH TRAINING AND CONTINUING EDUCATION REQUIREMENTS FOR THE RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONERS CERTIFIED BY THE BOARD;

- [(5)] (6)** Adopt an official seal; and
- [(6)] (7)** Create committees as it deems appropriate to advise the Board on special issues.

20–206.

(a) The Board:

(1) [may] ~~MAY~~ SHALL set reasonable fees for: ~~the~~

(I) THE issuance and renewal of certificates;

(II) APPROVING TRAINING PROGRAMS FOR RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONERS; and ~~its~~

(III) ITS other services;

(2) MAY WAIVE THE FEES, BASED ON DEMONSTRATED NEED, AS DETERMINED BY THE BOARD; AND

(3) MAY NOT REQUIRE FEES FOR THE EXAMINATION OF QUALIFIED CERTIFIED RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER APPLICANTS UNDER THIS TITLE.

(b) The Board shall pay all money collected under this title into the General Fund of the State.

20–301.

(b) (1) [On] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SECTION, ON or before October 1, 2015, an individual shall receive a certificate from the Board before the individual may be a residential child and youth care practitioner in this State.

(2) THIS SUBSECTION DOES NOT APPLY TO:

(I) AN EMPLOYEE OF THE MARYLAND SCHOOL FOR THE BLIND WHO IS A RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER AND HOLDS A CURRENT PARAPROFESSIONAL CERTIFICATE; OR

(II) FOR UP TO 180 DAYS, AN INDIVIDUAL PARTICIPATING IN A BOARD-APPROVED TRAINING PROGRAM.

20–302.1.

(a) To qualify for a certificate as a residential child and youth care practitioner, an applicant shall be an individual who meets the requirements of this section.

- (b) The applicant shall be of good moral character.
- (c) The applicant shall have completed a State and national criminal history records check.
- (d) The applicant shall be:
 - (1) At least 21 years old; or
 - (2) At least 18 years old and have earned at least an associate's or bachelor's degree from an accredited college or university.
- (e) The applicant shall have:
 - (1) A high school diploma or equivalent and have successfully completed an approved training program;
 - (2) At least 2 years experience in the human service field and sponsorship from a certified program administrator; or
 - (3) An associate's or bachelor's degree from an accredited college or university.

(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE APPLICANT SHALL HAVE SUCCESSFULLY COMPLETED A TRAINING PROGRAM APPROVED UNDER § 20-302.2 OF THIS SUBTITLE.

(2) (I) AN APPLICANT WHO HAS AN ASSOCIATE'S OR BACHELOR'S DEGREE FROM AN ACCREDITED COLLEGE OR UNIVERSITY MAY BE WAIVED FROM THE TRAINING PROGRAM REQUIREMENT, IF THE APPLICANT PASSES AN EXAMINATION AND MEETS OTHER REQUIREMENTS ESTABLISHED BY THE BOARD UNDER THIS SUBTITLE.

(II) THE BOARD SHALL ESTABLISH REQUIREMENTS AND PROCEDURES FOR WAIVING THE TRAINING PROGRAM REQUIREMENT FOR AN APPLICANT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

[(f)] (G) The applicant shall pass an examination given by the Board under this subtitle.

(H) THE BOARD SHALL WAIVE THE EDUCATION, EXPERIENCE, TRAINING, AND EXAMINATION REQUIREMENTS OF THIS SECTION FOR AN APPLICANT WHO:

(1) APPLIES FOR CERTIFICATION ON OR BEFORE OCTOBER 1, 2015; AND

(2) PRESENTS TO THE BOARD SATISFACTORY EVIDENCE THAT THE APPLICANT WORKED AS A RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER IN THE STATE FOR AT LEAST 2 YEARS BEFORE OCTOBER 1, 2015.

20-302.2.

(A) THE BOARD SHALL ADOPT REGULATIONS FOR APPROVED TRAINING PROGRAMS FOR RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONERS.

(B) SUCCESSFUL COMPLETION OF AN APPROVED TRAINING PROGRAM SHALL PREPARE AN INDIVIDUAL FOR CERTIFICATION AS A RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER.

(C) THE REGULATIONS SHALL:

(1) REQUIRE AN APPROVED TRAINING PROGRAM TO PROVIDE A FUNDAMENTAL WORKING KNOWLEDGE OF THE VARIED ASPECTS OF PERFORMING THE DIRECT RESPONSIBILITIES RELATED TO ACTIVITIES OF DAILY LIVING, SELF-HELP, AND SOCIALIZATION TO CHILDREN AND YOUTH IN RESIDENTIAL CHILD CARE PROGRAMS;

(2) ESTABLISH A PROCESS FOR APPROVING RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER TRAINING PROGRAMS; AND

(3) ESTABLISH THE CONTACT HOURS, CURRICULUM, FORMAT, AND FEES FOR APPROVED TRAINING PROGRAMS.

(C) THE BOARD SHALL POST A LIST OF APPROVED TRAINING PROGRAMS ON ITS WEB SITE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Human Services

8-704.

A contract awarded or renewed between an agency and a provider for a residential child care program shall:

(10) require [the provider and the employees of the provider who have direct contact with children in the residential child care program to be at least 21 years of age] **THE RESIDENTIAL CHILD CARE PROGRAM TO HAVE CERTIFIED RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONERS, AS REQUIRED UNDER § 20-301 OF THE HEALTH OCCUPATIONS ARTICLE;** and

8-1002.

[Except for provisions relating to direct care staff under § 8-1003 of this subtitle, this] **THIS** subtitle does not apply to:

(1) a shelter care facility or residential respite program licensed by the Department of Human Resources; or

(2) a detention center or shelter care facility operated by or under contract with the Department of Juvenile Services.

[8-1003.

The Department of Juvenile Services, the Department of Human Resources, the Department of Health and Mental Hygiene, and the Governor's Office for Children shall jointly adopt regulations requiring each member of a direct care staff to:

(1) be at least 21 years old; and

(2) complete a training program that is approved by the agency that licensed the residential child care program.]

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2015.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 314

(Senate Bill 870)

AN ACT concerning

State Board of Physicians – Athletic Trainer Advisory Committee – ~~Sunset Extension, Program Evaluation, and Revisions~~ Education, Supervision, and

Administration

FOR the purpose of ~~continuing the Athletic Trainer Advisory Committee in accordance with the provisions of the Maryland Program Evaluation Act (Sunset Law) by extending to a certain date the termination provision relating to the statutory and regulatory authority of the Committee; requiring the chair of the Committee to serve in an advisory capacity to the State Board of Physicians and present to the Board a certain annual report; prohibiting certain individuals from providing certain services to the Committee or the Board under certain circumstances; prohibiting certain individuals from being appointed to the Committee under certain circumstances; requiring the Committee to submit a certain annual report to the Board; requiring the Board to consider all recommendations of the Committee, provide a certain explanation to the Committee under certain circumstances, and provide a certain report to the Committee a certain number of times each year; altering the conditions under which the Board is required to waive certain education requirements; altering the date by which certain individuals need to be certified to qualify for the waiver of certain education requirements under certain provisions of law; altering the contents of an evaluation and treatment protocol; authorizing an athletic trainer to accept an outside referral from certain individuals under certain circumstances; authorizing a certain alternate supervising physician to assume a certain role under certain circumstances; prohibiting certain physicians, hospitals, institutions, alternative health systems, and other employers from employing certain individuals unless a certain condition is met; providing penalties for the violation of certain provisions of law; requiring certain physicians and employers to notify the Board within a certain period of time of the termination of an athletic trainer for certain reasons; requiring certain physicians and athletic trainers to notify the Board of the termination of a certain relationship under an evaluation and treatment protocol; requiring certain licensees to notify the Board in writing of certain changes; requiring the Board to disclose the filing of certain charges or certain notice on the Board's Web site; requiring the Board to create and maintain certain profiles on certain licensees that include certain information and a certain statement within a certain period of time under certain circumstances; requiring the Board to forward a certain copy of a licensee's profile under certain circumstances; requiring the Board to maintain a certain Web site relating to licensee profile information; requiring the Board to provide a certain mechanism for certain notification and correction of certain inaccuracies in a licensee's profile; defining certain terms; altering certain definitions; making this Act an emergency measure; and generally relating to the Athletic Trainer Advisory Committee.~~

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 14-5D-01, ~~14-5D-05(e), 14-5D-06, 14-5D-08(d), and 14-5D-11, and 14-5D-20~~

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 14-5D-05(e), 14-5D-06, and 14-5D-20

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health Occupations

Section ~~14-5D-05(f)~~, 14-5D-11.1, 14-5D-11.2, and 14-5D-12.1, ~~and~~
~~14-5D-16.1~~

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

14-5D-01.

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

(B) “ALTERNATE SUPERVISING PHYSICIAN” MEANS ONE OR MORE PHYSICIANS DESIGNATED BY THE SUPERVISING PHYSICIAN TO PROVIDE SUPERVISION OF AN ATHLETIC TRAINER:

(1) DURING THE ABSENCE OF THE SUPERVISING PHYSICIAN; AND

(2) IN ACCORDANCE WITH THE EVALUATION AND TREATMENT PROTOCOL ON FILE WITH THE BOARD.

[(b)] (C) “Athlete” means an individual who participates in an athletic activity.

[(c)] (D) “Athletic activity” means exercise, recreation, sport, competition, or game that:

(1) Requires physical strength, range of motion, flexibility, control, speed, stamina, or agility; ~~and~~ ~~OR~~

(2) Is associated with **A SETTING AS DEFINED UNDER THIS SECTION**, an educational institution, or a professional, amateur, or recreational sports club or athletic organization.

[(d)] (E) “Athletic injury” means an injury that affects an athlete’s participation or performance in an athletic activity.

[(e)] (F) “Board” means the State Board of Physicians.

[(f)] (G) “Committee” means the Athletic Trainer Advisory Committee established under § 14–5D–04 of this subtitle.

[(g)] (H) “Educational institution” includes:

(1) The schools in the public elementary and secondary education system of the State;

(2) A noncollegiate educational institution governed under § 2–206 of the Education Article; and

(3) An institution of higher education as defined in § 10–101 of the Education Article.

[(h)] (I) “Evaluation and treatment protocol” means a document that is executed by a physician and an athletic trainer that meets the requirements of § 14–5D–11 of this subtitle.

[(i)] (J) “License” means a license issued by the Board to practice athletic training.

[(j)] (K) “Licensed athletic trainer” means an individual who is licensed by the Board to practice athletic training.

(L) “LICENSED HEALTH CARE PRACTITIONER” MEANS:

~~(1) A CHIROPRACTOR LICENSED UNDER TITLE 3 OF THIS ARTICLE;~~

~~(2) A NURSE PRACTITIONER CERTIFIED UNDER TITLE 8 OF THIS ARTICLE; AN INDIVIDUAL LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED TO PRACTICE A HEALTH OCCUPATION UNDER THIS ARTICLE.~~

~~(3) A PHYSICAL THERAPIST LICENSED UNDER TITLE 13 OF THIS ARTICLE;~~

~~(4) A PHYSICIAN ASSISTANT LICENSED UNDER TITLE 15 OF THIS ARTICLE; OR~~

~~(5) A PODIATRIST LICENSED UNDER TITLE 16 OF THIS ARTICLE.~~

[(k)] (M) “National certifying board” means the National Athletic Trainers’ Association Board of Certification, Inc., or its successor organization.

(N) “NONSUPERVISING PHYSICIAN” MEANS A PHYSICIAN LICENSED BY THE BOARD WHO IS NOT THE SUPERVISING PHYSICIAN OF THE LICENSED ATHLETIC TRAINER.

(O) “OUTSIDE REFERRAL” MEANS A REQUEST FOR TREATMENT FROM A NONSUPERVISING PHYSICIAN OR LICENSED HEALTH CARE PRACTITIONER.

[(l)] (P) (1) “Practice athletic training” means application of the following principles and methods for managing athletic injuries for athletes in good overall health under the supervision of a licensed physician:

- (i) Prevention;
- (ii) Clinical evaluation and assessment;
- (iii) Immediate care; and
- (iv) Treatment, rehabilitation, and reconditioning.

(2) “Practice athletic training” includes:

- (i) Organization and administration of an athletic training program; and
- (ii) Instruction to coaches, athletes, parents, medical personnel, and community members regarding the care and prevention of athletic injuries.

(3) “Practice athletic training” does not include:

- (i) The practice of:
 1. Chiropractic, including adjustments, manipulation, or high velocity mobilizations of the spine or extremities;
 2. Massage therapy;
 3. Medicine;
 4. Occupational therapy; [or]
 5. Physical therapy; **OR**

6. PODIATRY;

(ii) The reconditioning of systemic neurologic injuries, conditions, or disease; or

(iii) Except for the conditioning of an athlete under the supervision of a treating physician, the treatment, rehabilitation, or reconditioning of nonathletic injuries or disease.

~~[(m)]~~ **(Q)** “Setting” means a:

(1) Location where an athletic activity, as defined in subsection ~~[(c)]~~ **(D)** of this section, is being held;

(2) Health or fitness club;

(3) Clinic or hospital;

(4) Corporation; or

(5) Government agency.

(R) “SUPERVISING PHYSICIAN” MEANS A PHYSICIAN WHO HAS BEEN APPROVED BY THE BOARD TO SUPERVISE ONE OR MORE ATHLETIC TRAINERS.

~~[(n)]~~ **(S)** “Supervision” means the responsibility of a physician to provide ongoing and immediately available instruction, **IN PERSON, BY TELEPHONE, OR BY OTHER ELECTRONIC MEANS**, that is adequate to ensure the safety and welfare of a patient and is appropriate to the setting.

14-5D-05.

(e) ~~(1)~~ From among its members, the Committee shall elect a chair every 2 years.

~~(2) THE CHAIR SHALL:~~

~~(i) SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE; AND~~

~~(ii) PRESENT TO THE BOARD THE COMMITTEE’S ANNUAL REPORT.~~

~~(f) (1) AN INDIVIDUAL MAY NOT PROVIDE SERVICES TO THE COMMITTEE OR THE BOARD FOR REMUNERATION UNLESS 3 YEARS HAVE~~

~~PASSED SINCE THE TERMINATION OF THE INDIVIDUAL'S APPOINTMENT TO THE COMMITTEE.~~

~~(2) AN INDIVIDUAL MAY NOT BE APPOINTED TO THE COMMITTEE IF THE INDIVIDUAL IS PROVIDING OR HAS PROVIDED SERVICES TO THE BOARD FOR REMUNERATION WITHIN THE PRECEDING 3 YEARS.~~

14-5D-06.

~~(A)~~ In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

(1) Develop and recommend to the Board regulations to carry out this subtitle;

(2) Develop and recommend to the Board continuing education requirements for license renewal;

(3) Provide the Board with recommendations concerning the practice of athletic training;

(4) Develop and recommend to the Board an evaluation and treatment protocol for use by an athletic trainer and the physician with whom the athletic trainer practices;

(5) Provide advice and recommendations to the Board on individual evaluation and treatment protocols when requested; ~~and~~

(6) Keep a record of its proceedings; ~~AND~~

~~(7) SUBMIT AN ANNUAL REPORT TO THE BOARD.~~

~~(B) THE BOARD SHALL:~~

~~(1) CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE AND PROVIDE A WRITTEN EXPLANATION OF THE BOARD'S REASONS FOR REJECTING OR MODIFYING THE COMMITTEE'S RECOMMENDATIONS; AND~~

~~(2) PROVIDE TO THE COMMITTEE ONCE A YEAR A REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.~~

14-5D-08.

(d) The Board shall waive the education requirements under this section if an individual ~~was certified by~~ ~~HAS MET THE EDUCATION REQUIREMENTS~~

~~NECESSARY TO BE CREDENTIALLED AS A CERTIFIED ATHLETIC TRAINER SET FORTH BY~~ the National Athletic Trainers' Association Board of Certification, Inc., [before January 1, 2004,] ~~OR ITS SUCCESSOR ORGANIZATION,~~ ON OR BEFORE OCTOBER 1, 2012, and is currently in good standing.

14-5D-11.

(a) Nothing in this title may be construed to authorize an athletic trainer to practice except under the supervision of a licensed physician and in an approved setting ~~OR AS PROVIDED IN SUBSECTION (D) OF THIS SECTION.~~

(b) Before an athletic trainer may practice athletic training, the athletic trainer shall:

(1) Obtain a license under this subtitle;

(2) Enter into a written evaluation and treatment protocol with a licensed physician; and

(3) Obtain Board approval of the evaluation and treatment protocol.

(c) An evaluation and treatment protocol shall:

(1) Describe the qualifications of the licensed physician and licensed athletic trainer;

(2) Describe the settings where the athletic trainer may practice;

(3) Describe the physician supervision mechanisms that the physician will use to give direction to the athletic trainer; [and]

(4) Specify the treatment procedures the athletic trainer may perform;

(5) **DESCRIBE TASKS THE ATHLETIC TRAINER MAY NOT PERFORM;**

(6) **DESCRIBE SPECIALIZED TASKS THE SUPERVISING PHYSICIAN IS DELEGATING TO THE ATHLETIC TRAINER TO PERFORM WITH DOCUMENTATION OF COMPETENCIES, CERTIFICATION, CREDENTIALS, OR ANY OTHER REQUIREMENTS ESTABLISHED BY THE BOARD TO SUPPORT THE DELEGATION OF THE SPECIALIZED TASKS;**

(7) **INDICATE WHETHER THE ATHLETIC TRAINER MAY ACCEPT OUTSIDE REFERRALS FROM NONSUPERVISING PHYSICIANS AND OTHER LICENSED HEALTH CARE PRACTITIONERS;**

(8) DESIGNATE AN ALTERNATE SUPERVISING PHYSICIAN, IF APPROPRIATE OR NECESSARY; AND

(9) CONTAIN AN ATTESTATION THAT STATES THE SUPERVISING PHYSICIAN WILL BE RESPONSIBLE FOR PROVIDING ONGOING AND IMMEDIATELY AVAILABLE INSTRUCTION THAT IS ADEQUATE TO ENSURE THE SAFETY AND WELFARE OF A PATIENT AND IS APPROPRIATE TO THE SETTING.

(D) AN ATHLETIC TRAINER MAY ACCEPT AN OUTSIDE REFERRAL FROM A NONSUPERVISING PHYSICIAN OR LICENSED HEALTH CARE PRACTITIONER IF:

(1) THE SUPERVISING PHYSICIAN SPECIFIES IN THE EVALUATION AND TREATMENT PROTOCOL THAT THE ATHLETIC TRAINER MAY ACCEPT REFERRALS FROM A NONSUPERVISING PHYSICIAN OR LICENSED HEALTH CARE PRACTITIONER;

(2) THE NONSUPERVISING PHYSICIAN OR LICENSED HEALTH CARE PRACTITIONER HAS SEEN THE ATHLETE AND HAS WRITTEN AN ORDER FOR THE CARE OF THE ATHLETE; AND

(3) THE TREATMENT PROCEDURES TO BE USED BY THE ATHLETIC TRAINER ARE:

(I) WITHIN THE SCOPE OF PRACTICE OF AN ATHLETIC TRAINER; AND

(II) INCLUDED IN THE EVALUATION AND TREATMENT PROTOCOL THAT THE ATHLETIC TRAINER HAS ENTERED INTO WITH THE SUPERVISING PHYSICIAN.

(E) IN THE EVENT OF A SUDDEN DEPARTURE, INCAPACITY, OR DEATH OF A SUPERVISING PHYSICIAN, A DESIGNATED ALTERNATE SUPERVISING PHYSICIAN MAY ASSUME THE ROLE OF THE SUPERVISING PHYSICIAN BY SUBMITTING AN EVALUATION AND TREATMENT PROTOCOL TO THE BOARD WITHIN 15 DAYS OF THE EVENT.

14-5D-11.1.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A LICENSED PHYSICIAN MAY NOT EMPLOY OR SUPERVISE AN INDIVIDUAL PRACTICING ATHLETIC TRAINING WITHOUT A LICENSE OR WITHOUT AN APPROVED EVALUATION AND TREATMENT PROTOCOL.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A HOSPITAL, AN INSTITUTION, AN ALTERNATIVE HEALTH SYSTEM, OR ANY OTHER EMPLOYER MAY NOT EMPLOY AN INDIVIDUAL PRACTICING ATHLETIC TRAINING WITHOUT A LICENSE OR WITHOUT AN APPROVED EVALUATION AND TREATMENT PROTOCOL.

(C) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 ON A PERSON WHO EMPLOYS OR SUPERVISES AN INDIVIDUAL WITHOUT A LICENSE OR WITHOUT AN APPROVED EVALUATION AND TREATMENT PROTOCOL.

14-5D-11.2.

(A) A PHYSICIAN OR AN EMPLOYER SHALL NOTIFY THE BOARD WITHIN 10 DAYS OF THE TERMINATION OF AN ATHLETIC TRAINER FOR REASONS THAT WOULD BE GROUNDS FOR DISCIPLINE UNDER THIS SUBTITLE.

(B) A SUPERVISING PHYSICIAN AND AN ATHLETIC TRAINER SHALL NOTIFY THE BOARD OF THE TERMINATION OF THE RELATIONSHIP UNDER AN EVALUATION AND TREATMENT PROTOCOL.

14-5D-12.1.

(A) A LICENSEE SHALL NOTIFY THE BOARD IN WRITING OF A CHANGE IN NAME OR ADDRESS WITHIN 60 DAYS AFTER THE CHANGE.

(B) A LICENSEE WHO FAILS TO COMPLY WITH SUBSECTION (A) OF THIS SECTION IS SUBJECT TO AN ADMINISTRATIVE PENALTY OF \$100.

~~**14-5D-16.1.**~~

~~(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.~~

~~(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:~~

~~(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE THAT INCLUDES A COPY OF THE CHARGING DOCUMENT UNTIL THE BOARD HAS TAKEN ACTION UNDER § 14-5D-14 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;~~

~~(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD AGAINST THE LICENSEE WITHIN THE MOST RECENT 10 YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;~~

~~(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD;~~

~~(4) A DESCRIPTION OF A CONVICTION OR AN ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE REPORTED TO THE BOARD UNDER § 14-5D-14(B) OF THIS SUBTITLE; AND~~

~~(5) THE PUBLIC ADDRESS OF THE LICENSEE.~~

~~(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE A STATEMENT ON EACH LICENSEE'S PROFILE OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY THE BOARD.~~

~~(D) THE BOARD:~~

~~(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND~~

~~(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY AT WHICH ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.~~

~~(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.~~

~~(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY THE BOARD AND A FINAL DISCIPLINARY ACTION TAKEN BY THE BOARD AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.~~

14-5D-20.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14-702 of

this title, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after July 1, ~~2013~~ **2023**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 2, 2012.

Chapter 315

(House Bill 688)

AN ACT concerning

State Board of Physicians – Athletic Trainer Advisory Committee – ~~Sunset Extension, Program Evaluation, and Revisions~~ Education, Supervision, and Administration

FOR the purpose of ~~continuing the Athletic Trainer Advisory Committee in accordance with the provisions of the Maryland Program Evaluation Act (Sunset Law) by extending to a certain date the termination provision relating to the statutory and regulatory authority of the Committee; requiring the chair of the Committee to serve in an advisory capacity to the State Board of Physicians and present to the Board a certain annual report; prohibiting certain individuals from providing certain services to the Committee or the Board under certain circumstances; prohibiting certain individuals from being appointed to the Committee under certain circumstances; requiring the Committee to submit a certain annual report to the Board; requiring the Board to consider all recommendations of the Committee, provide a certain explanation to the Committee under certain circumstances, and provide a certain report to the Committee a certain number of times each year; altering the conditions under which the Board is required to waive certain education requirements; altering the date by which certain individuals need to be certified to qualify for the waiver of certain education requirements under certain provisions of law; altering the contents of an evaluation and treatment protocol; authorizing an athletic trainer to accept an outside referral from certain individuals under certain circumstances; authorizing a certain alternate supervising physician to assume a certain role under certain circumstances; prohibiting certain physicians, hospitals, institutions, alternative health systems, and other employers from employing certain individuals unless a certain condition is met; providing penalties for the violation of certain provisions of law; requiring certain physicians and employers to notify the Board within a certain period of~~

time of the termination of an athletic trainer for certain reasons; requiring certain physicians and athletic trainers to notify the Board of the termination of a certain relationship under an evaluation and treatment protocol; requiring certain licensees to notify the Board in writing of certain changes; ~~requiring the Board to disclose the filing of certain charges or certain notice on the Board's Web site; requiring the Board to create and maintain certain profiles on certain licensees that include certain information and a certain statement within a certain period of time under certain circumstances; requiring the Board to forward a certain copy of a licensee's profile under certain circumstances; requiring the Board to maintain a certain Web site relating to licensee profile information; requiring the Board to provide a certain mechanism for certain notification and correction of certain inaccuracies in a licensee's profile;~~ defining certain terms; altering certain definitions; making this Act an emergency measure; and generally relating to the Athletic Trainer Advisory Committee.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 14-5D-01, ~~14-5D-05(e), 14-5D-06,~~ 14-5D-08(d), and 14-5D-11, ~~and~~
~~14-5D-20~~

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 14-5D-05(e), 14-5D-06, and 14-5D-20

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health Occupations

Section ~~14-5D-05(f),~~ 14-5D-11.1, 14-5D-11.2, and 14-5D-12.1, ~~and~~
~~14-5D-16.1~~

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

14-5D-01.

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

(B) “ALTERNATE SUPERVISING PHYSICIAN” MEANS ONE OR MORE PHYSICIANS DESIGNATED BY THE SUPERVISING PHYSICIAN TO PROVIDE SUPERVISION OF AN ATHLETIC TRAINER:

(1) DURING THE ABSENCE OF THE SUPERVISING PHYSICIAN; AND

(2) IN ACCORDANCE WITH THE EVALUATION AND TREATMENT PROTOCOL ON FILE WITH THE BOARD.

[(b)] (C) “Athlete” means an individual who participates in an athletic activity.

[(c)] (D) “Athletic activity” means exercise, recreation, sport, competition, or game that:

(1) Requires physical strength, range of motion, flexibility, control, speed, stamina, or agility; ~~and~~ ~~OR~~

(2) Is associated with A SETTING AS DEFINED UNDER THIS SECTION, an educational institution, or a professional, amateur, or recreational sports club or athletic organization.

[(d)] (E) “Athletic injury” means an injury that affects an athlete’s participation or performance in an athletic activity.

[(e)] (F) “Board” means the State Board of Physicians.

[(f)] (G) “Committee” means the Athletic Trainer Advisory Committee established under § 14–5D–04 of this subtitle.

[(g)] (H) “Educational institution” includes:

(1) The schools in the public elementary and secondary education system of the State;

(2) A noncollegiate educational institution governed under § 2–206 of the Education Article; and

(3) An institution of higher education as defined in § 10–101 of the Education Article.

[(h)] (I) “Evaluation and treatment protocol” means a document that is executed by a physician and an athletic trainer that meets the requirements of § 14–5D–11 of this subtitle.

[(i)] (J) “License” means a license issued by the Board to practice athletic training.

[(j)] (K) “Licensed athletic trainer” means an individual who is licensed by the Board to practice athletic training.

(L) “LICENSED HEALTH CARE PRACTITIONER” MEANS:

~~(1) A CHIROPRACTOR LICENSED UNDER TITLE 3 OF THIS ARTICLE;~~

~~(2) A NURSE PRACTITIONER CERTIFIED UNDER TITLE 8 OF THIS ARTICLE;~~ AN INDIVIDUAL LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED TO PRACTICE A HEALTH OCCUPATION UNDER THIS ARTICLE.

~~(3) A PHYSICAL THERAPIST LICENSED UNDER TITLE 13 OF THIS ARTICLE;~~

~~(4) A PHYSICIAN ASSISTANT LICENSED UNDER TITLE 15 OF THIS ARTICLE; OR~~

~~(5) A PODIATRIST LICENSED UNDER TITLE 16 OF THIS ARTICLE.~~

[(k)] (M) “National certifying board” means the National Athletic Trainers’ Association Board of Certification, Inc., or its successor organization.

(N) “NONSUPERVISING PHYSICIAN” MEANS A PHYSICIAN LICENSED BY THE BOARD WHO IS NOT THE SUPERVISING PHYSICIAN OF THE LICENSED ATHLETIC TRAINER.

(O) “OUTSIDE REFERRAL” MEANS A REQUEST FOR TREATMENT FROM A NONSUPERVISING PHYSICIAN OR LICENSED HEALTH CARE PRACTITIONER.

[(l)] (P) (1) “Practice athletic training” means application of the following principles and methods for managing athletic injuries for athletes in good overall health under the supervision of a licensed physician:

- (i) Prevention;
- (ii) Clinical evaluation and assessment;
- (iii) Immediate care; and
- (iv) Treatment, rehabilitation, and reconditioning.

(2) “Practice athletic training” includes:

(i) Organization and administration of an athletic training program; and

(ii) Instruction to coaches, athletes, parents, medical personnel, and community members regarding the care and prevention of athletic injuries.

(3) “Practice athletic training” does not include:

(i) The practice of:

1. Chiropractic, including adjustments, manipulation, or high velocity mobilizations of the spine or extremities;

2. Massage therapy;

3. Medicine;

4. Occupational therapy; [or]

5. Physical therapy; **OR**

6. PODIATRY;

(ii) The reconditioning of systemic neurologic injuries, conditions, or disease; or

(iii) Except for the conditioning of an athlete under the supervision of a treating physician, the treatment, rehabilitation, or reconditioning of nonathletic injuries or disease.

[(m)] (Q) “Setting” means a:

(1) Location where an athletic activity, as defined in subsection **[(c)] (D)** of this section, is being held;

(2) Health or fitness club;

(3) Clinic or hospital;

(4) Corporation; or

(5) Government agency.

(R) “SUPERVISING PHYSICIAN” MEANS A PHYSICIAN WHO HAS BEEN APPROVED BY THE BOARD TO SUPERVISE ONE OR MORE ATHLETIC TRAINERS.

[(n)] (S) "Supervision" means the responsibility of a physician to provide ongoing and immediately available instruction, **IN PERSON, BY TELEPHONE, OR BY OTHER ELECTRONIC MEANS**, that is adequate to ensure the safety and welfare of a patient and is appropriate to the setting.

14-5D-05.

(e) ~~(1)~~ From among its members, the Committee shall elect a chair every 2 years.

~~(2) THE CHAIR SHALL:~~

~~(I) SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE; AND~~

~~(II) PRESENT TO THE BOARD THE COMMITTEE'S ANNUAL REPORT.~~

~~(F) (1) AN INDIVIDUAL MAY NOT PROVIDE SERVICES TO THE COMMITTEE OR THE BOARD FOR REMUNERATION UNLESS 3 YEARS HAVE PASSED SINCE THE TERMINATION OF THE INDIVIDUAL'S APPOINTMENT TO THE COMMITTEE.~~

~~(2) AN INDIVIDUAL MAY NOT BE APPOINTED TO THE COMMITTEE IF THE INDIVIDUAL IS PROVIDING OR HAS PROVIDED SERVICES TO THE BOARD FOR REMUNERATION WITHIN THE PRECEDING 3 YEARS.~~

14-5D-06.

~~(A)~~ In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

(1) Develop and recommend to the Board regulations to carry out this subtitle;

(2) Develop and recommend to the Board continuing education requirements for license renewal;

(3) Provide the Board with recommendations concerning the practice of athletic training;

(4) Develop and recommend to the Board an evaluation and treatment protocol for use by an athletic trainer and the physician with whom the athletic trainer practices;

(5) Provide advice and recommendations to the Board on individual evaluation and treatment protocols when requested; ~~and~~

(6) Keep a record of its proceedings; ~~AND~~

~~(7) SUBMIT AN ANNUAL REPORT TO THE BOARD.~~

~~(B) THE BOARD SHALL:~~

~~(1) CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE AND PROVIDE A WRITTEN EXPLANATION OF THE BOARD'S REASONS FOR REJECTING OR MODIFYING THE COMMITTEE'S RECOMMENDATIONS; AND~~

~~(2) PROVIDE TO THE COMMITTEE ONCE A YEAR A REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.~~

14-5D-08.

(d) The Board shall waive the education requirements under this section if an individual ~~was certified by~~ ~~HAS MET THE EDUCATION REQUIREMENTS NECESSARY TO BE CREDENTIALLED AS A CERTIFIED ATHLETIC TRAINER SET FORTH BY~~ the National Athletic Trainers' Association Board of Certification, Inc., [before January 1, 2004,] ~~OR ITS SUCCESSOR ORGANIZATION,~~ ON OR BEFORE OCTOBER 1, 2012, and is currently in good standing.

14-5D-11.

(a) Nothing in this title may be construed to authorize an athletic trainer to practice except under the supervision of a licensed physician and in an approved setting ~~OR AS PROVIDED IN SUBSECTION (D) OF THIS SECTION.~~

(b) Before an athletic trainer may practice athletic training, the athletic trainer shall:

(1) Obtain a license under this subtitle;

(2) Enter into a written evaluation and treatment protocol with a licensed physician; and

(3) Obtain Board approval of the evaluation and treatment protocol.

(c) An evaluation and treatment protocol shall:

(1) Describe the qualifications of the licensed physician and licensed athletic trainer;

- (2) Describe the settings where the athletic trainer may practice;
 - (3) Describe the physician supervision mechanisms that the physician will use to give direction to the athletic trainer; [and]
 - (4) Specify the treatment procedures the athletic trainer may perform;
 - (5) DESCRIBE TASKS THE ATHLETIC TRAINER MAY NOT PERFORM;**
 - (6) DESCRIBE SPECIALIZED TASKS THE SUPERVISING PHYSICIAN IS DELEGATING TO THE ATHLETIC TRAINER TO PERFORM WITH DOCUMENTATION OF COMPETENCIES, CERTIFICATION, CREDENTIALS, OR ANY OTHER REQUIREMENTS ESTABLISHED BY THE BOARD TO SUPPORT THE DELEGATION OF THE SPECIALIZED TASKS;**
 - (7) INDICATE WHETHER THE ATHLETIC TRAINER MAY ACCEPT OUTSIDE REFERRALS FROM NONSUPERVISING PHYSICIANS AND OTHER LICENSED HEALTH CARE PRACTITIONERS;**
 - (8) DESIGNATE AN ALTERNATE SUPERVISING PHYSICIAN, IF APPROPRIATE OR NECESSARY; AND**
 - (9) CONTAIN AN ATTESTATION THAT STATES THE SUPERVISING PHYSICIAN WILL BE RESPONSIBLE FOR PROVIDING ONGOING AND IMMEDIATELY AVAILABLE INSTRUCTION THAT IS ADEQUATE TO ENSURE THE SAFETY AND WELFARE OF A PATIENT AND IS APPROPRIATE TO THE SETTING.**
- (D) AN ATHLETIC TRAINER MAY ACCEPT AN OUTSIDE REFERRAL FROM A NONSUPERVISING PHYSICIAN OR LICENSED HEALTH CARE PRACTITIONER IF:**
- (1) THE SUPERVISING PHYSICIAN SPECIFIES IN THE EVALUATION AND TREATMENT PROTOCOL THAT THE ATHLETIC TRAINER MAY ACCEPT REFERRALS FROM A NONSUPERVISING PHYSICIAN OR LICENSED HEALTH CARE PRACTITIONER;**
 - (2) THE NONSUPERVISING PHYSICIAN OR LICENSED HEALTH CARE PRACTITIONER HAS SEEN THE ATHLETE AND HAS WRITTEN AN ORDER FOR THE CARE OF THE ATHLETE; AND**
 - (3) THE TREATMENT PROCEDURES TO BE USED BY THE ATHLETIC TRAINER ARE:**

(I) WITHIN THE SCOPE OF PRACTICE OF AN ATHLETIC TRAINER; AND

(II) INCLUDED IN THE EVALUATION AND TREATMENT PROTOCOL THAT THE ATHLETIC TRAINER HAS ENTERED INTO WITH THE SUPERVISING PHYSICIAN.

(E) IN THE EVENT OF A SUDDEN DEPARTURE, INCAPACITY, OR DEATH OF A SUPERVISING PHYSICIAN, A DESIGNATED ALTERNATE SUPERVISING PHYSICIAN MAY ASSUME THE ROLE OF THE SUPERVISING PHYSICIAN BY SUBMITTING AN EVALUATION AND TREATMENT PROTOCOL TO THE BOARD WITHIN 15 DAYS OF THE EVENT.

14-5D-11.1.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A LICENSED PHYSICIAN MAY NOT EMPLOY OR SUPERVISE AN INDIVIDUAL PRACTICING ATHLETIC TRAINING WITHOUT A LICENSE OR WITHOUT AN APPROVED EVALUATION AND TREATMENT PROTOCOL.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A HOSPITAL, AN INSTITUTION, AN ALTERNATIVE HEALTH SYSTEM, OR ANY OTHER EMPLOYER MAY NOT EMPLOY AN INDIVIDUAL PRACTICING ATHLETIC TRAINING WITHOUT A LICENSE OR WITHOUT AN APPROVED EVALUATION AND TREATMENT PROTOCOL.

(C) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 ON A PERSON WHO EMPLOYS OR SUPERVISES AN INDIVIDUAL WITHOUT A LICENSE OR WITHOUT AN APPROVED EVALUATION AND TREATMENT PROTOCOL.

14-5D-11.2.

(A) A PHYSICIAN OR AN EMPLOYER SHALL NOTIFY THE BOARD WITHIN 10 DAYS OF THE TERMINATION OF AN ATHLETIC TRAINER FOR REASONS THAT WOULD BE GROUNDS FOR DISCIPLINE UNDER THIS SUBTITLE.

(B) A SUPERVISING PHYSICIAN AND AN ATHLETIC TRAINER SHALL NOTIFY THE BOARD OF THE TERMINATION OF THE RELATIONSHIP UNDER AN EVALUATION AND TREATMENT PROTOCOL.

14-5D-12.1.

(A) A LICENSEE SHALL NOTIFY THE BOARD IN WRITING OF A CHANGE IN NAME OR ADDRESS WITHIN 60 DAYS AFTER THE CHANGE.

(B) A LICENSEE WHO FAILS TO COMPLY WITH SUBSECTION (A) OF THIS SECTION IS SUBJECT TO AN ADMINISTRATIVE PENALTY OF \$100.

~~14-5D-16.1.~~

~~(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.~~

~~(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:~~

~~(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE THAT INCLUDES A COPY OF THE CHARGING DOCUMENT UNTIL THE BOARD HAS TAKEN ACTION UNDER § 14-5D-14 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;~~

~~(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;~~

~~(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD;~~

~~(4) A DESCRIPTION OF A CONVICTION OR AN ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE REPORTED TO THE BOARD UNDER § 14-5D-14(B) OF THIS SUBTITLE; AND~~

~~(5) THE PUBLIC ADDRESS OF THE LICENSEE.~~

~~(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE A STATEMENT ON EACH LICENSEE'S PROFILE OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY THE BOARD.~~

~~(D) THE BOARD;~~

~~(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND~~

~~(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY AT WHICH ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.~~

~~(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.~~

~~(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY THE BOARD AND A FINAL DISCIPLINARY ACTION TAKEN BY THE BOARD AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.~~

14-5D-20.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14-702 of this title, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after July 1, ~~[2013]~~ **2023**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 2, 2012.

Chapter 316

(Senate Bill 889)

AN ACT concerning

Criminal Law – Misdemeanor Possession of Child Pornography – Statute of Limitations

FOR the purpose of altering the period of time within which a prosecution for misdemeanor possession of child pornography must be instituted after the offense was committed; and generally relating to the statute of limitations for misdemeanor possession of child pornography.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 5–106(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

BY adding to
Article – Courts and Judicial Proceedings
Section 5–106(bb)
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 11–208
Annotated Code of Maryland
(2002 Volume and 2011 Supplement)

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

Article – Courts and Judicial Proceedings

5–106.

(a) Except as provided by this section and § 1–303 of the Environment Article, a prosecution for a misdemeanor shall be instituted within 1 year after the offense was committed.

(BB) A PROSECUTION FOR A MISDEMEANOR OFFENSE UNDER § 11–208 OF THE CRIMINAL LAW ARTICLE SHALL BE INSTITUTED WITHIN ~~3~~ 2 YEARS AFTER THE OFFENSE WAS COMMITTED.

Article – Criminal Law

11–208.

(a) A person may not knowingly possess and intentionally retain a film, videotape, photograph, or other visual representation showing an actual child under the age of 16 years:

(1) engaged as a subject of sadomasochistic abuse;

- (2) engaged in sexual conduct; or
- (3) in a state of sexual excitement.

(b) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$2,500 or both.

(2) A person who violates this section, having previously been convicted under this section, is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.

(c) Nothing in this section may be construed to prohibit a parent from possessing visual representations of the parent's own child in the nude unless the visual representations show the child engaged:

- (1) as a subject of sadomasochistic abuse; or
- (2) in sexual conduct and in a state of sexual excitement.

(d) It is an affirmative defense to a charge of violating this section that the person promptly and in good faith:

- (1) took reasonable steps to destroy each visual representation; or
- (2) reported the matter to a law enforcement agency.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 317

(House Bill 349)

AN ACT concerning

Criminal Law – Misdemeanor Possession of Child Pornography – Statute of Limitations

FOR the purpose of altering the period of time within which a prosecution for misdemeanor possession of child pornography must be instituted after the

offense was committed; and generally relating to the statute of limitations for misdemeanor possession of child pornography.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 5–106(a)
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BY adding to
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Annotated Code of Maryland
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BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 11–208
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(b) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$2,500 or both.

(2) A person who violates this section, having previously been convicted under this section, is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.

(c) Nothing in this section may be construed to prohibit a parent from possessing visual representations of the parent's own child in the nude unless the visual representations show the child engaged:

(1) as a subject of sadomasochistic abuse; or

(2) in sexual conduct and in a state of sexual excitement.

(d) It is an affirmative defense to a charge of violating this section that the person promptly and in good faith:

(1) took reasonable steps to destroy each visual representation; or

(2) reported the matter to a law enforcement agency.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 318

(Senate Bill 903)

AN ACT concerning

Health Insurance – Pharmacy Benefits Managers – Audits and Reimbursement of Pharmacies or Pharmacists

FOR the purpose of altering certain requirements a pharmacy benefits manager must comply with when conducting an audit of a pharmacy or pharmacist; prohibiting a pharmacy benefits manager from disrupting the provision of services to the customers of a pharmacy during an audit; prohibiting a pharmacy benefits manager from taking certain actions relating to an audit of a pharmacy or

pharmacist, with a certain exception; prohibiting a pharmacy benefits manager from recouping by setoff certain money until certain conditions are fulfilled; providing for a certain appeal, under certain circumstances; ~~requiring~~ authorizing the Maryland Insurance Commissioner to adopt regulations ~~that standardize~~ regarding certain documentation and a certain process; prohibiting a pharmacy benefits manager from retroactively denying or modifying reimbursement to a pharmacy or a pharmacist for a certain approved claim, with certain exceptions; ~~requiring a pharmacy benefits manager to reimburse a pharmacy or pharmacist for a certain quantity of a prescription drug to meet a certain day's supply; limiting the amount of reimbursement that a pharmacy benefits manager may recoup, require to be repaid, or setoff under certain circumstances;~~ and generally relating to pharmacy benefits managers and audits and reimbursement of pharmacies and pharmacists.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–1629

Annotated Code of Maryland

(2011 Replacement Volume)

BY adding to

Article – Insurance

Section 15–1631

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Insurance

15–1629.

(a) This section does not apply to an audit that involves probable or potential fraud or willful misrepresentation by a pharmacy or pharmacist.

(b) A pharmacy benefits manager shall conduct an audit of a pharmacy or pharmacist under contract with the pharmacy benefits manager in accordance with this section.

(c) A pharmacy benefits manager may not schedule an onsite audit to begin during the first 5 calendar days of a month unless requested by the pharmacy or pharmacist.

(d) When conducting an audit, a pharmacy benefits manager shall:

(1) if the audit is onsite, provide written notice to the pharmacy or pharmacist at least 2 weeks before conducting the initial onsite audit for each audit cycle;

(2) employ the services of a pharmacist if the audit requires the clinical or professional judgment of a pharmacist;

(3) PERMIT ITS AUDITORS TO ENTER THE PRESCRIPTION AREA OF A PHARMACY ONLY WHEN ACCOMPANIED BY OR AUTHORIZED BY A MEMBER OF THE PHARMACY STAFF;

(4) ALLOW A PHARMACIST OR PHARMACY TO USE ANY PRESCRIPTION, OR AUTHORIZED CHANGE TO A PRESCRIPTION, THAT MEETS THE REQUIREMENTS OF COMAR 10.34.20.02 TO VALIDATE CLAIMS SUBMITTED FOR REIMBURSEMENT FOR DISPENSING OF ORIGINAL AND REFILL PRESCRIPTIONS;

[(3)] (5) for purposes of validating the pharmacy record with respect to orders or refills of a drug [that is a controlled dangerous substance], allow the pharmacy or pharmacist to use [hospital or physician] records **OF A HOSPITAL OR A PHYSICIAN OR OTHER PRESCRIBER AUTHORIZED BY LAW** that are:

(i) written; or

(ii) transmitted electronically **OR BY ANY OTHER MEANS OF COMMUNICATION AUTHORIZED BY CONTRACT BETWEEN THE PHARMACY AND THE PHARMACY BENEFITS MANAGER;**

[(4)] (6) audit each pharmacy and pharmacist under the same standards and parameters as other similarly situated pharmacies or pharmacists audited by the pharmacy benefits manager;

[(5)] (7) only audit claims submitted or adjudicated within the 2-year period immediately preceding the audit, unless a longer period is permitted under federal or State law;

~~**(8) REQUEST ADDITIONAL INFORMATION ON PARTICULAR PRESCRIPTIONS ONLY IN PERSON OR BY CERTIFIED MAIL;**~~

[(6)] ~~(9)~~ (8) deliver the preliminary audit report to the pharmacy or pharmacist within 120 calendar days after the completion of the audit, with reasonable extensions allowed;

~~[(7)] ~~(10)~~ (9)~~ in accordance with subsection ~~[(h)] (I)~~ of this section, allow a pharmacy or pharmacist to produce documentation to address any discrepancy found during the audit; and

~~[(8)] ~~(11)~~ (10)~~ deliver the final audit report to the pharmacy or pharmacist:

(i) within 6 months after delivery of the preliminary audit report if the pharmacy or pharmacist does not request an internal appeal under subsection ~~[(h)] (I)~~ of this section; or

(ii) within 30 days after the conclusion of the internal appeals process under subsection ~~[(h)] (I)~~ of this section if the pharmacy or pharmacist requests an internal appeal.

(E) DURING AN AUDIT, A PHARMACY BENEFITS MANAGER MAY NOT DISRUPT THE PROVISION OF SERVICES TO THE CUSTOMERS OF A PHARMACY.

~~[(e)] (F)~~ **(1)** A pharmacy benefits manager may not:

~~(1)~~ **(1)** use the accounting practice of extrapolation to calculate overpayments or underpayments; OR

~~(2)~~ **~~REQUEST INFORMATION ON PRESCRIPTIONS THAT:~~**

~~(i)~~ **~~HAVE BEEN AUDITED PREVIOUSLY; OR~~**

~~(ii)~~ **~~HAVE BEEN APPROVED BY PRIOR AUTHORIZATION, UNLESS THE PRESCRIPTION HAS BEEN CHANGED;~~**

~~(3)~~ **~~AUDIT MORE THAN 250 PRESCRIPTIONS AT A SINGLE PHARMACY DURING ANY 6 MONTH PERIOD;~~**

~~(4)~~ **(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION:**

1. SHARE INFORMATION FROM AN AUDIT WITH ANOTHER PHARMACY BENEFITS MANAGER; OR

~~(5)~~ **2. USE INFORMATION FROM AN AUDIT CONDUCTED BY ANOTHER PHARMACY BENEFITS MANAGER; OR.**

(2) PARAGRAPH (1)(II) OF THIS SUBSECTION DOES NOT APPLY TO THE SHARING OF INFORMATION:

(I) REQUIRED BY FEDERAL OR STATE LAW;

(II) IN CONNECTION WITH AN ACQUISITION OR MERGER INVOLVING THE PHARMACY BENEFITS MANAGER; OR

(III) AT THE PAYOR'S REQUEST OR UNDER THE TERMS OF THE AGREEMENT BETWEEN THE PHARMACY BENEFITS MANAGER AND THE PAYOR.

~~**(6) PAY FOR AUDITING SERVICES BASED ON A PERCENTAGE OF THE AMOUNT RECOVERED IN AN AUDIT.**~~

[(f)] (G) The recoupment of a claims payment from a pharmacy or pharmacist by a pharmacy benefits manager shall be based on an actual overpayment or denial of an audited claim unless the projected overpayment or denial is part of a settlement agreed to by the pharmacy or pharmacist.

[(g)] (H) (1) In this subsection, “overpayment” means a payment by the pharmacy benefits manager to a pharmacy or pharmacist that is greater than the rate or terms specified in the contract between the pharmacy or pharmacist and the pharmacy benefits manager at the time that the payment is made.

(2) A clerical error, record-keeping error, typographical error, or scrivener's error in a required document or record may not constitute fraud or grounds for recoupment of a claims payment from a pharmacy or pharmacist by a pharmacy benefits manager if the prescription was otherwise legally dispensed and the claim was otherwise materially correct.

(3) Notwithstanding paragraph (2) of this subsection, claims remain subject to recoupment of overpayment or payment of any discovered underpayment by the pharmacy benefits manager.

[(h)] (I) (1) A pharmacy benefits manager shall establish an internal appeals process under which a pharmacy or pharmacist may appeal any disputed claim in a preliminary audit report.

(2) Under the internal appeals process, a pharmacy benefits manager shall allow a pharmacy or pharmacist to request an internal appeal within 30 working days after receipt of the preliminary audit report, with reasonable extensions allowed.

(3) The pharmacy benefits manager shall include in its preliminary audit report a written explanation of the internal appeals process, including the name, address, and telephone number of the person to whom an internal appeal should be addressed.

(4) The decision of the pharmacy benefits manager on an appeal of a disputed claim in a preliminary audit report by a pharmacy or pharmacist shall be reflected in the final audit report.

(5) The pharmacy benefits manager shall deliver the final audit report to the pharmacy or pharmacist within 30 calendar days after conclusion of the internal appeals process.

~~[(i)] (J)~~ (1) A pharmacy benefits manager may not recoup by setoff any moneys for an overpayment or denial of a claim until:

(I) THE PHARMACY OR PHARMACIST HAS AN OPPORTUNITY TO REVIEW THE PHARMACY BENEFITS MANAGER'S FINDINGS; AND

(II) IF THE PHARMACY OR PHARMACIST CONCURS WITH THE PHARMACY BENEFITS MANAGER'S FINDINGS OF OVERPAYMENT OR DENIAL, 30 working days HAVE ELAPSED after the date the final audit report has been delivered to the pharmacy or pharmacist.

(2) IF THE PHARMACY OR PHARMACIST DOES NOT CONCUR WITH THE PHARMACY BENEFITS MANAGER'S FINDINGS OF OVERPAYMENT OR DENIAL:

~~(I) THE PHARMACY OR PHARMACIST MAY APPEAL THE FINDINGS; AND~~

~~(H),~~ **THE PHARMACY BENEFITS MANAGER MAY NOT RECOUP BY SETOFF ANY MONEY PENDING THE OUTCOME OF THE AN APPEAL UNDER SUBSECTION (I) OF THIS SECTION.**

~~[(2)] (3)~~ A pharmacy benefits manager shall remit any money due to a pharmacy or pharmacist as a result of an underpayment of a claim within 30 working days after the final audit report has been delivered to the pharmacy or pharmacist.

~~[(3)] (4)~~ Notwithstanding the provisions of paragraph (1) of this subsection, a pharmacy benefits manager may withhold future payments before the date the final audit report has been delivered to the pharmacy or pharmacist if the identified discrepancy for all disputed claims in a preliminary audit report for an individual audit exceeds \$25,000.

~~[(j)] (K)~~ **(1) THE COMMISSIONER ~~SHALL~~ MAY ADOPT REGULATIONS THAT STANDARDIZE REGARDING:**

(I) THE DOCUMENTATION THAT MAY BE REQUESTED DURING AN AUDIT; AND

(II) THE PROCESS A PHARMACY BENEFITS MANAGER MAY USE TO CONDUCT AN AUDIT.

(2) On request of the Commissioner or the Commissioner's designee, a pharmacy benefits manager shall provide a copy of its audit procedures or internal appeals process.

15-1631.

~~(A)~~ EXCEPT FOR AN OVERPAYMENT AS DEFINED IN § 15-1629(H) OF THIS SUBTITLE, IF A CLAIM HAS BEEN APPROVED BY A PHARMACY BENEFITS MANAGER THROUGH ADJUDICATION, THE PHARMACY BENEFITS MANAGER MAY NOT RETROACTIVELY DENY OR MODIFY REIMBURSEMENT TO A PHARMACY OR PHARMACIST FOR THE APPROVED CLAIM UNLESS:

(1) THE CLAIM WAS FRAUDULENT;

(2) THE PHARMACY OR PHARMACIST HAD BEEN REIMBURSED FOR THE CLAIM PREVIOUSLY; OR

(3) THE SERVICES REIMBURSED WERE NOT RENDERED BY THE PHARMACY OR PHARMACIST; OR

(4) SUBJECT TO § 15-1629(H)(2) OF THIS PART, THE CLAIM OTHERWISE CAUSED MONETARY LOSS TO THE PHARMACY BENEFITS MANAGER, PROVIDED THAT THE PHARMACY BENEFITS MANAGER ALLOWED THE PHARMACY A REASONABLE OPPORTUNITY TO REMEDY THE CAUSE OF THE MONETARY LOSS.

~~(B) (1) A PHARMACY BENEFITS MANAGER SHALL REIMBURSE A PHARMACY OR PHARMACIST FOR THE FULL QUANTITY OF THE SMALLEST AVAILABLE COMMERCIAL PACKAGE OF A PRESCRIPTION DRUG THAT CONTAINS THE TOTAL AMOUNT OF THE PRESCRIPTION DRUG REQUIRED TO BE DISPENSED TO MEET THE DAY'S SUPPLY ORDERED BY THE PRESCRIBER, EVEN IF THE FULL QUANTITY OF THE COMMERCIAL PACKAGE EXCEEDS THE MAXIMUM DAY'S SUPPLY ALLOWED UNDER THE CONTRACT BETWEEN THE PHARMACY BENEFITS MANAGER AND THE PHARMACY OR PHARMACIST.~~

~~(2) (i) A PHARMACY BENEFITS MANAGER SHALL DETERMINE A DAY'S SUPPLY ACCORDING TO THE HIGHEST DAILY TOTAL DOSE THAT MAY BE UTILIZED BY A PATIENT ACCORDING TO THE PRESCRIPTION.~~

~~(H) FOR PRESCRIPTIONS HAVING A TITRATED DOSE SCHEDULE, THE SCHEDULE SHALL BE USED TO DETERMINE THE DAY'S SUPPLY.~~

~~(3) IF THE ACTUAL QUANTITY OF A PRESCRIPTION DRUG DISPENSED ON A VALID PRESCRIPTION EXCEEDS THE ALLOWABLE MAXIMUM DAY'S SUPPLY SPECIFIED IN THE CONTRACT BETWEEN A PHARMACY BENEFITS MANAGER AND A PHARMACY OR PHARMACIST, THE AMOUNT ALLOWED TO BE RECOUPED, REPAID, OR SETOFF AGAINST FUTURE REIMBURSEMENT BY THE PHARMACY BENEFITS MANAGER SHALL BE LIMITED TO AN AMOUNT THAT IS CALCULATED BASED ON:~~

~~(I) THE QUANTITY OF THE PRESCRIPTION DRUG DISPENSED THAT EXCEEDS THE ALLOWED DAY'S SUPPLY QUANTITY; AND~~

~~(II) THE COST OF THE PRESCRIPTION DRUG ON THE CLAIM.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 319

(House Bill 838)

AN ACT concerning

Health Insurance – Pharmacy Benefits Managers – Audits and Reimbursement of Pharmacies or Pharmacists

FOR the purpose of altering certain requirements a pharmacy benefits manager must comply with when conducting an audit of a pharmacy or pharmacist; prohibiting a pharmacy benefits manager from disrupting the provision of services to the customers of a pharmacy during an audit; prohibiting a pharmacy benefits manager from taking certain actions relating to an audit of a pharmacy or pharmacist, with a certain exception; prohibiting a pharmacy benefits manager from recouping by setoff certain money until certain conditions are fulfilled; providing for a certain appeal, under certain circumstances; requiring authorizing the Maryland Insurance Commissioner to adopt regulations ~~that~~ standardize regarding certain documentation and a certain process; prohibiting a pharmacy benefits manager from retroactively denying or modifying reimbursement to a pharmacy or a pharmacist for a certain approved claim, with certain exceptions; ~~requiring a pharmacy benefits manager to reimburse a pharmacy or pharmacist for a certain quantity of a prescription drug to meet a~~

~~certain day's supply; limiting the amount of reimbursement that a pharmacy benefits manager may recoup, require to be repaid, or setoff under certain circumstances; and generally relating to pharmacy benefits managers and audits and reimbursement of pharmacies and pharmacists.~~

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–1629

Annotated Code of Maryland

(2011 Replacement Volume)

BY adding to

Article – Insurance

Section 15–1631

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Insurance

15–1629.

(a) This section does not apply to an audit that involves probable or potential fraud or willful misrepresentation by a pharmacy or pharmacist.

(b) A pharmacy benefits manager shall conduct an audit of a pharmacy or pharmacist under contract with the pharmacy benefits manager in accordance with this section.

(c) A pharmacy benefits manager may not schedule an onsite audit to begin during the first 5 calendar days of a month unless requested by the pharmacy or pharmacist.

(d) When conducting an audit, a pharmacy benefits manager shall:

(1) if the audit is onsite, provide written notice to the pharmacy or pharmacist at least 2 weeks before conducting the initial onsite audit for each audit cycle;

(2) employ the services of a pharmacist if the audit requires the clinical or professional judgment of a pharmacist;

(3) PERMIT ITS AUDITORS TO ENTER THE PRESCRIPTION AREA OF A PHARMACY ONLY WHEN ACCOMPANIED BY OR AUTHORIZED BY A MEMBER OF THE PHARMACY STAFF;

(4) ALLOW A PHARMACIST OR PHARMACY TO USE ANY PRESCRIPTION, OR AUTHORIZED CHANGE TO A PRESCRIPTION, THAT MEETS THE REQUIREMENTS OF COMAR 10.34.20.02 TO VALIDATE CLAIMS SUBMITTED FOR REIMBURSEMENT FOR DISPENSING OF ORIGINAL AND REFILL PRESCRIPTIONS;

[(3)] (5) for purposes of validating the pharmacy record with respect to orders or refills of a drug [that is a controlled dangerous substance], allow the pharmacy or pharmacist to use [hospital or physician] records **OF A HOSPITAL OR A PHYSICIAN OR OTHER PRESCRIBER AUTHORIZED BY LAW** that are:

(i) written; or

(ii) transmitted electronically **OR BY ANY OTHER MEANS OF COMMUNICATION AUTHORIZED BY CONTRACT BETWEEN THE PHARMACY AND THE PHARMACY BENEFITS MANAGER;**

[(4)] (6) audit each pharmacy and pharmacist under the same standards and parameters as other similarly situated pharmacies or pharmacists audited by the pharmacy benefits manager;

[(5)] (7) only audit claims submitted or adjudicated within the 2-year period immediately preceding the audit, unless a longer period is permitted under federal or State law;

~~**(8) REQUEST ADDITIONAL INFORMATION ON PARTICULAR PRESCRIPTIONS ONLY IN PERSON OR BY CERTIFIED MAIL;**~~

[(6)] (9) (8) deliver the preliminary audit report to the pharmacy or pharmacist within 120 calendar days after the completion of the audit, with reasonable extensions allowed;

[(7)] (10) (9) in accordance with subsection **[(h)] (I)** of this section, allow a pharmacy or pharmacist to produce documentation to address any discrepancy found during the audit; and

[(8)] (11) (10) deliver the final audit report to the pharmacy or pharmacist:

(i) within 6 months after delivery of the preliminary audit report if the pharmacy or pharmacist does not request an internal appeal under subsection **[(h)] (I)** of this section; or

(ii) within 30 days after the conclusion of the internal appeals process under subsection [(h)] (I) of this section if the pharmacy or pharmacist requests an internal appeal.

(E) DURING AN AUDIT, A PHARMACY BENEFITS MANAGER MAY NOT DISRUPT THE PROVISION OF SERVICES TO THE CUSTOMERS OF A PHARMACY.

[(e)] (F) (1) A pharmacy benefits manager may not:

~~(1) (I) use the accounting practice of extrapolation to calculate overpayments or underpayments; OR~~

~~(2) REQUEST INFORMATION ON PRESCRIPTIONS THAT:~~

~~(I) HAVE BEEN AUDITED PREVIOUSLY; OR~~

~~(II) HAVE BEEN APPROVED BY PRIOR AUTHORIZATION, UNLESS THE PRESCRIPTION HAS BEEN CHANGED;~~

~~(3) AUDIT MORE THAN 250 PRESCRIPTIONS AT A SINGLE PHARMACY DURING ANY 6 MONTH PERIOD;~~

~~(4) (II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION:~~

~~1. SHARE INFORMATION FROM AN AUDIT WITH ANOTHER PHARMACY BENEFITS MANAGER; OR~~

~~(5) 2. USE INFORMATION FROM AN AUDIT CONDUCTED BY ANOTHER PHARMACY BENEFITS MANAGER; OR~~

~~(2) PARAGRAPH (1)(II) OF THIS SUBSECTION DOES NOT APPLY TO THE SHARING OF INFORMATION:~~

~~(I) REQUIRED BY FEDERAL OR STATE LAW;~~

~~(II) IN CONNECTION WITH AN ACQUISITION OR MERGER INVOLVING THE PHARMACY BENEFITS MANAGER; OR~~

~~(III) AT THE PAYOR'S REQUEST OR UNDER THE TERMS OF THE AGREEMENT BETWEEN THE PHARMACY BENEFITS MANAGER AND THE PAYOR.~~

~~(6) PAY FOR AUDITING SERVICES BASED ON A PERCENTAGE OF THE AMOUNT RECOVERED IN AN AUDIT.~~

[(f)] (G) The recoupment of a claims payment from a pharmacy or pharmacist by a pharmacy benefits manager shall be based on an actual overpayment or denial of an audited claim unless the projected overpayment or denial is part of a settlement agreed to by the pharmacy or pharmacist.

[(g)] (H) (1) In this subsection, "overpayment" means a payment by the pharmacy benefits manager to a pharmacy or pharmacist that is greater than the rate or terms specified in the contract between the pharmacy or pharmacist and the pharmacy benefits manager at the time that the payment is made.

(2) A clerical error, record-keeping error, typographical error, or scrivener's error in a required document or record may not constitute fraud or grounds for recoupment of a claims payment from a pharmacy or pharmacist by a pharmacy benefits manager if the prescription was otherwise legally dispensed and the claim was otherwise materially correct.

(3) Notwithstanding paragraph (2) of this subsection, claims remain subject to recoupment of overpayment or payment of any discovered underpayment by the pharmacy benefits manager.

[(h)] (I) (1) A pharmacy benefits manager shall establish an internal appeals process under which a pharmacy or pharmacist may appeal any disputed claim in a preliminary audit report.

(2) Under the internal appeals process, a pharmacy benefits manager shall allow a pharmacy or pharmacist to request an internal appeal within 30 working days after receipt of the preliminary audit report, with reasonable extensions allowed.

(3) The pharmacy benefits manager shall include in its preliminary audit report a written explanation of the internal appeals process, including the name, address, and telephone number of the person to whom an internal appeal should be addressed.

(4) The decision of the pharmacy benefits manager on an appeal of a disputed claim in a preliminary audit report by a pharmacy or pharmacist shall be reflected in the final audit report.

(5) The pharmacy benefits manager shall deliver the final audit report to the pharmacy or pharmacist within 30 calendar days after conclusion of the internal appeals process.

[(i)] (J) (1) A pharmacy benefits manager may not recoup by setoff any moneys for an overpayment or denial of a claim until:

(I) THE PHARMACY OR PHARMACIST HAS AN OPPORTUNITY TO REVIEW THE PHARMACY BENEFITS MANAGER’S FINDINGS; AND

(II) IF THE PHARMACY OR PHARMACIST CONCURS WITH THE PHARMACY BENEFITS MANAGER’S FINDINGS OF OVERPAYMENT OR DENIAL, 30 working days HAVE ELAPSED after the date the final audit report has been delivered to the pharmacy or pharmacist.

(2) IF THE PHARMACY OR PHARMACIST DOES NOT CONCUR WITH THE PHARMACY BENEFITS MANAGER’S FINDINGS OF OVERPAYMENT OR DENIAL:

~~**(I) THE PHARMACY OR PHARMACIST MAY APPEAL THE FINDINGS; AND**~~

~~**(H)**~~, **THE PHARMACY BENEFITS MANAGER MAY NOT RECOUP BY SETOFF ANY MONEY PENDING THE OUTCOME OF ~~THE~~ AN APPEAL UNDER SUBSECTION (I) OF THIS SECTION.**

[(2)] (3) A pharmacy benefits manager shall remit any money due to a pharmacy or pharmacist as a result of an underpayment of a claim within 30 working days after the final audit report has been delivered to the pharmacy or pharmacist.

[(3)] (4) Notwithstanding the provisions of paragraph (1) of this subsection, a pharmacy benefits manager may withhold future payments before the date the final audit report has been delivered to the pharmacy or pharmacist if the identified discrepancy for all disputed claims in a preliminary audit report for an individual audit exceeds \$25,000.

[(j)] (k) (1) THE COMMISSIONER ~~SHALL~~ MAY ADOPT REGULATIONS ~~THAT STANDARDIZE~~ REGARDING:

(I) THE DOCUMENTATION THAT MAY BE REQUESTED DURING AN AUDIT; AND

(II) THE PROCESS A PHARMACY BENEFITS MANAGER MAY USE TO CONDUCT AN AUDIT.

(2) On request of the Commissioner or the Commissioner’s designee, a pharmacy benefits manager shall provide a copy of its audit procedures or internal appeals process.

~~(A)~~ EXCEPT FOR AN OVERPAYMENT AS DEFINED IN § 15-1629(H) OF THIS SUBTITLE, IF A CLAIM HAS BEEN APPROVED BY A PHARMACY BENEFITS MANAGER THROUGH ADJUDICATION, THE PHARMACY BENEFITS MANAGER MAY NOT RETROACTIVELY DENY OR MODIFY REIMBURSEMENT TO A PHARMACY OR PHARMACIST FOR THE APPROVED CLAIM UNLESS:

(1) THE CLAIM WAS FRAUDULENT;

(2) THE PHARMACY OR PHARMACIST HAD BEEN REIMBURSED FOR THE CLAIM PREVIOUSLY; ~~OR~~

(3) THE SERVICES REIMBURSED WERE NOT RENDERED BY THE PHARMACY OR PHARMACIST ; OR

(4) SUBJECT TO § 15-1629(H)(2) OF THIS PART, THE CLAIM OTHERWISE CAUSED MONETARY LOSS TO THE PHARMACY BENEFITS MANAGER, PROVIDED THAT THE PHARMACY BENEFITS MANAGER ALLOWED THE PHARMACY A REASONABLE OPPORTUNITY TO REMEDY THE CAUSE OF THE MONETARY LOSS.

~~(B) (1) A PHARMACY BENEFITS MANAGER SHALL REIMBURSE A PHARMACY OR PHARMACIST FOR THE FULL QUANTITY OF THE SMALLEST AVAILABLE COMMERCIAL PACKAGE OF A PRESCRIPTION DRUG THAT CONTAINS THE TOTAL AMOUNT OF THE PRESCRIPTION DRUG REQUIRED TO BE DISPENSED TO MEET THE DAY'S SUPPLY ORDERED BY THE PRESCRIBER, EVEN IF THE FULL QUANTITY OF THE COMMERCIAL PACKAGE EXCEEDS THE MAXIMUM DAY'S SUPPLY ALLOWED UNDER THE CONTRACT BETWEEN THE PHARMACY BENEFITS MANAGER AND THE PHARMACY OR PHARMACIST.~~

~~(2) (i) A PHARMACY BENEFITS MANAGER SHALL DETERMINE A DAY'S SUPPLY ACCORDING TO THE HIGHEST DAILY TOTAL DOSE THAT MAY BE UTILIZED BY A PATIENT ACCORDING TO THE PRESCRIPTION.~~

~~(ii) FOR PRESCRIPTIONS HAVING A TITRATED DOSE SCHEDULE, THE SCHEDULE SHALL BE USED TO DETERMINE THE DAY'S SUPPLY.~~

~~(3) IF THE ACTUAL QUANTITY OF A PRESCRIPTION DRUG DISPENSED ON A VALID PRESCRIPTION EXCEEDS THE ALLOWABLE MAXIMUM DAY'S SUPPLY SPECIFIED IN THE CONTRACT BETWEEN A PHARMACY BENEFITS MANAGER AND A PHARMACY OR PHARMACIST, THE AMOUNT ALLOWED TO BE RECOUPED, REPAYED, OR SETOFF AGAINST FUTURE REIMBURSEMENT BY THE PHARMACY BENEFITS MANAGER SHALL BE LIMITED TO AN AMOUNT THAT IS CALCULATED BASED ON:~~

~~(I) THE QUANTITY OF THE PRESCRIPTION DRUG
DISPENSED THAT EXCEEDS THE ALLOWED DAY'S SUPPLY QUANTITY; AND~~

~~(II) THE COST OF THE PRESCRIPTION DRUG ON THE CLAIM.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 320

(Senate Bill 918)

AN ACT concerning

Election Law – Campaign Contributors – Occupation and Employer

FOR the purpose of requiring the treasurer of a campaign finance entity to record the occupation and employer of an individual who makes contributions of a certain cumulative amount to the campaign finance entity during an election cycle; requiring the treasurer to include in a campaign finance report the occupation and employer of an individual who makes contributions to the campaign finance entity of a certain cumulative amount; requiring the State Board of Elections to provide certain notice to a treasurer of a campaign finance entity if a contributor makes cumulative contributions exceeding a certain amount during a certain period; requiring the State Board to require a certain standard response that a treasurer shall include in a campaign finance report if a contributor does not provide certain information to the treasurer; and generally relating to reporting the occupation and employer of certain contributors to campaign finance entities.

BY repealing and reenacting, with amendments,

Article – Election Law

Section 13–221 and 13–304(b)

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

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

Article – Election Law

13–221.

(a) (1) The treasurer of a campaign finance entity shall keep a detailed and accurate account book of all assets received, expenditures made, and obligations incurred by or on behalf of the entity.

(2) Except as provided in § 13–240 of this subtitle, as to each asset received or expenditure made, the account book shall state:

- (i) its amount or value;
- (ii) the date of the receipt or expenditure;
- (iii) the name and address of the person from whom the asset was received or to whom the expenditure was made; and
- (iv) a description of the asset received or the purpose for which the expenditure was made.

(3) ***(I) TO THE EXTENT PRACTICABLE, THE TREASURER OF A CAMPAIGN FINANCE ENTITY SHALL RECORD THE OCCUPATION AND EMPLOYER OF AN INDIVIDUAL WHO MAKES CONTRIBUTIONS TO THE CAMPAIGN FINANCE ENTITY IN A CUMULATIVE AMOUNT OF \$500 OR MORE DURING AN ELECTION CYCLE.***

(II) THE STATE BOARD SHALL:

1. PROMPTLY PROVIDE NOTICE TO THE TREASURER OF A CAMPAIGN FINANCE ENTITY IF A CONTRIBUTOR INCLUDED ON A CAMPAIGN FINANCE REPORT SUBMITTED BY THE TREASURER HAS MADE CONTRIBUTIONS TO THE CAMPAIGN FINANCE ENTITY IN A CUMULATIVE AMOUNT OF \$500 OR MORE DURING THE ELECTION CYCLE; AND

2. REQUIRE A STANDARD RESPONSE THAT A TREASURER SHALL INCLUDE IN THE CAMPAIGN FINANCE REPORT IF A CONTRIBUTOR DOES NOT SUPPLY THE INFORMATION REQUIRED CONCERNING THE CONTRIBUTOR'S OCCUPATION AND EMPLOYER.

~~[(3)]~~ (4) Each expenditure made from a campaign account shall be supported by a receipt.

(b) The account books and related records of a campaign finance entity shall be preserved until 2 years after the campaign finance entity files a final campaign finance report under Subtitle 3 of this title.

(b) A campaign finance report filed by a campaign finance entity under subsection (a) of this section shall include:

(1) the information required by the State Board with respect to all contributions received and all expenditures made by or on behalf of the campaign finance entity during the designated reporting period; AND

(2) **THE INFORMATION REGARDING THE OCCUPATIONS AND EMPLOYERS OF CONTRIBUTORS REQUIRED TO BE RECORDED BY THE TREASURER OF A CAMPAIGN FINANCE ENTITY UNDER § 13–221 OF THIS TITLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 321

(House Bill 1103)

AN ACT concerning

Election Law – Campaign Contributors – Occupation and Employer

FOR the purpose of requiring the treasurer of a campaign finance entity to record the occupation and employer of an individual who makes contributions of a certain cumulative amount to the campaign finance entity during an election cycle; requiring the treasurer to include in a campaign finance report the occupation and employer of an individual who makes contributions to the campaign finance entity of a certain cumulative amount; requiring the State Board of Elections to provide certain notice to a treasurer of a campaign finance entity if a contributor makes cumulative contributions exceeding a certain amount during a certain period; requiring the State Board to require a certain standard response that a treasurer shall include in a campaign finance report if a contributor does not provide certain information to the treasurer; and generally relating to reporting the occupation and employer of certain contributors to campaign finance entities.

BY repealing and reenacting, with amendments,

Article – Election Law

Section 13–221 and 13–304(b)

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

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

Article – Election Law

13–221.

(a) (1) The treasurer of a campaign finance entity shall keep a detailed and accurate account book of all assets received, expenditures made, and obligations incurred by or on behalf of the entity.

(2) Except as provided in § 13–240 of this subtitle, as to each asset received or expenditure made, the account book shall state:

(i) its amount or value;

(ii) the date of the receipt or expenditure;

(iii) the name and address of the person from whom the asset was received or to whom the expenditure was made; and

(iv) a description of the asset received or the purpose for which the expenditure was made.

(3) (I) TO THE EXTENT PRACTICABLE, THE TREASURER OF A CAMPAIGN FINANCE ENTITY SHALL RECORD THE OCCUPATION AND EMPLOYER OF AN INDIVIDUAL WHO MAKES CONTRIBUTIONS TO THE CAMPAIGN FINANCE ENTITY IN A CUMULATIVE AMOUNT OF \$500 OR MORE DURING AN ELECTION CYCLE.

(II) THE STATE BOARD SHALL:

1. PROMPTLY PROVIDE NOTICE TO THE TREASURER OF A CAMPAIGN FINANCE ENTITY IF A CONTRIBUTOR INCLUDED ON A CAMPAIGN FINANCE REPORT SUBMITTED BY THE TREASURER HAS MADE CONTRIBUTIONS TO THE CAMPAIGN FINANCE ENTITY IN A CUMULATIVE AMOUNT OF \$500 OR MORE DURING THE ELECTION CYCLE; AND

2. REQUIRE A STANDARD RESPONSE THAT A TREASURER SHALL INCLUDE IN THE CAMPAIGN FINANCE REPORT IF A CONTRIBUTOR DOES NOT SUPPLY THE INFORMATION REQUIRED CONCERNING THE CONTRIBUTOR'S OCCUPATION AND EMPLOYER.

[(3)] (4) Each expenditure made from a campaign account shall be supported by a receipt.

(b) The account books and related records of a campaign finance entity shall be preserved until 2 years after the campaign finance entity files a final campaign finance report under Subtitle 3 of this title.

13–304.

(b) A campaign finance report filed by a campaign finance entity under subsection (a) of this section shall include:

(1) the information required by the State Board with respect to all contributions received and all expenditures made by or on behalf of the campaign finance entity during the designated reporting period; AND

(2) **THE INFORMATION REGARDING THE OCCUPATIONS AND EMPLOYERS OF CONTRIBUTORS REQUIRED TO BE RECORDED BY THE TREASURER OF A CAMPAIGN FINANCE ENTITY UNDER § 13–221 OF THIS TITLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 322

(Senate Bill 919)

AN ACT concerning

Election Law – Campaign Finance Entities – Retention of Records

FOR the purpose of altering record retention requirements applicable to campaign finance entities by requiring that the account books and related records of a campaign finance entity be preserved until the earlier of a certain number of years after the creation of the record or a certain number of years after the campaign finance entity files a final campaign finance report; and generally relating to record retention by campaign finance entities.

BY repealing and reenacting, with amendments,

Article – Election Law

Section 13–221

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

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

Article – Election Law

13–221.

(a) (1) The treasurer of a campaign finance entity shall keep a detailed and accurate account book of all assets received, expenditures made, and obligations incurred by or on behalf of the entity.

(2) Except as provided in § 13–240 of this subtitle, as to each asset received or expenditure made, the account book shall state:

(i) its amount or value;

(ii) the date of the receipt or expenditure;

(iii) the name and address of the person from whom the asset was received or to whom the expenditure was made; and

(iv) a description of the asset received or the purpose for which the expenditure was made.

(3) Each expenditure made from a campaign account shall be supported by a receipt.

(b) The account books and related records of a campaign finance entity shall be preserved until **THE EARLIER OF:**

(1) 10 YEARS AFTER THE CREATION OF AN ACCOUNT BOOK ENTRY OR RELATED RECORD; OR

(2) 2 years after the campaign finance entity files a final campaign finance report under Subtitle 3 of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 323

(House Bill 1007)

AN ACT concerning

Election Law – Campaign Finance Entities – Retention of Records

FOR the purpose of altering record retention requirements applicable to campaign finance entities by requiring that the account books and related records of a campaign finance entity be preserved until the earlier of a certain number of years after the creation of the record or a certain number of years after the campaign finance entity files a final campaign finance report; and generally relating to record retention by campaign finance entities.

BY repealing and reenacting, with amendments,

Article – Election Law

Section 13–221

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

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

Article – Election Law

13–221.

(a) (1) The treasurer of a campaign finance entity shall keep a detailed and accurate account book of all assets received, expenditures made, and obligations incurred by or on behalf of the entity.

(2) Except as provided in § 13–240 of this subtitle, as to each asset received or expenditure made, the account book shall state:

(i) its amount or value;

(ii) the date of the receipt or expenditure;

(iii) the name and address of the person from whom the asset was received or to whom the expenditure was made; and

(iv) a description of the asset received or the purpose for which the expenditure was made.

(3) Each expenditure made from a campaign account shall be supported by a receipt.

(b) The account books and related records of a campaign finance entity shall be preserved until **THE EARLIER OF:**

(1) 10 YEARS AFTER THE CREATION OF AN ACCOUNT BOOK ENTRY OR RELATED RECORD; OR

(2) 2 years after the campaign finance entity files a final campaign finance report under Subtitle 3 of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 324

(Senate Bill 941)

AN ACT concerning

Fiduciary Institutions – Protection of Elder Adults from Financial Abuse – Reporting Requirements

FOR the purpose of requiring certain fiduciary institutions to report suspected financial abuse of an elder adult under certain circumstances; requiring the report to be made to certain individuals and entities, at certain times, and by certain means; providing that a fiduciary institution is not required to investigate certain allegations by an elder adult or make an abuse report if the same matter already has been reported; providing that an abuse report is confidential and that the information contained in the report may be disclosed only under certain circumstances; providing that certain provisions of this Act may not be construed to allow the disclosure of certain reports or records or prohibit the disclosure of certain reports or records under certain circumstances; providing that certain provisions of this Act do not prohibit or limit the disclosure of certain financial records; requiring a fiduciary institution to establish and implement a certain training program for employees; prohibiting a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution from declining to provide certain information in connection with an investigation of suspected financial abuse; establishing certain civil penalties for violations of certain provisions of this Act; providing that the penalties may be recovered only in a certain civil action brought against a fiduciary institution and shall be paid by the fiduciary institution; defining certain terms; altering a certain definition; making certain stylistic and conforming changes; and generally relating to fiduciary institutions and requirements for reporting suspected financial abuse of elder adults.

BY repealing and reenacting, without amendments,
Article – Financial Institutions
Section 1–101(a) and (g) and 1–301(a) and (b)
Annotated Code of Maryland
(2011 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 1–305 and 1–306
Annotated Code of Maryland
(2011 Replacement Volume and 2011 Supplement)

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

Article – Financial Institutions

1–101.

(a) In this article, unless the context clearly requires otherwise, the following words have the meanings indicated.

(g) “Commissioner” means the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation.

1–301.

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

(b) (1) “Fiduciary institution” means:

(i) A national banking association;

(ii) A State banking institution;

(iii) An other–state bank that maintains a branch in this State;

(iv) A credit union that is organized under the laws of this State or of the United States;

(v) Any other organization that is organized under the banking laws of this State and subject to the supervision of the Commissioner; or

(vi) A savings and loan association that is organized under the laws of this State or of the United States.

(2) "Fiduciary institution" does not include any person licensed by the Commissioner under Title 11 of this article.

1-305.

(a) Any officer, employee, agent, or director of a fiduciary institution who knowingly and willfully discloses financial records in violation of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine of not more than \$1,000.

(b) Any person who knowingly and willfully induces or attempts to induce an officer, employee, agent, or director of a fiduciary institution to disclose financial records in violation of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine of not more than \$1,000.

(c) (1) SUBSECTIONS (A) AND (B) OF THIS SECTION DO NOT APPLY IN CONNECTION WITH AN ABUSE REPORT REQUIRED UNDER § 1-306(D) OF THIS SUBTITLE.

(2) A FIDUCIARY INSTITUTION THAT FAILS TO FILE AN ABUSE REPORT CONCERNING AN ELDER ADULT AS REQUIRED UNDER § 1-306(D) OF THIS SUBTITLE IS SUBJECT TO:

(i) A CIVIL PENALTY NOT EXCEEDING \$1,000; OR

(ii) IF THE FAILURE TO REPORT IS WILLFUL, A CIVIL PENALTY NOT EXCEEDING \$5,000.

(3) THE CIVIL PENALTIES PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION:

(i) MAY BE RECOVERED ONLY IN A CIVIL ACTION BROUGHT BY THE ATTORNEY GENERAL ~~OR A STATE'S ATTORNEY~~ AGAINST THE FIDUCIARY INSTITUTION; AND

(ii) SHALL BE PAID BY THE FIDUCIARY INSTITUTION.

(4) A PERSON WHO DISCLOSES INFORMATION CONTAINED IN AN ABUSE REPORT IN VIOLATION OF § 1-306(D)(4) OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500.

1-306.

(a) (1) In this section the following words have the meanings indicated.

(2) “ABUSE REPORT” MEANS THE REPORT REQUIRED UNDER SUBSECTION (D) OF THIS SECTION.

(3) “ELDER ADULT” MEANS AN INDIVIDUAL WHO IS BELIEVED TO BE:

(I) AT LEAST 65 YEARS OLD; AND

(II) RESIDING IN THE STATE.

(4) “FINANCIAL ABUSE” MEANS TO TAKE, APPROPRIATE, OBTAIN, OR RETAIN, OR ASSIST IN TAKING, APPROPRIATING, OBTAINING, OR RETAINING, REAL OR PERSONAL PROPERTY OF AN ELDER ADULT BY ANY MEANS, INCLUDING UNDUE INFLUENCE, FOR A WRONGFUL PURPOSE OR WITH INTENT TO DEFRAUD THE ELDER ADULT.

[(2)] (5) “Financial exploitation” means any action which involves the misuse of a customer’s funds or property.

[(3)] (6) “Report OF FINANCIAL EXPLOITATION” means an oral or written report concerning financial exploitation which may include all or part of the information described in § 14–302(d) of the Family Law Article.

(b) Notwithstanding any other provision of law, a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution may disclose financial records and any other information relating to a customer of the fiduciary institution if the fiduciary institution or its officer, employee, agent, or director:

(1) Believes that the customer has been subjected to financial exploitation; and

(2) Makes the disclosure in a report OF FINANCIAL EXPLOITATION to the adult protective services program in a local department of social services.

(c) A report OF FINANCIAL EXPLOITATION filed under this section by a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution shall be deemed to protect against or prevent actual or potential fraud, unauthorized transactions, or other liability.

(D) (1) NOTWITHSTANDING ANY OTHER LAW LIMITING OR PROHIBITING DISCLOSURE, A FIDUCIARY INSTITUTION SHALL MAKE AN ABUSE REPORT AS PROVIDED IN THIS SUBSECTION IF AN EMPLOYEE OF THE FIDUCIARY INSTITUTION, WHILE ACTING WITHIN THE SCOPE OF THE EMPLOYEE’S EMPLOYMENT:

(I) HAS DIRECT CONTACT WITH AN ELDER ADULT OR REVIEWS OR APPROVES AN ELDER ADULT'S FINANCIAL DOCUMENTS, RECORDS, OR TRANSACTIONS IN CONNECTION WITH FINANCIAL SERVICES PROVIDED BY THE FIDUCIARY INSTITUTION TO OR FOR THE ELDER ADULT; AND

(II) OBSERVES OR OBTAINS KNOWLEDGE OF BEHAVIOR OR UNUSUAL CIRCUMSTANCES OR TRANSACTIONS THAT LEADS THE EMPLOYEE TO KNOW OR HAVE REASONABLE CAUSE TO SUSPECT THAT THE ELDER ADULT IS THE VICTIM OF FINANCIAL ABUSE.

(2) THE ABUSE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE:

(I) 1. TO THE ADULT PROTECTIVE SERVICES AGENCY IN A LOCAL DEPARTMENT OF SOCIAL SERVICES, THE LOCAL LAW ENFORCEMENT AGENCY, OR A STATE'S ATTORNEY; OR

2. IF THE EMPLOYEE KNOWS THAT THE ELDER ADULT RESIDES IN A LONG-TERM CARE FACILITY LOCATED IN THE STATE, TO AN OMBUDSMAN FOR THE LONG-TERM CARE FACILITY, THE LOCAL LAW ENFORCEMENT AGENCY, OR A STATE'S ATTORNEY; AND

(II) 1. BY TELEPHONE NOTIFICATION WITHIN 24 HOURS AFTER THE EMPLOYEE KNOWS OR HAS REASONABLE CAUSE TO SUSPECT THAT THE ELDER ADULT IS THE VICTIM OF FINANCIAL ABUSE; AND

2. IN WRITING SENT WITHIN 3 BUSINESS DAYS AFTER THE EMPLOYEE KNOWS OR HAS REASONABLE CAUSE TO SUSPECT THAT THE ELDER ADULT IS THE VICTIM OF FINANCIAL ABUSE.

(3) A FIDUCIARY INSTITUTION IS NOT REQUIRED TO:

(I) INVESTIGATE AN ALLEGATION BY AN ELDER ADULT THAT FINANCIAL ABUSE OF THE ELDER ADULT HAS OCCURRED; OR

(II) MAKE AN ABUSE REPORT UNDER THIS SUBSECTION IF THE SAME MATTER ALREADY HAS BEEN REPORTED AS REQUIRED UNDER THIS SUBSECTION.

(4) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, AN ABUSE REPORT MADE UNDER THIS SUBSECTION IS CONFIDENTIAL AND THE INFORMATION CONTAINED IN THE ABUSE REPORT MAY BE DISCLOSED ONLY:

(I) IN CONNECTION WITH AN INVESTIGATION OF THE SUSPECTED FINANCIAL ABUSE, TO:

- 1. AN ADULT PROTECTIVE SERVICES AGENCY;**
- 2. A LONG-TERM CARE OMBUDSMAN;**
- 3. A LAW ENFORCEMENT AGENCY; AND**
- 4. THE OFFICE OF THE ATTORNEY GENERAL OR OF A STATE'S ATTORNEY; OR**

(II) AS AUTHORIZED BY THE ELDER ADULT OR THE LEGAL GUARDIAN OF THE ELDER ADULT.

(5) PARAGRAPH (4) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO:

(I) ALLOW THE DISCLOSURE OF AN ABUSE REPORT MADE UNDER THIS SUBSECTION OR A RECORD RELEVANT TO THE ABUSE REPORT IF THE DISCLOSURE WOULD BE PROHIBITED BY ANY OTHER PROVISION OF STATE OR FEDERAL LAW; OR

(II) PROHIBIT THE DISCLOSURE BY A FIDUCIARY INSTITUTION OR AN OFFICER, EMPLOYEE, AGENT, OR DIRECTOR OF A FIDUCIARY INSTITUTION OF AN ABUSE REPORT MADE UNDER THIS SUBSECTION OR A RECORD RELEVANT TO THE ABUSE REPORT IF THE DISCLOSURE WOULD BE REQUIRED BY ANOTHER STATE LAW, FEDERAL LAW, OR COURT ORDER.

(6) THIS SUBSECTION DOES NOT PROHIBIT OR LIMIT THE DISCLOSURE OF FINANCIAL RECORDS OTHERWISE PERMITTED UNDER THIS SUBTITLE.

(7) A FIDUCIARY INSTITUTION SHALL ESTABLISH AND IMPLEMENT A TRAINING PROGRAM TO:

(I) ASSIST EMPLOYEES IN RECOGNIZING SIGNS OF POTENTIAL FINANCIAL ABUSE OF AN ELDER ADULT, SUCH AS UNUSUAL ACTIVITY IN AN ELDER ADULT'S DEPOSIT ACCOUNTS, AUTOMATED TELLER MACHINE (ATM) WITHDRAWALS BY AN ELDER ADULT WHO PREVIOUSLY NEVER USED AN ATM OR DEBIT CARD, AND SUSPICIOUS SIGNATURES ON CHECKS; AND

(II) INFORM EMPLOYEES ABOUT THE REQUIREMENT TO FILE ABUSE REPORTS AS PROVIDED UNDER THIS SUBSECTION.

[(d)] (E) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A fiduciary institution or an officer, employee, agent, or director of a fiduciary institution may decline to provide to any person information that would disclose or indicate whether a report **OF FINANCIAL EXPLOITATION OR AN ABUSE REPORT** has or has not been filed under this section.

(2) A FIDUCIARY INSTITUTION OR AN OFFICER, EMPLOYEE, AGENT, OR DIRECTOR OF A FIDUCIARY INSTITUTION MAY NOT DECLINE TO PROVIDE INFORMATION REQUESTED BY A PERSON IDENTIFIED IN SUBSECTION (D)(4)(I) OF THIS SECTION IN CONNECTION WITH AN INVESTIGATION OF SUSPECTED FINANCIAL ABUSE.

[(e)] (F) [There] EXCEPT AS PROVIDED IN § 1-305(C) OF THIS SUBTITLE, THERE shall be no liability on the part of and no cause of action of any nature shall arise against, and there shall be immunity from any civil and criminal liability that would otherwise result for, a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution for an action or omission involved with:

(1) Making or participating in making a disclosure or report under this section;

(2) Participating in an investigation or a judicial proceeding resulting from a report filed under this section; or

(3) Declining to provide information as described in subsection **[(d)] (E)** of this section.

[(f)] (G) [This] EXCEPT AS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION, THIS section does not create and may not be construed as creating, on the part of a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution, a duty to make a disclosure to an adult protective services program or file a report **OF FINANCIAL EXPLOITATION** under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 325**(House Bill 1257)**

AN ACT concerning

**Fiduciary Institutions – Protection of Elder Adults from Financial Abuse –
Reporting Requirements**

FOR the purpose of requiring certain fiduciary institutions to report suspected financial abuse of an elder adult under certain circumstances; requiring the report to be made to certain individuals and entities, at certain times, and by certain means; providing that a fiduciary institution is not required to investigate certain allegations by an elder adult or make an abuse report if the same matter already has been reported; providing that an abuse report is confidential and that the information contained in the report may be disclosed only under certain circumstances; providing that certain provisions of this Act may not be construed to allow the disclosure of certain reports or records or prohibit the disclosure of certain reports or records under certain circumstances; providing that certain provisions of this Act do not prohibit or limit the disclosure of certain financial records; requiring a fiduciary institution to establish and implement a certain training program for employees; prohibiting a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution from declining to provide certain information in connection with an investigation of suspected financial abuse; establishing certain civil penalties for violations of certain provisions of this Act; providing that the penalties may be recovered only in a certain civil action brought against a fiduciary institution and shall be paid by the fiduciary institution; defining certain terms; altering a certain definition; making certain stylistic and conforming changes; and generally relating to fiduciary institutions and requirements for reporting suspected financial abuse of elder adults.

BY repealing and reenacting, without amendments,
Article – Financial Institutions
Section 1–101(a) and (g) and 1–301(a) and (b)
Annotated Code of Maryland
(2011 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 1–305 and 1–306
Annotated Code of Maryland
(2011 Replacement Volume and 2011 Supplement)

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

Article – Financial Institutions

1–101.

(a) In this article, unless the context clearly requires otherwise, the following words have the meanings indicated.

(g) “Commissioner” means the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation.

1–301.

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

(b) (1) “Fiduciary institution” means:

(i) A national banking association;

(ii) A State banking institution;

(iii) An other–state bank that maintains a branch in this State;

(iv) A credit union that is organized under the laws of this State or of the United States;

(v) Any other organization that is organized under the banking laws of this State and subject to the supervision of the Commissioner; or

(vi) A savings and loan association that is organized under the laws of this State or of the United States.

(2) “Fiduciary institution” does not include any person licensed by the Commissioner under Title 11 of this article.

1–305.

(a) Any officer, employee, agent, or director of a fiduciary institution who knowingly and willfully discloses financial records in violation of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine of not more than \$1,000.

(b) Any person who knowingly and willfully induces or attempts to induce an officer, employee, agent, or director of a fiduciary institution to disclose financial records in violation of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine of not more than \$1,000.

(C) (1) SUBSECTIONS (A) AND (B) OF THIS SECTION DO NOT APPLY IN CONNECTION WITH AN ABUSE REPORT REQUIRED UNDER § 1-306(D) OF THIS SUBTITLE.

(2) A FIDUCIARY INSTITUTION THAT FAILS TO FILE AN ABUSE REPORT CONCERNING AN ELDER ADULT AS REQUIRED UNDER § 1-306(D) OF THIS SUBTITLE IS SUBJECT TO:

(I) A CIVIL PENALTY NOT EXCEEDING \$1,000; OR

(II) IF THE FAILURE TO REPORT IS WILLFUL, A CIVIL PENALTY NOT EXCEEDING \$5,000.

(3) THE CIVIL PENALTIES PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION:

(I) MAY BE RECOVERED ONLY IN A CIVIL ACTION BROUGHT BY THE ATTORNEY GENERAL ~~OR A STATE'S ATTORNEY~~ AGAINST THE FIDUCIARY INSTITUTION; AND

(II) SHALL BE PAID BY THE FIDUCIARY INSTITUTION.

(4) A PERSON WHO DISCLOSES INFORMATION CONTAINED IN AN ABUSE REPORT IN VIOLATION OF § 1-306(D)(4) OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500.

1-306.

(a) (1) In this section the following words have the meanings indicated.

(2) "ABUSE REPORT" MEANS THE REPORT REQUIRED UNDER SUBSECTION (D) OF THIS SECTION.

(3) "ELDER ADULT" MEANS AN INDIVIDUAL WHO IS BELIEVED TO BE:

(I) AT LEAST 65 YEARS OLD; AND

(II) RESIDING IN THE STATE.

(4) "FINANCIAL ABUSE" MEANS TO TAKE, APPROPRIATE, OBTAIN, OR RETAIN, OR ASSIST IN TAKING, APPROPRIATING, OBTAINING, OR RETAINING, REAL OR PERSONAL PROPERTY OF AN ELDER ADULT BY ANY MEANS, INCLUDING

UNDUE INFLUENCE, FOR A WRONGFUL PURPOSE OR WITH INTENT TO DEFRAUD THE ELDER ADULT.

[(2)] (5) “Financial exploitation” means any action which involves the misuse of a customer’s funds or property.

[(3)] (6) “Report OF FINANCIAL EXPLOITATION” means an oral or written report concerning financial exploitation which may include all or part of the information described in § 14–302(d) of the Family Law Article.

(b) Notwithstanding any other provision of law, a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution may disclose financial records and any other information relating to a customer of the fiduciary institution if the fiduciary institution or its officer, employee, agent, or director:

(1) Believes that the customer has been subjected to financial exploitation; and

(2) Makes the disclosure in a report OF FINANCIAL EXPLOITATION to the adult protective services program in a local department of social services.

(c) A report OF FINANCIAL EXPLOITATION filed under this section by a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution shall be deemed to protect against or prevent actual or potential fraud, unauthorized transactions, or other liability.

(D) (1) NOTWITHSTANDING ANY OTHER LAW LIMITING OR PROHIBITING DISCLOSURE, A FIDUCIARY INSTITUTION SHALL MAKE AN ABUSE REPORT AS PROVIDED IN THIS SUBSECTION IF AN EMPLOYEE OF THE FIDUCIARY INSTITUTION, WHILE ACTING WITHIN THE SCOPE OF THE EMPLOYEE’S EMPLOYMENT:

(I) HAS DIRECT CONTACT WITH AN ELDER ADULT OR REVIEWS OR APPROVES AN ELDER ADULT’S FINANCIAL DOCUMENTS, RECORDS, OR TRANSACTIONS IN CONNECTION WITH FINANCIAL SERVICES PROVIDED BY THE FIDUCIARY INSTITUTION TO OR FOR THE ELDER ADULT; AND

(II) OBSERVES OR OBTAINS KNOWLEDGE OF BEHAVIOR OR UNUSUAL CIRCUMSTANCES OR TRANSACTIONS THAT LEADS THE EMPLOYEE TO KNOW OR HAVE REASONABLE CAUSE TO SUSPECT THAT THE ELDER ADULT IS THE VICTIM OF FINANCIAL ABUSE.

(2) THE ABUSE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE:

(I) 1. TO THE ADULT PROTECTIVE SERVICES AGENCY IN A LOCAL DEPARTMENT OF SOCIAL SERVICES, THE LOCAL LAW ENFORCEMENT AGENCY, OR A STATE'S ATTORNEY; OR

2. IF THE EMPLOYEE KNOWS THAT THE ELDER ADULT RESIDES IN A LONG-TERM CARE FACILITY LOCATED IN THE STATE, TO AN OMBUDSMAN FOR THE LONG-TERM CARE FACILITY, THE LOCAL LAW ENFORCEMENT AGENCY, OR A STATE'S ATTORNEY; AND

(II) 1. BY TELEPHONE NOTIFICATION WITHIN 24 HOURS AFTER THE EMPLOYEE KNOWS OR HAS REASONABLE CAUSE TO SUSPECT THAT THE ELDER ADULT IS THE VICTIM OF FINANCIAL ABUSE; AND

2. IN WRITING SENT WITHIN 3 BUSINESS DAYS AFTER THE EMPLOYEE KNOWS OR HAS REASONABLE CAUSE TO SUSPECT THAT THE ELDER ADULT IS THE VICTIM OF FINANCIAL ABUSE.

(3) A FIDUCIARY INSTITUTION IS NOT REQUIRED TO:

(I) INVESTIGATE AN ALLEGATION BY AN ELDER ADULT THAT FINANCIAL ABUSE OF THE ELDER ADULT HAS OCCURRED; OR

(II) MAKE AN ABUSE REPORT UNDER THIS SUBSECTION IF THE SAME MATTER ALREADY HAS BEEN REPORTED AS REQUIRED UNDER THIS SUBSECTION.

(4) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, AN ABUSE REPORT MADE UNDER THIS SUBSECTION IS CONFIDENTIAL AND THE INFORMATION CONTAINED IN THE ABUSE REPORT MAY BE DISCLOSED ONLY:

(I) IN CONNECTION WITH AN INVESTIGATION OF THE SUSPECTED FINANCIAL ABUSE, TO:

1. AN ADULT PROTECTIVE SERVICES AGENCY;
2. A LONG-TERM CARE OMBUDSMAN;
3. A LAW ENFORCEMENT AGENCY; AND
4. THE OFFICE OF THE ATTORNEY GENERAL OR OF A STATE'S ATTORNEY; OR

(II) AS AUTHORIZED BY THE ELDER ADULT OR THE LEGAL GUARDIAN OF THE ELDER ADULT.

(5) PARAGRAPH (4) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO:

(I) ALLOW THE DISCLOSURE OF AN ABUSE REPORT MADE UNDER THIS SUBSECTION OR A RECORD RELEVANT TO THE ABUSE REPORT IF THE DISCLOSURE WOULD BE PROHIBITED BY ANY OTHER PROVISION OF STATE OR FEDERAL LAW; OR

(II) PROHIBIT THE DISCLOSURE BY A FIDUCIARY INSTITUTION OR AN OFFICER, EMPLOYEE, AGENT, OR DIRECTOR OF A FIDUCIARY INSTITUTION OF AN ABUSE REPORT MADE UNDER THIS SUBSECTION OR A RECORD RELEVANT TO THE ABUSE REPORT IF THE DISCLOSURE WOULD BE REQUIRED BY ANOTHER STATE LAW, FEDERAL LAW, OR COURT ORDER.

(6) THIS SUBSECTION DOES NOT PROHIBIT OR LIMIT THE DISCLOSURE OF FINANCIAL RECORDS OTHERWISE PERMITTED UNDER THIS SUBTITLE.

(7) A FIDUCIARY INSTITUTION SHALL ESTABLISH AND IMPLEMENT A TRAINING PROGRAM TO:

(I) ASSIST EMPLOYEES IN RECOGNIZING SIGNS OF POTENTIAL FINANCIAL ABUSE OF AN ELDER ADULT, SUCH AS UNUSUAL ACTIVITY IN AN ELDER ADULT'S DEPOSIT ACCOUNTS, AUTOMATED TELLER MACHINE (ATM) WITHDRAWALS BY AN ELDER ADULT WHO PREVIOUSLY NEVER USED AN ATM OR DEBIT CARD, AND SUSPICIOUS SIGNATURES ON CHECKS; AND

(II) INFORM EMPLOYEES ABOUT THE REQUIREMENT TO FILE ABUSE REPORTS AS PROVIDED UNDER THIS SUBSECTION.

[(d)] (E) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A fiduciary institution or an officer, employee, agent, or director of a fiduciary institution may decline to provide to any person information that would disclose or indicate whether a report OF FINANCIAL EXPLOITATION OR AN ABUSE REPORT has or has not been filed under this section.

(2) A FIDUCIARY INSTITUTION OR AN OFFICER, EMPLOYEE, AGENT, OR DIRECTOR OF A FIDUCIARY INSTITUTION MAY NOT DECLINE TO PROVIDE INFORMATION REQUESTED BY A PERSON IDENTIFIED IN SUBSECTION (D)(4)(I) OF THIS SECTION IN CONNECTION WITH AN INVESTIGATION OF SUSPECTED FINANCIAL ABUSE.

[(e)] (F) [There] EXCEPT AS PROVIDED IN § 1-305(C) OF THIS SUBTITLE, THERE shall be no liability on the part of and no cause of action of any nature shall arise against, and there shall be immunity from any civil and criminal liability that would otherwise result for, a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution for an action or omission involved with:

(1) Making or participating in making a disclosure or report under this section;

(2) Participating in an investigation or a judicial proceeding resulting from a report filed under this section; or

(3) Declining to provide information as described in subsection [(d)] (E) of this section.

[(f)] (G) [This] EXCEPT AS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION, THIS section does not create and may not be construed as creating, on the part of a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution, a duty to make a disclosure to an adult protective services program or file a report OF FINANCIAL EXPLOITATION under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 326

(Senate Bill 954)

AN ACT concerning

Medical Records – ~~HIPAA Consistency Act of 2012~~ Enhancement or Coordination of Patient Care

FOR the purpose of authorizing, ~~subject to certain provisions of law relating to mental health services, a covered entity to disclose protected health information, as allowed under certain federal privacy laws; providing that certain provisions of this Act only authorize disclosure of protected health information in accordance with the federal privacy laws; authorizing a medical laboratory to disclose the results of a laboratory examination under certain circumstances; establishing a certain exception to the prohibition on the disclosure of certain medical records by an insurer, an insurance service organization, a nonprofit health service plan, or a Blue Cross or Blue Shield plan; defining certain terms; certain health~~

care providers to share medical records and certain information with certain insurance carriers and accountable care organizations for the purposes of enhancing or coordinating patient care and for certain other purposes under certain circumstances and subject to certain limitations; requiring certain notices when certain information is shared between health care providers and carriers or accountable care organizations under certain circumstances; establishing certain limits on the use of certain information shared by health care providers with carriers; clarifying that medical data and claims data is medical information; and generally relating to the disclosure of protected health information by a covered entity.

BY adding to

~~Article – Health – General
Section 4-310
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Health – General
Section ~~17-202.1~~ 4-305
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance
Section 4-403 and 14-138
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article – Health – General

~~4-310.~~

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

~~(2) “COVERED ENTITY” HAS THE MEANING STATED IN 45 C.F.R. PART 160.~~

~~(3) “HIPAA” MEANS THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 AND ANY REGULATIONS ADOPTED UNDER THE ACT.~~

~~(4) “PROTECTED HEALTH INFORMATION” HAS THE MEANING STATED IN 45 C.F.R. PART 160.~~

~~(b) SUBJECT TO THE LIMITATIONS ON DISCLOSURE OF A MEDICAL RECORD DEVELOPED IN CONNECTION WITH THE PROVISION OF MENTAL HEALTH SERVICES UNDER § 4-307 OF THIS SUBTITLE, A COVERED ENTITY MAY DISCLOSE PROTECTED HEALTH INFORMATION, INCLUDING PROTECTED HEALTH INFORMATION IN A MEDICAL RECORD, AS ALLOWED UNDER HIPAA AND OTHER APPLICABLE FEDERAL PRIVACY LAWS.~~

~~(c) THIS SECTION ONLY AUTHORIZES DISCLOSURE OF PROTECTED HEALTH INFORMATION IN ACCORDANCE WITH HIPAA AND OTHER APPLICABLE FEDERAL PRIVACY LAWS.~~

~~17-202.1.~~

~~(a) On written request of an individual to a medical laboratory for a copy of the results of a laboratory examination of that individual, the medical laboratory shall send a copy of those results that are sought to that individual.~~

~~(b) (1) If the results of a laboratory examination are contained in or will be filed in a medical record, as defined in § 4-301 of this article, the request for a copy of the results shall be made to the facility pursuant to the provisions of § 4-302 of this article.~~

~~(2) In all other cases, the medical laboratory may require the individual requesting a copy of the results to pay the prevailing cost of copying and transmitting the copy.~~

~~(c) The medical laboratory shall notify the individual’s physician before sending the results to the individual.~~

~~(d) A MEDICAL LABORATORY MAY DISCLOSE THE RESULTS OF A LABORATORY EXAMINATION, AS AUTHORIZED UNDER § 4-310 OF THIS ARTICLE.~~

~~4-305.~~

(a) This section may not be construed to impose an obligation on a health care provider to disclose a medical record.

(b) A health care provider may disclose a medical record without the authorization of a person in interest:

(1) (i) To the provider’s authorized employees, agents, medical staff, medical students, or consultants for the sole purpose of offering, providing,

evaluating, or seeking payment for health care to patients or recipients by the provider;

(ii) To the provider's legal counsel regarding only the information in the medical record that relates to the subject matter of the representation; or

(iii) To any provider's insurer or legal counsel, or the authorized employees or agents of a provider's insurer or legal counsel, for the sole purpose of handling a potential or actual claim against any provider if the medical record is maintained on the claimant and relates to the subject matter of the claim;

(2) If the person given access to the medical record signs an acknowledgment of the duty under this Act not to redisclose any patient identifying information, to a person for:

(i) Educational or research purposes, subject to the applicable requirements of an institutional review board;

(ii) Evaluation and management of health care delivery systems; or

(iii) Accreditation of a facility by professional standard setting entities;

(3) Subject to the additional limitations for a medical record developed primarily in connection with the provision of mental health services in § 4-307 of this subtitle, to a government agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress;

(4) Subject to the additional limitations for a medical record developed primarily in connection with the provision of mental health services in § 4-307 of this subtitle, to another health care provider for the sole purpose of treating the patient or recipient on whom the medical record is kept;

(5) If a claim has been or may be filed by, or with the authorization of a patient or recipient on behalf of the patient or recipient, for covered insureds, covered beneficiaries, or enrolled recipients only, to third party payors and their agents, if the payors or agents have met the applicable provisions of §§ 15-10B-01 to 15-10B-18 of the Insurance Article, including nonprofit health service plans, health maintenance organizations, fiscal intermediaries and carriers, the Department of Health and Mental Hygiene and its agents, the United States Department of Health and Human Services and its agents, or any other person obligated by contract or law to pay for the health care rendered for the sole purposes of:

(i) Submitting a bill to the third party payor;

(ii) Reasonable prospective, concurrent, or retrospective utilization review or predetermination of benefit coverage;

(iii) Review, audit, and investigation of a specific claim for payment of benefits; or

(iv) Coordinating benefit payments in accordance with the provisions of the Insurance Article under more than 1 sickness and accident, dental, or hospital and medical insurance policy;

(6) If a health care provider makes a professional determination that an immediate disclosure is necessary, to provide for the emergency health care needs of a patient or recipient;

(7) Except if the patient has instructed the health care provider not to make the disclosure, or if the record has been developed primarily in connection with the provision of mental health services, to immediate family members of the patient or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice;

(8) To an appropriate organ, tissue, or eye recovery agency under the restrictions of § 5–408 of this article for a patient whose organs and tissues may be donated for the purpose of evaluating the patient for possible organ and tissue donation;

(9) To the Department of Health and Mental Hygiene or an organ, tissue, or eye recovery agency designated by the Department for the purpose of conducting death record reviews under § 19–310 of this article;[or]

(10) Subject to subsection (c) of this section, if the purpose of the medical record disclosure is for the coordination of services and record retention within the Montgomery County Department of Health and Human Services; OR

(11) TO A CARRIER, AS DEFINED IN § 15–1301 OF THE INSURANCE ARTICLE, OR AN ACCOUNTABLE CARE ORGANIZATION, AS DEFINED IN § 3022 OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT, FOR THE SOLE PURPOSES OF ENHANCING OR COORDINATING PATIENT CARE, PROVIDED THAT:

(I) A DISCLOSURE UNDER THIS ITEM IS SUBJECT TO THE ADDITIONAL LIMITATIONS IN § 4–307 OF THIS SUBTITLE ON DISCLOSURE OF A MEDICAL RECORD DEVELOPED PRIMARILY IN CONNECTION WITH THE PROVISION OF MENTAL HEALTH SERVICES;

(II) A MEDICAL RECORD MAY BE DISCLOSED ONLY IN ACCORDANCE WITH THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996, ANY REGULATIONS ADOPTED UNDER THE ACT,

AND ANY OTHER APPLICABLE FEDERAL PRIVACY LAWS, AND DISCLOSURES UNDER THIS ITEM MAY NOT BE MADE IN VIOLATION OF THE PROHIBITED USES OR DISCLOSURES UNDER THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996;

(III) A DISCLOSURE UNDER THIS ITEM MAY NOT BE USED FOR UNDERWRITING OR UTILIZATION REVIEW PURPOSES;

(IV) A HEALTH CARE PROVIDER THAT DISCLOSES A MEDICAL RECORD IN ACCORDANCE WITH THIS ITEM SHALL PROVIDE A NOTICE CONSISTENT WITH THE REQUIREMENTS OF 45 C.F.R. § 164.520 SPECIFYING THE INFORMATION TO BE SHARED, WITH WHOM IT WILL BE SHARED, AND THE SPECIFIC TYPES OF USES AND DISCLOSURES THAT THE HEALTH CARE PROVIDER MAY MAKE IN ACCORDANCE WITH THIS ITEM;

(V) THE NOTICE REQUIRED BY ITEM (IV) OF THIS ITEM SHALL INCLUDE AN OPPORTUNITY FOR THE INDIVIDUAL TO OPT-OUT OF THE SHARING OF THE INDIVIDUAL'S MEDICAL RECORD WITH A CARRIER OR AN ACCOUNTABLE CARE ORGANIZATION FOR THE PURPOSES IDENTIFIED IN THIS ITEM; AND

(VI) IF A HEALTH CARE PROVIDER DISCLOSES MEDICAL INFORMATION OR MEDICAL DATA TO A CARRIER OR ACCOUNTABLE CARE ORGANIZATION THROUGH AN INFRASTRUCTURE THAT PROVIDES ORGANIZATIONAL AND TECHNICAL CAPABILITIES FOR THE EXCHANGE OF PROTECTED HEALTH INFORMATION AMONG ENTITIES NOT UNDER COMMON OWNERSHIP, THE HEALTH CARE PROVIDERS ARE SUBJECT TO THE REQUIREMENTS OF §§ 4-302.2 AND 4-302.3 OF THIS SUBTITLE.

(c) (1) The disclosure of medical records under subsection (b)(10) of this section to a person that is not employed by or under contract with the Montgomery County Department of Health and Human Services shall be conducted in accordance with this subtitle.

(2) Under provisions of State law regarding confidentiality, the Montgomery County Department of Health and Human Services shall be considered to be one agency.

Article – Insurance

4-403.

(a) Except as provided in subsection (b), (c), or (d) of this section ~~OR IN § 4-310 OF THE HEALTH GENERAL ARTICLE~~, an insurer, or an insurance service

organization whose functions include the collection of medical data, may not disclose the contents of an insured's medical OR CLAIMS records.

(b) (1) An insurer may disclose specific medical information OR MEDICAL DATA contained in an insured's medical OR CLAIMS records to:

- (i) the insured;
- (ii) the insured's agent or representative; or
- (iii) on request of the insured, a physician of the insured's choice.

(2) An insurer, or an insurance service organization whose functions include the collection of medical data, may disclose specific medical information OR MEDICAL DATA contained in an insured's medical OR CLAIMS records if the insured authorizes the disclosure.

(c) An insurer, or an insurance service organization whose functions include the collection of medical data, may disclose ~~the contents of~~ SPECIFIC MEDICAL INFORMATION OR MEDICAL DATA CONTAINED IN an insured's medical OR CLAIMS records without the authorization of the insured:

(1) to a medical review committee, accreditation board, or commission, if the information is requested by or is in furtherance of the purpose of the committee, board, or commission;

(2) in response to legal process;

(3) to a nonprofit health service plan or Blue Cross or Blue Shield plan to coordinate benefit payments under multiple sickness and accident, dental, or hospital medical contracts;

(4) to investigate possible insurance fraud;

(5) for reinsurance purposes;

(6) in the normal course of underwriting, to an insurer information exchange that may not redisclose the information unless expressly authorized by the person to whom the information pertains;

(7) to evaluate an application for or renewal of insurance;

(8) to evaluate and adjust a claim for benefits under a policy OR TO EVALUATE AND CALCULATE PROVIDER FISCAL INCENTIVES OR OTHER TYPES OF PROVIDER PAYMENTS;

- (9) to evaluate, settle, or defend a claim or suit for personal injury;
- (10) in accordance with a cost containment contractual obligation to verify that benefits paid by the insurer were proper contractually; ~~or~~
- (11) to a policyholder if:
 - (i) the policyholder does not further disclose the specific medical information; and
 - (ii) the information is required for an audit of the billing made by the insurer to the policyholder; OR

(12) TO THE INSURED'S TREATING PROVIDERS FOR THE SOLE PURPOSES OF ENHANCING OR COORDINATING PATIENT CARE OR ASSISTING THE TREATING PROVIDERS' CLINICAL DECISION MAKING, PROVIDED THAT:

(I) A DISCLOSURE UNDER THIS ITEM IS SUBJECT TO THE ADDITIONAL LIMITATIONS IN § 4-307 OF THE HEALTH – GENERAL ARTICLE ON DISCLOSURE OF A MEDICAL RECORD DEVELOPED PRIMARILY IN CONNECTION WITH THE PROVISION OF MENTAL HEALTH SERVICES;

(II) MEDICAL INFORMATION OR MEDICAL DATA CONTAINED IN AN INSURED'S MEDICAL OR CLAIMS RECORDS MAY BE DISCLOSED ONLY IN ACCORDANCE WITH THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996, ANY REGULATIONS ADOPTED UNDER THE ACT, AND ANY OTHER APPLICABLE FEDERAL PRIVACY LAWS, AND DISCLOSURES UNDER THIS ITEM MAY NOT BE MADE IN VIOLATION OF THE PROHIBITED USES OR DISCLOSURES UNDER THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996;

(III) AN INSURER OR AN INSURANCE SERVICE ORGANIZATION THAT DISCLOSES MEDICAL INFORMATION OR MEDICAL DATA CONTAINED IN AN INSURED'S MEDICAL OR CLAIMS RECORDS IN ACCORDANCE WITH THIS ITEM SHALL PROVIDE A NOTICE CONSISTENT WITH THE REQUIREMENTS OF 45 C.F.R. § 164.520 SPECIFYING THE INFORMATION TO BE SHARED, WITH WHOM IT WILL BE SHARED, AND THE SPECIFIC TYPES OF USES AND DISCLOSURES THAT THE INSURER OR INSURANCE SERVICE ORGANIZATION MAY MAKE IN ACCORDANCE WITH THIS ITEM;

(IV) THE NOTICE REQUIRED BY ITEM (III) OF THIS ITEM SHALL INCLUDE AN OPPORTUNITY FOR THE INSURED TO OPT-OUT OF THE SHARING OF THE INSURED'S MEDICAL INFORMATION OR MEDICAL DATA CONTAINED IN THE INSURED'S MEDICAL OR CLAIMS RECORDS WITH THE

INSURED'S TREATING PROVIDERS FOR THE PURPOSES IDENTIFIED IN THIS ITEM; AND

(V) IF AN INSURER OR AN INSURANCE SERVICE ORGANIZATION DISCLOSES MEDICAL INFORMATION OR MEDICAL DATA THROUGH AN INFRASTRUCTURE THAT PROVIDES ORGANIZATIONAL AND TECHNICAL CAPABILITIES FOR THE EXCHANGE OF PROTECTED HEALTH INFORMATION, AS DEFINED IN § 4-301 OF THE HEALTH – GENERAL ARTICLE, AMONG ENTITIES NOT UNDER COMMON OWNERSHIP, THE INSURER IS SUBJECT TO THE REQUIREMENTS OF §§ 4-302.2 AND 4-302.3 OF THE HEALTH – GENERAL ARTICLE.

(d) This section does not prohibit the use of medical records, data, or statistics if the use does not disclose the identity of a particular insured or covered person.

(e) An insurer that knowingly violates this section is liable to a plaintiff for any damages recoverable in a civil action, including reasonable attorney's fees.

14-138.

(a) Except as provided in subsection (b), (c), or (d) of this section ~~OR IN § 4-310 OF THE HEALTH – GENERAL ARTICLE~~, a nonprofit health service plan or Blue Cross or Blue Shield plan may not disclose specific medical information contained in a subscriber's or certificate holder's medical OR CLAIMS records.

(b) A nonprofit health service plan or Blue Cross or Blue Shield plan may disclose specific medical information OR MEDICAL DATA contained in a subscriber's or certificate holder's medical OR CLAIMS records:

- (1) to the individual or individual's agent or representative; or
- (2) if the individual authorizes the disclosure.

(c) A nonprofit health service plan or Blue Cross or Blue Shield plan may disclose specific medical information contained in a subscriber's or certificate holder's medical records without the authorization of the subscriber or certificate holder:

- (1) to a medical review committee, accreditation board, or commission, if the information is requested by or is in furtherance of the purpose of the committee, board, or commission;
- (2) in response to legal process;

(3) to another nonprofit health service plan, Blue Cross or Blue Shield plan, or insurer to coordinate benefit payments under multiple sickness and accident, dental, or hospital medical contracts;

(4) to a government agency performing its lawful duties as authorized by an act of the General Assembly or United States Congress;

(5) to a researcher, on request, for medical and health care research in accordance with a protocol approved by an institutional review board;

(6) in accordance with a cost containment contractual obligation to verify that benefits paid by the nonprofit health service plan were proper contractually; ~~or~~

(7) to a third party payor if:

(i) the third party payor does not further disclose the specific medical OR CLAIMS information; and

(ii) the information is required for an audit of the billing made by the plan to the payor;

(8) TO EVALUATE AND ADJUST A CLAIM FOR BENEFITS UNDER A POLICY OR TO EVALUATE AND CALCULATE PROVIDER FISCAL INCENTIVES OR OTHER TYPES OF PROVIDER PAYMENTS; OR

(9) TO THE INDIVIDUAL'S TREATING PROVIDERS FOR THE SOLE PURPOSES OF ENHANCING OR COORDINATING PATIENT CARE OR ASSISTING THE TREATING PROVIDERS' CLINICAL DECISION MAKING, PROVIDED THAT:

(I) A DISCLOSURE UNDER THIS ITEM IS SUBJECT TO THE ADDITIONAL LIMITATIONS IN § 4-307 OF THE HEALTH – GENERAL ARTICLE ON DISCLOSURE OF A MEDICAL RECORD DEVELOPED PRIMARILY IN CONNECTION WITH THE PROVISION OF MENTAL HEALTH SERVICES;

(II) MEDICAL INFORMATION OR MEDICAL DATA CONTAINED IN AN INSURED'S MEDICAL OR CLAIMS RECORDS MAY BE DISCLOSED ONLY IN ACCORDANCE WITH THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996, ANY REGULATIONS ADOPTED UNDER THE ACT, AND ANY OTHER APPLICABLE FEDERAL PRIVACY LAWS, AND DISCLOSURES UNDER THIS ITEM MAY NOT BE MADE IN VIOLATION OF THE PROHIBITED USES OR DISCLOSURES UNDER THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996;

(III) A NONPROFIT HEALTH SERVICE PLAN OR BLUE CROSS OR BLUE SHIELD PLAN THAT DISCLOSES MEDICAL INFORMATION OR MEDICAL DATA CONTAINED IN AN INSURED'S MEDICAL OR CLAIMS RECORDS IN ACCORDANCE WITH THIS ITEM SHALL PROVIDE A NOTICE CONSISTENT WITH THE REQUIREMENTS OF 45 C.F.R. § 164.520 SPECIFYING THE INFORMATION TO BE SHARED, WITH WHOM IT WILL BE SHARED, AND THE SPECIFIC TYPES OF USES AND DISCLOSURES THAT THE NONPROFIT HEALTH SERVICE PLAN OR BLUE CROSS OR BLUE SHIELD PLAN MAY MAKE IN ACCORDANCE WITH THIS ITEM;

(IV) THE NOTICE REQUIRED BY ITEM (III) OF THIS ITEM SHALL INCLUDE AN OPPORTUNITY FOR THE INDIVIDUAL TO OPT-OUT OF THE SHARING OF THE INDIVIDUAL'S MEDICAL INFORMATION OR MEDICAL DATA CONTAINED IN AN INDIVIDUAL'S MEDICAL OR CLAIMS RECORDS WITH THE INDIVIDUAL'S TREATING PROVIDERS FOR THE PURPOSES IDENTIFIED IN THIS ITEM; AND

(V) IF A NONPROFIT HEALTH SERVICE PLAN OR BLUE CROSS OR BLUE SHIELD PLAN DISCLOSES MEDICAL INFORMATION OR MEDICAL DATA THROUGH AN INFRASTRUCTURE THAT PROVIDES ORGANIZATIONAL AND TECHNICAL CAPABILITIES FOR THE EXCHANGE OF PROTECTED HEALTH INFORMATION, AS DEFINED IN § 4-301 OF THE HEALTH – GENERAL ARTICLE, AMONG ENTITIES NOT UNDER COMMON OWNERSHIP, THE NONPROFIT HEALTH SERVICE PLAN OR BLUE CROSS OR BLUE SHIELD PLAN IS SUBJECT TO THE REQUIREMENTS OF §§ 4-302.2 AND 4-302.3 OF THE HEALTH – GENERAL ARTICLE.

(d) This section does not prohibit the use of medical records, data, or statistics if the use does not disclose the identity of a particular subscriber or certificate holder.

(e) A nonprofit health service plan that knowingly violates this section is liable to a plaintiff for any damages recoverable in a civil action, including reasonable attorney's fees.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 327

(Senate Bill 967)

AN ACT concerning

**Maryland Higher Education Commission – Student Transfer Advisory
Committee**

FOR the purpose of establishing a Student Transfer Advisory Committee; providing for the composition, officers, and staffing of the Committee; prohibiting a member of the Committee from receiving compensation, but entitling a member to reimbursement for certain expenses; providing for the duties of the Committee; requiring the Committee to meet at least a certain number of times per year; requiring the Committee to submit a certain report on its findings and recommendations on or before certain dates; providing for the termination of the Committee; and generally relating to the Student Transfer Advisory Committee.

BY adding to

Article – Education

Section 11–106.1

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

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

Article – Education

11–106.1.

(A) THERE IS A STUDENT TRANSFER ADVISORY COMMITTEE.

(B) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

(1) THE SECRETARY OF HIGHER EDUCATION, OR THE SECRETARY'S DESIGNEE;

(2) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND, OR THE CHANCELLOR'S DESIGNEE;

(3) THE PRESIDENT OF ST. MARY'S COLLEGE OF MARYLAND, OR THE PRESIDENT'S DESIGNEE;

(4) THE PRESIDENT OF MORGAN STATE UNIVERSITY, OR THE PRESIDENT'S DESIGNEE;

(5) THE EXECUTIVE DIRECTOR OF THE MARYLAND ASSOCIATION OF COMMUNITY COLLEGES, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(6) THE PRESIDENT OF THE MARYLAND INDEPENDENT COLLEGE AND UNIVERSITY ASSOCIATION, OR THE PRESIDENT'S DESIGNEE;

(7) THE ASSISTANT SECRETARY FOR THE DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, OR THE ASSISTANT SECRETARY'S DESIGNEE;

(8) THE ASSISTANT STATE SUPERINTENDENT FOR CAREER AND COLLEGE READINESS IN THE STATE DEPARTMENT OF EDUCATION, OR THE ASSISTANT STATE SUPERINTENDENT'S DESIGNEE;

(9) A REPRESENTATIVE OF THE STUDENT ADVISORY COUNCIL, APPOINTED BY THE SECRETARY;

(10) A REPRESENTATIVE FROM THE MARYLAND ASSOCIATION OF PRIVATE CAREER SCHOOLS, APPOINTED BY THE SECRETARY; AND

(11) A REPRESENTATIVE FROM A FOR-PROFIT INSTITUTION OF HIGHER EDUCATION THAT OPERATES IN THE STATE, APPOINTED BY THE SECRETARY.

(C) THE MEMBERS OF THE COMMITTEE MAY ELECT A CHAIR AND OTHER OFFICERS OF THE COMMITTEE, AS NEEDED.

(D) THE COMMISSION SHALL PROVIDE STAFF FOR THE COMMITTEE.

(E) A MEMBER OF THE COMMITTEE:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMITTEE; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(F) THE COMMITTEE SHALL REVIEW AND ANALYZE:

(1) ARTICULATION AND STUDENT SUPPORT SERVICES, INCLUDING ADMISSION AND ADVISING PRACTICES; AND

(2) ANY OTHER STUDENT TRANSFER RELATED ISSUES AS REFERRED TO THE COMMITTEE BY THE COMMISSION.

(G) THE COMMITTEE SHALL MEET AT LEAST FOUR TIMES PER YEAR.

(H) ON OR BEFORE DECEMBER 1, 2013, AND IN EACH ODD-NUMBERED YEAR THEREAFTER, THE COMMITTEE SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012. It shall remain effective for a period of 10 years and, at the end of June 30, 2022, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2012.

Chapter 328

(Senate Bill 975)

AN ACT concerning

Baltimore City – Alcoholic Beverages – Zoo License

FOR the purpose of creating a Class BWL–MZ license for use at a zoo in a certain location in Baltimore City; specifying that the license may be used to sell beer, wine, and liquor for consumption only on the land and in the facilities used by the zoo; requiring an applicant who has another alcoholic beverages license to exchange that license for a Class BWL–MZ license; requiring the Board of Liquor License Commissioners for Baltimore City to take a certain action; authorizing the licensee to designate an agent for a certain purpose; specifying that the agent shall be considered the vendor for a certain purpose; authorizing the sale of beer, wine, and liquor at multiple locations under certain circumstances; providing the hours of sale and the annual fee for the license; authorizing the Board to adopt certain regulations; and generally relating to a Class BWL–MZ license for use at a zoo in Baltimore City.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 9–204.1(a)
Annotated Code of Maryland
(2011 Replacement Volume)

BY adding to

Article 2B – Alcoholic Beverages
Section 9–204.1(h)
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

9–204.1.

(a) In this section, “Board” means the Board of Liquor License Commissioners for Baltimore City.

(H) (1) THE BOARD MAY ISSUE A SPECIAL CLASS BWL–MZ LICENSE FOR USE AT A ZOO IN DRUID HILL PARK.

(2) THE LICENSE MAY BE USED TO SELL BEER, WINE, AND LIQUOR FOR CONSUMPTION ONLY ON THE LAND AND IN THE FACILITIES USED BY THE ZOO.

(3) (I) AN APPLICANT FOR A CLASS BWL–MZ LICENSE WHO HAS AN ALCOHOLIC BEVERAGES LICENSE ISSUED BY THE BOARD SHALL EXCHANGE THAT LICENSE FOR A CLASS BWL–MZ LICENSE.

(II) THE BOARD SHALL EXTINGUISH THE LICENSE EXCHANGED BY THE APPLICANT.

(4) (I) THE LICENSEE MAY DESIGNATE AN AGENT TO SELL BEER, WINE, AND LIQUOR AT THE ZOO.

(II) THE AGENT SHALL BE CONSIDERED THE VENDOR FOR COLLECTING AND REMITTING THE SALES AND USE TAX.

(5) ON APPROVAL BY THE BOARD, BEER, WINE, AND LIQUOR MAY BE SOLD AT THE ZOO IN MULTIPLE LOCATIONS.

(6) THE HOURS OF SALE FOR THE LICENSE ARE FROM NOON TO 11 P.M. EVERY DAY OF THE WEEK.

(7) THE ANNUAL LICENSE FEE IS \$500.

(8) THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 329

(House Bill 1319)

AN ACT concerning

Baltimore City – Alcoholic Beverages – Zoo License

FOR the purpose of creating a Class BWL–MZ license for use at a zoo in a certain location in Baltimore City; specifying that the license may be used to sell beer, wine, and liquor for consumption only on the land and in the facilities used by the zoo; requiring an applicant who has another alcoholic beverages license to exchange that license for a Class BWL–MZ license; requiring the Board of Liquor License Commissioners for Baltimore City to take a certain action; authorizing the licensee to designate an agent for a certain purpose; specifying that the agent shall be considered the vendor for a certain purpose; authorizing the sale of beer, wine, and liquor at multiple locations under certain circumstances; providing the hours of sale and the annual fee for the license; authorizing the Board to adopt certain regulations; and generally relating to a Class BWL–MZ license for use at a zoo in Baltimore City.

BY repealing and reenacting, without amendments,

Article 2B – Alcoholic Beverages

Section 9–204.1(a)

Annotated Code of Maryland

(2011 Replacement Volume)

BY adding to

Article 2B – Alcoholic Beverages

Section 9–204.1(h)

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

9-204.1.

(a) In this section, “Board” means the Board of Liquor License Commissioners for Baltimore City.

(H) (1) THE BOARD MAY ISSUE A SPECIAL CLASS BWL–MZ LICENSE FOR USE AT A ZOO IN DRUID HILL PARK.

(2) THE LICENSE MAY BE USED TO SELL BEER, WINE, AND LIQUOR FOR CONSUMPTION ONLY ON THE LAND AND IN THE FACILITIES USED BY THE ZOO.

(3) (I) AN APPLICANT FOR A CLASS BWL–MZ LICENSE WHO HAS AN ALCOHOLIC BEVERAGES LICENSE ISSUED BY THE BOARD SHALL EXCHANGE THAT LICENSE FOR A CLASS BWL–MZ LICENSE.

(II) THE BOARD SHALL EXTINGUISH THE LICENSE EXCHANGED BY THE APPLICANT.

(4) (I) THE LICENSEE MAY DESIGNATE AN AGENT TO SELL BEER, WINE, AND LIQUOR AT THE ZOO.

(II) THE AGENT SHALL BE CONSIDERED THE VENDOR FOR COLLECTING AND REMITTING THE SALES AND USE TAX.

(5) ON APPROVAL BY THE BOARD, BEER, WINE, AND LIQUOR MAY BE SOLD AT THE ZOO IN MULTIPLE LOCATIONS.

(6) THE HOURS OF SALE FOR THE LICENSE ARE FROM NOON TO 11 P.M. EVERY DAY OF THE WEEK.

(7) THE ANNUAL LICENSE FEE IS \$500.

(8) THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 330

(Senate Bill 977)

AN ACT concerning

Transportation – Institutions of Higher Education and State Employment Facilities – Bicycle and Pedestrian Access

FOR the purpose of requiring each public institution of higher education ~~and State employment facility to develop on or before a certain date a facility master plan,~~ when it revises its facility master plan, to address bicycle and pedestrian circulation on and around the institution's campus; requiring the institution ~~or employment facility~~ to include certain measures in the facility master plan; and generally relating to bicycle and pedestrian access at institutions of higher education ~~and State employment facilities.~~

BY repealing and reenacting, with amendments,
 Article – Transportation
 Section 21–1008
 Annotated Code of Maryland
 (2009 Replacement Volume and 2011 Supplement)

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

Article – Transportation

21–1008.

(A) By fiscal year 2000, each public institution of higher education and State employment facility shall provide reasonable accommodations necessary for bicycle access, including parking for bicycles.

~~(B) BY FISCAL YEAR 2014, EACH~~ WHEN A PUBLIC INSTITUTION OF HIGHER EDUCATION REVISES ITS FACILITY MASTER PLAN, THE PUBLIC INSTITUTION OF HIGHER EDUCATION AND STATE EMPLOYMENT FACILITY SHALL DEVELOP A FACILITY MASTER PLAN THAT ADDRESSES ADDRESS BICYCLE AND PEDESTRIAN TRANSPORTATION CIRCULATION:

(1) ~~BETWEEN THE INSTITUTION OR EMPLOYMENT FACILITY AND THE COMMUNITIES ADJACENT TO THE INSTITUTION OR EMPLOYMENT FACILITY;~~ AND

(2) ~~WITHIN THE CAMPUS OF THE INSTITUTION OR EMPLOYMENT FACILITY.~~

(C) **THE FACILITY MASTER PLAN SHALL INCLUDE MEASURES THAT THE INSTITUTION ~~OR EMPLOYMENT FACILITY~~ PROPOSES TO:**

(1) **INCORPORATE BIKEWAYS AND PEDESTRIAN FACILITIES ON THE CAMPUS; AND**

(2) **PROMOTE BIKING AND WALKING ON THE CAMPUS.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 331

(House Bill 1278)

AN ACT concerning

Transportation – Institutions of Higher Education ~~and State Employment Facilities~~ – Bicycle and Pedestrian Access

FOR the purpose of requiring each public institution of higher education ~~and State employment facility to develop on or before a certain date a facility master plan,~~ when it revises its facility master plan, to address bicycle and pedestrian circulation on and around the institution's campus; requiring the institution ~~or employment facility~~ to include certain measures in the facility master plan; and generally relating to bicycle and pedestrian access at institutions of higher education ~~and State employment facilities.~~

BY repealing and reenacting, with amendments,

Article – Transportation

Section 21–1008

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – Transportation

21–1008.

(A) By fiscal year 2000, each public institution of higher education and State employment facility shall provide reasonable accommodations necessary for bicycle access, including parking for bicycles.

~~(B) BY FISCAL YEAR 2014, EACH~~ WHEN A PUBLIC INSTITUTION OF HIGHER EDUCATION REVISES ITS FACILITY MASTER PLAN, THE PUBLIC INSTITUTION OF HIGHER EDUCATION AND STATE EMPLOYMENT FACILITY SHALL DEVELOP A FACILITY MASTER PLAN THAT ADDRESSES ADDRESS BICYCLE AND PEDESTRIAN TRANSPORTATION CIRCULATION:

(1) ~~BETWEEN THE INSTITUTION OR EMPLOYMENT FACILITY AND THE COMMUNITIES ADJACENT TO THE INSTITUTION OR EMPLOYMENT FACILITY;~~ AND

(2) ~~WITHIN THE CAMPUS OF THE INSTITUTION OR EMPLOYMENT FACILITY.~~

(C) ~~THE FACILITY MASTER PLAN SHALL INCLUDE MEASURES THAT THE INSTITUTION OR EMPLOYMENT FACILITY PROPOSES TO:~~

(1) ~~INCORPORATE BIKEWAYS AND PEDESTRIAN FACILITIES ON THE CAMPUS; AND~~

(2) ~~PROMOTE BIKING AND WALKING ON THE CAMPUS.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 332

(Senate Bill 984)

AN ACT concerning

Baltimore City – Alcoholic Beverages – Beer, Wine, and Liquor Tasting License

FOR the purpose of authorizing a Class BWLT beer, wine, and liquor tasting license in a certain precinct of Ward 27 of the 43rd Legislative District of Baltimore City; and generally relating to alcoholic beverages licenses in Baltimore City.

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages
Section 8–403.2
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

8–403.2.

(a) This section applies only in:

(1) Ward 27, precincts 42 and 44 of the 41st Legislative District of Baltimore City;

(2) Ward 27, [precinct 41] **PRECINCTS 41 AND 48** of the 43rd Legislative District of Baltimore City; and

(3) Ward 11, precinct 5 of the 44th Legislative District of Baltimore City.

(b) The Board of Liquor License Commissioners for Baltimore City may issue a Class BWLT beer, wine, and liquor (on–premises) tasting license to a holder of a Class A beer, wine and liquor license.

(c) (1) The fees for a Class BWLT license are as follows:

(i) \$20 for a daily tasting license, which may be issued not more than 12 times in any annual license year;

(ii) \$200 annually for a 26–day tasting license, which may be used consecutively or nonconsecutively; and

(iii) \$300 annually for a 52–day tasting license, which may be used consecutively or nonconsecutively.

(2) The fees for a Class BWLT license are in addition to the Class A annual license fee.

(d) (1) A Class BWLT license authorizes the holder to allow the on–premises consumption of beer, light wine, and liquor for tasting or sampling.

(2) A person may consume beer, light wine, or liquor covered by a Class BWLT license in a quantity not exceeding:

- (i) 1 ounce of light wine from a given brand in a single day;
- (ii) 3 ounces of beer from a given brand in a single day; and
- (iii) One-half ounce of liquor from a given brand in a single day.

(e) At the end of each day for which a Class BWLT license is valid, the holder of the license shall dispose of any unconsumed alcoholic beverage remaining in a container that was opened for tasting or sampling.

(f) (1) Each Class A license holder that seeks issuance of a Class BWLT license for which the holder is eligible shall apply for the license on forms provided by the Board of Liquor License Commissioners for Baltimore City.

(2) The forms provided by the Board of Liquor License Commissioners for Baltimore City under paragraph (1) of this subsection shall specify the date or dates on which the tasting is requested to occur.

(3) The application and payment for the daily license shall be submitted at least 7 days in advance of the tasting event or 7 days in advance of the first day of consecutive day tasting events.

(4) The application and payment for the 26-day tasting license and the 52-day tasting license shall be made at least 7 days in advance of the first proposed tasting event.

(5) The holder of a 26-day tasting license and a 52-day tasting license shall notify the Board of Liquor License Commissioners for Baltimore City, on forms approved by the Board of Liquor License Commissioners for Baltimore City, of additional tasting events authorized by the licenses.

(g) The provisions of this section are not restricted by:

(1) § 12-107(b) of this article; and

(2) The provisions in § 9-102 of this article that prohibit the issuance of two licenses for the same premises.

(h) The holder of a Class BWLT license may exercise the privileges of this section during the hours and days provided for under the holder's respective Class A license.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 333**(Senate Bill 994)**

AN ACT concerning

**Environment – Temporary Dewatering Devices and Well Drilling –
Notification to Municipalities**

FOR the purpose of requiring a person that installs a temporary dewatering device to notify a municipality under certain circumstances; requiring a well driller, when applying for a permit to drill a well, to notify a municipality under certain circumstances; and generally relating to drilling wells and providing notification to municipalities.

BY repealing and reenacting, with amendments,

Article – Environment

Section 9–1306 and 9–1307

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

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

Article – Environment

9–1306.

(a) Except as indicated in subsection (b) of this section, a person may not drill a well in this State unless the Department issues a permit to drill the well.

(b) A person who has not been issued a permit by the Department may, after having notified the county board of health[,] **AND A MUNICIPALITY IF THE TEMPORARY DEWATERING DEVICE WILL BE LOCATED INSIDE THE MUNICIPALITY’S CORPORATE BOUNDARY LINE OR IF THE TEMPORARY DEWATERING DEVICE WILL BE LOCATED 1 MILE OR LESS OUTSIDE THE MUNICIPALITY’S CORPORATE BOUNDARY LINE**, install a temporary dewatering device to facilitate the installation of underground utilities if the device:

(1) Is installed 30 feet or less below the ground surface;

(2) Is not located in any trench used for the installation of underground utilities;

(3) Contains no mechanical pumping equipment below the surface;
and

(4) Is removed no more than 30 days after installation.

(c) A person installing a temporary dewatering device under subsection (b) of this section shall restore the subsurface conditions of the installation area as nearly as possible to the conditions that existed before the installation.

9-1307.

(a) In applying for a permit to drill a well, the well driller shall [give]:

(1) **GIVE** the Department any information the Department requires;
AND

(2) **NOTIFY A MUNICIPALITY IF THE WELL WILL BE DRILLED INSIDE THE MUNICIPALITY'S CORPORATE BOUNDARY LINE OR IF THE WELL WILL BE DRILLED 1 MILE OR LESS OUTSIDE THE MUNICIPALITY'S CORPORATE BOUNDARY LINE.**

(b) As a condition to issuing a permit to drill a well, the Department may require that samples of the materials encountered in drilling the well be preserved and submitted to the Department.

(c) (1) (i) A county board of health may establish a permit fee to defray county expenses in inspecting wells, collecting water samples, and issuing certificates of potability.

(ii) For an interim certificate of potability, a county board of health shall accept initial test results prepared by a private State certified laboratory.

(2) (i) The fee may be charged before a permit required under § 9-1306 of this subtitle is issued.

(ii) Except as provided in subparagraph (iii) of this paragraph, the fee may not exceed \$160 per well or \$160 per cluster of wells to be used exclusively to transfer heat to or from the ground or groundwater.

(iii) In Anne Arundel County only:

1. Subject to item 2 of this subparagraph, the fee charged shall be set so as to produce funds to reflect the actual cost of inspecting wells, collecting water samples, and issuing certificates of potability by the Anne Arundel County Board of Health; and

2. For a well drilled to replace an existing well the fee charged shall be no more than 50% of the fee as calculated under item 1 of this subparagraph.

(3) A permit shall be issued within a reasonable period of time after receipt of the application and shall be valid for a period of 12 months from the date of issuance by the approved delegated permitting authority.

(d) A county board of health may waive a fee for a well that is drilled to replace a well not in conformity with the regulations adopted under § 9–1305 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 334

(Senate Bill 998)

AN ACT concerning

Motor Vehicle Administration – Plug–In Vehicles – Disclosure of Personal Information

FOR the purpose of requiring a custodian of certain records of the Motor Vehicle Administration containing personal information to disclose certain personal information related to plug–in vehicles for certain use by an electric company subject to certain restrictions; and generally relating to the disclosure of personal information related to plug–in vehicles from the records of the Motor Vehicle Administration.

BY repealing and reenacting, without amendments,
Article – State Government
Section 10–616(p)(1)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 10–616(p)(5)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – State Government

10–616.

(p) (1) Except as provided in paragraphs (2) through (5) of this subsection, a custodian may not knowingly disclose a public record of the Motor Vehicle Administration containing personal information.

(5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, a custodian shall disclose personal information:

(i) for use by a federal, state, or local government, including a law enforcement agency, or a court in carrying out its functions;

(ii) for use in connection with matters of:

1. motor vehicle or driver safety;
2. motor vehicle theft;
3. motor vehicle emissions;
4. motor vehicle product alterations, recalls, or advisories;
5. performance monitoring of motor vehicle parts and dealers; and
6. removal of nonowner records from the original records of motor vehicle manufacturers;

(iii) for use by a private detective agency licensed by the Secretary of State Police under Title 13 of the Business Occupations and Professions Article or a security guard service licensed by the Secretary of State Police under Title 19 of the Business Occupations and Professions Article for a purpose permitted under this paragraph;

(iv) for use in connection with a civil, administrative, arbitral, or criminal proceeding in a federal, state, or local court or regulatory agency for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments or orders;

(v) for purposes of research or statistical reporting as approved by the Motor Vehicle Administration provided that the personal information is not published, redisclosed, or used to contact the individual;

(vi) for use by an insurer, insurance support organization, or self-insured entity, or its employees, agents, or contractors, in connection with rating, underwriting, claims investigating, and antifraud activities;

(vii) for use in the normal course of business activity by a legitimate business entity, its agents, employees, or contractors, but only:

1. to verify the accuracy of personal information submitted by the individual to that entity; and

2. if the information submitted is not accurate, to obtain correct information only for the purpose of:

A. preventing fraud by the individual;

B. pursuing legal remedies against the individual; or

C. recovering on a debt or security interest against the individual;

(viii) for use by an employer or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. § 31101 et seq.);

(ix) for use in connection with the operation of a private toll transportation facility;

(x) for use in providing notice to the owner of a towed or impounded motor vehicle;

(xi) for use by an applicant who provides written consent from the individual to whom the information pertains if the consent is obtained within the 6-month period before the date of the request for personal information;

(xii) for use in any matter relating to:

1. the operation of a Class B (for hire), Class C (funeral and ambulance), or Class Q (limousine) vehicle; and

2. public safety or the treatment by the operator of a member of the public;

(xiii) for a use specifically authorized by the law of this State, if the use is related to the operation of a motor vehicle or public safety;

(xiv) for use by a hospital to obtain, for hospital security purposes, information relating to ownership of vehicles parked on hospital property; [and]

(xv) for use by a procurement organization requesting information under § 4-516 of the Estates and Trusts Article for the purposes of organ, tissue, and eye donation; AND

(XVI) FOR USE BY AN ELECTRIC COMPANY, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITIES ARTICLE, BUT ONLY:

1. INFORMATION DESCRIBING A PLUG-IN VEHICLE, AS DEFINED IN § 25-108 OF THE TRANSPORTATION ARTICLE, AND IDENTIFYING THE ADDRESS OF THE REGISTERED OWNER OF THE PLUG-IN VEHICLE;

2. FOR USE IN PLANNING FOR THE AVAILABILITY AND RELIABILITY OF THE ELECTRIC POWER SUPPLY; AND

3. IF THE INFORMATION IS NOT:

A. PUBLISHED OR REDISCLOSED, INCLUDING REDISCLOSED TO AN AFFILIATE AS DEFINED IN § 7-501 OF THE PUBLIC UTILITIES ARTICLE; OR

B. USED FOR MARKETING OR SOLICITATION PURPOSES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 335

(House Bill 1279)

AN ACT concerning

Motor Vehicle Administration – Plug-In Vehicles – Disclosure of Personal Information

FOR the purpose of requiring a custodian of certain records of the Motor Vehicle Administration containing personal information to disclose certain personal information related to plug-in vehicles for certain use by an electric company subject to certain restrictions; and generally relating to the disclosure of personal information related to plug-in vehicles from the records of the Motor Vehicle Administration.

BY repealing and reenacting, without amendments,
Article – State Government
Section 10–616(p)(1)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 10–616(p)(5)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – State Government

10–616.

(p) (1) Except as provided in paragraphs (2) through (5) of this subsection, a custodian may not knowingly disclose a public record of the Motor Vehicle Administration containing personal information.

(5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, a custodian shall disclose personal information:

(i) for use by a federal, state, or local government, including a law enforcement agency, or a court in carrying out its functions;

(ii) for use in connection with matters of:

1. motor vehicle or driver safety;
2. motor vehicle theft;
3. motor vehicle emissions;
4. motor vehicle product alterations, recalls, or advisories;

5. performance monitoring of motor vehicle parts and dealers; and

6. removal of nonowner records from the original records of motor vehicle manufacturers;

(iii) for use by a private detective agency licensed by the Secretary of State Police under Title 13 of the Business Occupations and Professions Article or a security guard service licensed by the Secretary of State Police under Title 19 of the Business Occupations and Professions Article for a purpose permitted under this paragraph;

(iv) for use in connection with a civil, administrative, arbitral, or criminal proceeding in a federal, state, or local court or regulatory agency for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments or orders;

(v) for purposes of research or statistical reporting as approved by the Motor Vehicle Administration provided that the personal information is not published, redisclosed, or used to contact the individual;

(vi) for use by an insurer, insurance support organization, or self-insured entity, or its employees, agents, or contractors, in connection with rating, underwriting, claims investigating, and antifraud activities;

(vii) for use in the normal course of business activity by a legitimate business entity, its agents, employees, or contractors, but only:

1. to verify the accuracy of personal information submitted by the individual to that entity; and

2. if the information submitted is not accurate, to obtain correct information only for the purpose of:

A. preventing fraud by the individual;

B. pursuing legal remedies against the individual; or

C. recovering on a debt or security interest against the individual;

(viii) for use by an employer or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. § 31101 et seq.);

(ix) for use in connection with the operation of a private toll transportation facility;

(x) for use in providing notice to the owner of a towed or impounded motor vehicle;

(xi) for use by an applicant who provides written consent from the individual to whom the information pertains if the consent is obtained within the 6-month period before the date of the request for personal information;

(xii) for use in any matter relating to:

1. the operation of a Class B (for hire), Class C (funeral and ambulance), or Class Q (limousine) vehicle; and

2. public safety or the treatment by the operator of a member of the public;

(xiii) for a use specifically authorized by the law of this State, if the use is related to the operation of a motor vehicle or public safety;

(xiv) for use by a hospital to obtain, for hospital security purposes, information relating to ownership of vehicles parked on hospital property; [and]

(xv) for use by a procurement organization requesting information under § 4-516 of the Estates and Trusts Article for the purposes of organ, tissue, and eye donation; AND

(XVI) FOR USE BY AN ELECTRIC COMPANY, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITIES ARTICLE, BUT ONLY:

1. INFORMATION DESCRIBING A PLUG-IN VEHICLE, AS DEFINED IN § 25-108 OF THE TRANSPORTATION ARTICLE, AND IDENTIFYING THE ADDRESS OF THE REGISTERED OWNER OF THE PLUG-IN VEHICLE;

2. FOR USE IN PLANNING FOR THE AVAILABILITY AND RELIABILITY OF THE ELECTRIC POWER SUPPLY; AND

3. IF THE INFORMATION IS NOT:

A. PUBLISHED OR REDISCLOSED, INCLUDING REDISCLOSED TO AN AFFILIATE AS DEFINED IN § 7-501 OF THE PUBLIC UTILITIES ARTICLE; OR

B. USED FOR MARKETING OR SOLICITATION PURPOSES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 336

(Senate Bill 1006)

AN ACT concerning

Maryland Automobile Insurance Fund – Fund Producers – Commissions

FOR the purpose of altering the commission the Maryland Automobile Insurance Fund is required to pay to a fund producer of a policyholder to whom a private passenger auto insurance policy is issued by the Fund; requiring the Fund, on or before a certain date to report to certain legislative committees on certain information concerning the implementation of a certain commission payment structure; and generally relating to commissions paid to fund producers by the Maryland Automobile Insurance Fund.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 20–512

Annotated Code of Maryland
(2011 Replacement Volume)

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

Article – Insurance

20–512.

(a) Except as provided in subsection (b) of this section, the Fund shall pay to a fund producer of a policyholder to whom a policy is issued a commission:

(1) for private passenger auto insurance issued by the Fund, at a rate [of 10%] **DETERMINED BY THE FUND BUT NOT LESS THAN 10% AND NOT TO EXCEED 15%** of the total premium; and

(2) for any other insurance issued by the Fund, at a rate determined by the Fund but not to exceed 10% of the total premium.

(b) The Fund may not pay a commission:

(1) on a fully earned basis;

(2) if a prospective insured fails to qualify under § 20–502 of this subtitle; or

(3) if a prospective insured's initial payment to the Fund, a fund producer, or premium finance company is not honored.

(c) If a policy issued by the Fund is canceled, the Fund shall refund any unearned commissions.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before October 1, 2014, the Maryland Automobile Insurance Fund shall report, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee on the Fund's implementation of a commission payment structure that provides commissions of at least 10%, but not more than 15%, to fund producers.

(b) The report shall provide information on whether and how the commission payment structure has:

(i) incentivized fund producers to use advanced electronic technology in issuing and administering Fund policies, including the number of fund producers using the advanced electronic technology since the inception of the commission payment structure;

(ii) incentivized fund producers to devote additional resources for retaining current policyholders, reaching out to policyholders who had canceled midterm or did not rewrite, and marketing to uninsured motorists;

(iii) resulted in a savings in administrative costs for the Fund, including the functions and services performed by fund producers intended to achieve the savings; and

(iv) resulted in fewer uninsured motorists in the State, including the functions and services performed by fund producers intended to reduce the number of uninsured motorists, the number of uninsured motorists who obtained insurance from the Fund since the inception of the commission payment structure, and any efforts by the Fund to identify uninsured motorists.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 337

(Senate Bill 1024)

AN ACT concerning

Anne Arundel County – Alcoholic Beverages – Multiple Licenses

FOR the purpose of increasing to a certain amount the total number of additional Class H alcoholic beverages licenses that the Anne Arundel County Board of License Commissioners may issue to certain Class B or Class H alcoholic beverages license holders; and generally relating to alcoholic beverages licenses in Anne Arundel County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 9–102(h–1)
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

9–102.

(h–1) (1) In Anne Arundel County, a current holder of a Class H alcoholic beverages license, or a holder as of June 1, 2002 of a Class B alcoholic beverages license that has a restriction prohibiting off–sales, may be issued a second license by the Anne Arundel County Board of License Commissioners if:

(i) The second license is a Class H (beer, wine and liquor) license or a Class H (beer and wine) license; and

(ii) Either the restaurant for which the Class H license under item (i) of this paragraph is sought or to which the original Class B or Class H license applies is located within:

1. A suburban community center designated by Anne Arundel County in accordance with Bill Nos. 36–96 and 70–96 of the ordinances of Anne Arundel County; or

2. One of the following locations as they existed on October 1, 1999:

A. The Glen Burnie Urban Renewal Area;

B. The Parole Town Center Growth Management Area;

C. The Odenton Town Center Growth Management Area;

D. The Baltimore–Washington International Thurgood Marshall Airport State Priority Funding Area, as designated by Anne Arundel County in accordance with § 6–301(f)(8) of the Economic Development Article;

E. A shopping center with a gross area of at least 1 million square feet that is zoned C3 General Commercial by the zoning article of the Anne Arundel County Code; or

F. The Route 198 corridor, consisting of properties located within 500 feet of the right-of-way of Maryland Route 198, from Route 32 on the east to the Prince George’s County–Anne Arundel County line on the west.

(2) A person who does not hold a retail alcoholic beverages license in Anne Arundel County may be issued a maximum of two licenses by the Anne Arundel County Board of License Commissioners if:

(i) Each license is a Class H (beer and wine) license or a Class H (beer, wine and liquor) license; and

(ii) The restaurant for which one of the Class H licenses under item (i) of this paragraph is sought is located within:

1. A suburban community center designated by Anne Arundel County in accordance with Bill Nos. 36–96 and 70–96 of the ordinances of Anne Arundel County; or

2. One of the following locations as they existed on October 1, 1999:

A. The Glen Burnie Urban Renewal Area;

B. The Parole Town Center Growth Management Area;

C. The Odenton Town Center Growth Management Area;

D. The Baltimore–Washington International Thurgood Marshall Airport State Priority Funding Area, as designated by Anne Arundel County in accordance with § 6–301(f)(8) of the Economic Development Article;

E. A shopping center with a gross area of at least 1 million square feet that is zoned C3 General Commercial by the zoning article of the Anne Arundel County Code; or

F. The Route 198 corridor, consisting of properties located within 500 feet of the right-of-way of Maryland Route 198, from Route 32 on the east to the Prince George's County–Anne Arundel County line on the west.

(3) A franchisor may not have a direct ownership interest, as defined by the Board, in more than 2 licenses under this section.

(4) The Board may not issue more than [30] 60 additional Class H licenses under this subsection.

(5) The Anne Arundel County Board of License Commissioners shall adopt regulations:

(i) To carry out this subsection; and

(ii) That define “direct ownership interest” for the purposes of paragraph (3) of this subsection.

(6) The Anne Arundel County Economic Development Corporation, in consultation with the Board of License Commissioners for Anne Arundel County:

(i) Shall conduct a comprehensive study of the impact of this subsection on the economy of Anne Arundel County; and

(ii) On or before January 1, 2006, shall submit its findings and recommendations to the Anne Arundel County House Delegation, the Anne Arundel County Senate Delegation, the County Executive for Anne Arundel County, and the Anne Arundel County Council.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 338**(Senate Bill 1033)**

AN ACT concerning

Election Law – Campaign Finance – Requirements

FOR the purpose of requiring the chairman and treasurer of a campaign finance entity to provide electronic mail addresses of the chairman and treasurer to the State Board of Elections and notify the State Board of a change in the electronic mail addresses by a certain date if the chairman and treasurer consent to receiving certain notice only by electronic mail; requiring the chairman and treasurer of a campaign finance entity to notify the State Board of a change in the residence address of the chairman and treasurer by a certain date; altering the time when the treasurer of a campaign finance entity is required to issue a campaign contribution receipt; authorizing the responsible officers of a campaign finance entity to affirmatively consent to receiving notice of campaign finance reports only by electronic mail; repealing obsolete provisions; and generally relating to requirements of campaign finance law.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 13–207, 13–222, and 13–321
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Election Law

13–207.

- (a) This section applies to a political committee other than a political club.
- (b) A political committee may not receive or disburse money or any other thing of value unless the political committee is established in accordance with the requirements of this section.
- (c) To establish a political committee:
 - (1) a chairman and a treasurer shall be appointed on a form that the State Board prescribes and that is signed by the chairman and treasurer and includes:
 - (i) the residence addresses of the chairman and the treasurer;

[and]

(II) IF THE CHAIRMAN AND TREASURER AFFIRMATIVELY CONSENT TO RECEIVING NOTICE UNDER THIS TITLE ONLY BY ELECTRONIC MAIL, THE ELECTRONIC MAIL ADDRESS OF THE CHAIRMAN AND THE TREASURER; AND

[(ii)] (III) the information required by § 13–208 of this subtitle;
and

(2) the form shall be filed with the board where the political committee is required to file campaign finance reports.

(3) THE CHAIRMAN OR TREASURER OF A POLITICAL COMMITTEE SHALL NOTIFY THE STATE BOARD OF A CHANGE IN THE RESIDENCE ADDRESS OF THE CHAIRMAN OR TREASURER NO LATER THAN 21 DAYS BEFORE THE DAY ON WHICH THE POLITICAL COMMITTEE'S NEXT CAMPAIGN FINANCE REPORT IS DUE UNDER § 13–309 OF THIS TITLE.

(4) THE CHAIRMAN OR TREASURER OF A POLITICAL COMMITTEE SHALL NOTIFY THE STATE BOARD OF A CHANGE IN THE ELECTRONIC MAIL ADDRESS OF THE CHAIRMAN OR TREASURER BY THE DATE SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION IF THE CHAIRMAN AND TREASURER OF THE POLITICAL COMMITTEE HAVE AFFIRMATIVELY CONSENTED TO RECEIVING NOTICE UNDER THIS TITLE ONLY BY ELECTRONIC MAIL.

(d) (1) A chairman or treasurer of a political committee may resign by completing a resignation form that the State Board prescribes and filing the form with the board where the political committee was established.

(2) If a vacancy occurs in the office of chairman or the office of treasurer, the political committee promptly shall appoint a new chairman or treasurer in accordance with this section.

13–222.

(a) (1) **[On] BY THE NEXT DEADLINE FOR FILING A CAMPAIGN FINANCE REPORT AFTER** receiving [and before depositing] a contribution specified in paragraph (2) of this subsection, a treasurer [or subtreasurer] shall issue a campaign contribution receipt on the form that the State Board prescribes.

(2) A campaign contribution receipt shall be mailed or delivered to each person who:

(i) makes one or more contributions, other than the purchase of tickets for a campaign event, in the cumulative amount of \$51 or more; or

- (ii) purchases one or more tickets for a campaign event:
 - 1. at a cost of \$51 or more per ticket; or
 - 2. in the cumulative amount of \$251 or more.

(3) At the request of a contributor, a treasurer [or subtreasurer] shall issue a campaign contribution receipt for any other contribution.

(4) A campaign contribution receipt issued under this section is evidence of the contribution.

(b) The information from a campaign contribution receipt shall be included in the campaign finance report filed by the treasurer [or subtreasurer] under this title.

13–321.

(a) (1) In accordance with paragraph (2) of this subsection, the State Board shall notify each campaign finance entity that is required under this subtitle to file campaign finance reports of each campaign finance report required to be filed by that entity.

(2) The notice shall be provided [by first class mail]:

(I) at least 10 but not more than 20 days before the filing date for each campaign finance report; **AND**

(II) BY FIRST-CLASS MAIL, UNLESS THE RESPONSIBLE OFFICERS OF A CAMPAIGN FINANCE ENTITY AFFIRMATIVELY CONSENT TO RECEIVING THE NOTICE ONLY BY ELECTRONIC MAIL.

(b) The notice required under subsection (a) of this section shall include:

- (1) the filing date;
- (2) the telephone number, business hours, and location of the State Board; and
- (3) the penalty for failure to file a timely campaign finance report.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 339**(House Bill 1285)**

AN ACT concerning

Election Law – Campaign Finance – Requirements

FOR the purpose of requiring the chairman and treasurer of a campaign finance entity to provide electronic mail addresses of the chairman and treasurer to the State Board of Elections and notify the State Board of a change in the electronic mail addresses by a certain date if the chairman and treasurer consent to receiving certain notice only by electronic mail; requiring the chairman and treasurer of a campaign finance entity to notify the State Board of a change in the residence address of the chairman and treasurer by a certain date; altering the time when the treasurer of a campaign finance entity is required to issue a campaign contribution receipt; authorizing the responsible officers of a campaign finance entity to affirmatively consent to receiving notice of campaign finance reports only by electronic mail; repealing obsolete provisions; and generally relating to requirements of campaign finance law.

BY repealing and reenacting, with amendments,

Article – Election Law

Section 13–207, 13–222, and 13–321

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

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

Article – Election Law

13–207.

- (a) This section applies to a political committee other than a political club.
- (b) A political committee may not receive or disburse money or any other thing of value unless the political committee is established in accordance with the requirements of this section.
- (c) To establish a political committee:
 - (1) a chairman and a treasurer shall be appointed on a form that the State Board prescribes and that is signed by the chairman and treasurer and includes:

(i) the residence addresses of the chairman and the treasurer;
[and]

(II) IF THE CHAIRMAN AND TREASURER AFFIRMATIVELY CONSENT TO RECEIVING NOTICE UNDER THIS TITLE ONLY BY ELECTRONIC MAIL, THE ELECTRONIC MAIL ADDRESS OF THE CHAIRMAN AND THE TREASURER; AND

[(ii)] (III) the information required by § 13–208 of this subtitle;
and

(2) the form shall be filed with the board where the political committee is required to file campaign finance reports.

(3) THE CHAIRMAN OR TREASURER OF A POLITICAL COMMITTEE SHALL NOTIFY THE STATE BOARD OF A CHANGE IN THE RESIDENCE ADDRESS OF THE CHAIRMAN OR TREASURER NO LATER THAN 21 DAYS BEFORE THE DAY ON WHICH THE POLITICAL COMMITTEE’S NEXT CAMPAIGN FINANCE REPORT IS DUE UNDER § 13–309 OF THIS TITLE.

(4) THE CHAIRMAN OR TREASURER OF A POLITICAL COMMITTEE SHALL NOTIFY THE STATE BOARD OF A CHANGE IN THE ELECTRONIC MAIL ADDRESS OF THE CHAIRMAN OR TREASURER BY THE DATE SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION IF THE CHAIRMAN AND TREASURER OF THE POLITICAL COMMITTEE HAVE AFFIRMATIVELY CONSENTED TO RECEIVING NOTICE UNDER THIS TITLE ONLY BY ELECTRONIC MAIL.

(d) (1) A chairman or treasurer of a political committee may resign by completing a resignation form that the State Board prescribes and filing the form with the board where the political committee was established.

(2) If a vacancy occurs in the office of chairman or the office of treasurer, the political committee promptly shall appoint a new chairman or treasurer in accordance with this section.

13–222.

(a) (1) **[On] ~~WITHIN 60 DAYS OF~~ BY THE NEXT DEADLINE FOR FILING A CAMPAIGN FINANCE REPORT AFTER** receiving [and before depositing] a contribution specified in paragraph (2) of this subsection, a treasurer [or subtreasurer] shall issue a campaign contribution receipt on the form that the State Board prescribes.

(2) A campaign contribution receipt shall be mailed or delivered to each person who:

(i) makes one or more contributions, other than the purchase of tickets for a campaign event, in the cumulative amount of \$51 or more; or

(ii) purchases one or more tickets for a campaign event:

1. at a cost of \$51 or more per ticket; or

2. in the cumulative amount of \$251 or more.

(3) At the request of a contributor, a treasurer [or subtreasurer] shall issue a campaign contribution receipt for any other contribution.

(4) A campaign contribution receipt issued under this section is evidence of the contribution.

(b) The information from a campaign contribution receipt shall be included in the campaign finance report filed by the treasurer [or subtreasurer] under this title.

13-321.

(a) (1) In accordance with paragraph (2) of this subsection, the State Board shall notify each campaign finance entity that is required under this subtitle to file campaign finance reports of each campaign finance report required to be filed by that entity.

(2) The notice shall be provided [by first class mail]:

(I) at least 10 but not more than 20 days before the filing date for each campaign finance report; AND

(II) **BY FIRST-CLASS MAIL, UNLESS THE RESPONSIBLE OFFICERS OF A CAMPAIGN FINANCE ENTITY AFFIRMATIVELY CONSENT TO RECEIVING THE NOTICE ONLY BY ELECTRONIC MAIL.**

(b) The notice required under subsection (a) of this section shall include:

(1) the filing date;

(2) the telephone number, business hours, and location of the State Board; and

(3) the penalty for failure to file a timely campaign finance report.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 340

(Senate Bill 1077)

AN ACT concerning

Mortality and Quality Review Committee – Reporting Requirements – Sunset Extension

FOR the purpose of extending the termination date of certain provisions of law requiring the Mortality and Quality Review Committee to make certain reports, recommendations, and findings regarding incidents of injury and requiring the Office of Health Care Quality to provide certain data to the Committee; and generally relating to the Mortality and Quality Review Committee and reportable incidents of injury.

BY repealing and reenacting, with amendments,

Chapter 268 of the Acts of the General Assembly of 2006, as amended by
Chapter 49 of the Acts of the General Assembly of 2009
Section 3

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

Chapter 268 of the Acts of 2006, as amended by Chapter 49 of the Acts of 2009

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. It shall remain effective for a period of [6] 16 years and 6 months and, at the end of December 31, [2012] 2022, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 341

(House Bill 1455)

AN ACT concerning

Mortality and Quality Review Committee – Reporting Requirements – Sunset Extension

FOR the purpose of extending the termination date of certain provisions of law requiring the Mortality and Quality Review Committee to make certain reports, recommendations, and findings regarding incidents of injury and requiring the Office of Health Care Quality to provide certain data to the Committee; and generally relating to the Mortality and Quality Review Committee and reportable incidents of injury.

BY repealing and reenacting, with amendments,

Chapter 268 of the Acts of the General Assembly of 2006, as amended by
Chapter 49 of the Acts of the General Assembly of 2009
Section 3

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

Chapter 268 of the Acts of 2006, as amended by Chapter 49 of the Acts of 2009

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. It shall remain effective for a period of [6] 16 years and 6 months and, at the end of December 31, [2012] 2022, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 342

(Senate Bill 1082)

AN ACT concerning

Children in Need of Assistance and Child Abuse and Neglect – Sexual Abuse – Definition

FOR the purpose of altering the definition of “sexual abuse” for provisions of law relating to children in need of assistance, child abuse, and child neglect to include certain actions relating to human trafficking, obscene material, pornography, and prostitution; and generally relating to child sexual abuse.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 3–801(a) and 3–802(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–801(x)
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
Article – Family Law
Section 5–701(a) and 5–702
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–701(x)
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

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

Article – Courts and Judicial Proceedings

3–801.

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

(x) (1) “Sexual abuse” means an act that involves sexual molestation or sexual exploitation of a child by:

(i) A parent or other individual who has permanent or temporary care or custody or responsibility for supervision of the child; or

(ii) A household or family member.

(2) “Sexual abuse” includes:

(I) ALLOWING OR ENCOURAGING A CHILD TO ENGAGE IN:

1. OBSCENE PHOTOGRAPHY, FILMS, POSES, OR SIMILAR ACTIVITY;
 2. PORNOGRAPHIC PHOTOGRAPHY, FILMS, POSES, OR SIMILAR ACTIVITY; OR
 3. PROSTITUTION;
- (II) HUMAN TRAFFICKING;
- [(i)] (III) Incest;
 - [(ii)] (IV) Rape;
 - [(iii)] (V) Sexual offense in any degree;
 - [(iv)] (VI) Sodomy; and
 - [(v)] (VII) Unnatural or perverted sexual practices.

3-802.

- (a) The purposes of this subtitle are:
- (1) To provide for the care, protection, safety, and mental and physical development of any child coming within the provisions of this subtitle;
 - (2) To provide for a program of services and treatment consistent with the child's best interests and the promotion of the public interest;
 - (3) To conserve and strengthen the child's family ties and to separate a child from the child's parents only when necessary for the child's welfare;
 - (4) To hold parents of children found to be in need of assistance responsible for remedying the circumstances that required the court's intervention;
 - (5) Except as otherwise provided by law, to hold the local department responsible for providing services to assist the parents with remedying the circumstances that required the court's intervention;
 - (6) If necessary to remove a child from the child's home, to secure for the child custody, care, and discipline as nearly as possible equivalent to that which the child's parents should have given;
 - (7) To achieve a timely, permanent placement for the child consistent with the child's best interests; and

(8) To provide judicial procedures for carrying out the provisions of this subtitle.

Article – Family Law

5–701.

(a) Except as otherwise provided in § 5–705.1 of this subtitle, in this subtitle the following words have the meanings indicated.

(x) (1) “Sexual abuse” means any act that involves sexual molestation or exploitation of a child by a parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member.

(2) “Sexual abuse” includes:

(I) ALLOWING OR ENCOURAGING A CHILD TO ENGAGE IN:

- 1. OBSCENE PHOTOGRAPHY, FILMS, POSES, OR SIMILAR ACTIVITY;**
- 2. PORNOGRAPHIC PHOTOGRAPHY, FILMS, POSES, OR SIMILAR ACTIVITY; OR**
- 3. PROSTITUTION;**

(II) HUMAN TRAFFICKING;

[(i)] (III) incest[.];

(IV) rape[.]; [or]

(V) sexual offense in any degree;

[(ii)] (VI) sodomy; and

[(iii)] (VII) unnatural or perverted sexual practices.

5–702.

The purpose of this subtitle is to protect children who have been the subject of abuse or neglect by:

(1) mandating the reporting of any suspected abuse or neglect;

- (2) giving immunity to any individual who reports, in good faith, a suspected incident of abuse or neglect;
- (3) requiring prompt investigation of each reported suspected incident of abuse or neglect;
- (4) causing immediate, cooperative efforts by the responsible agencies on behalf of children who have been the subject of reports of abuse or neglect; and
- (5) requiring each local department to give the appropriate service in the best interest of the abused or neglected child.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 343

(House Bill 860)

AN ACT concerning

**Children in Need of Assistance and Child Abuse and Neglect – Sexual Abuse –
Definition**

FOR the purpose of altering the definition of “sexual abuse” for provisions of law relating to children in need of assistance, child abuse, and child neglect to include certain actions relating to human trafficking, obscene material, pornography, and prostitution; and generally relating to child sexual abuse.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 3–801(a) and 3–802(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–801(x)
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
Article – Family Law
Section 5–701(a) and 5–702
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–701(x)
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

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

Article – Courts and Judicial Proceedings

3–801.

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

(x) (1) “Sexual abuse” means an act that involves sexual molestation or sexual exploitation of a child by:

(i) A parent or other individual who has permanent or temporary care or custody or responsibility for supervision of the child; or

(ii) A household or family member.

(2) “Sexual abuse” includes:

(I) ALLOWING OR ENCOURAGING A CHILD TO ENGAGE IN:

1. OBSCENE PHOTOGRAPHY, FILMS, POSES, OR SIMILAR ACTIVITY;

2. PORNOGRAPHIC PHOTOGRAPHY, FILMS, POSES, OR SIMILAR ACTIVITY; OR

3. PROSTITUTION;

(II) HUMAN TRAFFICKING;

[(i)] (III) Incest;

[(ii)] (IV) Rape;

- [(iii)] (V) Sexual offense in any degree;
- [(iv)] (VI) Sodomy; and
- [(v)] (VII) Unnatural or perverted sexual practices.

3-802.

(a) The purposes of this subtitle are:

- (1) To provide for the care, protection, safety, and mental and physical development of any child coming within the provisions of this subtitle;
- (2) To provide for a program of services and treatment consistent with the child's best interests and the promotion of the public interest;
- (3) To conserve and strengthen the child's family ties and to separate a child from the child's parents only when necessary for the child's welfare;
- (4) To hold parents of children found to be in need of assistance responsible for remedying the circumstances that required the court's intervention;
- (5) Except as otherwise provided by law, to hold the local department responsible for providing services to assist the parents with remedying the circumstances that required the court's intervention;
- (6) If necessary to remove a child from the child's home, to secure for the child custody, care, and discipline as nearly as possible equivalent to that which the child's parents should have given;
- (7) To achieve a timely, permanent placement for the child consistent with the child's best interests; and
- (8) To provide judicial procedures for carrying out the provisions of this subtitle.

Article – Family Law

5-701.

(a) Except as otherwise provided in § 5-705.1 of this subtitle, in this subtitle the following words have the meanings indicated.

(x) (1) "Sexual abuse" means any act that involves sexual molestation or exploitation of a child by a parent or other person who has permanent or temporary

care or custody or responsibility for supervision of a child, or by any household or family member.

(2) “Sexual abuse” includes:

(I) ALLOWING OR ENCOURAGING A CHILD TO ENGAGE IN:

1. OBSCENE PHOTOGRAPHY, FILMS, POSES, OR SIMILAR ACTIVITY;

2. PORNOGRAPHIC PHOTOGRAPHY, FILMS, POSES, OR SIMILAR ACTIVITY; OR

3. PROSTITUTION;

(II) HUMAN TRAFFICKING;

[(i)] (III) incest[.];

(IV) rape[.]; [or]

(V) sexual offense in any degree;

[(ii)] (VI) sodomy; and

[(iii)] (VII) unnatural or perverted sexual practices.

5–702.

The purpose of this subtitle is to protect children who have been the subject of abuse or neglect by:

(1) mandating the reporting of any suspected abuse or neglect;

(2) giving immunity to any individual who reports, in good faith, a suspected incident of abuse or neglect;

(3) requiring prompt investigation of each reported suspected incident of abuse or neglect;

(4) causing immediate, cooperative efforts by the responsible agencies on behalf of children who have been the subject of reports of abuse or neglect; and

(5) requiring each local department to give the appropriate service in the best interest of the abused or neglected child.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 344

(Senate Bill 1086)

AN ACT concerning

Income Tax – Tax Credits – Electronic Filing Requirements

FOR the purpose of authorizing the Comptroller to require by regulation that a taxpayer claiming certain income tax credits claim certain tax credits by certain electronic means; authorizing the Comptroller to require by regulation that certain additional tax credits be claimed by certain electronic means; providing for the application of this Act; and generally relating to requiring the electronic claiming of certain tax credits by certain taxpayers.

BY adding to

Article – Tax – General

Section 10–804(j)

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

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

Article – Tax – General

10–804.

(J) (1) A TAXPAYER CLAIMING ANY OF THE FOLLOWING TAX CREDITS SHALL SUBMIT A CLAIM FOR THE CREDIT BY ELECTRONIC MEANS AS REQUIRED BY THE COMPTROLLER BY REGULATION:

(I) THE JOB CREATION TAX CREDIT, AS PROVIDED UNDER TITLE 6, SUBTITLE 2 OF THE ECONOMIC DEVELOPMENT ARTICLE;

(II) THE ONE MARYLAND TAX CREDIT, AS PROVIDED UNDER TITLE 6, SUBTITLE 4 OF THE ECONOMIC DEVELOPMENT ARTICLE;

(III) THE BIOTECHNOLOGY INVESTMENT INCENTIVE TAX CREDIT, AS PROVIDED UNDER § 10-725 OF THIS TITLE;

(IV) THE ENTERPRISE ZONE INCOME TAX CREDIT, AS PROVIDED UNDER § 10-702 OF THIS TITLE; AND

(V) ANY OTHER TAX CREDIT SPECIFIED BY THE COMPTROLLER THROUGH REGULATION.

(2) BEFORE ADDING ANY TAX CREDIT NOT LISTED IN PARAGRAPH (1)(I) THROUGH (IV) OF THIS SUBSECTION TO THE REQUIREMENT OF THIS SUBSECTION, THE COMPTROLLER SHALL DETERMINE WHETHER THE ADDITION OF THE TAX CREDIT WILL HAVE A MATERIAL ADVERSE IMPACT OR UNDUE ADMINISTRATIVE BURDEN ON THE COMPTROLLER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012, and shall be applicable to all taxable years beginning after December 31, 2012.

Approved by the Governor, May 2, 2012.

Chapter 345

(House Bill 1456)

AN ACT concerning

Income Tax – Tax Credits – Electronic Filing Requirements

FOR the purpose of authorizing the Comptroller to require by regulation that a taxpayer claiming certain income tax credits claim certain tax credits by certain electronic means; authorizing the Comptroller to require by regulation that certain additional tax credits be claimed by certain electronic means; providing for the application of this Act; and generally relating to requiring the electronic claiming of certain tax credits by certain taxpayers.

BY adding to

Article – Tax – General

Section 10-804(j)

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

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

Article – Tax – General

10-804.

(J) (1) A TAXPAYER CLAIMING ANY OF THE FOLLOWING TAX CREDITS SHALL SUBMIT A CLAIM FOR THE CREDIT BY ELECTRONIC MEANS AS REQUIRED BY THE COMPTROLLER BY REGULATION:

(I) THE JOB CREATION TAX CREDIT, AS PROVIDED UNDER TITLE 6, SUBTITLE 2 OF THE ECONOMIC DEVELOPMENT ARTICLE;

(II) THE ONE MARYLAND TAX CREDIT, AS PROVIDED UNDER TITLE 6, SUBTITLE 4 OF THE ECONOMIC DEVELOPMENT ARTICLE;

(III) THE BIOTECHNOLOGY INVESTMENT INCENTIVE TAX CREDIT, AS PROVIDED UNDER § 10-725 OF THIS TITLE;

(IV) THE ENTERPRISE ZONE INCOME TAX CREDIT, AS PROVIDED UNDER § 10-702 OF THIS TITLE; AND

(V) ANY OTHER TAX CREDIT SPECIFIED BY THE COMPTROLLER THROUGH REGULATION.

(2) BEFORE ADDING ANY TAX CREDIT NOT LISTED IN PARAGRAPH (1)(I) THROUGH (IV) OF THIS SUBSECTION TO THE REQUIREMENT OF THIS SUBSECTION, THE COMPTROLLER SHALL DETERMINE WHETHER THE ADDITION OF THE TAX CREDIT WILL HAVE A MATERIAL ADVERSE IMPACT OR UNDUE ADMINISTRATIVE BURDEN ON THE COMPTROLLER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012, and shall be applicable to all taxable years beginning after December 31, 2012.

Approved by the Governor, May 2, 2012.

Chapter 346**(House Bill 7)**

AN ACT concerning

Criminal Law – Betting, Wagering, and Gambling – Fantasy Competition

FOR the purpose of exempting certain fantasy competitions from gaming prohibitions; defining a certain term; authorizing the Comptroller to adopt certain regulations; and generally relating to fantasy competitions.

BY adding to

Article – Criminal Law

Section 12–114

Annotated Code of Maryland

(2002 Volume and 2011 Supplement)

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

Article – Criminal Law

12–114.

(A) ~~FOR THE PURPOSES OF~~ **IN THIS SECTION, “FANTASY COMPETITION” INCLUDES ANY ONLINE FANTASY OR SIMULATED GAME OR CONTEST SUCH AS FANTASY SPORTS, ~~ONLINE OR OTHERWISE~~, IN WHICH:**

(1) PARTICIPANTS OWN, MANAGE, OR COACH IMAGINARY TEAMS;

(2) ALL PRIZES AND AWARDS OFFERED TO WINNING PARTICIPANTS ARE ESTABLISHED AND MADE KNOWN TO PARTICIPANTS IN ADVANCE OF THE GAME OR CONTEST;

(3) THE WINNING OUTCOME OF THE GAME OR CONTEST REFLECTS THE RELATIVE SKILL OF THE PARTICIPANTS AND IS DETERMINED BY STATISTICS GENERATED BY ACTUAL INDIVIDUALS (PLAYERS OR TEAMS IN THE CASE OF A PROFESSIONAL SPORT); AND

(4) NO WINNING OUTCOME IS BASED:

(I) SOLELY ON THE PERFORMANCE OF AN INDIVIDUAL ATHLETE; OR

(II) ON THE SCORE, POINT SPREAD, OR ANY PERFORMANCES OF ANY SINGLE REAL–WORLD TEAM OR ANY COMBINATION OF REAL–WORLD TEAMS.

(B) **NOTWITHSTANDING THE PROVISIONS OF THIS OR ANY OTHER TITLE, THE PROHIBITIONS AGAINST BETTING, WAGERING, AND GAMBLING DO NOT APPLY TO PARTICIPATION IN A FANTASY COMPETITION.**

(C) THE COMPTROLLER MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 347

(House Bill 9)

AN ACT concerning

Education – Children and Youth – Reporting of Information Concerning Student Health, Well-Being, and Growth

FOR the purpose of ~~requiring each county superintendent of schools to report certain information concerning certain matters relating to student growth, health, and well-being to the State Superintendent of Schools on or before a certain date each year;~~ requiring the State Department of Education, *at certain intervals beginning on or before a certain date*, to report certain information to the Governor and the General Assembly concerning certain matters relating to student growth, health, and well-being ~~on or before a certain date each year;~~ encouraging county boards of education to incorporate certain lessons into the county boards' health education curriculum; and generally relating to the reporting of information relating to children and youth in educational programs and schools in the State.

BY adding to

Article – Education

Section 4-111.1

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Education

Section 7-401 and 7-411.1

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

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

Article – Education

4-111.1.

~~(A) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, EACH COUNTY SUPERINTENDENT SHALL REPORT TO THE STATE SUPERINTENDENT ON THE IMPLEMENTATION OF THE PERSONAL FINANCIAL LITERACY STATE CURRICULUM IN THE COUNTY.~~

~~(B) ON OR BEFORE DECEMBER 1 OF EACH YEAR~~ DECEMBER 1, 2012, AND EVERY 5 YEARS THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY A SUMMARY OF THE INFORMATION REPORTED TO THE STATE SUPERINTENDENT ~~UNDER SUBSECTION (A) OF THIS SECTION DURING THE FINANCIAL LITERACY COMAR CERTIFICATION PROCESS.~~

7-401.

(a) With the assistance of the county health department, each county board shall provide:

(1) Adequate school health services;

~~(2) Instruction in health education, including INFORMATION CONCERNING:~~

~~(I) DIABETES AND ITS TREATMENT AND PREVENTION; AND~~

~~(II) [the] THE importance of physical activity in maintaining good health, INCLUDING THWARTING AND CONTROLLING DIABETES; and~~

(2) Instruction in health education, including the importance of physical activity in maintaining good health; and

(3) A healthful school environment.

(b) The Department of Education and the Department of Health and Mental Hygiene jointly shall:

(1) Develop public standards and guidelines for school health programs; and

(2) Offer assistance to the county boards and county health departments in their implementation.

(c) (1) (i) Each county board shall designate a school health services program coordinator.

(ii) A county board may authorize the county health department to designate the school health services program coordinator.

(2) The school health services program coordinator shall:

(i) Implement State and local health policies in the public schools;

(ii) Ensure that public schools adhere to local health services guidelines; and

(iii) Communicate State and local health policies to the parents and guardians of public school students.

(3) The county board shall grant the school health services program coordinator the authority to carry out the provisions of this subsection.

(4) The Department of Education shall conduct at least two meetings annually with all school health services program coordinators in the State.

~~(D) (1) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, EACH COUNTY SUPERINTENDENT SHALL REPORT TO THE STATE SUPERINTENDENT ON THE IMPLEMENTATION OF THE HEALTH EDUCATION REQUIREMENTS UNDER SUBSECTION (A) OF THIS SECTION.~~

~~(2) ON OR BEFORE DECEMBER 1 OF EACH YEAR DECEMBER 1, 2012 2015, AND EVERY 5 YEARS THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY A SUMMARY OF THE INFORMATION REPORTED TO THE STATE SUPERINTENDENT UNDER SUBSECTION (A) OF THIS SECTION DURING THE COMAR CERTIFICATION PROCESS.~~

7-411.1.

(A) The State Board shall encourage the county boards to incorporate age-appropriate lessons on dating violence AND DIABETES AND ITS TREATMENT AND PREVENTION into the county boards' health education curriculum.

~~(B) (1) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, EACH COUNTY SUPERINTENDENT SHALL REPORT TO THE STATE SUPERINTENDENT ON THE~~

~~IMPLEMENTATION OF AGE APPROPRIATE LESSONS ON DATING VIOLENCE IN THE HEALTH EDUCATION CURRICULUM IN THE COUNTY.~~

~~(2) ON OR BEFORE DECEMBER 1 OF EACH YEAR~~ DECEMBER 1, 2012 2015, AND EVERY 5 YEARS THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY A SUMMARY OF THE INFORMATION REPORTED TO THE STATE SUPERINTENDENT ~~UNDER PARAGRAPH (1) OF THIS SUBSECTION~~ DURING THE COMAR CERTIFICATION PROCESS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 348

(House Bill 57)

AN ACT concerning

Dorchester County – Sailwinds ~~Park~~ of Cambridge, Inc. – Service of Alcohol – Wristbands

FOR the purpose of altering certain provisions of law to authorize Sailwinds of Cambridge, Inc., instead of Sailwinds Park, Inc., to obtain and renew a certain alcoholic beverages license in Dorchester County; requiring authorizing Sailwinds ~~Park~~ of Cambridge, Inc. to distribute wristbands to certain individuals at certain events; prohibiting Sailwinds ~~Park~~ of Cambridge, Inc. from serving alcoholic beverages to individuals who ~~do not wear~~ are not wearing wristbands at certain events under certain circumstances; and generally relating to ~~prohibiting Sailwinds Park, Inc. from serving alcoholic beverages to individuals who do not wear wristbands~~ limitations on serving alcoholic beverages at events at Sailwinds of Cambridge, Inc.

BY repealing and reenacting, without amendments,
 Article 2B – Alcoholic Beverages
 Section 6-301(a) and (k)(1) and (2)
 Annotated Code of Maryland
 (2011 Replacement Volume)

BY repealing and reenacting, with amendments,
 Article 2B – Alcoholic Beverages

Section 6-301(k)(6)
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

6-301.

(a) (1) Except as provided in subsection (n) of this section, a Class C beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. It authorizes the holder to keep for sale and sell all alcoholic beverages at retail at any club, at the place described in the license, for consumption on the premises only.

(2) The annual fee for the license shall be paid to the local collecting agent before the license is issued, for distribution as provided.

(3) In this section, “board” means the board of commissioners for the jurisdiction to which the subsection applies.

(k) (1) This subsection applies only in Dorchester County.

(2) The annual license fee is \$1,000.

(6) **(I)** A license may be obtained by Sailwinds ~~Park~~ **OF CAMBRIDGE**, Inc., a nonprofit organization.

(II) The license may be obtained and renewed so long as no individual or group of individuals derive any personal profits from the operation of ~~the Park~~ **SAILWINDS OF CAMBRIDGE, INC.**

(III) WHEN ALCOHOLIC BEVERAGES ARE SERVED AT AN EVENT OPEN TO THE PUBLIC AT SAILWINDS ~~PARK~~ OF CAMBRIDGE, INC., THE LICENSEE:

1. ~~SHALL~~ MAY DISTRIBUTE AT THE EVENT A WRISTBAND TO EACH INDIVIDUAL WHO IS AT LEAST 21 YEARS OLD; AND

2. MAY IF WRISTBANDS ARE DISTRIBUTED AT THE EVENT, MAY NOT SERVE AN ALCOHOLIC BEVERAGE TO AN INDIVIDUAL WHO ~~DOES NOT WEAR THE WRISTBAND AT THE EVENT~~ IS NOT WEARING A WRISTBAND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 349

(House Bill 60)

AN ACT concerning

Talbot County – Zoning Regulations – Enforcement

FOR the purpose of authorizing the legislative body of Talbot County to provide by local law for an administrative proceeding to enforce certain zoning regulations; allowing the local law to include certain authority to impose certain fines and penalties for zoning violations; *making a conforming change*; and generally relating to the enforcement of zoning regulations in Talbot County.

BY repealing and reenacting, with amendments,

Article – Land Use

Section 1-401(b)(17) and (18)

Annotated Code of Maryland

(As enacted by Chapter 426 (H.B. 1290) of the Acts of the General Assembly of 2012)

BY adding to

Article – Land Use

Section 1-401(b)(18); and 9-1801 and 9-1802 to be under the new subtitle “Subtitle 18. Talbot County”

Annotated Code of Maryland

(As enacted by Chapter 426 (S.B.____/H.B.____)(2lr0396) of the Acts of the General Assembly of 2012)

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

Article – Land Use

1-401.

(b) The following provisions of this division apply to a charter county:

(17) for Howard County only, Title 9, Subtitle 13 (Single-County Provisions – Howard County); [and]

*(18) FOR TALBOT COUNTY ONLY, TITLE 9, SUBTITLE 18
(SINGLE-COUNTY PROVISIONS – TALBOT COUNTY); AND*

[(18)] (19) Title 11, Subtitle 2 (Civil Penalty).

SUBTITLE 18. TALBOT COUNTY.

9-1801.

THIS SUBTITLE APPLIES TO TALBOT COUNTY.

9-1802.

(A) IN ADDITION TO THE JURISDICTION GRANTED IN TITLE 11 OF THIS ARTICLE, THE LEGISLATIVE BODY OF TALBOT COUNTY MAY PROVIDE BY LOCAL LAW FOR AN ADMINISTRATIVE PROCEEDING TO ENFORCE ITS ZONING REGULATIONS.

(B) THE LOCAL LAW MAY INCLUDE THE AUTHORITY TO IMPOSE CIVIL FINES AND PENALTIES FOR ZONING VIOLATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 350

(House Bill 72)

AN ACT concerning

**State Board for Certification of Residential Child Care Program
Professionals – Sunset Extension and Program Evaluation**

FOR the purpose of continuing the State Board for Certification of Residential Child Care Program Professionals in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring the Board to submit certain reports that address certain issues to

certain committees of the General Assembly on or before certain dates; and generally relating to the State Board for Certification of Residential Child Care Program Professionals.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 20–502

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government

Section 8–403(a)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 8–403(b)(61)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

20–502.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, [2014] **2024**.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(61) Residential Child Care Program Professionals, State Board for Certification of (§ 20–202 of the Health Occupations Article: July 1, [2013] **2023**);

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) Beginning on or before October 1, 2013, and annually thereafter until the certification of residential child and youth care practitioners has been implemented for a full biennial certification cycle, the State Board for Certification of Residential Child Care Program Professionals shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee in accordance with § 2–1246 of the State Government Article.

(b) Each report required under subsection (a) of this section shall update both committees on the Board's progress in implementing the certification of residential child and youth care practitioners.

(c) The Board's final report, to be submitted to both committees within 90 days after residential child and youth care practitioners have been certified for a full biennial certification cycle, shall address:

(1) the need, if any, for changes to Board membership based on the number of residential child and youth care practitioners certified by the Board; and

(2) the outlook for the Board to become self-supporting (special funded) in the future based on:

(i) the number of residential child and youth care practitioners certified by the Board;

(ii) the number of full-time equivalent or contractual personnel hired by the Board; and

(iii) the Board's actual and projected revenues and expenditures.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 351

(House Bill 74)

AN ACT concerning

**Occupational and Professional Licensing Design Boards – Sunset Provisions
and Program Evaluation**

FOR the purpose of continuing the State Board of Certified Interior Designers in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; repealing certain termination provisions relating to the Occupational and Professional Licensing Design Boards' Fund and the authority of certain occupational and professional licensing design boards to set fees; and generally relating to the occupational and professional licensing design boards.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 8–602
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(32)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing
Chapter 227 of the Acts of the General Assembly of 2003, as amended by
Chapter 273 of the Acts of the General Assembly of 2008
Section 8

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

Article – Business Occupations and Professions

8–602.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, [2014] **2024**.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(32) Interior Designers, State Board of Certified (§ 8–201 of the Business Occupations and Professions Article: July 1, [2013] **2023**);

Chapter 227 of the Acts of 2003, as amended by Chapter 273 of the Acts of 2008

[SECTION 8. AND BE IT FURTHER ENACTED, That Sections 2 and 6 of this Act shall remain effective for a period of 10 years and 1 month and, at the end of June 30, 2013, with no further action required by the General Assembly, these sections shall be abrogated and of no further force and effect.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 352

(House Bill 96)

AN ACT concerning

**Criminal Procedure – Probation Before Judgment – ~~Subsequent Possession~~
of a Controlled Dangerous Substance ~~Crime~~**

FOR the purpose of authorizing a court to impose probation before judgment for a certain second ~~or subsequent~~ controlled dangerous substance crime if the court requires the defendant to graduate from drug court or successfully complete a substance abuse treatment program as a condition of probation and the

defendant meets that requirement; and generally relating to probation before judgment.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 6–220(d)
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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

Article – Criminal Procedure

6–220.

(d) Notwithstanding subsections (b) and (c) of this section, a court may not stay the entering of judgment and place a defendant on probation for:

(1) a violation of § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article, if within the preceding 10 years the defendant has been convicted under § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article, or has been placed on probation in accordance with this section, after being charged with a violation of § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article;

(2) a second or subsequent controlled dangerous substance crime under Title 5 of the Criminal Law Article ~~UNLESS THE COURT REQUIRES THE DEFENDANT TO GRADUATE FROM DRUG COURT AS A CONDITION OF PROBATION, EXCEPT THAT THE COURT MAY STAY THE ENTERING OF JUDGMENT AND PLACE A DEFENDANT ON PROBATION FOR POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE UNDER § 5–601 OF THE CRIMINAL LAW ARTICLE IF:~~

(I) THE DEFENDANT HAS BEEN CONVICTED ONCE PREVIOUSLY OF OR RECEIVED PROBATION BEFORE JUDGMENT ONCE PREVIOUSLY FOR POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE UNDER § 5–601 OF THE CRIMINAL LAW ARTICLE;

(II) THE COURT REQUIRES THE DEFENDANT TO GRADUATE FROM DRUG COURT OR SUCCESSFULLY COMPLETE A SUBSTANCE ABUSE TREATMENT PROGRAM AS A CONDITION OF PROBATION; AND

(III) THE DEFENDANT GRADUATES FROM DRUG COURT OR SUCCESSFULLY COMPLETES A SUBSTANCE ABUSE TREATMENT PROGRAM AS REQUIRED;

(3) a violation of any of the provisions of §§ 3–303 through 3–307, §§ 3–309 through 3–312, § 3–315, or § 3–602 of the Criminal Law Article for a crime involving a person under the age of 16 years; or

(4) a moving violation, as defined in § 11–136.1 of the Transportation Article, if:

(i) the defendant holds a provisional license under § 16–111 of the Transportation Article; and

(ii) the defendant has previously been placed on probation under this section for the commission of a moving violation while the defendant held a provisional license.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 353

(House Bill 100)

AN ACT concerning

Vital Records – Certificates of Death – Amendments to Cause of Death

FOR the purpose of authorizing the Office of the Chief Medical Examiner to amend the cause of death on a certificate of death at any time after ~~issuance~~ registration ~~in accordance with certain procedures~~ without a court order; and generally relating to amendments to the cause of death on certificates of death.

BY repealing and reenacting, with amendments,
 Article – Health – General
 Section 4–214
 Annotated Code of Maryland
 (2009 Replacement Volume and 2011 Supplement)

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

Article – Health – General

4–214.

(a) ~~(1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,~~ A certificate or record registered under this subtitle may be amended only in accordance with this subtitle and any rules and regulations that the Secretary adopts to protect the integrity and accuracy of vital records.

~~(2) THE OFFICE OF THE CHIEF MEDICAL EXAMINER MAY AMEND THE CAUSE OF DEATH ON A CERTIFICATE OF DEATH AT ANY TIME AFTER ISSUANCE IN ACCORDANCE WITH PROCEDURES ADOPTED BY THE OFFICE OF THE CHIEF MEDICAL EXAMINER.~~

(b) (1) If any certificate of birth, death, or fetal death is amended, the facts shall be certified to the Secretary and entered on the original certificate with the date of the amendment, over the signature or initials of a designee of the Secretary and with a line drawn through the original data.

(2) All amendments may be stored on electronic media approved by the Secretary.

(3) All copies of certificates that are amended shall contain a notation that an amendment has been made.

(4) A record shall be maintained which identifies the evidence upon which the amendment was based, the date of the amendment, and the identity of the person making the amendment.

(5) Upon receipt of a certified copy of an order of a court of competent jurisdiction indicating the sex of an individual born in this State has been changed by surgical procedure and whether such individual's name has been changed, the Secretary shall amend the certificate of birth of the individual as prescribed by regulation.

(6) When an informant does not submit the minimum documentation required in the regulations for amending a vital record or when the Secretary has cause to question the validity or adequacy of the applicant's sworn statements or the documentary evidence, and if the deficiencies are not corrected, the Secretary shall not amend the vital record and shall advise the applicant of the reason for this action and shall further advise the applicant of the right of appeal to the Office of Administrative Hearings.

(7) ~~(I) Any~~ (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, ANY amendments to death certificates requested beyond 3 years or more after the death shall require a court order.

(II) THE OFFICE OF THE CHIEF MEDICAL EXAMINER MAY AMEND THE CAUSE OF DEATH ON A CERTIFICATE OF DEATH AT ANY TIME AFTER ISSUANCE REGISTRATION WITHOUT A COURT ORDER.

(c) (1) On receipt of a court order that changes the name of an individual who was born in this State and on request of the individual or a parent, guardian, or legal representative of the individual, the Secretary shall amend the certificate of birth to reflect the new name.

(2) The Department may change the name on a birth certificate once without a court order if, within 12 months after the birth, the Department receives from both parents of a child:

(i) A written request for the change of name; and

(ii) An affidavit that has been sworn before a notary public of this State and states that they are the parents of the child and are making this request of their own free will.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 354

(House Bill 111)

AN ACT concerning

Criminal Law – Failure to Return Rental Vehicle – ~~Repeal~~ Notice

FOR the purpose of ~~repealing a certain crime of abandonment of a rented motor vehicle or refusal or willful neglect to return a rented motor vehicle at the end of the leasing or rental period; making a certain conforming change; providing for the application of this Act~~ providing that a person may not be prosecuted under a certain provision of law prohibiting the abandonment or refusal to return a rented motor vehicle if, within a certain number of days after a written demand for the return of the motor vehicle is mailed in a certain manner to the person who leased or rented the motor vehicle, the person returns or accounts for the motor vehicle to the person who delivered the motor vehicle; providing that a certain prosecution may not be started until a certain number of days after a certain written demand is mailed; and generally relating to ~~repealing a certain crime of~~ failure to return a rental vehicle.

BY repealing and reenacting, with amendments,

Article – Criminal Law
Section 7–205
Annotated Code of Maryland
(2002 Volume and 2011 Supplement)

~~BY repealing and reenacting, with amendments,
Article – Transportation
Section 14–105
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

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

Article – Criminal Law

~~§~~7–205.

(a) A person who leases or rents a motor vehicle under an agreement to return the motor vehicle at the end of the leasing or rental period may not abandon the motor vehicle or refuse or willfully neglect to return it.

(B) (1) A PERSON MAY NOT BE PROSECUTED UNDER THIS SECTION IF, WITHIN 10 5 DAYS AFTER A WRITTEN DEMAND FOR THE RETURN OF THE MOTOR VEHICLE IS MAILED BY REGULAR MAIL AND CERTIFIED UNITED STATES MAIL, RETURN RECEIPT REQUESTED, TO THE PERSON WHO LEASED OR RENTED THE MOTOR VEHICLE AT THE LAST ADDRESS KNOWN TO THE PERSON WHO DELIVERED THE MOTOR VEHICLE, THE PERSON RETURNS OR ACCOUNTS FOR THE MOTOR VEHICLE TO THE PERSON WHO DELIVERED THE MOTOR VEHICLE.

(2) A PROSECUTION MAY NOT BE STARTED UNTIL 10 5 DAYS AFTER A WRITTEN DEMAND DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IS MAILED.

~~(b)~~ **(C)** A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$500 or both. ~~§~~

~~Article – Transportation~~

~~14–105.~~

~~(a) If a police officer receives reliable information that a vehicle has been stolen, the police officer shall immediately report the theft to the Administration and the Department of State Police, unless the police officer has received reliable information of the recovery of the vehicle.~~

~~(b) [An alleged violation under § 7-205 of the Criminal Law Article shall be a reportable theft of a vehicle for purposes of subsection (a) of this section.]~~

~~(c) [If a police officer receives reliable information that a vehicle which he previously reported stolen has been recovered, he shall immediately report the recovery to the Administration and the Department of State Police.]~~

~~[(d)] (C) If a vehicle titled or registered in this State has been stolen, the owner or secured party may notify the Administration of the theft.~~

~~[(e)] (D) Every person who has given notice under subsection [(d)] (C) of this section shall notify the Administration of a recovery of the vehicle.~~

~~[(f)] (E) The Administration shall maintain and appropriately index cumulative public records of stolen vehicles reported to it under this section.~~

~~[(g)] (F) The Administration may suspend the registration of a vehicle whose theft is reported to it under this section.~~

~~[(h)] (G) Until the Administration learns of the recovery of the vehicle or that the report of its theft was erroneous, it may not issue a certificate of title for the vehicle.~~

~~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 offense committed before the effective date of this Act.~~

SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 355

(House Bill 134)

AN ACT concerning

Carroll County – Archery Hunting – Safety Zone

FOR the purpose of establishing for archery hunters in Carroll County a safety zone of a certain size within which archery hunting may not take place except under certain circumstances; and generally relating to archery hunting in Carroll County.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 10–410(g)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

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

Article – Natural Resources

10–410.

(g) (1) Except as provided in paragraph (2) of this subsection, a person, other than the owner or occupant, while hunting for any wild bird or mammal may not shoot or discharge any firearm or other deadly weapon within 150 yards, known as the “safety zone,” of a dwelling house, residence, church, or other building or camp occupied by human beings, or shoot at any wild bird or mammal while it is within this area, without the specific advance permission of the owner or occupant.

(2) For archery hunters in **CARROLL COUNTY OR** Frederick County, the safety zone described in paragraph (1) of this subsection extends for 50 yards from a dwelling house, residence, church, or any other building or camp occupied by human beings.

(3) During any open hunting season, a person, other than the owner or occupant, may not hunt or chase willfully any wild bird or mammal within the safety zone without the specific advance permission of the owner or occupant.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 356

(House Bill 158)

AN ACT concerning

**Property Tax – High Performance Building Tax Credit – National Green
Building Standards**

FOR the purpose of altering a certain definition for purposes of the high performance building tax credit; providing for the application of this Act; and generally relating to tax credits for high performance buildings.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–242
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

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

Article – Tax – Property

9–242.

(a) (1) Subject to paragraph (2) of this subsection, in this section, “high performance building” means a building that:

(i) achieves at least a silver rating according to the U.S. Green Building Council’s LEED (Leadership in Energy and Environmental Design) green building rating system as adopted by the Maryland Green Building Council;

(ii) IS A RESIDENTIAL BUILDING THAT ACHIEVES AT LEAST A SILVER RATING ACCORDING TO THE INTERNATIONAL CODE COUNCIL’S 700 NATIONAL GREEN BUILDING STANDARDS;

[(ii)] (iii) achieves at least a comparable rating according to any other appropriate rating system; or

[(iii)] (iv) meets comparable green building guidelines or standards approved by the State.

(2) For purposes of paragraph (1) of this subsection, under LEED Credit MR7 or a similar criterion in a comparable rating system, credit may be awarded for the use of wood-based materials derived from all credible sources, including the Sustainable Forestry Initiative Program, the Canadian Standards Association, the American Tree Farm System, and other credible certified sources programs.

(b) The Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation may grant, by law, a tax credit against the county or municipal corporation property tax imposed on a high performance building.

(c) A county or municipal corporation may provide, by law, for:

- (1) the amount of a property tax credit under this section;
- (2) the duration of a property tax credit under this section;
- (3) the criteria and qualifications necessary to receive the credit; and
- (4) any other provision necessary to carry out this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2012, and shall be applicable to all taxable years beginning after June 30, 2012.

Approved by the Governor, May 2, 2012.

Chapter 357

(House Bill 182)

AN ACT concerning

St. Mary's County Board of Elections – Salary

FOR the purpose of altering the salary of the members of the St. Mary's County Board of Elections; providing that this Act does not apply to the salary or compensation of the incumbent members of the St. Mary's County Board of Elections; and generally relating to the salary of the members of the St. Mary's County Board of Elections.

BY repealing and reenacting, with amendments,

Article – Election Law

Section 2–204(a)(19)

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

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

Article – Election Law

2-204.

(a) Each regular member of a local board shall receive the salary and reimbursement of expenses provided in the county budget, but in no event may the annual compensation be less than the following amounts:

(19) in St. Mary's County, [~~\$800~~] **\$3,000**;

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the members of the St. Mary's County Board of Elections during a term of office beginning before the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the St. Mary's County Board of Elections shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 358

(House Bill 186)

AN ACT concerning

Department of the Environment – Permit Proceedings – Judicial Review

FOR the purpose of clarifying the right of parties to appeal to the Court of Special Appeals a decision by a circuit court regarding certain final permit determinations by the Department of the Environment; providing for the application of this Act; making this Act an emergency measure; and generally relating to judicial review of certain final permit determinations by the Department of the Environment.

BY repealing and reenacting, with amendments,

Article – Environment

Section 1-601 and 5-204(i)

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

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

Article – Environment

1–601.

(a) Permits issued by the Department under the following sections shall be issued in accordance with this subtitle:

(1) Air quality control permits to construct subject to § 2–404 of this article;

(2) Permits to install, materially alter or materially extend landfill systems, incinerators for public use or rubble landfills subject to § 9–209 of this article;

(3) Permits to discharge pollutants to waters of the State issued pursuant to § 9–323 of this article;

(4) Permits to install, materially alter or materially extend a structure used for storage or distribution of any type of sewage sludge issued, renewed, or amended pursuant to § 9–234.1 or § 9–238 of this article;

(5) Permits to own, operate, establish or maintain a controlled hazardous substance facility issued pursuant to § 7–232 of this article;

(6) Permits to own, operate, or maintain a hazardous material facility issued pursuant to § 7–103 of this article; and

(7) Permits to own, operate, establish or maintain a low–level nuclear waste facility issued pursuant to § 7–233 of this article.

(b) For permits listed under subsection (a) of this section, a contested case hearing may not occur.

(c) A final determination by the Department on the issuance, denial, renewal, or revision of any permit listed under subsection (a) of this section is subject to judicial review at the request of any person that:

(1) Meets the threshold standing requirements under federal law; and

(2) (i) Is the applicant; or

(ii) Participated in a public participation process through the submission of written or oral comments, unless an opportunity for public participation was not provided.

(d) (1) Judicial review shall be on the administrative record before the Department and limited to objections raised during the public comment period, unless the petitioner demonstrates that:

(i) The objections were not reasonably ascertainable during the comment period; or

(ii) Grounds for the objections arose after the comment period.

(2) The court shall remand the matter to the Department for consideration of objections under paragraph (1) of this subsection.

(e) **(1)** Unless otherwise required by statute, a petition for judicial review by a person that meets the requirements of subsection (c) of this section shall be filed with the circuit court for the county where the application for the permit states that the proposed activity will occur.

(2) THE DECISION OF THE CIRCUIT COURT MAY BE APPEALED TO THE COURT OF SPECIAL APPEALS.

(f) (1) When this article requires more than one public informational meeting or public hearing, the Department may consolidate some or all of the meetings or hearings for the proposed facility with similar meetings or hearings.

(2) The Department shall hold public informational meetings and public hearings at a location in the political subdivision and in close proximity to the location where the individual permit applies.

5-204.

(i) (1) Unless otherwise required by statute, a petition for judicial review by a person who meets the requirements of subsection (f) of this section shall be filed with the circuit court for the county where the application for the permit states that the proposed activity will occur.

(2) [A petition for judicial] **JUDICIAL** review [filed] under this section shall be [filed] **CONDUCTED** in accordance with Title 1, Subtitle 6 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively ~~and shall be applied to and interpreted to affect~~ all appeals of final permit decisions subject to Title 1, Subtitle 6 of the Environment Article ~~that are pending in a circuit court on the effective date of this Act.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 2, 2012.

Chapter 359

(House Bill 187)

AN ACT concerning

Criminal Procedure – Expungement – Filing on Behalf of Deceased Person

FOR the purpose of authorizing a person’s attorney or personal representative to file a certain petition for expungement on behalf of the person if the person died before disposition of a certain charge by nolle prosequi or dismissal; providing for the application of this Act; and generally relating to expungement of criminal records.

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 10–105(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

BY adding to
Article – Criminal Procedure
Section 10–105(a–1)
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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

Article – Criminal Procedure

10–105.

(a) A person who has been charged with the commission of a crime, including a violation of the Transportation Article for which a term of imprisonment may be imposed, or who has been charged with a civil offense or infraction, except a juvenile offense, as a substitute for a criminal charge may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if:

- (1) the person is acquitted;
- (2) the charge is otherwise dismissed;

(3) a probation before judgment is entered, unless the person is charged with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5 or § 3–211 of the Criminal Law Article;

(4) a nolle prosequi or nolle prosequi with the requirement of drug or alcohol treatment is entered;

(5) the court indefinitely postpones trial of a criminal charge by marking the criminal charge “stet” or stet with the requirement of drug or alcohol abuse treatment on the docket;

(6) the case is compromised under § 3–207 of the Criminal Law Article;

(7) the charge was transferred to the juvenile court under § 4–202 of this article;

(8) the person:

(i) is convicted of only one criminal act, and that act is not a crime of violence; and

(ii) is granted a full and unconditional pardon by the Governor;
or

(9) the person was convicted of a crime under any State or local law that prohibits:

(i) urination or defecation in a public place;

(ii) panhandling or soliciting money;

(iii) drinking an alcoholic beverage in a public place;

(iv) obstructing the free passage of another in a public place or a public conveyance;

(v) sleeping on or in park structures, such as benches or doorways;

(vi) loitering;

(vii) vagrancy;

(viii) riding a transit vehicle without paying the applicable fare or exhibiting proof of payment; or

(ix) except for carrying or possessing an explosive, acid, concealed weapon, or other dangerous article as provided in § 7–705(b)(6) of the Transportation Article, any of the acts specified in § 7–705 of the Transportation Article.

(A–1) A PERSON’S ATTORNEY OR PERSONAL REPRESENTATIVE MAY FILE A PETITION, ON BEHALF OF THE PERSON, FOR EXPUNGEMENT UNDER THIS SECTION IF THE PERSON DIED BEFORE DISPOSITION OF THE CHARGE BY NOLLE PROSEQUI OR DISMISSAL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect charges filed against a person under the provisions of Section 1 of this Act before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 360

(House Bill 190)

AN ACT concerning

Environment – Noise Control

FOR the purpose of altering certain findings by the General Assembly; requiring the Department of the Environment to revise certain noise standards and sound level limits under certain circumstances; repealing requirements that the Department develop a certain plan, coordinate certain programs, and keep certain records; repealing a requirement that State agencies consult with the Department under certain circumstances; authorizing certain political subdivisions, instead of the Department, to make certain determinations; repealing certain requirements for political subdivisions related to noise control and sound level limits; repealing the Environmental Noise Advisory Council in the Department; repealing the Interagency Noise Control Committee; requiring certain political subdivisions to make certain considerations in adopting certain noise standards, sound level limits, and noise control rules; repealing a requirement that the Department adopt certain regulations jointly with the Department of Transportation; repealing requirements for the adoption and enforcement of noise standards, sound level limits, or noise control rules and

regulations by the Department or other units; repealing the Department's authority to enforce certain sound level limits and noise control rules and regulations; authorizing a political subdivision to enforce certain sound level limits and noise control rules and regulations; repealing certain provisions authorizing the Secretary of the Environment to delegate certain enforcement in Harford County under certain circumstances; repealing requirements that the Department use certain facilities and services under certain circumstances; repealing the Department's authority to assist in certain noise control efforts; authorizing certain political subdivisions to make a certain investigation, survey, test, or assessment under certain circumstances; altering the boundaries for certain sound level limits; authorizing a political subdivision, instead of the Department, to take certain enforcement actions under certain circumstances; altering certain penalty provisions; altering a certain definition; and generally relating to the adoption and enforcement of noise control standards.

BY repealing and reenacting, with amendments,

Article – Environment

Section 3–101 through 3–103, 3–105, 3–401, 3–403 through 3–407, and 3–501

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Environment

Section 3–104, 3–408, 3–502, and 3–503

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY repealing

Article – Environment

Section 3–201 through 3–205 and the subtitle “Subtitle 2. Environmental Noise Advisory Council”, 3–301 through 3–304 and the subtitle “Subtitle 3.

Interagency Noise Control Committee”, 3–402, and 3–504 through 3–506

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

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

Article – Environment

3–101.

- (a) In this title the following words have the meanings indicated.
- (b) [“Committee” means the Interagency Noise Control Committee.

(c) “Council” means the Environmental Noise Advisory Council.

(d) “Environmental noise standard” means a goal for the limitation of noise, from all sources, that exists in a defined area under specified conditions.

[(e)] (C) (1) “Noise” means the intensity, frequency, duration, and character of sound.

(2) “Noise” includes sound and vibration of subaudible frequencies.

[(f)] (D) “Political subdivision” means a county or municipal corporation of this State.

[(g)] (E) “Sound level limit” means the maximum allowable noise emission from a noise source in a defined area under specified conditions.

[(h)] (F) “Source” means any person or property from which sound originates.

3–102.

[(a)] The General Assembly finds:

(1) That the people of this State have a right to an environment that is free from any noise that:

(i) May jeopardize their health, general welfare, or property; or

(ii) Degrades the quality of their lives; **AND**

(2) That there is a substantial body of knowledge about the adverse effects of excessive noise on the public health, the general welfare, and property, and that this knowledge should be used to develop environmental noise standards that will protect the public health, the general welfare, and property with an adequate margin of safety]; and

(3) That it is essential to have coordination and statewide leadership of the noise control activities of the many State agencies and the county and local governments.

(b) It is the intent of the General Assembly that the Department shall:

(1) Seek appropriate resources to ensure enforcement of the sound level limits and noise control rules and regulations adopted under this title; and

(2) Work cooperatively with the appropriate agencies of political subdivisions in ensuring the implementation and enforcement of the requirements of this title].

3-103.

[(a)] Except as otherwise provided by law, [and in addition to the duties set forth elsewhere in this title,] the Department shall[:

(1) Develop a plan for attaining and maintaining the environmental noise standards that are adopted;

(2) Coordinate all State agency programs on noise control; and

(3) Keep a record of each sound level limit that is adopted by any political subdivision or agency of this State.

(b) Each State agency shall consult with the Department before adopting any sound level limit or noise control rule or regulation] **REVISE THE STATE'S ENVIRONMENTAL NOISE STANDARDS AND SOUND LEVEL LIMITS AS NECESSARY OR APPROPRIATE.**

3-104.

The Department may obtain any federal or other funds that are available to this State for purposes that are within the scope of this title.

3-105.

(a) (1) Except as provided in this section, this title does not limit the power of a political subdivision to adopt noise control ordinances, rules, or regulations.

(2) A political subdivision may not adopt any noise control ordinance, rule, or regulation that is less stringent than the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title.

(3) (i) A political subdivision may not adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that is chartered and in operation as of January 1, 2001.

(ii) This paragraph does not apply in Baltimore City or Allegany, Anne Arundel, Calvert, Charles, Garrett, Howard, Montgomery, St. Mary's, and Washington counties.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, Allegany County, Anne Arundel County, Garrett County, Washington County, or a political subdivision of Allegany County, Anne Arundel County, Garrett County, or Washington County may not adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that is chartered and in operation as of January 1, 2005.

(ii) 1. Subject to the provisions of subsubparagraph 2 of this subparagraph, Allegany County, Anne Arundel County, Garrett County, Washington County, or a political subdivision of Allegany County, Anne Arundel County, Garrett County, or Washington County may adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that the [Department] **RESPONSIBLE POLITICAL SUBDIVISION** determines is not in compliance as of January 1, 2005 with environmental noise standards, sound level limits, or noise control rules or regulations adopted under this title.

2. A noise control ordinance, rule, or regulation adopted under subsubparagraph 1 of this subparagraph shall allow trapshooting, skeetshooting, and other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that the [Department] **RESPONSIBLE POLITICAL SUBDIVISION** determines has become compliant with environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title.

(5) Carroll County or a political subdivision of Carroll County may not enforce any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, against a public school in Carroll County that violates the ordinance, rule, or regulation between the hours of 8 a.m. and 9:30 p.m.

(b) Each political subdivision **IS ENCOURAGED TO CONSIDER:**

(1) [Shall send to the Department a copy of each noise control ordinance, rule, or regulation that it adopts;

(2) Shall identify on each zoning map, comprehensive plan, or other appropriate document the sound level limits that are adopted under Subtitle 4 of this title; and

(3) Is encouraged to consider:

(i) Compliance with State or local noise standards before acting on any proposed variance requests or changes in zoning classifications; and

[(ii)] (2) Whether the permit or activity will be in compliance with local and State noise control standards, prior to the issuance of a building, activity permit, or similar authorizing document.

[Subtitle 2. Environmental Noise Advisory Council.]

[3-201.

There is an Environmental Noise Advisory Council in the Department.]

[3-202.

(a) (1) The Council consists of 11 members:

(i) 9 voting members appointed by the Secretary; and

(ii) 2 ex officio members.

(2) Of the 11 Council members:

(i) 1 shall be appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Acoustical Society of America and the Institute of Noise Control Engineering;

(ii) 1 shall be a physician who specializes in hearing, appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Medical and Chirurgical Faculty of the State of Maryland;

(iii) 1 shall be appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Chancellor of the University System of Maryland;

(iv) 2 shall be appointed from the public at large;

(v) 1 shall be appointed from a list of at least 3 individuals submitted to the Secretary by the Maryland Municipal League;

(vi) 1 shall be appointed from a list of at least 3 individuals submitted to the Secretary by the Maryland Association of Counties;

(vii) 2 shall be appointed from a list of at least 3 individuals submitted to the Secretary by the Maryland Chamber of Commerce;

(viii) 1 ex officio member shall be a member of the Senate of Maryland, appointed by the President of the Senate; and

(ix) 1 ex officio member shall be a member of the House of Delegates, appointed by the Speaker of the House.

(3) In making any appointment to the Council, the Secretary shall consider giving appropriate representation to the various geographical areas of this State.

(b) Each member of the Council shall be a resident of this State.

(c) (1) The term of a member is 5 years.

(2) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(3) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.]

[3–203.

From among the Council members, the Secretary of the Environment shall appoint a chairman, a vice chairman, and a secretary of the Council.]

[3–204.

(a) The Council shall meet at the times and places that the Secretary or the chairman determines.

(b) A member of the Council:

(1) May not receive compensation; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(c) The Department shall provide the Council with secretarial and stenographic assistance.]

[3–205.

(a) Before the Department proposes any changes in the provisions of this title or revisions to the environmental noise regulations, the Department shall:

(1) Submit the proposed revisions to the Council for advice;

- (2) Conduct public hearings; and
- (3) Prepare or solicit technical input on issues related to the revisions.

(b) Within 60 days after receiving a proposed revision from the Department, the Council shall give the Department its advice on the proposal by recommending:

- (1) Adoption;
- (2) Rejection; or
- (3) Modification.

(c) The Council may provide advice to the Department on any matter relating to noise pollution.]

[Subtitle 3. Interagency Noise Control Committee.]

[3-301.

There is an Interagency Noise Control Committee.]

[3-302.

- (a) The Committee consists of:
- (1) 1 member of the Governor's executive staff, appointed by the Governor; and
 - (2) 1 representative of each of the following departments, appointed by the Secretary of that department:
 - (i) The Department of the Environment;
 - (ii) The State Department of Transportation;
 - (iii) The Department of Natural Resources;
 - (iv) The Department of Planning;
 - (v) The Department of Health and Mental Hygiene;
 - (vi) The Department of Business and Economic Development;
 - (vii) The Department of Labor, Licensing, and Regulation; and

(viii) Any other principal department that develops, adopts, or enforces any noise control rule or regulation.

(b) The member who is appointed by the Secretary of the Environment is chairman of the Committee.]

[3–303.

(a) The Committee shall meet at least twice a year, at the times and places that it determines.

(b) A member of the Committee:

(1) May not receive compensation; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(c) (1) In accordance with the State budget, the Committee may:

(i) Employ a staff;

(ii) Employ consultants; and

(iii) Obtain office facilities.

(2) The Department of the Environment shall provide the Committee with secretarial and stenographic assistance.]

[3–304.

(a) The Committee shall:

(1) Receive reports of progress, problems, and proposed plans for attaining and maintaining State environmental noise standards from each agency that is represented on the Committee;

(2) Evaluate the adequacy of existing and proposed efforts to attain and maintain State environmental noise standards;

(3) Review the relationship of State noise control rules and regulations with other environmental laws, rules, regulations, standards, and programs; and

(4) Recommend new or revised noise control rules, regulations, or legislation.

(b) If the Council requests, the annual report of the Committee shall include a report of the Council.]

3-401.

(a) Except as otherwise provided by law, the Department shall adopt environmental noise standards, sound level limits, and noise control rules and regulations as necessary to protect the public health, the general welfare, and property.

(b) In adopting environmental noise standards, the Department **OR A POLITICAL SUBDIVISION THAT CHOOSES TO ADOPT ENVIRONMENTAL NOISE STANDARDS** shall consider:

(1) Information published by the Administrator of the United States Environmental Protection Agency on the levels of environmental noise that must be attained and maintained in defined areas under various conditions to protect public health and welfare with an adequate margin of safety; and

(2) Scientific information about the volume, frequency, duration, and other characteristics of noise that may harm public health, safety, or general welfare, including:

- (i) Temporary or permanent hearing loss;
- (ii) Interference with sleep, speech communication, work, or other human activities;
- (iii) Adverse physiological responses;
- (iv) Psychological distress;
- (v) Harm to animal life;
- (vi) Devaluation of or damage to property; and
- (vii) Unreasonable interference with the enjoyment of life or property.

(c) (1) In adopting sound level limits and noise control rules and regulations, the Department **OR THE POLITICAL SUBDIVISION** shall consider, among other things:

- (i) The residential, commercial, or industrial nature of the area affected;

- (ii) Zoning;
- (iii) The nature and source of various kinds of noise;
- (iv) The degree of noise reduction that may be attained and maintained using the best available technology;
- (v) Accepted scientific and professional methods for measurement of sound levels; and
- (vi) The cost of compliance with the sound level limits.

(2) The sound level limits adopted under this subsection shall be consistent with the environmental noise standards adopted by the Department.

(3) The sound level limits and noise control rules and regulations adopted under this subsection may not prohibit trapshooting or other target shooting on any range or other property in Frederick County that the Frederick County Department of Planning and Zoning has approved as a place for those sporting events.

(4) The sound level limits and noise control rules and regulations adopted under this subsection shall be as follows for residential heat pumps and air conditioning units:

- (i) Residential heat pumps 75dba.
- (ii) Residential air conditioning units 70dba.

(5) (i) The sound level limits and noise control rules and regulations adopted under this subsection may not prohibit trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. on any range or other property of a shooting sports club that is chartered and in operation as of January 1, 2001.

(ii) This paragraph does not apply in Allegany, Anne Arundel, Baltimore City, Calvert, Charles, Garrett, Howard, Montgomery, St. Mary's, and Washington counties.

(6) (i) Except as provided in subparagraph (ii) of this paragraph, the Department may not adopt sound level limits and noise control rules and regulations under this subsection that prohibit trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. in Allegany County, Anne Arundel County, Garrett County, or Washington County on any range or other property of a shooting sports club that is chartered and in operation as of January 1, 2005.

(ii) 1. Subject to the provisions of subsubparagraph 2 of this subparagraph, the Department may adopt sound level limits and noise control rules and regulations under this subsection that prohibit trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. in Allegany County, Anne Arundel County, Garrett County, or Washington County on any range or other property of a shooting club that the Department determines is not in compliance as of January 1, 2005 with environmental noise standards, sound level limits, or noise control rules and regulations adopted under this title.

2. A sound level limit or noise control rule or regulation adopted under this subsection shall allow trapshooting, skeetshooting, and other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that the Department determines has become compliant with sound level limits and noise control rules and regulations adopted under this title.

(d) (1) This section does not authorize the Department to adopt environmental noise standards, sound level limits, or noise control rules and regulations that apply to noise from:

- (i) Construction or repair work on public property;
- (ii) Fire or rescue station alerting devices; or
- (iii) In Frederick County or Frederick City:

1. A fair listed in the Maryland Agricultural Fairs and Shows Schedule that is maintained by the Maryland Agricultural Fair Board; or

2. Any other event held on the same grounds as a fair under item 1 of this item.

(2) Noise control rules and regulations that apply to Department of Transportation facilities shall be adopted [jointly] by the Department of Transportation [and the Department of the Environment].

[3-402.

(a) The Department may not adopt any environmental noise standard, sound level limit, or noise control rule or regulation unless the requirements of this section and the Administrative Procedure Act are met.

(b) Before adopting any proposed environmental noise standard, sound level limit, or noise control rule or regulation, the Department shall announce and hold a public hearing on the subject.

(c) (1) At least 60 days before the public hearing, the Department shall publish notice of the hearing in a newspaper of general circulation within the area concerned.

(2) The notice shall state:

- (i) The date, time, and place of the hearing; and
- (ii) The purpose of the hearing.

(d) At least 60 days before the public hearing, the Department shall make the proposed environmental noise standard, sound level limit, or noise control rule or regulation available to the public.

(e) After the public hearing, the Department may adopt the proposed environmental noise standard, sound level limit, or noise control rule or regulation, with or without modification.]

3-403.

(a) [(1) The Department] **A POLITICAL SUBDIVISION MAY** [shall] enforce the sound level limits and noise control rules and regulations adopted under this title.

[(2) In Harford County, the Secretary may delegate enforcement under paragraph (1) of this subsection to the Sheriff of Harford County, except enforcement regarding:

(i) Trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. at a shooting sports club that is chartered and in operation in Harford County;

(ii) Lawful trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 8 p.m.; or

(iii) Lawful hunting.]

(b) [To the maximum extent possible, the Department shall use the facilities and services of appropriate agencies of political subdivisions in its enforcement under this section.

(c) The Department may assist the noise control efforts of any appropriate agency of any political subdivision by giving that agency technical assistance in the form of personnel or equipment.] **A POLITICAL SUBDIVISION THAT ENFORCES A NOISE CONTROL STANDARD ADOPTED UNDER THIS TITLE OR AN ORDINANCE CONCERNING NOISE MAY:**

- (1) INVESTIGATE A COMPLAINT CONCERNING NOISE;
- (2) INSTITUTE AND CONDUCT A SURVEY AND TESTING PROGRAM CONCERNING NOISE;
- (3) TEST OR MAKE ANOTHER DETERMINATION OF THE SOURCE OF A NOISE; AND
- (4) ASSESS THE DEGREE OF REQUIRED ABATEMENT OF THE NOISE.

[(d)] (C) Each sound level limit shall be applied at the boundary of:

- (1) A property; or
- (2) A land use category, as determined by the [Department] RESPONSIBLE POLITICAL SUBDIVISION.

3-404.

If [the Department] A POLITICAL SUBDIVISION determines that there is a violation of this title or any sound level limit or noise control rule or regulation adopted under this title, [the Department] THE POLITICAL SUBDIVISION, after notice to the alleged violator, may issue a corrective order.

3-405.

(a) [The Department] A POLITICAL SUBDIVISION may bring an action to enjoin any conduct that is a willful violation of any provision of this title or any rule, regulation, or order adopted or issued under this title.

(b) An action may not be brought under this section unless the person against whom it is brought has been given a reasonable time to comply with the provision that is the basis of the action.

3-406.

(a) A person who willfully violates any provision of this title or any rule, regulation, or order adopted or issued under this title is liable to a civil penalty not exceeding \$10,000, to be collected in a civil action brought by [the Department] A POLITICAL SUBDIVISION in the circuit court for any county. Each day a violation continues is a separate violation under this section.

(b) [If the Attorney General concurs, the Secretary] **THE POLITICAL SUBDIVISION** may compromise and settle any claim for a civil penalty under this section.

(c) If, within 1 year after a civil penalty is compromised and settled under subsection (b) of this section, the person against whom the penalty is imposed satisfies the [Secretary] **POLITICAL SUBDIVISION** that the violation has been eliminated or the order has been satisfied, the [Secretary, with the concurrence of the Attorney General,] **POLITICAL SUBDIVISION** may return to the person not more than 75 percent of the penalty paid.

(d) An action under this section is in addition to and not instead of an action for injunctive relief under § 3–405 of this subtitle.

3–407.

[(a)] A person is not subject to action for a violation of a provision of this title or any rule or regulation adopted under this title so long as the person acts in accordance with a plan for compliance that:

(1) The person has submitted to the [Secretary] **POLITICAL SUBDIVISION**; and

(2) The [Secretary] **POLITICAL SUBDIVISION** has approved, with or without amendments.

[(b)] The Secretary shall act on any plan for compliance within 90 days after the plan is submitted to the Secretary.]

3–408.

A condition that is caused by an act of God, a strike, a riot, a catastrophe, or a cause over which an alleged violator has no control is not a violation of this title or any rule or regulation adopted under this title.

3–501.

In this subtitle, “unit” means a unit of the State government **OR A POLITICAL SUBDIVISION**.

3–502.

To the fullest extent consistent with its authority under a law that it administers, a unit shall carry out programs that the unit administers to further the policy of the State to provide people with an environment free from noise that:

- (1) May jeopardize health, general welfare, and property; or
- (2) Degrades the quality of life.

3-503.

A unit shall comply with federal, State, and interstate requirements concerning the control of environmental noise if the unit:

- (1) Has jurisdiction over any property or facility; or
- (2) Engages in any activity that results, or may result, in the emission of noise.

[3-504.

A unit that prescribes sound level limits or regulations concerning noise periodically shall:

- (1) Take into account the degree of noise reduction achievable through the application of the best available technology and the cost of compliance; and
- (2) Consult with the Department in prescribing the limits or regulations.]

[3-505.

A unit that enforces a regulation concerning noise may:

- (1) Investigate a complaint concerning noise;
- (2) Institute and conduct a survey and testing program concerning noise;
- (3) Test or make another determination of the source of a noise; and
- (4) Assess the degree of required abatement of the noise.]

[3-506.

A unit that prescribes or enforces a regulation concerning noise shall designate a representative to serve on the Interagency Noise Control Committee.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 361

(House Bill 192)

AN ACT concerning

Kent County – Alcoholic Beverages – Micro–Brewery Licenses

FOR the purpose of adding Kent County to the list of counties in which a Class 7 micro–brewery license may be issued; adding the county to the list of counties in which the license holder may sell at retail beer brewed under the license for consumption off the licensed premises under certain conditions; providing that the license may ~~only~~ be issued to a holder of a Class D beer (off–sale) license; providing for the hours and days for sale for the license; and generally relating to alcoholic beverages in Kent County.

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 2–208

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

2–208.

- (a) There is a Class 7 micro–brewery (on– and off–sale) license.
- (b) The license shall be issued:
 - (1) By the State Comptroller;
 - (2) Only in the following jurisdictions:
 - (i) Allegany County;
 - (ii) Baltimore City;
 - (iii) Baltimore County;

- (iv) The City of Annapolis;
- (v) Anne Arundel County;
- (vi) Calvert County;
- (vii) Carroll County;
- (viii) Charles County;
- (ix) Dorchester County;
- (x) Frederick County;
- (xi) Garrett County;
- (xii) Harford County;
- (xiii) Howard County;
- (xiv) **KENT COUNTY**;
- (xv) Montgomery County;
- [(xv)] **(XVI)** Prince George's County;
- [(xvi)] **(XVII)** Talbot County;
- [(xvii)] **(XVIII)** Washington County;
- [(xviii)] **(XIX)** Wicomico County; and
- [(xix)] **(XX)** Worcester County;

(3) (i) Only to a holder of a Class B beer, wine and liquor (on-sale) license that is issued for use on the premises of a restaurant located in a jurisdiction listed in paragraph (2) of this subsection;

(ii) To a holder of a Class D beer (off-sale) license that is issued for use on the premises of the existing Class D license if the premises are located in **KENT COUNTY OR** the Town of Berlin in Worcester County; or

(iii) To a holder of a Class D alcoholic beverages license that is issued for use on the premises of the existing Class D license if the premises are located in:

1. The 22nd Alcoholic Beverages District of Prince George's County; or

2. Washington County; and

(4) In addition to item (3) of this subsection, in Montgomery County only to a holder of a Class H beer and light wine license that is issued for use on the premises of a restaurant located in the County.

(c) (1) A holder of a Class 7 micro–brewery license:

(i) May brew and bottle malt beverages at the license location;

(ii) May obtain a Class 2 rectifying license for a premises located within 1 mile of the existing Class 7 micro–brewery location to bottle malt beverages brewed at the micro–brewery location only;

(iii) May contract with the holder of a Class 5 brewery license, a Class 7 micro–brewery license, or a Class 2 rectifying license held under § 2–203 of this subtitle or the holder of a nonresident dealer's permit to brew and bottle malt beverages on their behalf;

(iv) May store the finished product under an individual storage permit or at a licensed public storage facility for subsequent sale and delivery to a licensed wholesaler, an authorized person outside this State, and for shipment back to the micro–brewery location for sale on the retail premises;

(v) May not collectively brew, bottle, or contract for more than 22,500 barrels of malt beverages each calendar year; and

(vi) May enter into a temporary delivery agreement with a distributor only for delivery of beer to a beer festival or wine and beer festival and the return of any unused beer if:

1. The beer festival or wine and beer festival is in a sales territory for which the holder does not have a franchise with a distributor under the Beer Franchise Fair Dealing Act; and

2. The temporary delivery agreement is in writing.

(2) A Class 7 licensee who wishes to produce more than the barrelage authorized under paragraph (1)(v) of this subsection shall divest of any Class B, D, or any other retail license and obtain a Class 5 manufacturer's license.

(3) For the purposes of determining the barrelage limitation under paragraph (1)(v) of this subsection, any salable beer produced under contractual

arrangements accrues only to the Class 7 micro-brewery licensee who is the brand owner.

(4) In Allegany County only, the holder of a Class 7 license:

(i) May brew in one location and may contract for the bottling of the malt beverage in another location; and

(ii) Need not meet the hotel/motel requirements for a Class B beer, wine and liquor licensee but shall meet the requirements for those Class B restaurants.

(d) (1) The on-sale privilege authorizes the holder, each calendar year, to sell at retail up to 4,000 barrels of beer brewed under this license to customers for consumption on the licensed premises.

(2) The off-sale privilege authorizes the holder to sell and deliver beer brewed under this license to:

(i) Any wholesaler licensed under this article to sell beer in this State; or

(ii) Any person who is located in a state other than Maryland who is authorized under the laws of that state to receive brewed beverages.

(3) (i) This paragraph applies only in:

1. Allegany County;
2. The City of Annapolis;
3. Anne Arundel County;
4. Baltimore City;
5. Baltimore County;
6. Calvert County;
7. Carroll County;
8. Charles County;
9. Dorchester County;
10. Frederick County;

11. Garrett County;
12. Harford County;
13. Howard County;
14. **KENT COUNTY;**
15. Montgomery County;
- [15.] 16. Prince George's County;
- [16.] 17. Talbot County;
- [17.] 18. Washington County;
- [18.] 19. Wicomico County; and
- [19.] 20. Worcester County.

(ii) The holder may sell at retail beer brewed under this license to customers for consumption off the licensed premises in refillable containers that are sealed by the micro-brewery licensee at the time of each refill.

(e) A holder of a Class 7 micro-brewery license:

(1) May not own, operate or be affiliated with any other manufacturer of beer except for a Class 2 rectifying license authorized by subsection (c)(1)(ii) of this section; and

(2) Notwithstanding § 2-201(b) of this subtitle, may not be granted a wholesale alcoholic beverages license.

(f) (1) Except as provided in paragraph (2) of this subsection, the hours and days for consumer sales under a Class 7 micro-brewery license are as established for:

(i) A Class B license in the respective jurisdictions listed in subsection (b)(2) of this section, for a holder of a Class B beer, wine and liquor license; **[or]**

(ii) A Class D beer license in Worcester County, for a holder of a Class D beer license in the Town of Berlin in Worcester County; **OR**

(III) A CLASS D LICENSE IN KENT COUNTY.

(2) For Class D licensees in the 22nd Alcoholic Beverages District in Prince George's County only, the hours and days for consumer sales under this license are as established for a Class D license in Prince George's County.

(3) For Class D licensees in Washington County, the hours and days for consumer sales under this license are as established for a Class D license in Washington County.

(g) In Montgomery County, a holder of a Class 7 micro-brewery license shall enter into a written agreement with the Department of Liquor Control for Montgomery County for the sale and resale of malt beverages brewed under this license in accordance with this article.

(h) For Talbot County, the Office of the Comptroller of Maryland shall specify which local license is the equivalent of the Class B beer, wine and liquor license specified in subsection (b)(3) of this section.

(i) In Carroll County, the distance restriction requirement for micro-breweries is found in § 9-207 of this article.

(j) (1) This subsection applies only in Washington County.

(2) The Comptroller may not issue a Class 7 micro-brewery license for a premises on property that has been leased unless the landlord of the property presents to the Comptroller a receipt or certificate showing that there are no unpaid taxes due to the State, a county, or any local government from the landlord or any entity in which the landlord has a direct or indirect interest that:

(i) Is proprietary; or

(ii) Has been obtained by a loan, mortgage, or lien, or in any other manner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 362

(House Bill 224)

AN ACT concerning

Garrett County – Hotel Rental Tax ~~Rate~~

FOR the purpose of altering the definition of “transient charge”, as it relates to Garrett County, for purposes of certain provisions of law authorizing certain counties to impose a hotel rental tax on certain transient charges collected by certain hotels; altering the maximum hotel rental tax rate in Garrett County; and generally relating to the hotel rental tax ~~rate~~ in Garrett County.

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section ~~9–301(f)~~ and 9–304(b)(8)
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 24 – Political Subdivisions – Miscellaneous Provisions

9–301.

(f) (1) Except as provided in paragraphs (2) and (3) of this subsection, “transient charge” means a hotel charge for sleeping accommodations for a period not exceeding 4 consecutive months.

(2) In Frederick County, **GARRETT COUNTY**, and Washington County, “transient charge” means a hotel charge for sleeping accommodations for a period not exceeding 30 days.

(3) In Carroll County, “transient charge” means a hotel charge for sleeping accommodations for a period not exceeding 25 days.

(4) “Transient charge” does not include any hotel charge for services or for accommodations other than sleeping accommodations.

9–304.

(b) An authorized county may not set a hotel rental tax rate that exceeds:

(8) ~~[5%]~~ **6%** in Garrett County;

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 363**(House Bill 254)**

AN ACT concerning

Cecil County – Alcoholic Beverages – Class BLX Licenses

FOR the purpose of lowering the minimum capital investment for dining room facilities and kitchen equipment required for a restaurant to qualify for a Class BLX on-sale license in Cecil County; and generally relating to alcoholic beverages licenses in Cecil County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6–201(i)(1)
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 6–201(i)(3)(ii)
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

6–201.

- (i) (1) This subsection applies only in Cecil County.
- (3) (ii) To qualify for a Class BLX on-sale license the restaurant shall have:
 - 1. A minimum capital investment of ~~[\$600,000]~~ ~~\$400,000~~ **\$450,000** for dining room facilities and kitchen equipment, which sum may not include the cost of land, buildings, or a lease; and
 - 2. A minimum seating capacity of 100 persons.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 364**(House Bill 281)**

AN ACT concerning

St. Mary's County – Real Property – Exception for Prerequisites to Recording

FOR the purpose of providing that a certain provision of law regarding the transfer of property on the assessment books or records does not apply in St. Mary's County for a certain deed transferring property to the county when the controller or treasurer of the county has made a certain certification; and generally relating to the recordation of transfer of property in St. Mary's County.

BY repealing and reenacting, without amendments,
Article – Real Property
Section 3–104(b)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 3–104(c)(3)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Real Property

3–104.

(b) (1) Except as provided in subsection (c) of this section, property may not be transferred on the assessment books or records until:

(i) All public taxes, assessments, and charges currently due and owed on the property have been paid to the treasurer, tax collector, or director of finance of the county in which the property is assessed; and

(ii) All taxes on personal property in the county due by the transferor have been paid when all land owned by him in the county is being transferred.

(2) The certificate of the collecting agent designated by law, showing that all taxes, assessments, and charges have been paid, shall be endorsed on the deed, and the endorsement shall be sufficient authority for transfer on the assessment books.

(3) Except as provided in subsection (c) of this section, in Cecil, Charles, Dorchester, Harford, Howard, Kent, Queen Anne's, Somerset, and St. Mary's counties no property may be transferred on the assessment books or records until (1) all public taxes, assessments, any charges due a municipal corporation, and charges due on the property have been paid as required by law, and (2) all taxes on personal property in the county due by the transferor have been paid when all land owned by him in the county and municipal corporation is being transferred. The certificate of the collecting agent and municipal corporation designated by law showing that all taxes, assessments, and charges have been paid, shall be endorsed on the deed and the endorsement shall be sufficient authority for transfer on the assessment books.

(c) (3) Subsection (b) of this section does not apply in Baltimore City and Anne Arundel, Baltimore, Carroll, Frederick, **ST. MARY'S**, or Washington counties to any deed transferring property to the county when the controller or treasurer of the county has certified that the conveyance does not impair the security for any public taxes, assessments, and charges due on the remaining property of the grantor.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 365

(House Bill 324)

AN ACT concerning

Cecil County – Alcoholic Beverages – Class 6 Pub–Brewery Licenses

FOR the purpose of adding Cecil County to the list of jurisdictions in which the holder of a Class 6 pub–brewery license may sell malt beverages for off–premises consumption in sealed refillable containers under certain circumstances; and generally relating to Class 6 pub–brewery licenses in Cecil County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–207(g)
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

2–207.

(g) (1) This subsection applies only in the following jurisdictions:

(i) City of Annapolis;

(ii) Anne Arundel County;

(iii) Baltimore City;

(iv) Baltimore County;

(v) Calvert County;

(VI) CECIL COUNTY;

~~[(vi)]~~ **(VII)** Charles County;

~~[(vii)]~~ **(VIII)** Harford County;

~~[(viii)]~~ **(IX)** Prince George’s County;

~~[(ix)]~~ **(X)** Talbot County;

~~[(x)]~~ **(XI)** Wicomico County; and

~~[(xi)]~~ **(XII)** Worcester County.

(2) The holder of a Class 6 pub–brewery license may sell malt beverages for off–premises consumption in sealed refillable containers.

(3) The containers may be returned and at the time of refill shall be sealed by the pub–brewery licensee.

(4) A holder of a Class 6 pub–brewery license may not sell malt beverages to any retail alcoholic beverages licensee in this State for the purpose of a subsequent sale or distribution of that malt beverage under the retail license.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 366

(House Bill 341)

AN ACT concerning

State Commission of Real Estate Appraisers and Home Inspectors – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Commission of Real Estate Appraisers and Home Inspectors in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Commission; requiring that an evaluation of the Commission be performed on or before a certain date; requiring the Commission to submit ~~a certain report~~ certain reports to certain committees of the General Assembly on or before ~~a certain date~~ certain dates; repealing a requirement for the Commission to submit a certain report to certain committees of the General Assembly on or before a certain date; renaming the Commission; making conforming changes; and generally relating to the State Commission of Real Estate Appraisers and Home Inspectors.

BY repealing and reenacting, with amendments,

Article – Business Occupations and Professions

Section 16–101(g) to be under the amended title “Title 16. Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors”; 16–201 and 16–217(c)(2) to be under the amended subtitle “Subtitle 2. State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors”; and 16–801 and 16–802

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Business Regulation

Section 2–106.7(a) and (b)(1), 2–106.8(a), and 2–108(a)(25)

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government

Section 8–403(a)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 8–403(b)(59)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing

Chapter 470 of the Acts of the General Assembly of 2001

Section 3

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

Article – Business Occupations and Professions

Title 16. Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES**, and Home Inspectors.

16–101.

(g) “Commission” means the State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES**, and Home Inspectors.

Subtitle 2. State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES**, and Home Inspectors.

16–201.

There is a State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES**, and Home Inspectors in the Department.

16–217.

(c) (2) The Comptroller shall distribute the fees to the State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES**, and Home Inspectors Fund established in § 2–106.7 of the Business Regulation Article.

16–801.

This title may be cited as the “Maryland Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES**, and Home Inspectors Act”.

16–802.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, [2013] **2023**.

Article – Business Regulation

2–106.7.

(a) (1) In this section the following words have the meanings indicated.

(2) “Commission” means the State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES**, and Home Inspectors.

(3) “Fund” means the State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES**, and Home Inspectors Fund.

(b) (1) There is a State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES**, and Home Inspectors Fund in the Department.

2–106.8.

(a) In this section, “Commission” means the State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES**, and Home Inspectors.

2–108.

(a) The following units are in the Department:

(25) the State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES**, and Home Inspectors.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(59) Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES**, and Home Inspectors, State Commission of (§ 16–201 of the Business Occupations and Professions Article: July 1, [2012] **2022**);

Chapter 470 of the Acts of 2001

[SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Labor, Licensing, and Regulation shall report to the Senate Finance Committee and the House Economic Matters Committee on or before December 1, 2002, in accordance with § 2–1246 of the State Government Article, on the impact of incorporating a licensing authority for home inspectors into the State Commission of Real Estate Appraisers. The report shall include:

- (1) an evaluation of the ability of the Commission to operate separate regulatory schemes and hearing boards for home inspectors and real estate appraisers;
- (2) a summary of the number of home inspector licenses issued and the number of complaints received against home inspectors; and
- (3) the appropriateness of the current licensing fee for home inspectors.]

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors shall report to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on the following:

- (1) the extent to which the creation of an appraisal technical review panel has assisted in the satisfactory resolution of appraiser complaints, including:
 - (i) the percentage of complaints that are resolved within 1 year for complaints received in fiscal years 2012 and 2013;
 - (ii) the number of complaints that are not resolved within 1 year, and the date that each unresolved complaint was received;
 - (iii) the average amount expended by the technical review panel to complete each technical review in fiscal years 2012 and 2013; and
 - (iv) an estimate of the additional funding necessary, if any, for the technical review panel to conduct reviews of any remaining complaints that have not been resolved within 1 year; and
- (2) the methodology used to establish the Commission’s fee schedules for each profession, including:

(i) the direct and indirect costs attributable to the Commission's activities regarding regulation of:

1. real estate appraisers;
2. appraisal management companies; and
3. home inspectors; and

(ii) an evaluation of whether the fees established for each profession or industry have been appropriately set so as to produce funds to approximate the cost of regulating each profession or industry as required by § 2-106.8 of the Business Regulation Article; ~~and.~~

~~(3)~~ SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2012, the State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors shall report to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2-1246 of the State Government Article, on any reciprocal licensing agreements that the Commission has established with other state real estate appraiser licensing or certification bodies, including:

~~(i)~~ (1) an evaluation of the licensing standards of any jurisdiction that had been a party to a prior reciprocal licensing agreement, and any steps taken by such jurisdictions to enhance licensing standards necessary to reestablish a reciprocal licensing agreement with the Commission;

~~(ii)~~ (2) a statement regarding the reason that a reciprocal licensing agreement cannot be established with a jurisdiction that had previously been a party to a prior agreement;

~~(iii)~~ (3) the methods the Commission will undertake to monitor future changes in the standards of other jurisdictions for purposes of establishing reciprocal licensing agreements; and

~~(iv)~~ (4) any additional measures that the Commission intends to take toward the goal of establishing reciprocal licensing agreements with other jurisdictions.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 367**(House Bill 342)**

AN ACT concerning

**Education – Regional School of the Arts for Cecil, Kent, and Queen Anne’s
Counties – Feasibility Study**

FOR the purpose of requiring the State Department of Education, jointly with certain local boards of education, to study the feasibility of establishing a regional school of the arts for certain counties; requiring the State Superintendent of Schools to submit a report to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to a study on a regional school of the arts.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) The State Department of Education, jointly with the local boards of education of Cecil County, Kent County, and Queen Anne’s County, shall conduct a study as to the feasibility of establishing a single, centrally located regional school of the arts for Cecil, Kent, and Queen Anne’s counties.

(b) On or before December 31, 2012, the State Superintendent of Schools shall submit a report of the Department’s findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012. It shall remain effective for a period of 1 year and, at the end of June 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2012.

Chapter 368**(House Bill 394)**

AN ACT concerning

Office of Cemetery Oversight – Sunset Extension and Program Evaluation

FOR the purpose of continuing the Office of Cemetery Oversight in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to statutory and regulatory authority of the Office; exempting private family cemeteries that do not conduct public sales from certain permitting and registration, perpetual care, and preneed contract requirements of the Maryland Cemetery Act; altering the membership of the Advisory Council on Cemetery Operations; increasing the number of times the Advisory Council is required to convene each year; ~~authorizing the Director of the Office of Cemetery Oversight or the Director's designee to confer with the Advisory Council or with individual members of the Council on complaint processing and resolution;~~ requiring the Director of the Office of Cemetery Oversight to include certain information regarding the number of registrants and permit holders in a certain annual report; requiring the Director to provide a copy of certain annual reports to each member of the Advisory Council; requiring the Director, at certain times, to deliver to each member of the Advisory Council certain paperwork; requiring the Advisory Council to respond to issues raised in certain annual reports and develop a plan to study ongoing issues; authorizing a certain registration to be transferred under certain circumstances; requiring a certain annual report to include certain information on the number of inquiries received by the Office; requiring an applicant for a permit to submit certain documentation to the Director; requiring certain reports to be accompanied by certain statements that include certain information; requiring a certain disclosure to be made in a certain manner; ~~repealing an exemption for certain cemeteries from certain provisions of law relating to perpetual care requirements;~~ requiring the Office to provide a report on the implementation of certain recommendations to certain committees of the General Assembly on or before a certain date; requiring the Advisory Council to develop a plan for consumer outreach, study record-keeping practices for cemeteries in a certain manner, and develop a legislative proposal on record-keeping practices; requiring the Director and the Advisory Council to develop certain orientation materials and study the issue of the increasing rate of cremations and its effect on the Office's finances; requiring the Director and a committee formed of members of the Advisory Council to update the Office newsletter and develop a certain plan for updating the newsletter; making stylistic and technical changes; ~~providing for a delayed effective date for certain provisions of this Act;~~ and generally relating to the Office of Cemetery Oversight and the operation of cemeteries and burial goods businesses in the State.

BY repealing and reenacting, with amendments,

Article – Business Regulation

Section 5-102(a), 5-201(c), ~~5-204(b), (i), and (l)~~ 5-204(i) and (l), 5-305(b), 5-311(h), 5-404, 5-602(a), ~~5-603(b)~~ 5-606(b), 5-702(a), 5-710(b), 5-801, and 5-1002

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Business Regulation
Section 5–204(m) and 5–204.1
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

~~Article – Business Regulation
Section 5–602(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)
(As enacted by Section 1 of this Act)~~

BY repealing and reenacting, without amendments,

Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government
Section 8–403(b)(10)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Business Regulation

5–102.

(a) The registration and permitting provisions of this title do not apply to:

(1) a person that owns and operates a bona fide religious–nonprofit cemetery in this State;

(2) a cemetery owned by a not for profit organization created before 1900 by an act of the General Assembly;

(3) a county, city, or municipal corporation that owns and operates a cemetery in the State; [or]

(4) a veterans' cemetery operated by the State; **OR**

(5) A PRIVATE FAMILY CEMETERY THAT DOES NOT CONDUCT PUBLIC SALES.

5-201.

(c) (1) The Secretary shall appoint an Advisory Council on Cemetery Operations.

(2) The Advisory Council consists of [eleven] **12** members.

(3) Of the [eleven] **12** members of the **ADVISORY** Council:

(i) three shall be registered cemeterians representing the for-profit cemetery industry;

(ii) one shall be a registered cemeterian representing a nonprofit cemetery;

(iii) one shall be a registered seller from a monument company;

(iv) one shall be a representative from a religious cemetery;

[and]

(v) **ONE SHALL BE A REPRESENTATIVE FROM A CREMATORY; AND**

[(v)] **(VI)** five shall be consumer members.

(4) The Advisory Council shall be convened at least [once] **FOUR TIMES** a year to give advice to the Secretary and the Director.

(5) In addition to the [annual meeting] **REQUIRED MEETINGS**, the Advisory Council may meet as necessary.

5-204.

~~(b) (1) Upon receipt of a written complaint, or at the discretion of the Director, the Director or the Director's designee may conduct an investigation and an inspection of the records and site of a registered cemeterian, registered crematory operator, registered seller, permit holder, or any other person subject to the registration or permit provisions of this title.~~

~~(2) **THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY CONFER WITH THE ADVISORY COUNCIL OR WITH INDIVIDUAL MEMBERS OF THE ADVISORY COUNCIL ON COMPLAINT PROCESSING AND RESOLUTION.**~~

(i) (1) For each fiscal year, the Director shall maintain a list of:

- (i) all registrants and permit holders;
- (ii) all for-profit cemeteries and nonreligious-nonprofit cemeteries associated with a registrant or permit holder; and
- (iii) all bona fide religious-nonprofit cemeteries, veterans' cemeteries, and local government-owned cemeteries that have filed a statement or report required under §§ 5-405, 5-606, and 5-710 of this title.

(2) All lists maintained by the Director shall be open to inspection by any person.

(3) BASED ON THE LIST MAINTAINED BY THE DIRECTOR UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE DIRECTOR SHALL INCLUDE IN THE ANNUAL REPORT TO THE GENERAL ASSEMBLY REQUIRED UNDER SUBSECTION (L)(3) OF THIS SECTION THE FOLLOWING INFORMATION AS OF JUNE 30 OF THE YEAR THAT IS THE SUBJECT OF THE REPORT:

(I) THE TOTAL NUMBER OF REGISTRANTS AND PERMIT HOLDERS; AND

(II) THE NUMBER OF REGISTRANTS AND PERMIT HOLDERS FOR EACH LICENSING CATEGORY.

(1) (1) Beginning with a report due on December 1, 2008, the Director shall conduct an inventory of all known burial sites in the State and shall update the inventory and report every 5 years to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the number of for-profit cemeteries, nonreligious-nonprofit cemeteries, bona fide religious-nonprofit cemeteries, veterans' cemeteries, and local government-owned cemeteries.

(2) Beginning December 1, 2008, the Director shall annually assess the rate of compliance with the registration, permit, and reporting requirements of this title by comparing the lists required under subsection (i)(1)(ii) and (iii) of this section with the most recent inventory of all known burial sites conducted under paragraph (1) of this subsection.

(3) Beginning with a report due on January 31, 2009, for fiscal year 2008, the Director shall report annually to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the implementation of an action plan, if appropriate, to address any noncompliance issues identified by the assessment required under paragraph (2) of this subsection.

(4) THE DIRECTOR SHALL PROVIDE A COPY OF THE ANNUAL REPORT REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION TO EACH MEMBER OF THE ADVISORY COUNCIL.

(M) AT THE TIME OF APPOINTMENT OF NEW MEMBERS AND BEFORE REAPPOINTMENT OF EXISTING MEMBERS OF THE ADVISORY COUNCIL, THE DIRECTOR SHALL DELIVER TO EACH MEMBER THE PAPERWORK NECESSARY TO DISCLOSE ANY INTEREST OR EMPLOYMENT HELD BY THE MEMBER AT THE TIME OF APPOINTMENT AS REQUIRED BY THE MARYLAND PUBLIC ETHICS LAW.

5-204.1.

THE ADVISORY COUNCIL SHALL RESPOND TO ISSUES RAISED BY THE DIRECTOR IN THE ANNUAL REPORT REQUIRED UNDER § 5-204 OF THIS SUBTITLE AND § 5-311 OF THIS TITLE AND DEVELOP A PLAN TO STUDY ONGOING ISSUES DURING THE YEAR FOLLOWING THE ISSUANCE OF THE REPORT.

5-305.

(b) A registration issued by the Director under this title [is not transferable]:

(1) MAY NOT BE TRANSFERRED FROM ONE INDIVIDUAL TO ANOTHER; BUT

(2) MAY BE TRANSFERRED FOR THE SAME INDIVIDUAL FROM ONE CEMETERY TO ANOTHER.

5-311.

(h) (1) The Director shall adopt guidelines that establish a schedule for the prompt and timely processing and resolution of each complaint made to the Director.

(2) Beginning December 31, 1998, and on or before December 31 of each year thereafter, the Director shall report, subject to § 2-1246 of the State Government Article, to the General Assembly on:

(i) the number of complaints resolved within the schedule adopted under paragraph (1) of this subsection;

(ii) the number of complaints AND THE NUMBER OF INQUIRIES received under subsection (c)(2) of this section by the type of registrant, permit holder, or exemption from the registration and permit requirements of this title;

(iii) the number of complaints **AND THE NUMBER OF INQUIRIES** received under subsection (c)(2) of this section by persons subject to, but not in compliance with, the registration and permit requirements of this title;

(iv) the nature of complaints **AND INQUIRIES** received under subsection (c)(2) of this section, including whether complaints are related to the illegal recycling of graves;

(V) THE TYPE OF PURCHASE, FOCUS OF DISSATISFACTION, AND TYPE OF RESOLUTION FOR BOTH COMPLAINTS AND INQUIRIES;

[(v)] (VI) whether complaints reported under item (i) of this paragraph were resolved through negotiation, binding arbitration, or another method; and

[(vi)] (VII) any disciplinary or enforcement actions taken against a registrant, permit holder, or a person subject to, but not in compliance with, the registration and permit requirements of this title.

(3) THE DIRECTOR SHALL PROVIDE A COPY OF THE ANNUAL REPORT REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION TO EACH MEMBER OF THE ADVISORY COUNCIL.

5-404.

An applicant for a permit shall submit to the Director:

- (1) an application on the form that the Director provides; [and]
- (2) an application fee as set by the Director; **AND**

(3) DOCUMENTATION ~~SHOWING~~ VERIFYING THE NUMBER OF SALES CONTRACTS SUBJECT TO THE SALES CONTRACT FEE ENTERED INTO WITHIN THE BUSINESS'S LAST 2 FISCAL YEARS.

5-602.

(a) This subtitle does not apply to a cemetery that:

- (1) has less than 1 acre available for burial; or
- (2) is owned and operated by:
 - (i) a county;
 - (ii) a municipal corporation;

- (iii) a church;
- (iv) a synagogue;
- (v) a religious organization;
- (vi) a not for profit organization created before 1900 by an act of the General Assembly; [or]

(VII) A FAMILY AND DOES NOT CONDUCT PUBLIC SALES; OR

[(vii)] **(VIII) a State veterans agency.**

5-606.

(b) (1) Each sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle shall submit a report to the Director within 120 days after the close of each calendar or other fiscal year chosen by the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle.

(2) The report shall:

- (i) be on the form that the Director requires;
- (ii) be certified as to correctness by a certified public accountant retained by the cemetery;
- (iii) be accompanied by a trustee's ANNUAL summary statement of assets FOR THE REPORTING PERIOD THAT INCLUDES:

1. THE AMOUNT OF MONEY IN THE PERPETUAL CARE TRUST FUND AT THE BEGINNING OF THE REPORTING PERIOD;

2. AN INVESTMENT PORTFOLIO SUMMARY DESCRIBING THE ASSET AND THE MARKET VALUE FOR EACH INVESTMENT CLASS;

3. A TRANSACTION SUMMARY OF THE PERPETUAL CARE TRUST FUND CONTAINING:

A. TRUST ACCOUNT EARNINGS, INCLUDING INTEREST, DIVIDENDS, AND REALIZED GAINS OR LOSSES;

B. MONEY DEPOSITED;

C. TOTAL RECEIPTS;

D. ADMINISTRATIVE EXPENSES;

E. DISBURSEMENTS OF INCOME FOR CEMETERY CARE, MAINTENANCE, ADMINISTRATION, AND EMBELLISHMENT;

F. OTHER DISBURSEMENTS; AND

G. TOTAL DISBURSEMENTS; AND

4. THE AMOUNT OF MONEY IN THE PERPETUAL CARE TRUST FUND AT THE END OF THE REPORTING PERIOD;

(iv) be accompanied by a fee of \$25; and

(v) include:

1. the name of the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle;

2. each location of the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle;

3. the amount of money in each perpetual care trust fund at the beginning of the calendar or other fiscal year chosen by the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle;

4. the amount of money that the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle received during that year that is subject to the trust requirements of this subtitle;

5. the amount of money actually deposited into each perpetual care trust fund in that year;

6. the amount of money spent during that year to provide care, maintenance, administration, and embellishment of each cemetery, except for money used for the care of monuments and memorials; and

7. the name and address of each trustee.

(3) IF THE DIRECTOR DETERMINES, AFTER A REVIEW OF THE REPORT AND ANNUAL SUMMARY STATEMENT OF ASSETS REQUIRED BY THIS SUBSECTION, THAT ADDITIONAL DOCUMENTATION IS REQUIRED, A SOLE PROPRIETOR REGISTERED CEMETERIAN, PERMIT HOLDER, OR ANY OTHER PERSON SUBJECT TO THE TRUST REQUIREMENTS OF THIS SUBTITLE SHALL PROVIDE THE ADDITIONAL DOCUMENTATION TO THE DIRECTOR.

~~[(3)]~~ **(4)** A sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle who stops selling burial lots or burial rights in a cemetery as to which perpetual care is stated or implied shall notify the Director in the required report for the year in which sales stop.

~~[(4)]~~ **(5)** The Director may require a sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle to correct any underfunding, including interest, due to the perpetual care trust fund.

5-702.

(a) This subtitle does not apply to:

(1) the sale of burial space; [or]

(2) a preneed contract made by an individual in connection with practicing funeral direction or practicing mortuary science, as those practices are defined in and regulated by the Health Occupations Article; OR

(3) THE PRENEED SALE OF BURIAL GOODS OR SERVICES BY A PRIVATE FAMILY CEMETERY THAT DOES NOT CONDUCT PUBLIC SALES OF BURIAL GOODS OR SERVICES.

5-710.

(b) (1) Each seller subject to the trust requirements of this subtitle shall submit a report to the Director within 120 days after the close of each calendar or other fiscal year chosen by the seller.

(2) The report shall:

(i) be on the form that the Director requires;

(ii) be certified by a certified public accountant retained by the seller;

(iii) be accompanied by a trustee's ANNUAL summary statement of assets FROM THE TRUSTEE FOR THE REPORTING PERIOD WHICH INCLUDES:

1. THE AMOUNT OF MONEY IN THE PRENEED TRUST FUND AT THE BEGINNING OF THE REPORTING PERIOD;

2. AN INVESTMENT PORTFOLIO SUMMARY DESCRIBING THE ASSET AND THE MARKET VALUE FOR EACH INVESTMENT CLASS;

3. A TRANSACTION SUMMARY OF THE PRENEED TRUST FUND CONTAINING:

A. TRUST ACCOUNT EARNINGS;

B. MONEY DEPOSITED;

C. TOTAL RECEIPTS;

D. ADMINISTRATIVE EXPENSES;

E. WITHDRAWALS FROM THE TRUST ACCOUNT FOR CANCELLED CONTRACTS;

F. WITHDRAWALS FROM THE TRUST ACCOUNT FOR DELIVERY OF MERCHANDISE FOR USE OR STORAGE, AND FOR SERVICES PERFORMED, INCLUDING THE PRINCIPAL AND EARNINGS;

G. OTHER DISBURSEMENTS; AND

H. TOTAL DISBURSEMENTS; AND

4. THE AMOUNT OF MONEY IN THE PRENEED TRUST FUND AT THE END OF THE REPORTING PERIOD;

(iv) be accompanied by a fee of \$25; and

(v) include:

1. the name of the seller;

2. each location of the seller;

3. the amount of money that the seller received during that year that is subject to the trust requirements of this subtitle;

4. the amount of money actually deposited into trust accounts in that year;
5. the amount of money required to be disbursed from the trust accounts in that year;
6. the amount of money actually disbursed from the trust accounts in that year; and
7. the name and address of the trustee.

(3) IF THE DIRECTOR DETERMINES, AFTER A REVIEW OF THE REPORT AND ANNUAL SUMMARY STATEMENT OF ASSETS REQUIRED BY THIS SUBSECTION, THAT ADDITIONAL DOCUMENTATION IS REQUIRED, A SELLER SUBJECT TO THE TRUST REQUIREMENTS OF THIS SUBTITLE SHALL PROVIDE THE ADDITIONAL DOCUMENTATION TO THE DIRECTOR.

~~[(3)] (4)~~ (i) A seller of preneed goods or preneed services that sells its business, files a petition in bankruptcy, or ceases to operate shall provide written notice within 15 days:

1. to the Director, detailing the changes and the arrangements the seller has made for carrying out the preneed burial contracts and the disbursement of any moneys held in an escrow or trust account; and

2. to each buyer of a preneed burial contract, advising the buyer of the buyer's options under State law in regard to the preneed contract.

(ii) Nothing in this paragraph exempts a seller of preneed goods or services that sells its business, files a petition in bankruptcy, or ceases to operate from filing the annual report required under this section.

5-801.

(a) At the time of entering into a contract with a consumer for the sale of burial goods or services, registrants, permit holders, or any other person subject to the provisions of this title shall make the following written disclosures:

- (1) the itemized cost for each service performed under the contract;
- (2) a list of services incidental to burial that are not covered by the contract;
- (3) a statement regarding the cemetery's policy on the use of independent monument companies; and

(4) the name, address, and telephone number for the State Office of Cemetery Oversight.

(b) **(1)** The disclosures **REQUIRED UNDER SUBSECTION (A)(1), (2), AND (3) OF THIS SECTION** shall be conspicuously incorporated in the contract in 12–point type.

(2) THE DISCLOSURE REQUIRED UNDER SUBSECTION (A)(4) OF THIS SECTION SHALL BE ON A FORM SEPARATE FROM THE CONTRACT AND MUST BE SEPARATELY SIGNED AND DATED BY THE CONSUMER.

(c) The disclosure must be signed and dated by the consumer.

(d) The consumer must be provided with a copy of the contract **AND A COPY OF THE FORM REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION** at the time of purchasing the burial goods or services.

(e) The disclosure shall occur:

(1) not later than the first scheduled face–to–face contact with the purchaser or party representing the purchaser; or

(2) if no face–to–face contact occurs, at the time of the execution of the contract by the purchaser or party representing the purchaser.

(f) The Director **[may]**, by regulation, **MAY** prescribe the form and wording of the disclosure.

(g) If the purchase by the consumer includes a cemetery plot, the registered cemeterian, permit holder, or any other person subject to the provisions of this title shall provide the consumer with a copy of a location survey, performed by a licensed land surveyor, which indicates the location of the purchased plot within the cemetery, or by any other means approved by the Director.

(h) Registrants, permit holders, or any other person subject to the provisions of this title shall provide each buyer or prospective buyer with a general price list for the buyer or prospective buyer to keep which shall include:

(1) specific prices for:

(i) ground opening and closing;

(ii) extra depth interment;

(iii) interment of cremated remains; and

- (iv) mausoleum entombment; and
- (2) general price ranges for burial space or burial goods.

5-1002.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, the Office of Cemetery Oversight, the provisions in this title relating to the Office, and all regulations adopted by the Office shall terminate and be of no effect after July 1, [2013] **2023**.

Article – State Government

8-403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(10) Cemetery Oversight, Office of (§ 5-201 of the Business Regulation Article: July 1, [2012] **2022**);

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article – Business Regulation~~

~~5-602.~~

- ~~(a) This subtitle does not apply to a cemetery that:~~
- ~~(1) has less than 1 acre available for burial; or~~
 - ~~(2) is owned and operated by:~~
 - ~~(i) a county;~~
 - ~~(ii) a municipal corporation;~~
 - ~~(iii) a church;~~

- ~~(iv) a synagogue;~~
- ~~(v) a religious organization;~~
- ~~(vi) a not for profit organization created before 1900 by an act of the General Assembly;~~
- ~~(vii) a family and does not conduct public sales; or~~
- ~~[(viii)] (H) a State veterans agency.~~

~~5-603.~~

~~(b) (1) [Each sole proprietor registered cemeterian, permit holder, or any other person subject to the registration or permit provisions of this title who sells or offers to sell to the public a burial lot or burial right in] EXCEPT FOR A CEMETERY THAT IS EXEMPT UNDER § 5-602 OF THIS SUBTITLE, a cemetery as to which perpetual care is stated or implied shall have a perpetual care trust fund.~~

~~(2) A separate perpetual care trust fund shall be established for each cemetery to which this section applies.~~

~~(3) On the general price list, contract of sale of burial space, and any conveyance documents, all cemeteries subject to the provisions of this subtitle shall state in writing the following using 12 point or larger type font:~~

- ~~(i) "The cemetery is a perpetual care cemetery."; or~~
- ~~(ii) "The cemetery is not a perpetual care cemetery."~~

~~[(4) A cemetery created in the State after October 1, 2001, that is not exempt under § 5-602 of this subtitle shall be required to establish a perpetual care trust fund.]~~

SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the Office of Cemetery Oversight shall report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1246 of the State Government Article, on the implementation status of nonstatutory recommendations of the Department of Legislative Services contained in the sunset evaluation report dated October 2011.

SECTION ~~4~~ 3. AND BE IT FURTHER ENACTED, That the Advisory Council on Cemetery Operations shall:

(1) develop a plan to improve consumer outreach, including an approach to disseminating the consumer information pamphlet to key locations

around the State, such as nursing homes, churches, the offices of estate lawyers, consumer protection agencies of every county, and other locations;

(2) study record-keeping practices for cemeteries in relation both to best practices and for disaster preparedness, including pandemics and natural disasters, with the intention of developing legislation to address this issue;

(3) develop a legislative proposal on record-keeping practices for introduction no later than the 2014 regular session of the General Assembly; and

(4) in developing the proposal under item (3) of this section, determine the categories of cemeteries to which any record-keeping requirements developed should be applied and consider the possibility of phasing in requirements to limit the economic impact on cemeteries.

SECTION ~~5~~ 4. AND BE IT FURTHER ENACTED, That the Director of the Office of Cemetery Oversight and the Advisory Council on Cemetery Operations shall:

(1) collaborate on the development of orientation materials for new members appointed to the Advisory Council, which shall include information on the requirements of the Public Ethics Laws applicable to Advisory Council members; and

(2) study the issue of the increasing rate of cremations within the death care industry, including whether the rate of cremations will continue to rise at the same rate and the possible effect this trend may have on the Office's finances.

SECTION ~~6~~ 5. AND BE IT FURTHER ENACTED, That the Director of the Office of Cemetery Oversight and a committee formed of members of the Advisory Council on Cemetery Operations shall update the Office newsletter and develop a plan to ensure that the newsletter continues to be updated on a regular basis.

~~SECTION 7. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2013.~~

SECTION ~~8~~ 6. AND BE IT FURTHER ENACTED, That, ~~except as provided in Section 7 of this Act,~~ this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 369

(House Bill 398)

AN ACT concerning

Wiretapping and Electronic Surveillance – Investigation of Felony Theft Scheme

FOR the purpose of adding ~~theft offenses committed under one~~ a theft scheme or continuing course of conduct under a certain provision of law involving an aggregate value of property or services of at least a certain value to those crimes for which evidence may be gathered by, and a judge may grant an order authorizing, interception of oral, wire, or electronic communications; and generally relating to wiretap and electronic surveillance and theft schemes.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 10–402(c)(2) and 10–406(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

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

Article – Courts and Judicial Proceedings

10–402.

(c) (2) (i) This paragraph applies to an interception in which:

1. The investigative or law enforcement officer or other person is a party to the communication; or
2. One of the parties to the communication has given prior consent to the interception.

(ii) It is lawful under this subtitle for an investigative or law enforcement officer acting in a criminal investigation or any other person acting at the prior direction and under the supervision of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication in order to provide evidence:

1. Of the commission of:
 - A. Murder;
 - B. Kidnapping;
 - C. Rape;
 - D. A sexual offense in the first or second degree;
 - E. Child abuse in the first or second degree;

- F. Child pornography under § 11-207, § 11-208, or § 11-208.1 of the Criminal Law Article;
- G. Gambling;
- H. Robbery under § 3-402 or § 3-403 of the Criminal Law Article;
- I. A felony under Title 6, Subtitle 1 of the Criminal Law Article;
- J. Bribery;
- K. Extortion;
- L. Dealing in a controlled dangerous substance, including a violation of § 5-617 or § 5-619 of the Criminal Law Article;
- M. A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the Insurance Article;
- N. An offense relating to destructive devices under § 4-503 of the Criminal Law Article;
- O. A human trafficking offense under § 11-303 of the Criminal Law Article;
- P. Sexual solicitation of a minor under § 3-324 of the Criminal Law Article;
- Q. An offense relating to obstructing justice under § 9-302, § 9-303, or § 9-305 of the Criminal Law Article;
- R. Sexual abuse of a minor under § 3-602 of the Criminal Law Article; [or]
- S. **A THEFT ~~OFFENSE UNDER ONE~~ SCHEME OR CONTINUING COURSE OF CONDUCT UNDER § 7-103(F) OF THE CRIMINAL LAW ARTICLE INVOLVING AN AGGREGATE VALUE OF PROPERTY OR SERVICES OF AT LEAST \$10,000; OR**
- T. A conspiracy or solicitation to commit an offense listed in items A through [R] S of this item; or
2. If:

A. A person has created a barricade situation; and

B. Probable cause exists for the investigative or law enforcement officer to believe a hostage or hostages may be involved.

10–406.

(a) The Attorney General, State Prosecutor, or any State's Attorney may apply to a judge of competent jurisdiction, and the judge, in accordance with the provisions of § 10–408 of this subtitle, may grant an order authorizing the interception of wire, oral, or electronic communications by investigative or law enforcement officers when the interception may provide or has provided evidence of the commission of:

- (1) Murder;
- (2) Kidnapping;
- (3) Rape;
- (4) A sexual offense in the first or second degree;
- (5) Child abuse in the first or second degree;
- (6) Child pornography under § 11–207, § 11–208, or § 11–208.1 of the Criminal Law Article;
- (7) Gambling;
- (8) Robbery under § 3–402 or § 3–403 of the Criminal Law Article;
- (9) A felony under Title 6, Subtitle 1 of the Criminal Law Article;
- (10) Bribery;
- (11) Extortion;
- (12) Dealing in a controlled dangerous substance, including a violation of § 5–617 or § 5–619 of the Criminal Law Article;
- (13) A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the Insurance Article;
- (14) An offense relating to destructive devices under § 4–503 of the Criminal Law Article;

(15) A human trafficking offense under § 11–303 of the Criminal Law Article;

(16) Sexual solicitation of a minor under § 3–324 of the Criminal Law Article;

(17) An offense relating to obstructing justice under § 9–302, § 9–303, or § 9–305 of the Criminal Law Article;

(18) Sexual abuse of a minor under § 3–602 of the Criminal Law Article; [or]

(19) **A THEFT OFFENSE UNDER ONE SCHEME OR CONTINUING COURSE OF CONDUCT UNDER § 7–103(F) OF THE CRIMINAL LAW ARTICLE INVOLVING AN AGGREGATE VALUE OF PROPERTY OR SERVICES OF AT LEAST \$10,000; OR**

(20) A conspiracy or solicitation to commit an offense listed in items (1) through [(18)] (19) of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 370

(House Bill 402)

AN ACT concerning

Environment Land Records – Dormant Mineral Interests and Natural Gas and Oil Leases – Termination by Court Order and Recordation Requirements

FOR the purpose of requiring a court order that terminates a certain dormant mineral interest to identify certain information; requiring a clerk of the court that issued a certain order to record the order in the land records; prohibiting a clerk of court from recording an instrument that effects a certain real property lease dealing in natural gas and oil unless the instrument is accompanied by a complete intake sheet; and generally relating to ~~the termination of dormant mineral interests.~~ land records.

BY repealing and reenacting, without amendments,
Article – Environment

Section 15–1201
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 15–1203(d)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY adding to
Article – Real Property
Section 3–104(g)(9)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 3–104(g)(9)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Environment

15–1201.

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

(b) “Mineral interest” means an interest in a mineral estate, however created and regardless of form, whether absolute or fractional, divided or undivided, corporeal or incorporeal, including a fee simple or any lesser interest or any kind of royalty, production payment, executive right, nonexecutive right, leasehold, or lien in minerals, regardless of character.

(c) “Mineral” includes:

- (1) Gas;
- (2) Oil and oil shale;
- (3) Coal;
- (4) Gaseous, liquid, and solid hydrocarbons;

(5) Cement materials, sand and gravel, road materials, and building stone;

(6) Chemical substances;

(7) Gemstone, metallic, fissionable, and nonfissionable ores; and

(8) Colloidal and other clay, steam, and geothermal resources.

(d) "Severed mineral interest" means a mineral interest that is severed from the interest in the surface estate overlying the mineral interest.

(e) "Surface estate" means an interest in the estate overlying a mineral interest.

(f) (1) "Surface owner" means any person vested with a whole or undivided fee simple interest or other freehold interest in the surface estate.

(2) "Surface owner" does not include the owner of a right-of-way, easement, or leasehold on the surface estate.

(g) (1) "Unknown or missing owner" means any person vested with a severed mineral interest whose present identity or location cannot be determined:

(i) From the records of the county where the severed mineral interest is located; or

(ii) By diligent inquiry in the vicinity of the owner's last known place of residence.

(2) "Unknown or missing owner" includes the heirs, successors, or assignees of an unknown or missing owner.

15-1203.

(d) (1) A surface owner of real property that is subject to a mineral interest who brings an action to terminate a dormant mineral interest in accordance with this section shall bring the action in the circuit court of the jurisdiction in which the real property is located.

(2) A court order that terminates a mineral interest merges the terminated mineral interest, including express and implied appurtenant surface rights and obligations, with the surface estate in shares proportionate to the ownership of the surface estate, subject to existing liens for taxes or assessments.

(3) (I) A COURT ORDER THAT TERMINATES A MINERAL INTEREST SHALL IDENTIFY:

1. THE MINERAL INTEREST;
2. EACH SURFACE ESTATE INTO WHICH THE MINERAL INTEREST IS MERGED, INCLUDING THE TAX MAP AND PARCEL NUMBER;
3. THE NAME OF EACH SURFACE OWNER;
4. IF KNOWN, THE NAME OF EACH PERSON THAT OWNED THE MINERAL INTEREST PRIOR TO THE TERMINATION DATE; AND
5. ANY INFORMATION DETERMINED BY THE COURT AS APPROPRIATE TO DESCRIBE THE EFFECT OF THE TERMINATION AND MERGER OF THE MINERAL INTEREST.

(II) THE CLERK OF THE COURT THAT ISSUED THE ORDER SHALL RECORD THE ORDER IN THE LAND RECORDS.

Article – Real Property

3-104.

(g) (9) A CLERK MAY NOT RECORD AN INSTRUMENT THAT EFFECTS A REAL PROPERTY LEASE DEALING IN NATURAL GAS AND OIL UNLESS THE INSTRUMENT IS ACCOMPANIED BY A COMPLETE INTAKE SHEET.

[(9)] (10) (i) An intake sheet shall be recorded immediately after the instrument it accompanies.

(ii) The intake sheet is not part of the instrument and does not constitute constructive notice as to the contents of the instrument.

(iii) The lack of an intake sheet does not affect the validity of any conveyance, lien, or lien priority based on recordation of an instrument.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 371

(House Bill 423)

AN ACT concerning

St. Mary's County – Agricultural Preservation Advisory Board – Membership

FOR the purpose of altering the membership of the agricultural preservation advisory board in St. Mary's County to require that at least a certain number of members are actively pursuing the production of agricultural products for profit; and generally relating to the membership of the agricultural preservation advisory board in St. Mary's County.

BY repealing and reenacting, without amendments,
Article – Agriculture
Section 2–504.1(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–504.1(b)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

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

Article – Agriculture

2–504.1.

(a) In each county containing productive agricultural land, the county governing body shall appoint an agricultural preservation advisory board.

(b) (1) Except as provided in [paragraph (2)] **PARAGRAPHS (2) AND (3)** of this subsection, the agricultural preservation advisory board shall consist of five members, at least three of whom shall be owner–operators of commercial farms who earn 50 percent or more of their income from farming.

(2) In Worcester County, the agricultural preservation advisory board shall consist of seven members, at least four of whom shall be owner–operators of commercial farms who earn 50 percent or more of their income from farming.

(3) IN ST. MARY'S COUNTY, THE AGRICULTURAL PRESERVATION ADVISORY BOARD SHALL CONSIST OF FIVE MEMBERS, AT LEAST THREE OF WHOM SHALL BE ACTIVELY PURSUING THE PRODUCTION OF AGRICULTURAL PRODUCTS FOR PROFIT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 372

(House Bill 448)

AN ACT concerning

Procurement – Preferences – ~~Computer Purchasing and Electronics Recycling~~ Purchasing and Recycling Electronic Products

FOR the purpose of requiring a State unit to purchase ~~computers~~ certain electronic products that are listed on the Electronic Product Environmental Assessment Tool registry or meet certain standards when purchasing ~~computers~~ electronic products for use by the State; requiring a State unit to award a procurement contract to ~~a certain certified electronics recycler~~ certain recyclers of electronic products when awarding a procurement contract for ~~electronics recycling services~~ services to recycle electronic products; defining certain terms; and generally relating to the procurement preferences for ~~computer purchasing and electronics recycling~~ purchasing and recycling electronic products.

BY adding to

Article – State Finance and Procurement

Section 14–413 and 14–414

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – State Finance and Procurement

14–413.

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

(2) “ELECTRONIC PRODUCT” MEANS A PRODUCT COVERED BY EPEAT OR ANOTHER COMPREHENSIVE ENVIRONMENTAL RATING SYSTEM APPROVED BY THE DEPARTMENT OF INFORMATION TECHNOLOGY.

(3) "EPEAT" MEANS THE ELECTRONIC PRODUCT ENVIRONMENTAL ASSESSMENT TOOL.

(B) WHEN PURCHASING ~~COMPUTERS~~ AN ELECTRONIC PRODUCT TO BE USED BY THE STATE, A STATE UNIT SHALL PURCHASE ~~COMPUTERS~~ AN ELECTRONIC PRODUCT THAT ARE LISTED ON THE ~~ELECTRONIC PRODUCT ENVIRONMENTAL ASSESSMENT TOOL REGISTRY~~;

(1) IS LISTED AND RATED SILVER OR GOLD ON THE EPEAT REGISTRY; OR

(2) MEETS NATIONALLY RECOGNIZED AND CONSENSUS-BASED STANDARDS ESTABLISHED BY A COMPREHENSIVE ENVIRONMENTAL RATING SYSTEM APPROVED BY THE DEPARTMENT OF INFORMATION TECHNOLOGY.

(C) IF A UNIT REQUESTS A WAIVER FROM THE REQUIREMENT IN SUBSECTION (B) OF THIS SECTION, THE SECRETARY OF INFORMATION TECHNOLOGY, OR THE SECRETARY'S DESIGNEE, MAY WAIVE THE REQUIREMENT.

14-414.

~~WHEN AWARDING A PROCUREMENT CONTRACT FOR ELECTRONICS RECYCLING SERVICES, A STATE UNIT SHALL AWARD THE CONTRACT TO AN ELECTRONICS RECYCLER THAT IS R2 OR E- STEWARDS CERTIFIED.~~

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

(2) "CERTIFIED E-STEWARDS RECYCLER" MEANS A RECYCLER OF ELECTRONIC PRODUCTS THAT HAS SUCCESSFULLY COMPLETED THE E-STEWARDS CERTIFICATION PROGRAM CREATED BY THE BASEL ACTION NETWORK.

(3) "ELECTRONIC PRODUCT" MEANS A PRODUCT RECYCLED BY:

(I) A CERTIFIED E-STEWARDS RECYCLER;

(II) A R2 CERTIFIED RECYCLER; OR

(III) A RECYCLER OF ELECTRONIC PRODUCTS THAT MEETS NATIONALLY RECOGNIZED AND CONSENSUS-BASED GUIDELINES, STANDARDS, AND SYSTEMS FOR RECYCLING THAT ARE APPROVED BY THE DEPARTMENT OF

THE ENVIRONMENT IN CONSULTATION WITH THE DEPARTMENT OF GENERAL SERVICES.

(4) “R2 CERTIFIED RECYCLER” MEANS A RECYCLER OF ELECTRONIC PRODUCTS THAT IS CERTIFIED IN THE R2 PRACTICES STANDARDS THAT ARE MAINTAINED BY R2 SOLUTIONS.

(B) ON OR AFTER OCTOBER 1, 2014, WHEN AWARDING A PROCUREMENT CONTRACT FOR SERVICES TO RECYCLE ELECTRONIC PRODUCTS, A STATE UNIT SHALL AWARD THE CONTRACT TO A RECYCLER OF ELECTRONIC PRODUCTS THAT:

(1) IS R2 OR E-STEWARDS CERTIFIED; OR

(2) MEETS NATIONALLY RECOGNIZED AND CONSENSUS-BASED GUIDELINES, STANDARDS, AND SYSTEMS FOR RECYCLING THAT ARE APPROVED BY THE DEPARTMENT OF THE ENVIRONMENT IN CONSULTATION WITH THE DEPARTMENT OF GENERAL SERVICES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 373

(House Bill 472)

AN ACT concerning

~~**Reduction of Lead Risk in Housing – Creation of Lead Poisoning Compensation Fund**~~
Workgroup on Lead Liability Protection for Rental Property

FOR the purpose of ~~establishing the Lead Poisoning Compensation Fund; establishing the purposes of the Fund; establishing a Board of Trustees of the Fund; providing for the membership of the Board; establishing the duties of the Board; providing for the appointment of an Executive Director of the Fund; establishing the powers and duties of the Executive Director; providing for the appointment and removal of staff; requiring certain owners of residential rental property to pay a Lead Poisoning Compensation Fee; establishing the amount of and manner of collection of the fee; establishing that the Fund consists of certain money; providing for the uses of the Fund; establishing that the Fund is not a part of the State Treasury and that the debts and obligations of the Fund~~

~~are not a debt or pledge of credit of the State; providing for the management and investment of the Fund; providing for auditing of the Fund; requiring the Fund to provide coverage for certain claims to certain persons; authorizing certain persons to obtain coverage from the Fund by paying a certain fee; authorizing the Fund to provide coverage only if a claim is not covered by any other source of insurance or indemnity; requiring the Executive Director to settle, compromise, or defend claims against the Fund; authorizing the Executive Director to authorize certain employees to record certain telephone conversations under certain circumstances; providing for the establishment and review of certain reserves; limiting the maximum amount payable by the Fund; including employees and officials of the Fund in the definition of "State personnel" for purposes of the Maryland Tort Claims Act; defining certain terms; specifying the terms of the initial members of the Board of Trustees of the Fund; and generally relating to reducing lead risk in housing and providing compensation for injuries arising out of lead poisoning requiring the Maryland Insurance Commissioner to convene a certain workgroup to examine certain issues; requiring the workgroup to include certain representatives; requiring the Commissioner to report the findings and any recommendations of the workgroup on or before a certain date; and generally relating to lead liability insurance for rental property.~~

~~BY adding to~~

~~Article — Insurance~~

~~Section 32-101 through 32-502 to be under the new title "Title 32. Lead Poisoning Compensation Fund"~~

~~Annotated Code of Maryland
(2011 Replacement Volume)~~

~~BY repealing and reenacting, without amendments,~~

~~Article — State Finance and Procurement~~

~~Section 6-226(a)(2)(i)~~

~~Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

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

~~Article — State Finance and Procurement~~

~~Section 6-226(a)(2)(ii)62. and 63.~~

~~Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

~~BY adding to~~

~~Article — State Finance and Procurement~~

~~Section 6-226(a)(2)(ii)64.~~

~~Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

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

~~Article – State Government
Section 12-101
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

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

~~Article – Insurance~~

~~TITLE 32. LEAD POISONING COMPENSATION FUND.~~

~~SUBTITLE 1. DEFINITIONS.~~

~~32-101.~~

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

~~(B) “BOARD OF TRUSTEES” MEANS THE BOARD OF TRUSTEES OF THE FUND.~~

~~(C) “COMPLIANT OWNER” MEANS AN OWNER OF RESIDENTIAL RENTAL PROPERTY THAT, DURING THE PERIOD OF AN ALLEGED INGESTION OF LEAD ON THE OWNER’S PROPERTY:~~

~~(1) HAD GIVEN TO THE TENANT THE NOTICES REQUIRED BY §§ 6-820 AND 6-823 OF THE ENVIRONMENT ARTICLE; AND~~

~~(2) WAS IN COMPLIANCE WITH:~~

~~(I) THE REGISTRATION PROVISIONS OF TITLE 6, SUBTITLE 8, PART III OF THE ENVIRONMENT ARTICLE; AND~~

~~(II) THE APPLICABLE RISK REDUCTION STANDARD AND RESPONSE STANDARD UNDER § 6-815 OR § 6-819 OF THE ENVIRONMENT ARTICLE, AND THE RISK REDUCTION SCHEDULE UNDER § 6-817 OF THE ENVIRONMENT ARTICLE.~~

~~(D) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE FUND.~~

~~(E) “FUND” MEANS THE LEAD POISONING COMPENSATION FUND.~~

~~(F) (1) "OWNER" MEANS A PERSON, FIRM, CORPORATION, GUARDIAN, CONSERVATOR, RECEIVER, TRUSTEE, EXECUTOR, OR LEGAL REPRESENTATIVE THAT, ALONE OR JOINTLY OR SEVERALLY WITH OTHERS, OWNS, HOLDS, OR CONTROLS THE WHOLE OR ANY PART OF THE FREEHOLD OR LEASEHOLD INTEREST TO ANY PROPERTY, WITH OR WITHOUT ACTUAL POSSESSION.~~

~~(2) "OWNER" INCLUDES:~~

~~(I) ANY VENDEE IN POSSESSION OF THE PROPERTY; AND~~

~~(II) ANY AUTHORIZED AGENT OF THE OWNER, INCLUDING A PROPERTY MANAGER OR LEASING AGENT.~~

~~(3) "OWNER" DOES NOT INCLUDE:~~

~~(I) A TRUSTEE OR A BENEFICIARY UNDER A DEED OF TRUST OR A MORTGAGEE; OR~~

~~(II) THE OWNER OF A REVERSIONARY INTEREST UNDER A GROUND LEASE.~~

~~SUBTITLE 2. ESTABLISHED; PURPOSE.~~

~~32-201.~~

~~THERE IS A LEAD POISONING COMPENSATION FUND.~~

~~32-202.~~

~~THE PURPOSE OF THE FUND IS TO PROVIDE:~~

~~(1) FOR THE PAYMENT OF COMPENSATION TO INDIVIDUALS THAT SUFFER INJURIES ARISING OUT OF LEAD POISONING; AND~~

~~(2) A MEANS FOR OWNERS OF RESIDENTIAL RENTAL PROPERTY TO OBTAIN COVERAGE FOR LIABILITY FOR INJURIES ARISING OUT OF LEAD POISONING.~~

~~SUBTITLE 3. ADMINISTRATION OF FUND.~~

~~32-301.~~

~~(A) THERE IS A BOARD OF TRUSTEES OF THE FUND.~~

~~(B) (1) THE BOARD OF TRUSTEES CONSISTS OF SEVEN MEMBERS.~~

~~(2) OF THE SEVEN MEMBERS:~~

~~(i) SIX SHALL BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE; AND~~

~~(ii) ONE SHALL BE THE EXECUTIVE DIRECTOR.~~

~~(3) EXCEPT AS PROVIDED IN § 32-302(A)(3) OF THIS SUBTITLE, THE EXECUTIVE DIRECTOR MAY VOTE ON ALL MATTERS BEFORE THE BOARD OF TRUSTEES.~~

~~(c) (1) A MEMBER APPOINTED BY THE GOVERNOR SERVES AT THE PLEASURE OF THE GOVERNOR.~~

~~(2) THE TERM OF A MEMBER APPOINTED BY THE GOVERNOR IS 4 YEARS AND BEGINS ON JULY 1.~~

~~(3) THE TERMS OF MEMBERS APPOINTED BY THE GOVERNOR ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD OF TRUSTEES ON JULY 1, 2012.~~

~~(4) AT THE END OF A TERM, A MEMBER APPOINTED BY THE GOVERNOR CONTINUES TO SERVE UNTIL A SUCCESSOR IS CHOSEN AND QUALIFIES.~~

~~(5) IF A MEMBER APPOINTED BY THE GOVERNOR CEASES TO BE A MEMBER OF THE BOARD OF TRUSTEES, THE GOVERNOR SHALL APPOINT A SUCCESSOR FOR THE UNEXPIRED TERM.~~

~~(d) (1) THE BOARD OF TRUSTEES SHALL CHOOSE A CHAIR FROM AMONG ITS MEMBERS.~~

~~(2) THE EXECUTIVE DIRECTOR MAY NOT BE THE CHAIR OF THE BOARD OF TRUSTEES.~~

~~(e) EACH MEMBER OF THE BOARD OF TRUSTEES IS ENTITLED TO:~~

~~(1) PER DIEM COMPENSATION SET BY THE BOARD OF PUBLIC WORKS FOR EACH DAY ACTUALLY ENGAGED IN THE DISCHARGE OF OFFICIAL DUTIES, IF THE MEMBER IS NOT OTHERWISE AN OFFICER OR EMPLOYEE OF THE STATE; AND~~

~~(2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE BUDGET OF THE BOARD OF TRUSTEES.~~

~~(F) THE BOARD OF TRUSTEES SHALL FORMULATE POLICY FOR THE FUND.~~

~~32-302.~~

~~(A) (1) THE BOARD OF TRUSTEES SHALL APPOINT THE EXECUTIVE DIRECTOR OF THE FUND WITH THE APPROVAL OF THE GOVERNOR.~~

~~(2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE BOARD OF TRUSTEES.~~

~~(3) THE INCUMBENT EXECUTIVE DIRECTOR MAY NOT VOTE ON THE CHOICE OF A SUCCESSOR.~~

~~(4) IF THE BOARD OF TRUSTEES FAILS TO AGREE ON A SUCCESSOR, THE GOVERNOR SHALL APPOINT THE SUCCESSOR.~~

~~(B) (1) THE EXECUTIVE DIRECTOR:~~

~~(I) IS THE ADMINISTRATIVE HEAD OF THE FUND; AND~~

~~(H) SHALL EXERCISE THE POWERS AND PERFORM THE DUTIES CONFERRED ON THE FUND BY THIS TITLE, EXCEPT FOR THOSE POWERS AND DUTIES CONFERRED ON THE BOARD OF TRUSTEES.~~

~~(2) THE BOARD OF TRUSTEES SHALL ADVISE THE EXECUTIVE DIRECTOR ON THE EXERCISE OF THE POWERS AND DUTIES CONFERRED ON THE EXECUTIVE DIRECTOR BY THIS TITLE.~~

~~(C) THE BOARD OF TRUSTEES SHALL DETERMINE THE COMPENSATION OF THE EXECUTIVE DIRECTOR WITH THE APPROVAL OF THE GOVERNOR.~~

~~32-303.~~

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION OR OTHERWISE BY LAW, THE EXECUTIVE DIRECTOR SHALL APPOINT AND REMOVE STAFF OF THE FUND IN ACCORDANCE WITH THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE.~~

~~(2) POSITIONS THAT THE EXECUTIVE DIRECTOR DESIGNATES WITH THE APPROVAL OF THE BOARD OF TRUSTEES AS TECHNICAL OR PROFESSIONAL POSITIONS ARE IN THE EXECUTIVE SERVICE, MANAGEMENT SERVICE, OR ARE SPECIAL APPOINTMENTS OF THE SKILLED SERVICE OR THE PROFESSIONAL SERVICE IN THE STATE PERSONNEL MANAGEMENT SYSTEM.~~

~~(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE EXECUTIVE DIRECTOR MAY APPOINT CLAIMS ADJUSTERS, ATTORNEYS, AND OTHER NECESSARY PERSONS DIRECTLY AS EMPLOYEES OR ON A CONTRACT BASIS.~~

~~(B) THE EXECUTIVE DIRECTOR SHALL DETERMINE AND ADMINISTER THE COMPENSATION OF THE PERSONNEL OF THE FUND DESIGNATED UNDER SUBSECTION (A)(2) OF THIS SECTION WITH THE APPROVAL OF THE BOARD OF TRUSTEES.~~

~~(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN EMPLOYEE OF THE FUND IS NOT SUBJECT TO ANY LAW, REGULATION, OR EXECUTIVE ORDER GOVERNING STATE EMPLOYEE COMPENSATION, INCLUDING FURLOUGHS, SALARY REDUCTIONS, AND ANY OTHER GENERAL FUND COST SAVING MEASURE.~~

~~SUBTITLE 4. FEES; MANAGEMENT OF FUND.~~

~~32-401.~~

~~(A) ON OR AFTER JULY 1, 2013, A LEAD POISONING COMPENSATION FEE SHALL BE PAID BY EACH OWNER OF RESIDENTIAL RENTAL PROPERTY LOCATED IN THE STATE THAT WAS BUILT BEFORE 1978.~~

~~(B) THE LEAD POISONING COMPENSATION FEE IS:~~

~~(1) FOR AN OWNER THAT IS NOT A COMPLIANT OWNER, \$500 PER RENTAL DWELLING UNIT;~~

~~(2) FOR A COMPLIANT OWNER:~~

~~(I) \$100 PER RENTAL DWELLING UNIT; OR~~

~~(II) \$50 PER RENTAL DWELLING UNIT CERTIFIED AS LIMITED LEAD FREE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT.~~

~~(3) AN OWNER IS EXEMPT FROM PAYING THE FEE IF THE OWNER'S PROPERTY IS CERTIFIED AS LEAD-FREE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT.~~

~~(c) (1) THE COUNTY IN WHICH THE PROPERTY IS LOCATED SHALL COLLECT THE FEE BY INCLUDING THE FEE ON AN OWNER'S ANNUAL OR SEMIANNUAL PROPERTY TAX BILL.~~

~~(2) THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION AND THE DEPARTMENT OF THE ENVIRONMENT SHALL COOPERATE WITH EACH COUNTY TO IDENTIFY THE PROPERTY OWNERS THAT ARE LIABLE FOR PAYMENT OF THE FEE UNDER THIS SECTION AND THE AMOUNT OF THE FEE DUE FOR EACH DWELLING UNIT.~~

~~(3) A COUNTY:~~

~~(i) MAY USE ALL OF ITS EXISTING PROCEDURES AND AUTHORITY FOR COLLECTING PROPERTY TAXES IN ORDER TO ENFORCE THE COLLECTION OF THE FEE; AND~~

~~(ii) SHALL ESTABLISH A SEGREGATED ACCOUNT FOR THE DEPOSIT OF FUNDS COLLECTED UNDER THIS SECTION.~~

~~(d) (1) A COUNTY SHALL COMPLETE AND SUBMIT UNDER OATH A RETURN AND REMIT THE FEES COLLECTED UNDER THIS SECTION TO THE COMPTROLLER ON OR BEFORE THE DATES SPECIFIED BY THE COMPTROLLER BY REGULATION.~~

~~(2) EXCEPT TO THE EXTENT OF ANY INCONSISTENCY WITH THIS SECTION, THE PROVISIONS OF TITLE 13 OF THE TAX GENERAL ARTICLE THAT ARE APPLICABLE TO THE SALES AND USE TAX SHALL GOVERN THE ADMINISTRATION, COLLECTION, AND ENFORCEMENT OF THE FEE UNDER THIS SECTION.~~

~~(3) THE COMPTROLLER MAY ADOPT REGULATIONS NECESSARY TO ADMINISTER, COLLECT, AND ENFORCE THE FEE.~~

~~(4) THE STATE CENTRAL COLLECTION UNIT MAY COLLECT DELINQUENT ACCOUNTS UNDER THIS SECTION IN ACCORDANCE WITH § 3-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~32-402.~~

~~(A) THE FUND CONSISTS OF:~~

~~(1) FEES COLLECTED UNDER § 32-401 OF THIS SUBTITLE AND § 32-501(B) OF THIS TITLE;~~

~~(2) INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT OF MONEY IN THE FUND; AND~~

~~(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.~~

~~(B) (1) ALL OPERATING EXPENSES OF THE FUND SHALL BE PAID FROM THE MONEY COLLECTED BY OR FOR THE FUND.~~

~~(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, MONEY AND PROPERTY AVAILABLE TO THE FUND MAY BE USED FOR THE GENERAL PURPOSES OF THE FUND.~~

~~(II) FEES COLLECTED AND INCOME ACCRUING FROM THOSE FEES MAY BE USED ONLY FOR THE PAYMENT OF CLAIMS AND FOR THE ADMINISTRATIVE EXPENSES OF THE FUND.~~

~~32-403.~~

~~(A) THE ACCOUNT OF THE FUND IS A SPECIAL FUND ACCOUNT AND IS NOT A PART OF THE STATE TREASURY.~~

~~(B) THE DEBTS AND OBLIGATIONS OF THE FUND ARE NOT A DEBT OF THE STATE OR A PLEDGE OF THE CREDIT OF THE STATE.~~

~~32-404.~~

~~(A) (1) A FINANCIAL MANAGEMENT COMMITTEE OF THE FUND SHALL MANAGE AND INVEST ALL MONEY COLLECTED BY OR FOR THE FUND THROUGH FEES, APPROPRIATIONS, EARNINGS FROM INVESTMENTS, OR FROM OTHER SOURCES.~~

~~(2) THE FINANCIAL MANAGEMENT COMMITTEE CONSISTS OF THE EXECUTIVE DIRECTOR AND TWO MEMBERS OF THE BOARD OF TRUSTEES WHOM THE BOARD OF TRUSTEES CHOOSES.~~

~~(B) (1) WHENEVER THE AMOUNT OF MONEY IN THE FUND EXCEEDS THE AMOUNT THAT THE EXECUTIVE DIRECTOR BELIEVES IS LIKELY TO BE REQUIRED IMMEDIATELY, THE FINANCIAL MANAGEMENT COMMITTEE MAY MANAGE THE EXCESS AS THE COMMITTEE CONSIDERS APPROPRIATE AND~~

~~INVEST THE EXCESS IN INVESTMENTS AUTHORIZED UNDER TITLE 5, SUBTITLE 6 OF THIS ARTICLE.~~

~~(2) IF USE OF THE EXCESS BECOMES NECESSARY OR EXPEDIENT, THE FINANCIAL MANAGEMENT COMMITTEE MAY COLLECT, SELL, OR OTHERWISE REALIZE ON THE INVESTMENT AND ANY ACCRUED INTEREST.~~

~~(c) (1) (i) CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE FINANCIAL MANAGEMENT COMMITTEE, THE FINANCIAL MANAGEMENT COMMITTEE SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES TO THE COMMITTEE.~~

~~(ii) FOR PURPOSES OF THIS SUBSECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.~~

~~(2) (i) TO ASSIST THE FINANCIAL MANAGEMENT COMMITTEE IN ACHIEVING THE GOAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMITTEE SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE FUND.~~

~~(ii) THE MEASURES UNDERTAKEN BY THE FINANCIAL MANAGEMENT COMMITTEE SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE FUND'S WEB SITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE FUND.~~

~~(3) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, THE FINANCIAL MANAGEMENT COMMITTEE SHALL DEVELOP GUIDELINES TO ASSIST THE COMMITTEE IN IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE FUND ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT MANAGEMENT SERVICES.~~

~~(4) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE FINANCIAL MANAGEMENT COMMITTEE SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:~~

~~(I) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS USED BY THE FINANCIAL MANAGEMENT COMMITTEE IN THE IMMEDIATELY PRECEDING FISCAL YEAR;~~

~~(II) THE PERCENTAGE AND DOLLAR VALUE OF THE FUND ASSETS THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS; AND~~

~~(III) THE MEASURES THE FINANCIAL MANAGEMENT COMMITTEE UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH PARAGRAPH (2)(I) OF THIS SUBSECTION.~~

~~32-405.~~

~~(A) THE EXECUTIVE DIRECTOR SHALL ESTABLISH AND MAINTAIN REASONABLE AND ADEQUATE RESERVES FOR PAYMENT OF CLAIMS AGAINST THE FUND.~~

~~(B) AT LEAST ANNUALLY, THE BOARD OF TRUSTEES SHALL REVIEW THE REASONABLENESS AND ADEQUACY OF RESERVES.~~

~~32-406.~~

~~(A) THE LEGISLATIVE AUDITOR:~~

~~(1) MAY CONDUCT FISCAL AUDITS AND COMPLIANCE AUDITS OF THE ACCOUNTS AND TRANSACTIONS OF THE FUND EACH YEAR INSTEAD OF EVERY 2 YEARS; AND~~

~~(2) SHALL ADVISE OFFICIALS OF THE FUND WHETHER AUDITS WILL BE CONDUCTED EACH YEAR OR EVERY 2 YEARS.~~

~~(B) (1) IF AN INDEPENDENT AUDITOR CONDUCTS A FISCAL AUDIT OF THE FUND, THE LEGISLATIVE AUDITOR MAY NOT DUPLICATE THE FISCAL AUDIT FOR THE SAME PERIOD.~~

~~(2) IF, AT THE REQUEST OF THE FUND, THE LEGISLATIVE AUDITOR CONDUCTS THE FISCAL AUDIT INSTEAD OF AN INDEPENDENT AUDITOR, THE LEGISLATIVE AUDITOR MAY CHARGE THE FUND FOR THE COST OF THE FISCAL AUDIT.~~

~~(C) AN AUDIT CONDUCTED IN ACCORDANCE WITH THIS SECTION IS IN ADDITION TO AND NOT INSTEAD OF ANY AUDIT OR REGULATORY AUTHORITY OF THE COMMISSIONER.~~

~~SUBTITLE 5. COVERAGE.~~

~~32-501.~~

~~(A) SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE FUND SHALL PROVIDE COVERAGE IN CASES FILED ON OR AFTER JULY 1, 2013, FOR A CLAIM ARISING OUT OF THE ALLEGED INGESTION OF LEAD IN A RENTAL DWELLING UNIT ON OR AFTER OCTOBER 1, 1994, TO:~~

~~(1) A CURRENT COMPLIANT OWNER, IF THE OWNER IS NOT IN DEFAULT IN PAYMENT OF THE FEE REQUIRED UNDER § 32-401 OF THIS SUBTITLE;~~

~~(2) A FORMER COMPLIANT OWNER THAT PAYS THE FEE SPECIFIED UNDER SUBSECTION (B) OF THIS SECTION PRIOR TO THE FILING OF A CLAIM; AND~~

~~(3) A CURRENT OR FORMER OWNER OF RESIDENTIAL RENTAL PROPERTY THAT IS CERTIFIED LEAD-FREE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT THAT PAYS THE FEE SPECIFIED UNDER SUBSECTION (B) OF THIS SECTION PRIOR TO THE FILING OF A CLAIM.~~

~~(B) (1) A FORMER COMPLIANT OWNER MAY OBTAIN COVERAGE FROM THE FUND FOR CLAIMS ARISING OUT OF THE ALLEGED INGESTION OF LEAD IN THE OWNER'S PROPERTY IF THE OWNER PAYS TO THE FUND A FEE IN THE APPLICABLE AMOUNT SPECIFIED UNDER § 32-401(B) OF THIS SUBTITLE PER DWELLING UNIT FOR EACH YEAR THAT THE OWNER OWNED THE DWELLING UNIT.~~

~~(2) A CURRENT OR FORMER OWNER OF RESIDENTIAL RENTAL PROPERTY THAT IS CERTIFIED LEAD-FREE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT MAY OBTAIN COVERAGE FROM THE FUND FOR CLAIMS ARISING OUT OF THE ALLEGED INGESTION OF LEAD IN THE OWNER'S PROPERTY IF THE OWNER PAYS TO THE FUND A FEE IN THE AMOUNT OF \$50 PER DWELLING UNIT FOR EACH YEAR THAT THE OWNER OWNED THE DWELLING UNIT.~~

~~(C) (1) THE FUND MAY PROVIDE COVERAGE FOR CLAIMS UNDER THIS SECTION ONLY IF THE CLAIM IS NOT COVERED BY ANY OTHER SOURCE OF INSURANCE OR INDEMNITY.~~

~~(2) THE MAXIMUM AMOUNT PAYABLE BY THE FUND, EXCLUSIVE OF INTEREST AND COSTS, MAY NOT EXCEED \$200,000 TO A SINGLE CLAIMANT.~~

~~32-502.~~

~~(A) THE EXECUTIVE DIRECTOR SHALL SETTLE, COMPROMISE, OR DEFEND CLAIMS AGAINST THE FUND.~~

~~(B) NOTWITHSTANDING § 9-602 OF THE CRIMINAL LAW ARTICLE, THE EXECUTIVE DIRECTOR MAY AUTHORIZE AN EMPLOYEE OF THE FUND TO RECORD A TELEPHONE CONVERSATION WITH A PROPERTY OWNER, A WITNESS, A CLAIMANT, AN INVESTIGATING OFFICER, OR ANY OTHER INTERESTED PARTY IF:~~

~~(1) THE CONVERSATION IS RELEVANT TO A CLAIM;~~

~~(2) THE PARTY TO BE RECORDED HAS OR MIGHT HAVE INFORMATION THAT IS RELEVANT TO THE CLAIM; AND~~

~~(3) BEFORE RECORDING, THE PARTY TO BE RECORDED IS ADVISED OF AND CONSENTS TO THE RECORDING.~~

~~Article State Finance and Procurement~~

~~6-226.~~

~~(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.~~

~~(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:~~

~~62. Veterans Trust Fund; [and]~~

~~63. Transportation Trust Fund; AND~~

~~64. LEAD POISONING COMPENSATION FUND.~~

~~Article — State Government~~~~12-101.~~

~~(a) In this subtitle, unless the context clearly requires otherwise, "State personnel" means:~~

~~(1) a State employee or official who is paid in whole or in part by the Central Payroll Bureau in the Office of the Comptroller of the Treasury;~~

~~(2) an employee or official of the:~~

~~(i) Maryland Transportation Authority;~~

~~(ii) Injured Workers' Insurance Fund;~~

~~(iii) Maryland Stadium Authority;~~

~~(iv) Maryland Environmental Service;~~

~~(v) overseas programs of the University College of the University System of Maryland;~~

~~(vi) Maryland Economic Development Corporation;~~

~~(vii) Maryland Technology Development Corporation;~~

~~(viii) Maryland African American Museum Corporation;~~

~~(ix) Maryland Automobile Insurance Fund;~~

~~(x) Maryland Health and Higher Educational Facilities Authority;~~

~~(xi) Maryland Agricultural and Resource Based Industry Development Corporation;~~

~~(xii) Somers Cove Marina Commission;~~

~~(xiii) Maryland Workforce Corporation;~~

~~(xiv) Maryland Underground Facilities Damage Prevention Authority; [and]~~

~~(xv) Maryland Clean Energy Center; AND~~

~~(XVI) LEAD POISONING COMPENSATION FUND;~~

- ~~(3) a person who:~~
- ~~(i) is a member of a State board, commission, or similar State entity; or~~
 - ~~(ii) 1. is providing a service to or for the State;~~
 - ~~2. is not paid in whole or in part by the State; and~~
 - ~~3. satisfies all other requirements for designation as State personnel as may be set forth in regulations adopted by the Treasurer pursuant to Title 10 of this article;~~
- ~~(4) an individual who, without compensation, exercises a part of the sovereignty of the State;~~
- ~~(5) a student enrolled in a State educational institution:~~
- ~~(i) who is providing services to third parties in the course of participation in an approved clinical training or academic program;~~
 - ~~(ii) who, as determined by the Treasurer, is required to have liability insurance covering claims arising from services to third parties performed by the student in the course of the approved clinical training or academic program;~~
 - ~~(iii) who, as determined by the Treasurer, cannot obtain commercial liability insurance at an affordable cost; and~~
 - ~~(iv) who, as determined by the Treasurer, may be required to contribute to an insurance program for claims arising from services to third parties performed by the student in the course of the approved clinical training or academic program;~~
- ~~(6) a sheriff or deputy sheriff of a county or Baltimore City;~~
- ~~(7) an employee of a county who is assigned to a local department of social services, including a Montgomery County employee who carries out State programs administered under Title 3, Subtitle 4 of the Human Services Article;~~
- ~~(8) a State's Attorney of a county or Baltimore City, or an employee of an office of a State's Attorney;~~
- ~~(9) a member of a board of license commissioners of a county or Baltimore City appointed under the provisions of Article 2B of the Code, or an employee of a board of license commissioners;~~

~~(10) a member of a local board of elections, or an employee of a local board of elections;~~

~~(11) a judge of a circuit court of a county or Baltimore City, or an employee of a circuit court;~~

~~(12) a judge of an orphans' court of a county or Baltimore City, or an employee of an orphans' court;~~

~~(13) to the extent of a nonprofit organization's activities as a third party payee, and to the extent the nonprofit organization has no other insurance for this purpose, a nonprofit organization that has been approved by the Department of Human Resources or its designee to serve as a third party payee for purposes of providing temporary cash assistance, transitional assistance, or child-specific benefits to Family Investment Program recipients; or~~

~~(14) a student, faculty, or staff member of an institution of higher education who is providing a service under the Family Investment Program in accordance with § 5-305, § 5-306, or § 5-317 of the Human Services Article.~~

~~(b) In this subtitle, a unit of the State government includes the Montgomery County government to the extent that Montgomery County administers a State program under Title 3, Subtitle 4 of the Human Services Article.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial appointed members of the Board of Trustees of the Lead Poisoning Compensation Fund shall expire as follows:~~

~~(1) two members in 2014;~~

~~(2) two members in 2015; and~~

~~(3) two members in 2016.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) The Maryland Insurance Commissioner shall convene a workgroup to evaluate and make recommendations relating to lead liability protection for owners of pre-1978 rental property.

(b) The workgroup required under this section shall include:

(1) ~~one member~~ two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of the Environment, or the Secretary's designee;

(4) the Secretary of Housing and Community Development, or the Secretary's designee;

(5) the Secretary of Health and Mental Hygiene, or the Secretary's designee; and

(6) representatives of the following:

(i) the Judiciary;

(ii) the insurance industry;

(iii) owners of pre-1978 rental property; and

(iv) childhood lead poisoning advocacy groups;

(7) representatives with expertise in legal claims arising out of lead poisoning, including ~~retired judges and~~ attorneys representing plaintiffs and defendants;

(8) representatives from academic institutions with expertise in insurance and actuarial science; and

(9) any other representative the Commissioner determines to be included in the workgroup.

(c) The workgroup shall evaluate:

(1) the feasibility of encouraging the existing insurance marketplace to provide lead liability coverage for owners of pre-1978 rental property;

(2) the feasibility of establishing other mechanisms for providing lead liability insurance coverage for owners of pre-1978 rental property;

(3) (i) the feasibility of establishing an insurance fund for lead liability insurance coverage;

(ii) the accounting and financial reporting standards that should apply to an insurance fund;

(iii) the minimum surplus requirements that should be met by an insurance fund, including appropriate amounts to maintain in relation to an insurance fund's risk;

(iv) the appropriate underwriting standards to be applied to relevant policies;

(v) the level of premiums that might be necessary to support policies in an actuarially sound manner;

(vi) whether an insurance fund should be subject to Maryland's premium tax obligations;

(vii) projected start-up and ongoing administrative costs associated with the establishment of an insurance fund; and

(viii) any other relevant *insurance-related* matters identified in the course of the study; and

~~(4) the feasibility of a modified qualified offer framework, arbitration, or other alternative dispute resolution mechanism;~~

~~(5) the feasibility of a compensation fund instead of an insurance fund; and~~

~~(6) the extent to which private risk management tools such as insurance and bonds are available on the commercial market.~~

(d) On or before December 1, 2012, the Commissioner shall report the findings of the workgroup required under this section and any recommendations of the workgroup to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 374

(House Bill 475)

AN ACT concerning

St. Mary's County – Redistricting Board – Revisions

FOR the purpose of requiring a Redistricting Board to be appointed in St. Mary's County following each decennial census of the United States; requiring the Board to be appointed between certain dates and in the year following each decennial census; requiring the Board to be composed of certain appointees; requiring a certain County Commissioner to appoint a person to fill a certain vacancy; requiring each member of the Board to be a registered voter and a resident of St. Mary's County; prohibiting a certain person from serving as a member of the Board; requiring the Board to propose a certain redistricting plan; requiring the Board to elect a chair and hold certain meetings; authorizing the Board to solicit advice from certain experts, hold public forums, and request that the Board of County Commissioners of St. Mary's County provide certain assistance; requiring that the proceedings and records of the Board comply with certain laws; requiring the Board to conduct certain public hearings; specifying that notice of certain hearings be given in accordance with certain requirements; requiring the Board to prepare and submit a redistricting plan to the Board of County Commissioners by a certain date and after public hearings have been held; specifying that a redistricting plan becomes effective for a certain election a certain number of days after the plan is submitted to the Board of County Commissioners; providing that a Board appointed before a certain date is conclusively presumed to have been lawfully constituted and that a certain redistricting plan is conclusively presumed to have become law; and generally relating to the Redistricting Board in St. Mary's County.

BY repealing

The Public Local Laws of St. Mary's County
Section 26-2
Article 19 – Public Local Laws of Maryland
(2007 Edition and January 2011 Supplement, as amended)

BY adding to

The Public Local Laws of St. Mary's County
Section 26-2
Article 19 – Public Local Laws of Maryland
(2007 Edition and January 2011 Supplement, as amended)

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

Article 19 – St. Mary's County

[26-2.

A. Within one (1) year after the inauguration of the Commissioners following the 1974 general election, a Redistricting Board shall be created. The Board shall be composed of one (1) appointee of each County Commissioner, and none shall

be employees of the county. The Board shall convene not later than six (6) months after appointment to organize and elect a Chairman from among its members.

B. The Redistricting Board shall establish the boundaries of the four (4) Commissioner Districts after due consideration and investigation within reasonable and lawful guidelines. The Redistricting Board shall set and conduct public hearings in each of the proposed four (4) Commissioner Districts after tentative district boundaries have been drawn and defined. Notice of public hearings giving time, date and place shall be published in two (2) county newspapers ten (10) days prior to the public hearings. After all public hearings have been held and a final draft of the redistricting plan has been completed, the Board shall submit the redistricting plan to the county Commissioners not later than eighteen (18) months from the date of their first meeting. This plan shall then become law unless the plan is set aside by a court of law with proper jurisdiction.

C. Necessary clerical assistance may be provided to assist the Redistricting Board by the County Commissioners. Compensation for the members of the Redistricting Board shall be set by the Board of County Commissioners in an amount not to exceed twenty-five dollars (\$25.00) per day for each Board member in attendance.

D. The above method of redistricting shall be in force following each general election after publication of the national census each ten (10) years.]

26-2.

A. FOLLOWING EACH DECENNIAL CENSUS OF THE UNITED STATES, A REDISTRICTING BOARD SHALL BE APPOINTED. A REDISTRICTING BOARD SHALL BE APPOINTED AFTER JANUARY 1, 2013, AND BEFORE MARCH 1, 2013, AND BETWEEN JANUARY 1 AND MARCH 1 IN THE YEAR FOLLOWING EACH DECENNIAL CENSUS. THE BOARD SHALL BE COMPOSED OF ONE (1) APPOINTEE MADE BY EACH MEMBER OF THE BOARD OF COUNTY COMMISSIONERS. IN THE EVENT OF A VACANCY BY DEATH, RESIGNATION, OR OTHER CAUSE, THE COUNTY COMMISSIONER WHO MADE THE VACATED APPOINTMENT SHALL APPOINT A PERSON TO FILL THE VACANCY. EACH MEMBER OF A REDISTRICTING BOARD SHALL BE A REGISTERED VOTER AND A RESIDENT OF ST. MARY'S COUNTY. NO PERSON HOLDING AN OFFICE OR POSITION OF PROFIT AND TRUST OR EMPLOYEE OF ST. MARY'S COUNTY OR THE STATE OF MARYLAND SHALL BE ELIGIBLE TO SERVE AS A MEMBER OF A REDISTRICTING BOARD.

B. THE REDISTRICTING BOARD SHALL PROPOSE, AFTER DUE CONSIDERATION AND INVESTIGATION, A REDISTRICTING PLAN DRAWING AND DEFINING REASONABLE AND LAWFUL BOUNDARIES OF THE FOUR (4) DISTRICTS FOR THE SUBSEQUENT ELECTIONS OF COUNTY COMMISSIONERS. THE REDISTRICTING BOARD SHALL ELECT A CHAIR; SHALL HOLD SUCH MEETINGS

AS MAY BE NECESSARY; MAY SOLICIT THE ADVICE OF ACADEMIC, LEGAL, AND OTHER EXPERTS; AND MAY HOLD PUBLIC FORUMS. THE REDISTRICTING BOARD MAY REQUEST THAT THE BOARD OF COUNTY COMMISSIONERS PROVIDE SUCH TECHNICAL, ADMINISTRATIVE, AND CLERICAL ASSISTANCE AS THE REDISTRICTING BOARD MAY CONSIDER NECESSARY. ALL PROCEEDINGS AND RECORDS OF THE REDISTRICTING BOARD SHALL COMPLY WITH THE MARYLAND PUBLIC INFORMATION ACT AND THE ST. MARY'S COUNTY OPEN MEETINGS ACT, AS THESE ACTS MAY BE AMENDED FROM TIME TO TIME.

C. AFTER PRELIMINARY DISTRICT BOUNDARIES HAVE BEEN DRAWN AND DEFINED, THE REDISTRICTING BOARD SHALL CONDUCT AT LEAST ONE (1) PUBLIC HEARING IN EACH OF THE FOUR (4) PROPOSED COMMISSIONER DISTRICTS. NOTICE OF PUBLIC HEARINGS SHALL BE GIVEN IN ACCORDANCE WITH THE REQUIREMENTS FOR PUBLIC HEARINGS BY THE BOARD OF COUNTY COMMISSIONERS.

D. AFTER PUBLIC HEARINGS HAVE BEEN HELD, THE REDISTRICTING BOARD SHALL PREPARE AND SUBMIT A REDISTRICTING PLAN TO THE BOARD OF COUNTY COMMISSIONERS BY DECEMBER 31 OF THE YEAR IN WHICH THE REDISTRICTING BOARD IS CREATED.

E. SIXTY (60) DAYS AFTER SUBMISSION OF THE REDISTRICTING PLAN TO THE BOARD OF COUNTY COMMISSIONERS, THE PLAN SHALL BECOME THE DISTRICTS FOR THE SUBSEQUENT ELECTION OF COUNTY COMMISSIONERS IN ACCORDANCE WITH LAW.

F. ANY REDISTRICTING BOARD APPOINTED BEFORE OCTOBER 1, 2012, SHALL BE CONCLUSIVELY PRESUMED TO HAVE BEEN LAWFULLY CONSTITUTED, AND ANY REDISTRICTING PLAN SUBMITTED TO THE BOARD OF COUNTY COMMISSIONERS BEFORE THAT DATE SHALL BE CONCLUSIVELY PRESUMED TO HAVE BECOME LAW.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 375

(House Bill 476)

AN ACT concerning

Baltimore City – Vehicle Height Monitoring Systems

FOR the purpose of authorizing and establishing requirements for the use of certain vehicle height monitoring systems in Baltimore City to enforce certain State and local laws restricting ~~vehicle height~~ the presence of certain vehicles during certain times; establishing that a ~~vehicle height~~ the presence of certain vehicles during certain times monitoring system may be used under this Act only if its use is authorized by an ordinance adopted by the Baltimore City Council; requiring Baltimore City to conduct a certain analysis and obtain a certain approval before it places a vehicle height monitoring system at a particular location; requiring Baltimore City to take certain steps related to notice before activating a vehicle height monitoring system; providing that certain persons recorded by a vehicle height monitoring system while operating a motor vehicle or a combination of vehicles in violation of a State or local law restricting ~~vehicle height~~ the presence of certain vehicles during certain times are subject to certain penalties; establishing ~~a~~ certain maximum ~~fine~~ fines for ~~a violation~~ violations of law enforced by means of a vehicle height monitoring system under this Act; requiring the District Court to prescribe a certain citation form and a civil penalty to be indicated on the citation; requiring the Baltimore City Police Department or the Baltimore City Department of Transportation to mail a citation to the owner of a motor vehicle recorded by a vehicle height monitoring system under certain circumstances; requiring a citation to include certain information; ~~authorizing~~ requiring the sending of a warning instead of a citation for a first violation under this Act; requiring a citation to be mailed within certain a period of time; authorizing a person who receives a citation under this Act to pay the civil penalty in a certain manner or to elect to stand trial in the District Court; providing for the admissibility and use of certain evidence; authorizing a person receiving citations to have a certain vehicle height monitoring system operator be present and testify at trial; establishing the standard of proof in a trial for a violation of law enforced by a vehicle height monitoring system under this Act; establishing defenses that the District Court may consider; requiring a person to submit a certain proof in order to demonstrate a certain defense; prohibiting imposition of liability under this Act from being considered for certain purposes; requiring the Chief Judge of the District Court, in consultation with the Baltimore City Police Department, to adopt certain procedures; requiring the Baltimore City Police Department or the Baltimore City Department of Transportation, or a designated contractor, to administer citations issued under this Act in coordination with the District Court; prohibiting the fee of a contractor who operates a vehicle height monitoring system on behalf of Baltimore City to be contingent on the number of citations issued or paid; modifying the jurisdiction of the District Court to include certain proceedings; providing for the handling of certain court costs and penalties; prohibiting the custodian of recorded images produced by a vehicle height monitoring system from allowing inspection of the recorded images, subject to certain exceptions; restricting and providing for the use of certain revenues generated by this Act; defining certain terms; making a

stylistic change; and generally relating to imposing liability on certain owners of motor vehicles recorded while being operated in violation of a State or local law restricting ~~vehicle height~~ the presence of certain vehicles during certain times.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 4–401(13), 7–301(a), 7–302(e), and 10–311
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 11–215(e) and 11–318(e)
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Government
Section 10–616(o)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY adding to
Article – Transportation
Section 24–111.3
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 26–401
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Courts and Judicial Proceedings

4–401.

Except as provided in § 4–402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(13) A proceeding for a civil infraction under § 21–202.1, § 21–704.1, § 21–706.1, § 21–809, [or] § 21–810, **OR § 24–111.3** of the Transportation Article or § 10–112 of the Criminal Law Article;

7–301.

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, the court costs in a traffic case, including parking and impounding cases, cases under § 21–202.1, § 21–809, [or] § 21–810, **OR § 24–111.3** of the Transportation Article in which costs are imposed, and cases under § 10–112 of the Criminal Law Article in which costs are imposed:

(i) Are \$22.50 plus the surcharge under subsection (f) of this section; and

(ii) Shall also be applicable to those cases in which the defendant elects to waive the defendant's right to trial and pay the fine or penalty deposit established by the Chief Judge of the District Court by administrative regulation.

(2) In an uncontested case under § 21–202.1, § 21–809, [or] § 21–810, **OR § 24–111.3** of the Transportation Article, an uncontested case under § 10–112 of the Criminal Law Article, or an uncontested parking or impounding case in which the fines are paid directly to a political subdivision or municipality, costs are \$2.00, which costs shall be paid to and retained by the political subdivision or municipality.

(3) (i) In an uncontested case in which the fine is paid directly to an agency of State government authorized by law to regulate parking of motor vehicles, the court costs are \$2.00.

(ii) The fine and the costs under this paragraph shall be paid to the agency, which shall receive and account for these funds as in all other cases involving sums due the State through a State agency.

7–302.

(e) (1) A citation issued pursuant to § 21–202.1, § 21–706.1, § 21–809, [or] § 21–810, **OR § 24–111.3** of the Transportation Article shall provide that the person receiving the citation may elect to stand trial by notifying the issuing agency of the person's intention to stand trial at least 5 days prior to the date of payment as set forth in the citation. On receipt of the notice to stand trial, the agency shall forward to the District Court having venue a copy of the citation and a copy of the notice from the person who received the citation indicating the person's intention to stand trial. On receipt thereof, the District Court shall schedule the case for trial and notify the defendant of the trial date under procedures adopted by the Chief Judge of the District Court.

(2) A citation issued as the result of a **VEHICLE HEIGHT MONITORING SYSTEM**, A traffic control signal monitoring system, or A speed monitoring system, including a work zone speed control system, controlled by a political subdivision or a school bus monitoring camera shall provide that, in an uncontested case, the penalty shall be paid directly to that political subdivision. A citation issued as the result of a traffic control signal monitoring system or a work zone speed control system controlled by a State agency, or as a result of a **VEHICLE HEIGHT MONITORING SYSTEM**, A traffic control signal monitoring system, a speed monitoring system, or a school bus monitoring camera in a case contested in District Court, shall provide that the penalty shall be paid directly to the District Court.

(3) Civil penalties resulting from citations issued using a **VEHICLE HEIGHT MONITORING SYSTEM**, traffic control signal monitoring system, speed monitoring system, work zone speed control system, or school bus monitoring camera that are collected by the District Court shall be collected in accordance with subsection (a) of this section and distributed in accordance with § 12–118 of the Transportation Article.

(4) (i) From the fines collected by a political subdivision as a result of violations enforced by speed monitoring systems or school bus monitoring cameras, a political subdivision:

1. May recover the costs of implementing and administering the speed monitoring systems or school bus monitoring cameras; and

2. Subject to subparagraph (ii) of this paragraph, may spend any remaining balance solely for public safety purposes, including pedestrian safety programs.

(ii) 1. For any fiscal year, if the balance remaining from the fines collected by a political subdivision as a result of violations enforced by speed monitoring systems, after the costs of implementing and administering the systems are recovered in accordance with subparagraph (i)1 of this paragraph, is greater than 10% of the total revenues of the political subdivision for the fiscal year, the political subdivision shall remit any funds that exceed 10% of the total revenues to the Comptroller.

2. The Comptroller shall deposit any money remitted under this subparagraph to the General Fund of the State.

(5) FROM THE FINES COLLECTED BY BALTIMORE CITY AS A RESULT OF VIOLATIONS ENFORCED BY VEHICLE HEIGHT MONITORING SYSTEMS, BALTIMORE CITY MAY:

(I) RECOVER THE COSTS OF IMPLEMENTING AND ADMINISTERING THE VEHICLE HEIGHT MONITORING SYSTEMS; AND

(II) SPEND THE REMAINING BALANCE SOLELY ON ROADWAY IMPROVEMENTS.

10-311.

(a) A recorded image of a motor vehicle produced by a traffic control signal monitoring system in accordance with § 21-202.1 of the Transportation Article is admissible in a proceeding concerning a civil citation issued under that section for a violation of § 21-202(h) of the Transportation Article without authentication.

(b) A recorded image of a motor vehicle produced by a speed monitoring system in accordance with § 21-809 or § 21-810 of the Transportation Article is admissible in a proceeding concerning a civil citation issued under that section for a violation of Title 21, Subtitle 8 of the Transportation Article without authentication.

(c) A recorded image of a motor vehicle produced by a school bus monitoring camera in accordance with § 21-706.1 of the Transportation Article is admissible in a proceeding concerning a civil citation issued under that section for a violation of § 21-706 of the Transportation Article without authentication.

(d) A RECORDED IMAGE OF A MOTOR VEHICLE PRODUCED BY A VEHICLE HEIGHT MONITORING SYSTEM IN ACCORDANCE WITH § 24-111.3 OF THE TRANSPORTATION ARTICLE IS ADMISSIBLE IN A PROCEEDING CONCERNING A CIVIL CITATION ISSUED UNDER THAT SECTION FOR A VIOLATION OF A STATE OR LOCAL LAW RESTRICTING ~~VEHICLE HEIGHT~~ THE PRESENCE OF CERTAIN VEHICLES DURING CERTAIN TIMES WITHOUT AUTHENTICATION.

(E) In any other judicial proceeding, a recorded image produced by a **VEHICLE HEIGHT MONITORING SYSTEM**, traffic control signal monitoring system, speed monitoring system, work zone speed control system, or school bus monitoring camera is admissible as otherwise provided by law.

Article – Insurance

11-215.

(e) For purposes of reclassifying an insured in a classification that entails a higher premium, an insurer under an automobile insurance policy may not consider a probation before judgment disposition of a motor vehicle law offense, a civil penalty imposed pursuant to § 21-202.1, § 21-809, [or] § 21-810, **OR § 24-111.3** of the Transportation Article, or a first offense of driving with an alcohol concentration of 0.08 or more under § 16-205.1 of the Transportation Article on record with the Motor Vehicle Administration, as provided in § 16-117(b) of the Transportation Article.

11–318.

(e) For purposes of reclassifying an insured in a classification that entails a higher premium, an insurer under an automobile insurance policy may not consider a probation before judgment disposition of a motor vehicle law offense, a civil penalty imposed pursuant to § 21–202.1, § 21–809, [or] § 21–810, **OR § 24–111.3** of the Transportation Article, or a first offense of driving with an alcohol concentration of 0.08 or more under § 16–205.1 of the Transportation Article on record with the Motor Vehicle Administration, as provided in § 16–117(b) of the Transportation Article.

Article – State Government

10–616.

(o) (1) In this subsection, “recorded images” has the meaning stated in § 21–202.1, § 21–809, [or] § 21–810, **OR § 24–111.3** of the Transportation Article.

(2) Except as provided in paragraph (3) of this subsection, a custodian of recorded images produced by a traffic control signal monitoring system operated under § 21–202.1 of the Transportation Article, a speed monitoring system operated under § 21–809 of the Transportation Article, [or] a work zone speed control system operated under § 21–810 of the Transportation Article, **OR A VEHICLE HEIGHT MONITORING SYSTEM OPERATED UNDER § 24–111.3 OF THE TRANSPORTATION ARTICLE** shall deny inspection of the recorded images.

(3) A custodian shall allow inspection of recorded images:

(i) as required in § 21–202.1, § 21–809, [or] § 21–810, **OR § 24–111.3** of the Transportation Article;

(ii) by any person issued a citation under § 21–202.1, § 21–809, [or] § 21–810, **OR § 24–111.3** of the Transportation Article, or an attorney of record for the person; or

(iii) by an employee or agent of an agency in an investigation or proceeding relating to the imposition of or indemnification from civil liability pursuant to § 21–202.1, § 21–809, [or] § 21–810, **OR § 24–111.3** of the Transportation Article.

Article – Transportation

24–111.3.

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

(2) "OWNER" MEANS THE REGISTERED OWNER OF A MOTOR VEHICLE.

(3) "RECORDED IMAGE" MEANS AN IMAGE RECORDED BY A VEHICLE HEIGHT MONITORING SYSTEM:

(I) ON:

1. A PHOTOGRAPH;
2. A MICROPHOTOGRAPH;
3. AN ELECTRONIC IMAGE;
4. VIDEOTAPE; OR
5. ANY OTHER MEDIUM; AND

(II) SHOWING:

1. THE FRONT OR SIDE OF A MOTOR VEHICLE OR COMBINATION OF VEHICLES;

2. AT LEAST TWO TIME-STAMPED IMAGES OF THE MOTOR VEHICLE OR COMBINATION OF VEHICLES THAT INCLUDE THE SAME STATIONARY OBJECT NEAR THE MOTOR VEHICLE OR COMBINATION OF VEHICLES; AND

3. ON AT LEAST ONE IMAGE OR PORTION OF TAPE, A CLEAR AND LEGIBLE IDENTIFICATION OF:

~~A. THE THE ENTIRE REGISTRATION PLATE NUMBER OF THE MOTOR VEHICLE; OR~~

~~B. THE UNITED STATES DEPARTMENT OF TRANSPORTATION NUMBER OF THE MOTOR VEHICLE IN ITS ENTIRETY.~~

(4) "VEHICLE HEIGHT MONITORING SYSTEM" MEANS A DEVICE WITH ONE OR MORE MOTOR VEHICLE SENSORS THAT IS CAPABLE OF PRODUCING RECORDED IMAGES OF VEHICLES WHOSE HEIGHT EXCEEDS A PREDETERMINED LIMIT.

(B) (1) A VEHICLE HEIGHT MONITORING SYSTEM MAY BE USED TO RECORD IMAGES OF VEHICLES TRAVELING ON A HIGHWAY IN BALTIMORE CITY

UNDER THIS SECTION ONLY IF THE USE OF VEHICLE HEIGHT MONITORING SYSTEMS IS AUTHORIZED BY AN ORDINANCE ADOPTED BY THE BALTIMORE CITY COUNCIL AFTER REASONABLE NOTICE AND A PUBLIC HEARING.

(2) BEFORE BALTIMORE CITY PLACES OR INSTALLS A VEHICLE HEIGHT MONITORING SYSTEM AT A PARTICULAR LOCATION, IT SHALL:

(I) CONDUCT AN ANALYSIS TO DETERMINE THE APPROPRIATENESS OF THE LOCATION; AND

(II) OBTAIN THE APPROVAL OF THE BALTIMORE CITY POLICE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE.

(3) BEFORE ACTIVATING A VEHICLE HEIGHT MONITORING SYSTEM, BALTIMORE CITY SHALL:

(I) PUBLISH NOTICE OF THE LOCATION OF THE VEHICLE HEIGHT MONITORING SYSTEM ON ITS WEB SITE AND IN A NEWSPAPER OF GENERAL CIRCULATION IN THE JURISDICTION;

(II) ENSURE THAT ALL SIGNS STATING ~~HEIGHT AND WEIGHT LIMITATIONS~~ RESTRICTIONS ON THE PRESENCE OF CERTAIN VEHICLES DURING CERTAIN TIMES APPROACHING AND WITHIN THE SEGMENT OF HIGHWAY ON WHICH THE VEHICLE HEIGHT MONITORING SYSTEM IS LOCATED INCLUDE SIGNS THAT:

1. ARE IN ACCORDANCE WITH THE MANUAL AND SPECIFICATIONS FOR A UNIFORM SYSTEM OF TRAFFIC CONTROL DEVICES ADOPTED BY THE STATE HIGHWAY ADMINISTRATION UNDER § 25-104 OF THIS ARTICLE; AND

2. INDICATE THAT A VEHICLE HEIGHT MONITORING SYSTEM IS IN USE.

(C) A VEHICLE HEIGHT MONITORING SYSTEM OPERATOR SHALL FILL OUT AND SIGN A DAILY SET-UP LOG FOR A VEHICLE HEIGHT MONITORING SYSTEM THAT:

(1) STATES THAT THE OPERATOR SUCCESSFULLY PERFORMED THE MANUFACTURER-SPECIFIED SELF-TEST OF THE VEHICLE HEIGHT MONITORING SYSTEM BEFORE PRODUCING A RECORDED IMAGE;

(2) SHALL BE KEPT ON FILE; AND

(3) SHALL BE ADMITTED AS EVIDENCE IN ANY COURT PROCEEDING FOR A VIOLATION OF THIS SECTION.

(D) (1) UNLESS THE DRIVER OF THE MOTOR VEHICLE OR COMBINATION OF VEHICLES RECEIVED A CITATION FROM A POLICE OFFICER AT THE TIME OF THE VIOLATION, THE OWNER OF A MOTOR VEHICLE OR COMBINATION OF VEHICLES IS SUBJECT TO A CIVIL PENALTY IF THE MOTOR VEHICLE OR COMBINATION OF VEHICLES IS RECORDED BY A VEHICLE HEIGHT MONITORING SYSTEM WHILE BEING OPERATED IN VIOLATION OF A STATE OR LOCAL LAW RESTRICTING ~~VEHICLE HEIGHT~~ THE PRESENCE OF CERTAIN VEHICLES DURING CERTAIN TIMES.

(2) A CIVIL PENALTY UNDER THIS SUBSECTION MAY NOT EXCEED:

(I) FOR A SECOND VIOLATION BY THE OWNER OF THE MOTOR VEHICLE, \$250; AND

(II) FOR A THIRD OR SUBSEQUENT VIOLATION BY THE OWNER OF THE MOTOR VEHICLE, \$500.

(3) FOR PURPOSES OF THIS SECTION, THE DISTRICT COURT SHALL PRESCRIBE:

(I) A UNIFORM CITATION FORM CONSISTENT WITH SUBSECTION (D)(1) OF THIS SECTION AND § 7-302 OF THE COURTS ARTICLE; AND

(II) A CIVIL PENALTY, WHICH SHALL BE INDICATED ON THE CITATION, TO BE PAID BY PERSONS WHO CHOOSE TO PREPAY THE CIVIL PENALTY WITHOUT APPEARING IN DISTRICT COURT.

(E) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE BALTIMORE CITY POLICE DEPARTMENT OR THE BALTIMORE CITY DEPARTMENT OF TRANSPORTATION SHALL MAIL TO AN OWNER LIABLE UNDER THIS SECTION A CITATION THAT SHALL INCLUDE:

(I) THE NAME AND ADDRESS OF THE REGISTERED OWNER OF THE MOTOR VEHICLE;

(II) THE REGISTRATION NUMBER ~~OR THE UNITED STATES DEPARTMENT OF TRANSPORTATION NUMBER~~ OF THE MOTOR VEHICLE INVOLVED IN THE VIOLATION;

(III) THE VIOLATION CHARGED;

- (IV) THE LOCATION AT WHICH THE VIOLATION OCCURRED;
 - (V) THE DATE AND TIME OF THE VIOLATION;
 - (VI) A COPY OF THE RECORDED IMAGE;
 - (VII) THE AMOUNT OF THE CIVIL PENALTY IMPOSED AND THE DATE BY WHICH THE CIVIL PENALTY SHOULD BE PAID;
 - (VIII) A SIGNED STATEMENT BY A DULY AUTHORIZED LAW ENFORCEMENT OFFICER COMMISSIONED BY THE BALTIMORE CITY POLICE DEPARTMENT THAT, BASED ON INSPECTION OF THE RECORDED IMAGE, THE MOTOR VEHICLE OR COMBINATION OF VEHICLES WAS BEING OPERATED IN VIOLATION OF A STATE OR LOCAL LAW RESTRICTING ~~VEHICLE HEIGHT~~ THE PRESENCE OF CERTAIN VEHICLES DURING CERTAIN TIMES;
 - (IX) A STATEMENT THAT THE RECORDED IMAGE IS EVIDENCE OF THE VIOLATION;
 - (X) INFORMATION ADVISING THE OWNER ALLEGED TO BE LIABLE UNDER THIS SECTION OF THE MANNER AND TIME IN WHICH LIABILITY AS ALLEGED IN THE CITATION MAY BE CONTESTED IN THE DISTRICT COURT; AND
 - (XI) INFORMATION ADVISING THE OWNER ALLEGED TO BE LIABLE UNDER THIS SECTION THAT FAILURE TO PAY THE CIVIL PENALTY OR TO CONTEST LIABILITY IN A TIMELY MANNER IS AN ADMISSION OF LIABILITY.
- (2) THE BALTIMORE CITY POLICE DEPARTMENT OR THE BALTIMORE CITY DEPARTMENT OF TRANSPORTATION ~~MAY~~ SHALL, FOR A FIRST VIOLATION, MAIL A WARNING NOTICE INSTEAD OF A CITATION TO AN OWNER LIABLE UNDER THIS SECTION.
- (3) A CITATION ISSUED UNDER THIS SECTION SHALL BE MAILED NO LATER THAN 30 DAYS AFTER THE ALLEGED VIOLATION.
- (4) A PERSON WHO RECEIVES A CITATION UNDER THIS SECTION MAY:
- (i) PAY THE CIVIL PENALTY, IN ACCORDANCE WITH INSTRUCTIONS ON THE CITATION, DIRECTLY TO BALTIMORE CITY; OR

(II) ELECT TO STAND TRIAL IN THE DISTRICT COURT FOR THE ALLEGED VIOLATION.

(F) (1) A CERTIFICATE ALLEGING THAT A VIOLATION OF A STATE OR LOCAL LAW RESTRICTING ~~VEHICLE HEIGHT~~ THE PRESENCE OF CERTAIN VEHICLES DURING CERTAIN TIMES OCCURRED AND THAT THE REQUIREMENTS UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION HAVE BEEN AFFIRMED BY A DULY AUTHORIZED LAW ENFORCEMENT OFFICER COMMISSIONED BY THE BALTIMORE CITY POLICE DEPARTMENT, BASED ON INSPECTION OF THE RECORDED IMAGE PRODUCED BY THE VEHICLE HEIGHT MONITORING SYSTEM, SHALL BE:

(I) EVIDENCE OF THE FACTS CONTAINED IN THE CERTIFICATE; AND

(II) ADMISSIBLE IN A PROCEEDING ALLEGING A VIOLATION UNDER THIS SECTION WITHOUT THE PRESENCE OR TESTIMONY OF THE VEHICLE HEIGHT MONITORING SYSTEM OPERATOR.

(2) IF A PERSON WHO RECEIVED A CITATION UNDER THIS SECTION DESIRES THE VEHICLE HEIGHT MONITORING SYSTEM OPERATOR TO BE PRESENT AND TESTIFY AT TRIAL, THE PERSON SHALL NOTIFY THE COURT AND THE STATE IN WRITING NO LATER THAN 20 DAYS BEFORE TRIAL.

(3) ADJUDICATION OF LIABILITY SHALL BE BASED ON A PREPONDERANCE OF EVIDENCE.

(G) (1) THE DISTRICT COURT MAY CONSIDER IN DEFENSE OF A VIOLATION:

(I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THAT THE MOTOR VEHICLE OR THE REGISTRATION PLATES OF THE MOTOR VEHICLE WERE STOLEN BEFORE THE VIOLATION OCCURRED AND WERE NOT UNDER THE CONTROL OR POSSESSION OF THE OWNER AT THE TIME OF THE VIOLATION; AND

(II) ANY OTHER ISSUES AND EVIDENCE THAT THE DISTRICT COURT DEEMS PERTINENT.

(2) TO DEMONSTRATE THAT THE MOTOR VEHICLE OR THE REGISTRATION PLATES WERE STOLEN BEFORE THE VIOLATION OCCURRED AND WERE NOT UNDER THE CONTROL OR POSSESSION OF THE OWNER AT THE TIME OF THE VIOLATION, THE OWNER SHALL SUBMIT PROOF THAT A POLICE REPORT

REGARDING THE STOLEN MOTOR VEHICLE OR REGISTRATION PLATES WAS FILED IN A TIMELY MANNER.

(H) A VIOLATION FOR WHICH A CIVIL PENALTY IS IMPOSED UNDER THIS SECTION:

(1) IS NOT A MOVING VIOLATION FOR THE PURPOSE OF ASSESSING POINTS UNDER § 16–402 OF THIS ARTICLE;

(2) MAY NOT BE RECORDED BY THE ADMINISTRATION ON THE DRIVING RECORD OF THE OWNER OF THE VEHICLE;

(3) MAY NOT BE TREATED AS A PARKING VIOLATION FOR PURPOSES OF § 26–305 OF THIS ARTICLE; AND

(4) MAY NOT BE CONSIDERED IN THE PROVISION OF MOTOR VEHICLE INSURANCE COVERAGE.

(I) IN CONSULTATION WITH THE BALTIMORE CITY POLICE DEPARTMENT, THE CHIEF JUDGE OF THE DISTRICT COURT SHALL ADOPT PROCEDURES FOR THE ISSUANCE OF CITATIONS, THE TRIAL OF CIVIL VIOLATIONS, AND THE COLLECTION OF CIVIL PENALTIES UNDER THIS SECTION.

(J) (1) THE BALTIMORE CITY POLICE DEPARTMENT OR THE BALTIMORE CITY DEPARTMENT OF TRANSPORTATION, OR A CONTRACTOR DESIGNATED BY THE BALTIMORE CITY POLICE DEPARTMENT OR THE BALTIMORE CITY DEPARTMENT OF TRANSPORTATION, SHALL ADMINISTER AND PROCESS CIVIL CITATIONS ISSUED UNDER THIS SECTION IN COORDINATION WITH THE DISTRICT COURT.

(2) IF A CONTRACTOR OPERATES A VEHICLE HEIGHT MONITORING SYSTEM ON BEHALF OF BALTIMORE CITY, THE CONTRACTOR'S FEE MAY NOT BE CONTINGENT ON THE NUMBER OF CITATIONS ISSUED OR PAID.

26–401.

If a person is taken before a District Court commissioner or is given a traffic citation or a civil citation under § 21–202.1, § 21–809, [or] § 21–810, OR § 24–111.3 of this article containing a notice to appear in court, the commissioner or court shall be one that sits within the county in which the offense allegedly was committed.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 376**(Senate Bill 306)**

AN ACT concerning

Baltimore City – Vehicle Height Monitoring Systems

FOR the purpose of authorizing and establishing requirements for the use of certain vehicle height monitoring systems in Baltimore City to enforce certain State and local laws restricting ~~vehicle height~~ the presence of certain vehicles during certain times; establishing that a vehicle height monitoring system may be used under this Act only if its use is authorized by an ordinance adopted by the Baltimore City Council; requiring Baltimore City to conduct a certain analysis and obtain a certain approval before it places a vehicle height monitoring system at a particular location; requiring Baltimore City to take certain steps related to notice before activating a vehicle height monitoring system; providing that certain persons recorded by a vehicle height monitoring system while operating a motor vehicle or a combination of vehicles in violation of a State or local law restricting ~~vehicle height~~ the presence of certain vehicles during certain times are subject to certain penalties; establishing ~~a~~ certain maximum ~~fine~~ fin ~~es~~ es for ~~a violation~~ violations of law enforced by means of a vehicle height monitoring system under this Act; requiring the District Court to prescribe a certain citation form and a civil penalty to be indicated on the citation; requiring the Baltimore City Police Department or the Baltimore City Department of Transportation to mail a citation to the owner of a motor vehicle recorded by a vehicle height monitoring system under certain circumstances; requiring a citation to include certain information; ~~authorizing~~ requiring the sending of a warning instead of a citation for a first violation under this Act; requiring a citation to be mailed within certain a period of time; authorizing a person who receives a citation under this Act to pay the civil penalty in a certain manner or to elect to stand trial in the District Court; providing for the admissibility and use of certain evidence; authorizing a person receiving citations to have a certain vehicle height monitoring system operator be present and testify at trial; establishing the standard of proof in a trial for a violation of law enforced by a vehicle height monitoring system under this Act; establishing defenses that the District Court may consider; requiring a person to submit a certain proof in order to demonstrate a certain defense; prohibiting imposition of liability under this Act from being considered for certain purposes; requiring the Chief Judge of the District Court, in consultation with the Baltimore City Police Department, to adopt certain procedures; requiring the Baltimore City Police Department or the Baltimore City Department of Transportation, or a designated contractor, to administer citations issued under this Act in coordination with the District Court; prohibiting the fee of a contractor who

operates a vehicle height monitoring system on behalf of Baltimore City to be contingent on the number of citations issued or paid; modifying the jurisdiction of the District Court to include certain proceedings; providing for the handling of certain court costs and penalties; prohibiting the custodian of recorded images produced by a vehicle height monitoring system from allowing inspection of the recorded images, subject to certain exceptions; restricting and providing for the use of certain revenues generated by this Act; defining certain terms; making a stylistic change; and generally relating to imposing liability on certain owners of motor vehicles recorded while being operated in violation of a State or local law restricting ~~vehicle height~~ the presence of certain vehicles during certain times.

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BY repealing and reenacting, with amendments,
Article – Insurance
Section 11–215(e) and 11–318(e)
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Government
Section 10–616(o)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY adding to
Article – Transportation
Section 24–111.3
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 26–401
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Courts and Judicial Proceedings

4-401.

Except as provided in § 4-402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(13) A proceeding for a civil infraction under § 21-202.1, § 21-704.1, § 21-706.1, § 21-809, [or] § 21-810, **OR § 24-111.3** of the Transportation Article or § 10-112 of the Criminal Law Article;

7-301.

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, the court costs in a traffic case, including parking and impounding cases, cases under § 21-202.1, § 21-809, [or] § 21-810, **OR § 24-111.3** of the Transportation Article in which costs are imposed, and cases under § 10-112 of the Criminal Law Article in which costs are imposed:

(i) Are \$22.50 plus the surcharge under subsection (f) of this section; and

(ii) Shall also be applicable to those cases in which the defendant elects to waive the defendant's right to trial and pay the fine or penalty deposit established by the Chief Judge of the District Court by administrative regulation.

(2) In an uncontested case under § 21-202.1, § 21-809, [or] § 21-810, **OR § 24-111.3** of the Transportation Article, an uncontested case under § 10-112 of the Criminal Law Article, or an uncontested parking or impounding case in which the fines are paid directly to a political subdivision or municipality, costs are \$2.00, which costs shall be paid to and retained by the political subdivision or municipality.

(3) (i) In an uncontested case in which the fine is paid directly to an agency of State government authorized by law to regulate parking of motor vehicles, the court costs are \$2.00.

(ii) The fine and the costs under this paragraph shall be paid to the agency, which shall receive and account for these funds as in all other cases involving sums due the State through a State agency.

7-302.

(e) (1) A citation issued pursuant to § 21-202.1, § 21-706.1, § 21-809, [or] § 21-810, **OR § 24-111.3** of the Transportation Article shall provide that the person receiving the citation may elect to stand trial by notifying the issuing agency of the person's intention to stand trial at least 5 days prior to the date of payment as set

forth in the citation. On receipt of the notice to stand trial, the agency shall forward to the District Court having venue a copy of the citation and a copy of the notice from the person who received the citation indicating the person's intention to stand trial. On receipt thereof, the District Court shall schedule the case for trial and notify the defendant of the trial date under procedures adopted by the Chief Judge of the District Court.

(2) A citation issued as the result of a **VEHICLE HEIGHT MONITORING SYSTEM**, A traffic control signal monitoring system, or A speed monitoring system, including a work zone speed control system, controlled by a political subdivision or a school bus monitoring camera shall provide that, in an uncontested case, the penalty shall be paid directly to that political subdivision. A citation issued as the result of a traffic control signal monitoring system or a work zone speed control system controlled by a State agency, or as a result of a **VEHICLE HEIGHT MONITORING SYSTEM**, A traffic control signal monitoring system, a speed monitoring system, or a school bus monitoring camera in a case contested in District Court, shall provide that the penalty shall be paid directly to the District Court.

(3) Civil penalties resulting from citations issued using a **VEHICLE HEIGHT MONITORING SYSTEM**, traffic control signal monitoring system, speed monitoring system, work zone speed control system, or school bus monitoring camera that are collected by the District Court shall be collected in accordance with subsection (a) of this section and distributed in accordance with § 12–118 of the Transportation Article.

(4) (i) From the fines collected by a political subdivision as a result of violations enforced by speed monitoring systems or school bus monitoring cameras, a political subdivision:

1. May recover the costs of implementing and administering the speed monitoring systems or school bus monitoring cameras; and

2. Subject to subparagraph (ii) of this paragraph, may spend any remaining balance solely for public safety purposes, including pedestrian safety programs.

(ii) 1. For any fiscal year, if the balance remaining from the fines collected by a political subdivision as a result of violations enforced by speed monitoring systems, after the costs of implementing and administering the systems are recovered in accordance with subparagraph (i)1 of this paragraph, is greater than 10% of the total revenues of the political subdivision for the fiscal year, the political subdivision shall remit any funds that exceed 10% of the total revenues to the Comptroller.

2. The Comptroller shall deposit any money remitted under this subparagraph to the General Fund of the State.

(5) FROM THE FINES COLLECTED BY BALTIMORE CITY AS A RESULT OF VIOLATIONS ENFORCED BY VEHICLE HEIGHT MONITORING SYSTEMS, BALTIMORE CITY MAY:

(I) RECOVER THE COSTS OF IMPLEMENTING AND ADMINISTERING THE VEHICLE HEIGHT MONITORING SYSTEMS; AND

(II) SPEND THE REMAINING BALANCE SOLELY ON ROADWAY IMPROVEMENTS.

10-311.

(a) A recorded image of a motor vehicle produced by a traffic control signal monitoring system in accordance with § 21-202.1 of the Transportation Article is admissible in a proceeding concerning a civil citation issued under that section for a violation of § 21-202(h) of the Transportation Article without authentication.

(b) A recorded image of a motor vehicle produced by a speed monitoring system in accordance with § 21-809 or § 21-810 of the Transportation Article is admissible in a proceeding concerning a civil citation issued under that section for a violation of Title 21, Subtitle 8 of the Transportation Article without authentication.

(c) A recorded image of a motor vehicle produced by a school bus monitoring camera in accordance with § 21-706.1 of the Transportation Article is admissible in a proceeding concerning a civil citation issued under that section for a violation of § 21-706 of the Transportation Article without authentication.

(d) A RECORDED IMAGE OF A MOTOR VEHICLE PRODUCED BY A VEHICLE HEIGHT MONITORING SYSTEM IN ACCORDANCE WITH § 24-111.3 OF THE TRANSPORTATION ARTICLE IS ADMISSIBLE IN A PROCEEDING CONCERNING A CIVIL CITATION ISSUED UNDER THAT SECTION FOR A VIOLATION OF A STATE OR LOCAL LAW RESTRICTING ~~VEHICLE HEIGHT~~ THE PRESENCE OF CERTAIN VEHICLES DURING CERTAIN TIMES WITHOUT AUTHENTICATION.

(E) In any other judicial proceeding, a recorded image produced by a **VEHICLE HEIGHT MONITORING SYSTEM**, traffic control signal monitoring system, speed monitoring system, work zone speed control system, or school bus monitoring camera is admissible as otherwise provided by law.

Article – Insurance

11-215.

(e) For purposes of reclassifying an insured in a classification that entails a higher premium, an insurer under an automobile insurance policy may not consider a

probation before judgment disposition of a motor vehicle law offense, a civil penalty imposed pursuant to § 21–202.1, § 21–809, [or] § 21–810, **OR § 24–111.3** of the Transportation Article, or a first offense of driving with an alcohol concentration of 0.08 or more under § 16–205.1 of the Transportation Article on record with the Motor Vehicle Administration, as provided in § 16–117(b) of the Transportation Article.

11–318.

(e) For purposes of reclassifying an insured in a classification that entails a higher premium, an insurer under an automobile insurance policy may not consider a probation before judgment disposition of a motor vehicle law offense, a civil penalty imposed pursuant to § 21–202.1, § 21–809, [or] § 21–810, **OR § 24–111.3** of the Transportation Article, or a first offense of driving with an alcohol concentration of 0.08 or more under § 16–205.1 of the Transportation Article on record with the Motor Vehicle Administration, as provided in § 16–117(b) of the Transportation Article.

Article – State Government

10–616.

(o) (1) In this subsection, “recorded images” has the meaning stated in § 21–202.1, § 21–809, [or] § 21–810, **OR § 24–111.3** of the Transportation Article.

(2) Except as provided in paragraph (3) of this subsection, a custodian of recorded images produced by a traffic control signal monitoring system operated under § 21–202.1 of the Transportation Article, a speed monitoring system operated under § 21–809 of the Transportation Article, [or] a work zone speed control system operated under § 21–810 of the Transportation Article, **OR A VEHICLE HEIGHT MONITORING SYSTEM OPERATED UNDER § 24–111.3 OF THE TRANSPORTATION ARTICLE** shall deny inspection of the recorded images.

(3) A custodian shall allow inspection of recorded images:

(i) as required in § 21–202.1, § 21–809, [or] § 21–810, **OR § 24–111.3** of the Transportation Article;

(ii) by any person issued a citation under § 21–202.1, § 21–809, [or] § 21–810, **OR § 24–111.3** of the Transportation Article, or an attorney of record for the person; or

(iii) by an employee or agent of an agency in an investigation or proceeding relating to the imposition of or indemnification from civil liability pursuant to § 21–202.1, § 21–809, [or] § 21–810, **OR § 24–111.3** of the Transportation Article.

Article – Transportation

24-111.3.

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

(2) "OWNER" MEANS THE REGISTERED OWNER OF A MOTOR VEHICLE.

(3) "RECORDED IMAGE" MEANS AN IMAGE RECORDED BY A VEHICLE HEIGHT MONITORING SYSTEM:

(I) ON:

1. A PHOTOGRAPH;
2. A MICROPHOTOGRAPH;
3. AN ELECTRONIC IMAGE;
4. VIDEOTAPE; OR
5. ANY OTHER MEDIUM; AND

(II) SHOWING:

1. THE FRONT OR SIDE OF A MOTOR VEHICLE OR COMBINATION OF VEHICLES;

2. AT LEAST TWO TIME-STAMPED IMAGES OF THE MOTOR VEHICLE OR COMBINATION OF VEHICLES THAT INCLUDE THE SAME STATIONARY OBJECT NEAR THE MOTOR VEHICLE OR COMBINATION OF VEHICLES; AND

3. ON AT LEAST ONE IMAGE OR PORTION OF TAPE, A CLEAR AND LEGIBLE IDENTIFICATION OF:

~~A. THE THE~~ ENTIRE REGISTRATION PLATE NUMBER OF THE MOTOR VEHICLE;~~OR~~

~~B. THE UNITED STATES DEPARTMENT OF TRANSPORTATION NUMBER OF THE MOTOR VEHICLE IN ITS ENTIRETY.~~

(4) "VEHICLE HEIGHT MONITORING SYSTEM" MEANS A DEVICE WITH ONE OR MORE MOTOR VEHICLE SENSORS THAT IS CAPABLE OF

PRODUCING RECORDED IMAGES OF VEHICLES WHOSE HEIGHT EXCEEDS A PREDETERMINED LIMIT.

(B) (1) A VEHICLE HEIGHT MONITORING SYSTEM MAY BE USED TO RECORD IMAGES OF VEHICLES TRAVELING ON A HIGHWAY IN BALTIMORE CITY UNDER THIS SECTION ONLY IF THE USE OF VEHICLE HEIGHT MONITORING SYSTEMS IS AUTHORIZED BY AN ORDINANCE ADOPTED BY THE BALTIMORE CITY COUNCIL AFTER REASONABLE NOTICE AND A PUBLIC HEARING.

(2) BEFORE BALTIMORE CITY PLACES OR INSTALLS A VEHICLE HEIGHT MONITORING SYSTEM AT A PARTICULAR LOCATION, IT SHALL:

(I) CONDUCT AN ANALYSIS TO DETERMINE THE APPROPRIATENESS OF THE LOCATION; AND

(II) OBTAIN THE APPROVAL OF THE BALTIMORE CITY POLICE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE.

(3) BEFORE ACTIVATING A VEHICLE HEIGHT MONITORING SYSTEM, BALTIMORE CITY SHALL:

(I) PUBLISH NOTICE OF THE LOCATION OF THE VEHICLE HEIGHT MONITORING SYSTEM ON ITS WEB SITE AND IN A NEWSPAPER OF GENERAL CIRCULATION IN THE JURISDICTION;

(II) ENSURE THAT ALL SIGNS STATING ~~HEIGHT AND WEIGHT LIMITATIONS~~ RESTRICTIONS ON THE PRESENCE OF CERTAIN VEHICLES DURING CERTAIN TIMES APPROACHING AND WITHIN THE SEGMENT OF HIGHWAY ON WHICH THE VEHICLE HEIGHT MONITORING SYSTEM IS LOCATED INCLUDE SIGNS THAT:

1. ARE IN ACCORDANCE WITH THE MANUAL AND SPECIFICATIONS FOR A UNIFORM SYSTEM OF TRAFFIC CONTROL DEVICES ADOPTED BY THE STATE HIGHWAY ADMINISTRATION UNDER § 25-104 OF THIS ARTICLE; AND

2. INDICATE THAT A VEHICLE HEIGHT MONITORING SYSTEM IS IN USE.

(C) A VEHICLE HEIGHT MONITORING SYSTEM OPERATOR SHALL FILL OUT AND SIGN A DAILY SET-UP LOG FOR A VEHICLE HEIGHT MONITORING SYSTEM THAT:

(1) STATES THAT THE OPERATOR SUCCESSFULLY PERFORMED THE MANUFACTURER-SPECIFIED SELF-TEST OF THE VEHICLE HEIGHT MONITORING SYSTEM BEFORE PRODUCING A RECORDED IMAGE;

(2) SHALL BE KEPT ON FILE; AND

(3) SHALL BE ADMITTED AS EVIDENCE IN ANY COURT PROCEEDING FOR A VIOLATION OF THIS SECTION.

(D) (1) UNLESS THE DRIVER OF THE MOTOR VEHICLE OR COMBINATION OF VEHICLES RECEIVED A CITATION FROM A POLICE OFFICER AT THE TIME OF THE VIOLATION, THE OWNER OF A MOTOR VEHICLE OR COMBINATION OF VEHICLES IS SUBJECT TO A CIVIL PENALTY IF THE MOTOR VEHICLE OR COMBINATION OF VEHICLES IS RECORDED BY A VEHICLE HEIGHT MONITORING SYSTEM WHILE BEING OPERATED IN VIOLATION OF A STATE OR LOCAL LAW RESTRICTING ~~VEHICLE HEIGHT~~ THE PRESENCE OF CERTAIN VEHICLES DURING CERTAIN TIMES.

(2) A CIVIL PENALTY UNDER THIS SUBSECTION MAY NOT EXCEED:

(I) FOR A SECOND VIOLATION BY THE OWNER OF THE MOTOR VEHICLE, \$250; AND

(II) FOR A THIRD OR SUBSEQUENT VIOLATION BY THE OWNER OF THE MOTOR VEHICLE, \$500.

(3) FOR PURPOSES OF THIS SECTION, THE DISTRICT COURT SHALL PRESCRIBE:

(I) A UNIFORM CITATION FORM CONSISTENT WITH SUBSECTION (D)(1) OF THIS SECTION AND § 7-302 OF THE COURTS ARTICLE; AND

(II) A CIVIL PENALTY, WHICH SHALL BE INDICATED ON THE CITATION, TO BE PAID BY PERSONS WHO CHOOSE TO PREPAY THE CIVIL PENALTY WITHOUT APPEARING IN DISTRICT COURT.

(E) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE BALTIMORE CITY POLICE DEPARTMENT OR THE BALTIMORE CITY DEPARTMENT OF TRANSPORTATION SHALL MAIL TO AN OWNER LIABLE UNDER THIS SECTION A CITATION THAT SHALL INCLUDE:

(I) THE NAME AND ADDRESS OF THE REGISTERED OWNER OF THE MOTOR VEHICLE;

(II) ~~THE REGISTRATION NUMBER OR THE UNITED STATES DEPARTMENT OF TRANSPORTATION NUMBER~~ OF THE MOTOR VEHICLE INVOLVED IN THE VIOLATION;

(III) THE VIOLATION CHARGED;

(IV) THE LOCATION AT WHICH THE VIOLATION OCCURRED;

(V) THE DATE AND TIME OF THE VIOLATION;

(VI) A COPY OF THE RECORDED IMAGE;

(VII) THE AMOUNT OF THE CIVIL PENALTY IMPOSED AND THE DATE BY WHICH THE CIVIL PENALTY SHOULD BE PAID;

(VIII) A SIGNED STATEMENT BY A DULY AUTHORIZED LAW ENFORCEMENT OFFICER COMMISSIONED BY THE BALTIMORE CITY POLICE DEPARTMENT THAT, BASED ON INSPECTION OF THE RECORDED IMAGE, THE MOTOR VEHICLE OR COMBINATION OF VEHICLES WAS BEING OPERATED IN VIOLATION OF A STATE OR LOCAL LAW RESTRICTING ~~VEHICLE HEIGHT~~ THE PRESENCE OF CERTAIN VEHICLES DURING CERTAIN TIMES;

(IX) A STATEMENT THAT THE RECORDED IMAGE IS EVIDENCE OF THE VIOLATION;

(X) INFORMATION ADVISING THE OWNER ALLEGED TO BE LIABLE UNDER THIS SECTION OF THE MANNER AND TIME IN WHICH LIABILITY AS ALLEGED IN THE CITATION MAY BE CONTESTED IN THE DISTRICT COURT; AND

(XI) INFORMATION ADVISING THE OWNER ALLEGED TO BE LIABLE UNDER THIS SECTION THAT FAILURE TO PAY THE CIVIL PENALTY OR TO CONTEST LIABILITY IN A TIMELY MANNER IS AN ADMISSION OF LIABILITY.

(2) THE BALTIMORE CITY POLICE DEPARTMENT OR THE BALTIMORE CITY DEPARTMENT OF TRANSPORTATION ~~MAY~~ SHALL, FOR A FIRST VIOLATION, MAIL A WARNING NOTICE INSTEAD OF A CITATION TO AN OWNER LIABLE UNDER THIS SECTION.

(3) A CITATION ISSUED UNDER THIS SECTION SHALL BE MAILED NO LATER THAN 30 DAYS AFTER THE ALLEGED VIOLATION.

(4) A PERSON WHO RECEIVES A CITATION UNDER THIS SECTION MAY:

(I) PAY THE CIVIL PENALTY, IN ACCORDANCE WITH INSTRUCTIONS ON THE CITATION, DIRECTLY TO BALTIMORE CITY; OR

(II) ELECT TO STAND TRIAL IN THE DISTRICT COURT FOR THE ALLEGED VIOLATION.

(F) (1) A CERTIFICATE ALLEGING THAT A VIOLATION OF A STATE OR LOCAL LAW RESTRICTING ~~VEHICLE HEIGHT~~ THE PRESENCE OF CERTAIN VEHICLES DURING CERTAIN TIMES OCCURRED AND THAT THE REQUIREMENTS UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION HAVE BEEN AFFIRMED BY A DULY AUTHORIZED LAW ENFORCEMENT OFFICER COMMISSIONED BY THE BALTIMORE CITY POLICE DEPARTMENT, BASED ON INSPECTION OF THE RECORDED IMAGE PRODUCED BY THE VEHICLE HEIGHT MONITORING SYSTEM, SHALL BE:

(I) EVIDENCE OF THE FACTS CONTAINED IN THE CERTIFICATE; AND

(II) ADMISSIBLE IN A PROCEEDING ALLEGING A VIOLATION UNDER THIS SECTION WITHOUT THE PRESENCE OR TESTIMONY OF THE VEHICLE HEIGHT MONITORING SYSTEM OPERATOR.

(2) IF A PERSON WHO RECEIVED A CITATION UNDER THIS SECTION DESIRES THE VEHICLE HEIGHT MONITORING SYSTEM OPERATOR TO BE PRESENT AND TESTIFY AT TRIAL, THE PERSON SHALL NOTIFY THE COURT AND THE STATE IN WRITING NO LATER THAN 20 DAYS BEFORE TRIAL.

(3) ADJUDICATION OF LIABILITY SHALL BE BASED ON A PREPONDERANCE OF EVIDENCE.

(G) (1) THE DISTRICT COURT MAY CONSIDER IN DEFENSE OF A VIOLATION:

(I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THAT THE MOTOR VEHICLE OR THE REGISTRATION PLATES OF THE MOTOR VEHICLE WERE STOLEN BEFORE THE VIOLATION OCCURRED AND WERE NOT UNDER THE CONTROL OR POSSESSION OF THE OWNER AT THE TIME OF THE VIOLATION; AND

(II) ANY OTHER ISSUES AND EVIDENCE THAT THE DISTRICT COURT DEEMS PERTINENT.

(2) TO DEMONSTRATE THAT THE MOTOR VEHICLE OR THE REGISTRATION PLATES WERE STOLEN BEFORE THE VIOLATION OCCURRED AND WERE NOT UNDER THE CONTROL OR POSSESSION OF THE OWNER AT THE TIME OF THE VIOLATION, THE OWNER SHALL SUBMIT PROOF THAT A POLICE REPORT REGARDING THE STOLEN MOTOR VEHICLE OR REGISTRATION PLATES WAS FILED IN A TIMELY MANNER.

(H) A VIOLATION FOR WHICH A CIVIL PENALTY IS IMPOSED UNDER THIS SECTION:

(1) IS NOT A MOVING VIOLATION FOR THE PURPOSE OF ASSESSING POINTS UNDER § 16–402 OF THIS ARTICLE;

(2) MAY NOT BE RECORDED BY THE ADMINISTRATION ON THE DRIVING RECORD OF THE OWNER OF THE VEHICLE;

(3) MAY NOT BE TREATED AS A PARKING VIOLATION FOR PURPOSES OF § 26–305 OF THIS ARTICLE; AND

(4) MAY NOT BE CONSIDERED IN THE PROVISION OF MOTOR VEHICLE INSURANCE COVERAGE.

(I) IN CONSULTATION WITH THE BALTIMORE CITY POLICE DEPARTMENT, THE CHIEF JUDGE OF THE DISTRICT COURT SHALL ADOPT PROCEDURES FOR THE ISSUANCE OF CITATIONS, THE TRIAL OF CIVIL VIOLATIONS, AND THE COLLECTION OF CIVIL PENALTIES UNDER THIS SECTION.

(J) (1) THE BALTIMORE CITY POLICE DEPARTMENT OR THE BALTIMORE CITY DEPARTMENT OF TRANSPORTATION, OR A CONTRACTOR DESIGNATED BY THE BALTIMORE CITY POLICE DEPARTMENT OR THE BALTIMORE CITY DEPARTMENT OF TRANSPORTATION, SHALL ADMINISTER AND PROCESS CIVIL CITATIONS ISSUED UNDER THIS SECTION IN COORDINATION WITH THE DISTRICT COURT.

(2) IF A CONTRACTOR OPERATES A VEHICLE HEIGHT MONITORING SYSTEM ON BEHALF OF BALTIMORE CITY, THE CONTRACTOR'S FEE MAY NOT BE CONTINGENT ON THE NUMBER OF CITATIONS ISSUED OR PAID.

26–401.

If a person is taken before a District Court commissioner or is given a traffic citation or a civil citation under § 21–202.1, § 21–809, [or] § 21–810, OR § 24–111.3 of

this article containing a notice to appear in court, the commissioner or court shall be one that sits within the county in which the offense allegedly was committed.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 377

(House Bill 499)

AN ACT concerning

Vehicle Laws – Disposition of Vehicle to Automotive Dismantler and Recycler or Scrap Processor

FOR the purpose of repealing a provision of law that authorizes certain persons to transfer certain inoperable vehicles to an automotive dismantler and recycler or scrap processor without providing a certificate of title or fulfilling certain notice requirements; repealing a provision of law that authorizes an automotive dismantler and recycler or scrap processor to require certain vehicle transferors to execute an indemnity agreement; repealing a certain exception for certain vehicles to the requirement that an automotive dismantler and recycler or scrap processor follow certain procedures after taking possession of a vehicle without receiving certain documentary evidence of ownership; establishing that an automotive dismantler and recycler or scrap processor that does not receive certain documentation from a certain police department when taking possession of a vehicle under certain circumstances is required to comply with certain procedures; altering the notice requirements that an automotive dismantler and recycler or scrap processor is required to follow if it takes possession of a vehicle but does not receive certain documentary evidence of ownership; ~~requiring an automotive dismantler and recycler or scrap processor that certifies to the Motor Vehicle Administration that it is taking title to a vehicle to include certain additional documentation in the certification~~ clarifying that certain activity related to the delivery of a vehicle to an automotive dismantler and recycler or scrap processor does not require licensure as an automotive dismantler and recycler or scrap processor; providing for the application of provisions of law governing the disposition of a vehicle to an automotive dismantler and recycler or scrap processor; altering the required notice to and notice process for an owner and secured party of a defectively titled vehicle before the vehicle may be obtained by an automotive dismantler and recycler or scrap processor; establishing documentation that an automotive dismantler and recycler or scrap processor is required to obtain and keep on file for a certain period of time for inspection by law enforcement; prohibiting an automotive

dismantler and recycler or scrap processor from accepting a defectively titled vehicle that is transported by an improperly registered tow truck; altering the reclamation period for a defectively titled vehicle possessed by an automotive dismantler and recycler or scrap processor; altering the procedures that a law enforcement agency is required to follow in issuing a certificate of authority for a defectively titled vehicle; altering the penalties for violations related to the disposition of a vehicle to an automotive dismantler and recycler or scrap processor; making certain stylistic and clarifying changes; and generally relating to the disposition of a vehicle to an automotive dismantler and recycler or scrap processor.

BY repealing and reenacting, with amendments,

Article – Transportation

Section 15-502, 15-509, 25-209, and 27-101(c) and (d)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Transportation

Section 25-204, ~~25-205, and 25-209~~ 25-205, and 27-101(a), (b), and (i)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing

Article – Transportation

Section 25-210

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Transportation

Section 27-101.2

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – Transportation

15-502.

(a) A person may not conduct the business of an automotive dismantler and recycler or a scrap processor, or engage in the business of acquiring or offering to purchase or remove vehicles which are to be dismantled in whole or in part by that person for the sale of usable parts, unless the person is licensed by the Administration under this subtitle.

(b) (1) A person may not advertise for the purchase, towing, or removal of junk or abandoned vehicles unless the person is licensed by the Administration under this subtitle.

(2) Any advertisement for the purchase, towing, or removal of junk or abandoned vehicles by a licensee under this subtitle shall include the license number of the licensee.

(c) A person may not store on any private property for more than 30 days any vehicle that is to be dismantled, destroyed, or scrapped, unless the person is an automotive dismantler and recycler or a scrap processor licensed under this subtitle.

(d) This section does not prohibit an unlicensed person from **PURCHASING, transporting, TOWING, OR REMOVING** a vehicle to a licensed automotive dismantler and recycler or a licensed scrap processor for dismantling, destroying, or scrapping.

15-509.

(a) [This section does not apply to any abandoned vehicle that is 8 years old or older and is totally inoperable.

(b) **(1)** If an automotive dismantler and recycler or scrap processor takes possession of a vehicle **FROM A PERSON OTHER THAN THE OWNER OF THE VEHICLE** and does not receive a certificate of title, **A CERTIFICATE OF AUTHORITY UNDER § 25-209 OF THIS ARTICLE**, or other documentary evidence of ownership acceptable to the Administration, the automotive dismantler and recycler or scrap processor shall comply with this section.

(2) THIS SECTION DOES NOT APPLY TO A VEHICLE TOWED FROM RESIDENTIAL OR COMMERCIAL PROPERTY UNDER A CONTINUING CONTRACT TO TOW UNAUTHORIZED VEHICLES, FOR WHICH A CERTIFICATE OF AUTHORITY IS REQUIRED TO BE OBTAINED UNDER § 25-209 OF THIS ARTICLE.

[(c) After the vehicle has been in the possession of the automotive dismantler and recycler or scrap processor for more than 30 days, the automotive dismantler and recycler or scrap processor shall give at least 10 days' notice of intent to dispose of the vehicle. The notice shall be sent by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to:

(1) The owner of the vehicle and any secured party, as shown on the records of the Administration; or

(2) Any other person who is entitled to possession of the vehicle and whose address is known or reasonably can be obtained.]

~~(B) (1) AN AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP PROCESSOR THAT TAKES POSSESSION OF A VEHICLE AND DOES NOT RECEIVE DOCUMENTARY EVIDENCE OF OWNERSHIP ACCEPTABLE TO THE ADMINISTRATION SHALL FOLLOW THE NOTIFICATION PROCEDURES UNDER §§ 25-204 AND 25-205 OF THIS ARTICLE AS SOON AS REASONABLY POSSIBLE AND WITHIN 7 DAYS AFTER IT TAKES A VEHICLE INTO POSSESSION FROM A PERSON OTHER THAN THE OWNER OF THE VEHICLE, AN AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP PROCESSOR SHALL SEND A NOTICE, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES POSTAL SERVICE, TO:~~

(I) THE LAST KNOWN REGISTERED OWNER OF THE VEHICLE; AND

(II) EACH SECURED PARTY, AS SHOWN ON THE RECORDS OF THE ADMINISTRATION.

(2) THE NOTICE SHALL:

(I) STATE THAT THE VEHICLE HAS BEEN TAKEN INTO CUSTODY;

(II) DESCRIBE THE YEAR, MAKE, MODEL, AND VEHICLE IDENTIFICATION NUMBER OF THE VEHICLE;

(III) GIVE THE LOCATION OF THE FACILITY WHERE THE VEHICLE IS HELD;

(IV) INFORM THE OWNER AND SECURED PARTY OF THE OWNER'S AND SECURED PARTY'S RIGHT TO RECLAIM THE VEHICLE WITHIN 11 WORKING DAYS AFTER THE DATE OF THE NOTICE, ON PAYMENT OF ALL TOWING, RECOVERY, AND STORAGE CHARGES OWED TO THE AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP PROCESSOR RESULTING FROM TAKING OR HOLDING THE VEHICLE; AND

(V) STATE THAT THE FAILURE OF THE OWNER OR SECURED PARTY TO EXERCISE THIS RIGHT IN THE TIME PROVIDED IS:

1. A WAIVER BY THE OWNER OR SECURED PARTY OF ALL OF THE OWNER'S OR SECURED PARTY'S RIGHT, TITLE, AND INTEREST IN THE VEHICLE; AND

2. A CONSENT TO THE DISMANTLING, DESTROYING, OR SCRAPPING OF THE VEHICLE.

(C) IF THE AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP PROCESSOR RECEIVES WITH THE VEHICLE DOCUMENTARY PROOF THAT THE NOTIFICATION PROCEDURES OF SUBSECTION (B) OF THIS SECTION ALREADY HAVE BEEN COMPLETED BY ANOTHER PERSON BEFORE TAKING POSSESSION OF THE VEHICLE OR THAT THE VEHICLE IS BEING RECEIVED FROM THE OWNER OF THE VEHICLE OR AN AGENT OF THE OWNER, THE AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP PROCESSOR MAY ACCEPT DOCUMENTATION AS TO NOTICE OR OWNERSHIP AS PROOF OF COMPLIANCE AND IS NOT REQUIRED TO REPEAT PROVISION OF THIS NOTIFICATION.

(D) IN ADDITION TO DOCUMENTATION OF NOTICE UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION, AN AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP PROCESSOR SHALL OBTAIN FROM A PERSON WHO PROVIDES THE VEHICLE:

(1) AN AFFIDAVIT IN A FORM APPROVED BY THE ADMINISTRATION SIGNED UNDER PENALTY OF PERJURY BY THE PERSON PROVIDING THE VEHICLE;

(2) A COPY OF THE DRIVER'S LICENSE OF THE PERSON WHO PROVIDES THE VEHICLE;

(3) ANY PROOF OF OWNERSHIP DOCUMENTS ACCEPTABLE TO THE ADMINISTRATION, IF AVAILABLE; AND

(4) IF THE VEHICLE IS TRANSPORTED BY A TOW VEHICLE, A COPY OF THE REGISTRATION OF THE TOW VEHICLE.

(E) AN AFFIDAVIT UNDER SUBSECTION (D) OF THIS SECTION SHALL INCLUDE:

(1) A STATEMENT THAT THE PERSON PROVIDING THE VEHICLE HAS THE LAWFUL RIGHT TO POSSESS THE VEHICLE AND THE BASIS OF THAT RIGHT;

(2) A STATEMENT THAT, EXCEPT AS PROVIDED IN § 25-209 OF THIS ARTICLE, THE VEHICLE MAY NOT BE RETITLED AND MAY ONLY BE DISMANTLED, DESTROYED, OR SCRAPPED;

(3) A DESCRIPTION OF THE VEHICLE, INCLUDING YEAR, MAKE, MODEL, COLOR, AND VEHICLE IDENTIFICATION NUMBER;

(4) THE NAME, ADDRESS, DRIVER'S LICENSE NUMBER, AND SIGNATURE OF THE PERSON PROVIDING THE VEHICLE;

(5) AN ACKNOWLEDGEMENT THAT:

(I) THE FORM IS BEING SIGNED UNDER PENALTY OF PERJURY; AND

(II) THE PENALTIES ESTABLISHED UNDER § 27-101.2 OF THIS ARTICLE APPLY;

(6) THE DATE THE VEHICLE IS PROVIDED TO THE AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP PROCESSOR;

(7) THE NAME, ADDRESS, AND STATE-ISSUED LICENSE NUMBER OF THE AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP PROCESSOR ACQUIRING THE VEHICLE; AND

(8) THE PRINTED NAME, TITLE, AND SIGNATURE OF THE PERSON ACCEPTING THE VEHICLE.

(F) THE AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP PROCESSOR SHALL KEEP AND MAKE AVAILABLE FOR INSPECTION BY A LAW ENFORCEMENT AGENCY FOR 3 YEARS UNDER PROCEDURES ADOPTED BY THE ADMINISTRATION BY REGULATION;

(I) ALL DOCUMENTATION OF NOTICE PROVIDED UNDER SUBSECTIONS (B) OR (C) OF THIS SECTION; AND

(II) ALL ADDITIONAL DOCUMENTATION REQUIRED TO BE OBTAINED OR KEPT ON FILE UNDER SUBSECTION (D) OF THIS SECTION.

(G) AN AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP PROCESSOR MAY NOT ACCEPT A VEHICLE THAT IS TRANSPORTED BY A TOW TRUCK UNLESS THE TOW TRUCK IS REGISTERED UNDER § 13-920 OF THIS ARTICLE.

(H) ON RECEIPT OF A VEHICLE, AN AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP PROCESSOR SHALL COMPLY WITH PROCEDURES FOR NOTIFICATION, REPORTING, AND DOCUMENT RETENTION AS ESTABLISHED BY THE ADMINISTRATION BY REGULATION.

[(d)] ~~(c)~~ (I) [(1)] The automotive dismantler and recycler or scrap processor takes unencumbered title to the vehicle FOR THE PURPOSE OF DISMANTLING,

RECYCLING, OR SCRAP PROCESSING, without having to obtain a certificate of title for it in his own name, if:

~~[(i)]~~ (1) ~~[He]~~ **THE AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP PROCESSOR** has complied with this section; and

~~[(ii)]~~ (2) ~~[Except as provided in paragraph (2) of this subsection, the]~~ **THE** vehicle has not been recovered or reclaimed, before the end of the ~~[10-day]~~ **RECLAMATION 11-WORKING DAY** period specified in the notice, by the owner, secured party, or other person entitled to its possession.

~~[(2)]~~ If the address of the owner, secured party, or other person entitled to possession of the vehicle cannot be obtained from the records of the Administration or by the exercise of reasonable diligence, the automotive dismantler and recycler or scrap processor takes unencumbered title to the vehicle, without having to obtain a certificate of title in his own name, after the vehicle has been in his possession for 30 days.]

~~[(c)]~~ (D) (1) ~~If an automotive dismantler and recycler or scrap processor takes title to a vehicle under this section, the automotive dismantler and recycler or scrap processor shall certify this fact to the Administration.~~

~~(2) The certification shall [be]:~~

~~(I) BE made in the form that the Administration requires;~~

~~(II) INCLUDE DOCUMENTARY PROOF THAT THE NOTIFICATION PROCEDURES UNDER §§ 25-204 AND 25-205 OF THIS ARTICLE HAVE BEEN FULFILLED; and~~

~~(III) BE sent to the Administration within 5 days after the automotive dismantler and recycler or scrap processor takes title.~~

25-204.

(a) As soon as reasonably possible and within 7 days at most after it takes an abandoned vehicle into custody, a police department shall send a notice, by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to:

(1) The last known registered owner of the vehicle; and

(2) Each secured party, as shown on the records of the Administration.

(b) The notice shall:

- (1) State that the abandoned vehicle has been taken into custody;
- (2) Describe the year, make, model, and vehicle identification number of the vehicle;
- (3) Give the location of the facility where the vehicle is held;
- (4)
 - (i) Inform the owner and secured party of the owner's and secured party's right to reclaim the vehicle within 3 weeks after the date of the notice, on payment of all towing, preservation, and storage charges resulting from taking or placing the vehicle in custody; or
 - (ii) In Baltimore City and Montgomery County, be sent by certified mail, return receipt requested, and inform the owner and secured party of the owner's and secured party's right to reclaim the vehicle within 11 working days after the receipt of the notice, on payment of all towing, preservation, and storage charges resulting from taking or placing the vehicle in custody; and
 - (5) State that the failure of the owner or secured party to exercise this right in the time provided is:
 - (i) A waiver by the owner or secured party of all of the owner's or secured party's right, title, and interest in the vehicle;
 - (ii) A consent to the sale of the vehicle at public auction; and
 - (iii) A consent by the owner other than a lessor to the retention of the vehicle for public purposes as provided in § 25–207 of this subtitle.
- (c) In Baltimore City, Prince George's County, and Montgomery County, a police department or its agent may seek to recover costs of impoundment, storage, and sale of a vehicle as provided by §§ 25–206.1 and 25–206.2 of this subtitle. If a police department or its agent seeks to apply the provisions of §§ 25–206.1 and 25–206.2 of this subtitle, the notice required by this section shall also state that the failure of the owner or secured party to exercise the right to reclaim the vehicle in the time provided may cause:
 - (1) Continuing liability of the owner for costs of:
 - (i) Impoundment;
 - (ii) Storage within the chargeable limit for storage as provided in § 25–206.1(b) of this subtitle; and
 - (iii) Sale of the vehicle; and

(2) Denial of any application by the owner to renew the registration of any vehicle as required by § 25–206.2 of this subtitle.

25–205.

(a) This section applies if:

(1) The identity of the last registered owner of an abandoned vehicle cannot be determined;

(2) The registration of the vehicle gives no address for the owner;

(3) It is impossible to determine with reasonable certainty the identity and address of each secured party; or

(4) The certified mail notice required by § 25–204 of this subtitle is returned as undeliverable.

(b) Under one of the conditions described in subsection (a) of this section, a police department that takes an abandoned vehicle into custody shall give the required notice by posting a notice complying with the provisions of subsection (c) of this section in the circuit court of the county where the abandoned vehicle was found.

(c) The notice:

(1) May contain multiple listings of abandoned vehicles;

(2) Shall contain the information required by § 25–204 of this subtitle;
and

(3) Shall be posted:

(i) Within 15 days of the taking into custody of the vehicle; or

(ii) If the notice by posting under this section is made because of the return as undeliverable of a prior notice by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, within 7 days of the return of that prior notice.

25–209.

(a) ~~Any person who possesses or on whose property is found an abandoned vehicle and any person who owns a vehicle, A PERSON WHO OWNS A VEHICLE, ON WHOSE PROPERTY IS FOUND AN ABANDONED VEHICLE, OR WHO HAS LAWFUL, DOCUMENTED POSSESSION OF A VEHICLE~~ for which the certificate of title is defective, lost, or destroyed, may apply to ~~the police department of~~ A LAW

ENFORCEMENT AGENCY FOR the jurisdiction in which the vehicle is located for authority to transfer the vehicle to an automotive dismantler and recycler or scrap processor.

(b) The application shall BE MADE UNDER PENALTY OF PERJURY AND SHALL include:

- (1) The name and address of the applicant;
- (2) The year, make, model, and vehicle identification number of the vehicle, if ascertainable, and any other identifying features of the vehicle;
- (3) A concise statement of the facts about the abandonment of the vehicle or the loss, destruction, or defect of the certificate of title of the vehicle; and
- (4) An affidavit stating that the facts alleged in the application are true and that no material fact has been withheld.

(c) If a ~~police department~~ LAW ENFORCEMENT AGENCY finds that the application is executed in proper form and shows either that the vehicle has been abandoned on the property of the applicant or, if the vehicle is not abandoned, that the applicant appears to be the rightful owner, the ~~police department~~ LAW ENFORCEMENT AGENCY shall MAY:

(I) IF THE APPLICANT APPEARS TO BE THE RIGHTFUL OWNER, APPROVE THE REQUEST ON VERIFICATION OF THE INFORMATION IN THE APPLICATION; OR

(II) IF THE APPLICATION IS MADE BY A PERSON OTHER THAN THE RIGHTFUL OWNER, follow the notification procedures of §§ 25–204 and 25–205 of this subtitle.

(c–1) If the applicant submits with the application documentary proof that the notification procedures of §§ 25–204 and 25–205 of this subtitle already have been complied with, the ~~police department~~ LAW ENFORCEMENT AGENCY may SHALL accept the document as proof of compliance and the ~~department~~ AGENCY is not required to provide this notification.

(d) (1) If an abandoned vehicle is not reclaimed in the time required by this subtitle OR NOTICE HAS ALREADY BEEN PROVIDED TO THE OWNER AND ANY SECURED PARTY, the ~~police department~~ LAW ENFORCEMENT AGENCY shall give the applicant a certificate of authority to transfer the vehicle to:

- (i) Any automotive dismantler and recycler for:
 1. Dismantling, destroying, or scrapping; or

2. Salvaging as authorized under § 13-506 of this article; or

(ii) Any scrap processor for dismantling, destroying, or scrapping.

(2) The automotive dismantler and recycler or scrap processor shall accept the certificate of authority instead of the certificate of title of the vehicle.

(3) The automotive dismantler and recycler may apply for a salvage certificate as provided in § 13-506 of this article.

[25-210.

(a) The following persons may transfer a vehicle under this section:

(1) Any person who possesses or on whose property any abandoned vehicle is found;

(2) Any person who owns a vehicle for which the certificate of title is defective, lost, or destroyed; or

(3) Any agent designated and authorized by a government agency to remove an abandoned vehicle from public or private property.

(b) Notwithstanding any other provision of this subtitle, if the vehicle is more than 8 years old and has no engine or otherwise is totally inoperable, any person described in subsection (a) of this section may transfer the vehicle to an automotive dismantler and recycler or scrap processor without a certificate of title and without following the notification procedures of §§ 25-204 and 25-205 of this subtitle.

(c) An automotive dismantler and recycler or scrap processor may require a person who transfers a vehicle under subsection (b) of this section, to execute an indemnity agreement on a form prescribed by the Administration.

(d) In those cases described in subsection (b) of this section, an automotive dismantler and recycler or a scrap processor whose plant is physically located and operating in this State may file with the Administration the indemnity agreement described in subsection (c) of this section that identifies the vehicle and contains the name, address, and signature of the person delivering it.]

27-101.

(a) It is a misdemeanor for any person to violate any of the provisions of the Maryland Vehicle Law unless the violation:

(1) Is declared to be a felony by the Maryland Vehicle Law or by any other law of this State; or

(2) Is punishable by a civil penalty under the applicable provision of the Maryland Vehicle Law.

(b) Except as otherwise provided in this section, any person convicted of a misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is subject to a fine of not more than \$500.

(c) Any person who is convicted of a violation of any of the provisions of the following sections of this article is subject to a fine of not more than \$500 or imprisonment for not more than 2 months or both:

(1) § 12-301(e) or (f) (“Special identification cards: Unlawful use of identification card prohibited”);

(2) § 14-102 (“Taking or driving vehicle without consent of owner”);

(3) § 14-104 (“Damaging or tampering with vehicle”);

(4) § 14-107 (“Removed, falsified, or unauthorized identification number or registration card or plate”);

(5) § 14-110 (“Altered or forged documents and plates”);

(6) § 15-312 (“Dealers: Prohibited acts – Vehicle sales transactions”);

(7) § 15-313 (“Dealers: Prohibited acts – Advertising practices”);

(8) § 15-314 (“Dealers: Prohibited acts – Violation of licensing laws”);

(9) § 15-411 (“Vehicle salesmen: Prohibited acts”);

(10) [§ 15-502(c) (“Storage of certain vehicles by unlicensed persons prohibited”);

(11)] § 16-113(j) (“Violation of alcohol restriction”);

[(12)] (11) § 16-301, except § 16-301(a) or (b) (“Unlawful use of license”);

[(13)] (12) § 16-303(h) (“Licenses suspended under certain provisions of Code”);

[(14)] (13) § 16-303(i) (“Licenses suspended under certain provisions of the traffic laws or regulations of another state”);

[(15)] (14) § 18-106 (“Unauthorized use of rented motor vehicle”);

[(16)] (15) § 20-103 (“Driver to remain at scene – Accidents resulting only in damage to attended vehicle or property”);

[(17)] (16) § 20-104 (“Duty to give information and render aid”);

[(18)] (17) § 20-105 (“Duty on striking unattended vehicle or other property”);

[(19)] (18) § 20-108 (“False reports prohibited”);

[(20)] (19) § 21-206 (“Interference with traffic control devices or railroad signs and signals”);

[(21)] (20) As to a pedestrian in a marked crosswalk, § 21-502(a) (“Pedestrians’ right-of-way in crosswalks: In general”), if the violation contributes to an accident;

[(22)] (21) As to another vehicle stopped at a marked crosswalk, § 21-502(c) (“Passing of vehicle stopped for pedestrian prohibited”), if the violation contributes to an accident;

[(23)] (22) Except as provided in subsections (f) and (g) of this section, § 21-902(b) (“Driving while impaired by alcohol”);

[(24)] (23) Except as provided in subsections (f) and (g) of this section, § 21-902(c) (“Driving while impaired by drugs or drugs and alcohol”);

[(25)] (24) § 21-902.1 (“Driving within 12 hours after arrest”); or

[(26)] (25) § 27-107(d), (e), (f), or (g) (“Prohibited acts – Ignition interlock systems”).

(d) Any person who is convicted of a violation of any of the provisions of the following sections of this article is subject to a fine of not more than \$500 or imprisonment for not more than 6 months or both:

(1) § 18-104 (“Renting motor vehicle with incorrect odometer”);

(2) § 22-405.1 (“Regrooved tires”);

(3) § 22-415 (“Tampering with or altering odometer”); [or]

(4) For each vehicle for which there is a violation, § 23–109 (“Inspections of used vehicles and warnings for defective equipment: Prohibited activities”); OR

(5) EXCEPT AS PROVIDED IN SUBSECTION (I) OF THIS SECTION AND § 27–101.2 OF THIS SUBTITLE, TITLE 15, SUBTITLE 5 OF THIS ARTICLE.

(i) Any person who is convicted of a violation of any of the provisions of § 15–402 of this article (“Vehicle salesman’s license required”) or § 15–502(a) of this article (“Automotive dismantler and recycler or scrap processor – License required”) is subject to:

(1) For a first offense, a fine of not more than \$1,000 or imprisonment for not more than 6 months or both; and

(2) For any subsequent offense, a fine of not more than \$2,000 or imprisonment for not more than 1 year or both.

27–101.2.

A PERSON WHO KNOWINGLY MAKES A FALSE STATEMENT ON AN AFFIDAVIT OF LAWFUL POSSESSION UNDER § 15–509 OF THIS ARTICLE OR ON AN APPLICATION FOR A CERTIFICATE OF AUTHORITY UNDER § 25–209 OF THIS ARTICLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 10 YEARS OR BOTH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 378

(House Bill 512)

AN ACT concerning

Environment – Garrett County Sanitary District – Imposition of Late Fees

FOR the purpose of authorizing the sanitary district in Garrett County to charge a late fee for certain unpaid usage charges; authorizing the County Commissioners of Garrett County to require the payment of certain late fees

before reconnecting certain water service; providing that a charge that is in default will accrue interest from a certain date and at a certain rate; and generally relating to water and sewer service charges in Garrett County.

BY repealing and reenacting, without amendments,
Article – Environment
Section 9–601(a), (d), (j), and (k) and 9–629(b)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY adding to
Article – Environment
Section 9–662(o)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

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

Article – Environment

9–601.

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

(d) (1) “District” means an entity that is created under this subtitle.

(2) “District” includes a board, body, or commission that assumes the principal functions of a district that is created under this subtitle and later abolished.

(j) “Project” means a water system, sewerage system, solid waste disposal system, or solid waste acceptance facility or any part of these that a district owns, constructs, or operates.

(k) “Sanitary commission” means a sanitary commission created under this subtitle.

9–629.

(b) The County Commissioners of Garrett County shall govern the district in Garrett County.

9–662.

(O) IN GARRETT COUNTY, NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW:

(1) THE DISTRICT MAY CHARGE AN OWNER OF A PARCEL SERVICED BY OR CONNECTED TO A PROJECT THAT THE DISTRICT OPERATES A LATE FEE FOR ANY UNPAID USAGE CHARGE THAT IS BASED ON THE USE OF THE PROJECT BY THE OWNER OF THE PARCEL;

(2) THE COUNTY COMMISSIONERS OF GARRETT COUNTY MAY REQUIRE, BEFORE RECONNECTING WATER SERVICE, PAYMENT OF ANY APPLICABLE LATE FEES IN ADDITION TO ANY OTHER CHARGE AUTHORIZED BY THIS SECTION; AND

(3) A CHARGE THAT IS IN DEFAULT SHALL ACCRUE INTEREST FROM THE DATE OF DEFAULT AT A RATE SET BY THE COUNTY COMMISSIONERS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 379

(House Bill 516)

AN ACT concerning

Allegany County – Orphans’ Court Judges – Pension

FOR the purpose of altering the pension of a judge of the Orphans’ Court for Allegany County under certain circumstances; making a technical change; and generally relating to the pension of a judge of the Orphans’ Court for Allegany County under certain circumstances.

BY repealing and reenacting, without amendments,
Article – Estates and Trusts
Section 2–108(b) and (y)(1)
Annotated Code of Maryland
(2011 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 2–108(y)(2), (6), and (7)
Annotated Code of Maryland
(2011 Replacement Volume and 2011 Supplement)

BY adding to

Article – Estates and Trusts
 Section 2–108(y)(6)
 Annotated Code of Maryland
 (2011 Replacement Volume and 2011 Supplement)

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

Article – Estates and Trusts

2–108.

(b) Each of the judges of the Court for Allegany County shall receive an annual salary set by the County Commissioners in accordance with Article 24, Title 12, Subtitle 1 of the Code. Each judge shall also receive an expense allowance in the amount of \$600 annually, to be paid at the rate of \$50 monthly.

(y) (1) Except in Montgomery, Frederick, Carroll, Talbot, Cecil, Kent, Queen Anne's, Baltimore, Garrett, and Harford counties and Baltimore City, and except as provided in paragraphs (3) and (4) of this subsection, a county shall pay a pension, in the same manner as salaries are paid during active service, to each judge of the Orphans' Court who:

- (i) Has terminated active service;
- (ii) Has reached 60 years of age; and
- (iii) Has completed at least two terms of office.

(2) Except as provided in [paragraph (5) of this subsection] **THIS SECTION**, the salary or pension shall be the greater of:

- (i) \$1,200 annually; or
- (ii) An annual amount calculated at the rate of 4 percent of the last annual amount of compensation multiplied by the number of years or partial years of service, not exceeding 12 years.

(6) IN ALLEGANY COUNTY, THE PENSION FOR AN ORPHANS' COURT JUDGE SHALL BE THE GREATER OF:

- (I) \$1,200 ANNUALLY; OR**
- (II) 1. EXCEPT AS PROVIDED IN ITEM 2 OF THIS SUBPARAGRAPH, AN ANNUAL AMOUNT CALCULATED AT THE RATE OF 4**

PERCENT OF THE LAST ANNUAL AMOUNT OF COMPENSATION MULTIPLIED BY THE NUMBER OF YEARS OF SERVICE, NOT EXCEEDING 16 YEARS; OR

2. AN ANNUAL AMOUNT EQUAL TO TWO-THIRDS OF THE LAST ANNUAL AMOUNT OF COMPENSATION IF THE JUDGE HAS MORE THAN 16 YEARS OF SERVICE.

[(6)] (7) The pension or salary may be suspended during any month the judge is a full-time employee of any county or of this State.

[(7)] (8) Notwithstanding any provision of this section an Orphans' Court judge may not receive a pension under this section if he is receiving any other State pension based on service as an Orphans' Court judge.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 380

(House Bill 518)

AN ACT concerning

Frederick County – Tax Sales – Auctioneer's Fees

FOR the purpose of setting the amount of the auctioneer's fee allowed in Frederick County relating to certain tax sales to be the lowest responsive bid for each property sold; and generally relating to tax sales in Frederick County.

BY repealing and reenacting, without amendments,
Article – Tax – Property
Section 14–813(e)(1)(iv)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 14–813(e)(2)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

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

Article – Tax – Property

14–813.

(e) (1) The following expenses relating to the sale shall be allowed, all of which are liens on the property to be sold:

(iv) the auctioneer's fee, as provided in paragraph (2) of this subsection;

(2) The auctioneer's fee allowed in paragraph (1) of this subsection shall be:

(i) except in Baltimore City, Caroline County, Carroll County, Cecil County, Dorchester County, **FREDERICK COUNTY**, Garrett County, Howard County, Kent County, Prince George's County, Queen Anne's County, Somerset County, Talbot County, Wicomico County, or Worcester County:

1. for any date when 1, 2, or 3 properties are sold, an amount not to exceed \$10; and

2. for any date when 4 or more properties are sold, \$3 for each property sold;

(ii) in Dorchester County, \$7.50 for each property sold;

(iii) in Kent County, an amount not exceeding \$7.50 for each property sold;

(iv) in Cecil County and Queen Anne's County, \$7.50 for each property sold;

(v) in Garrett County, Somerset County, and Wicomico County, \$8 for each property sold;

(vi) in Worcester County, the greater of \$8 for each property sold or \$300, to be allocated pro rata among each property sold;

(vii) in Baltimore City:

1. for any date when 1, 2, or 3 properties are sold, an amount not to exceed \$10;

2. for any date when 4 or more properties are sold, \$3 for each property sold; and

3. in an electronic sale, an amount not to exceed \$10 for each property sold;

(viii) in Carroll County, the amount set by the Carroll County Commissioners; [and]

(ix) in Caroline County, Howard County, Prince George's County, and Talbot County, \$10 for each property sold; AND

(X) IN FREDERICK COUNTY, THE LOWEST RESPONSIVE BID FOR EACH PROPERTY SOLD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 381

(House Bill 525)

AN ACT concerning

State Personnel – Hiring Prohibition – Individuals Terminated with Prejudice

FOR the purpose of prohibiting an appointing authority from hiring an individual who has been terminated with prejudice from State service; providing for the application of this Act; and generally relating to prohibiting the hiring of certain individuals by State appointing authorities.

BY adding to

Article – State Personnel and Pensions

Section 2–801 to be under the new subtitle “Subtitle 8. Hiring Prohibitions”

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – State Personnel and Pensions

SUBTITLE 8. HIRING PROHIBITIONS.

2-801.

(A) THIS SECTION APPLIES TO ALL UNITS IN THE EXECUTIVE, JUDICIAL, AND LEGISLATIVE BRANCHES OF STATE GOVERNMENT, INCLUDING ANY UNIT WITH AN INDEPENDENT PERSONNEL SYSTEM.

(B) AN APPOINTING AUTHORITY MAY NOT HIRE AN INDIVIDUAL WHO HAS BEEN TERMINATED WITH PREJUDICE FROM STATE SERVICE.

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 offer of employment made to an individual by an appointing authority before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 382

(House Bill 545)

AN ACT concerning

Crimes – Theft from a Motor Vehicle – ~~Penalties~~

FOR the purpose of prohibiting a person from ~~knowingly and willfully obtaining or exerting unauthorized control over personal property located in or on a motor vehicle if the person intends to deprive the owner of the property, uses, conceals, or abandons the property in a manner that deprives the owner of the property, or uses, conceals, or abandons the property knowing that the use, concealment, or abandonment will deprive the owner of the property;~~ being in or on the motor vehicle of another with the intent to commit theft of property that is on the motor vehicle; ~~establishing penalties for a violation of this Act; providing that a court may not impose certain penalties for a second or subsequent violation of this Act unless the State's Attorney serves a certain notice on the defendant or defendant's counsel within a certain period; providing that this Act does not preclude a certain prosecution for theft; establishing that a conviction under this Act does not merge for sentencing purposes into a certain other conviction; defining a certain term~~

penalty applies to a violation of this Act; and generally relating to thefts from motor vehicles.

~~BY adding to~~

~~Article – Criminal Law~~

~~Section 7-105.2~~

~~Annotated Code of Maryland~~

~~(2002 Volume and 2011 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 6-206

Annotated Code of Maryland

(2002 Volume and 2011 Supplement)

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

Article – Criminal Law

~~7-105.2.~~

~~(A) IN THIS SECTION, “OWNER” MEANS A PERSON WHO HAS A LAWFUL INTEREST IN OR IS IN LAWFUL POSSESSION OF PERSONAL PROPERTY LOCATED IN OR ON A MOTOR VEHICLE.~~

~~(B) A PERSON MAY NOT KNOWINGLY AND WILLFULLY OBTAIN OR EXERT UNAUTHORIZED CONTROL OVER PERSONAL PROPERTY LOCATED IN OR ON A MOTOR VEHICLE IF THE PERSON:~~

~~(1) INTENDS TO DEPRIVE THE OWNER OF THE PROPERTY;~~

~~(2) USES, CONCEALS, OR ABANDONS THE PROPERTY IN A MANNER THAT DEPRIVES THE OWNER OF THE PROPERTY; OR~~

~~(3) USES, CONCEALS, OR ABANDONS THE PROPERTY KNOWING THAT THE USE, CONCEALMENT, OR ABANDONMENT WILL DEPRIVE THE OWNER OF THE PROPERTY.~~

~~(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A PERSON WHO VIOLATES THIS SECTION:~~

~~(1) IS GUILTY OF THE MISDEMEANOR OF TAKING PERSONAL PROPERTY LOCATED IN OR ON A MOTOR VEHICLE AND ON CONVICTION IS~~

~~SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$2,500 OR BOTH; AND~~

~~(2) (i) SHALL RESTORE THE PERSONAL PROPERTY TAKEN; OR~~

~~(ii) IF UNABLE TO RESTORE THE PROPERTY, PAY TO THE OWNER THE FULL VALUE OF THE PROPERTY.~~

~~(D) (1) A PERSON WHO COMMITS A SECOND OR SUBSEQUENT VIOLATION OF THIS SECTION:~~

~~(i) IS GUILTY OF THE MISDEMEANOR OF TAKING PERSONAL PROPERTY LOCATED IN OR ON A MOTOR VEHICLE AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH; AND~~

~~(ii) 1. SHALL RESTORE THE PERSONAL PROPERTY TAKEN; OR~~

~~2. IF UNABLE TO RESTORE THE PROPERTY, PAY TO THE OWNER THE FULL VALUE OF THE PROPERTY.~~

~~(2) THE COURT MAY NOT IMPOSE THE PENALTIES UNDER THIS SUBSECTION UNLESS THE STATE'S ATTORNEY SERVES NOTICE ON THE DEFENDANT OR DEFENDANT'S COUNSEL, BEFORE THE ACCEPTANCE OF A PLEA OF GUILTY OR NOLO CONTENDERE OR AT LEAST 15 DAYS BEFORE THE DAY OF TRIAL:~~

~~(i) LISTING THE ALLEGED PRIOR CONVICTIONS; AND~~

~~(ii) ADVISING THAT THE STATE SHALL SEEK THE PENALTIES UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(E) (1) THIS SECTION DOES NOT PRECLUDE PROSECUTION FOR THEFT UNDER § 7-104 OF THIS PART.~~

~~(2) IF A PERSON IS CONVICTED UNDER § 7-104 OF THIS PART FOR THE SAME ACT OR TRANSACTION, THE CONVICTION UNDER THIS SECTION MAY NOT MERGE FOR SENTENCING PURPOSES INTO THE CONVICTION UNDER § 7-104 OF THIS PART.~~

(a) A person may not possess a burglar's tool with the intent to use or allow the use of the burglar's tool in the commission of a crime involving the breaking and entering of a motor vehicle.

(b) A person may not be in or on the motor vehicle of another with the intent to commit theft of the motor vehicle or property that is in OR ON the motor vehicle.

(c) A person who violates this section is guilty of a misdemeanor, shall be considered a rogue and vagabond, and on conviction is subject to imprisonment not exceeding 3 years.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 383

(House Bill 573)

AN ACT concerning

Criminal Procedure – Bail Bondsman Solicitation – Penalty

FOR the purpose of prohibiting an employee of a courthouse or correctional facility from performing certain acts on the grounds of a courthouse or correctional facility; clarifying that a certain person at a certain location may not approach, entice, or invite a person to use the services of a specific bail bondsman; altering the penalties for a violation of this Act; and generally relating to bail bondsmen.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 5–210
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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

Article – Criminal Procedure

5–210.

(a) (1) In this section the following words have the meanings indicated.

(2) "Agent" means a person that acts or is authorized to act as the representative of a bail bondsman.

(3) (i) "Bail bondsman" means a licensed limited surety agent or a licensed professional bail bondsman.

(ii) "Bail bondsman" does not include a person that contracts with a public agency to provide bail bonds to persons detained in a correctional facility.

(b) On the grounds of a courthouse or correctional facility, a bail bondsman [or], an agent of a bail bondsman, **AN EMPLOYEE OF THE COURTHOUSE, OR AN EMPLOYEE OF A CORRECTIONAL FACILITY** may not:

(1) approach, entice, or invite a person to use the services of a **SPECIFIC** bail bondsman;

(2) distribute, display, or wear an item that advertises the services of a bail bondsman; or

(3) otherwise solicit business as a bail bondsman.

(c) A person who violates subsection (b) of this section is guilty of a misdemeanor and on conviction is subject to:

(1) a fine not exceeding **[\$100] \$2,500, AND IF LICENSED IN ACCORDANCE WITH THE INSURANCE ARTICLE, A 30-DAY LICENSE SUSPENSION** for a first offense; and

(2) a fine not exceeding **[\$1,000] \$5,000, AND IF LICENSED IN ACCORDANCE WITH THE INSURANCE ARTICLE, A 90-DAY LICENSE SUSPENSION** for a subsequent offense.

(d) A person convicted of a violation of subsection (b) of this section shall be referred to the Insurance Commissioner for appropriate action.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

AN ACT concerning

Criminal Law – Controlled Dangerous Substances – Mephedrone

FOR the purpose of listing mephedrone and certain similar chemical compounds on Schedule I for purposes of designating controlled dangerous substances that may not be legally used, possessed, or distributed; and generally relating to controlled dangerous substances and mephedrone.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 5–402(d)
Annotated Code of Maryland
(2002 Volume and 2011 Supplement)

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

Article – Criminal Law

5–402.

(d) (1) A material, compound, mixture, or preparation that contains any of the following hallucinogenic or hallucinogenic–like substances is a substance listed in Schedule I:

- (i) bufotenine;
- (ii) diethyltryptamine;
- (iii) dimethyltryptamine;
- (iv) 4–methyl–2, 5–dimethoxyamphetamine;
- (v) ibogaine;
- (vi) lysergic acid diethylamide;
- (vii) marijuana;
- (viii) mescaline;
- (ix) peyote;
- (x) psilocybin;

- (xi) psilocyn;
- (xii) tetrahydrocannabinol;
- (xiii) thiophene analog of phencyclidine;
- (xiv) 2, 5-dimethoxyamphetamine;
- (xv) 4-bromo-2, 5-dimethoxyamphetamine;
- (xvi) 4-methoxyamphetamine;
- (xvii) 3, 4-methylenedioxyamphetamine;
- (xviii) 3, 4-methylenedioxymethamphetamine (MDMA);
- (xix) 5-methoxy-3, 4-methylenedioxyamphetamine;
- (xx) 3, 4, 5-trimethoxyamphetamine;
- (xxi) N-methyl-3-piperidyl benzilate;
- (xxii) N-ethyl-3-piperidyl benzilate;
- (xxiii) N-ethyl-1-phenylcyclohexylamine;
- (xxiv) 1-(1-phenylcyclohexyl)-pyrrolidine;
- (xxv) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;
- (xxvi) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP); [and]
- (xxvii) 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine
(PEPAP);
- (XXVIII) 3, 4-METHYLENEDIOXYMETHCATHINONE
(METHYLONE);**
- (XXIX) 3, 4-METHYLENEDIOXYPYROVALERONE (MDPV);**
- (XXX) 4-METHYLMETHCATHINONE (MEPHEDRONE);**
- (XXXI) 4-METHOXYMETHCATHINONE (METHEDRONE);**
- (XXXII) 4-FLUOROMETHCATHINONE (FLEPHEDRONE); AND**

(XXXIII) 3-FLUOROMETHCATHINONE (3-FMC).

(2) Unless specifically excepted under this subtitle, a salt, isomer, or salt of an isomer of a substance listed in this subsection is a substance listed in Schedule I if the existence of the salt, isomer, or salt of an isomer is possible within the specific chemical designation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 385**(House Bill 595)**

AN ACT concerning

Alcoholic Beverages – Manufacturer’s Licenses

FOR the purpose of specifying that a holder of a certain alcoholic beverages manufacturer’s license may apply for and obtain certain additional manufacturer’s licenses of the same or of a different class for the same premises or elsewhere; and generally relating to manufacturer’s alcoholic beverages licenses.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–201
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

2–201.

(a) The annual fees for manufacturer’s licenses are as follows:

Class 1	Distillery	\$2,000
Class 2	Rectifying	600
Class 3	Winery	750
Class 4	Limited Winery	200

Class 5	Brewery	1,500
Class 6	Pub-Brewery	500
Class 7	Micro-Brewery	500

(b) **(1) THIS SUBSECTION DOES NOT APPLY TO A CLASS 6 PUB-BREWERY LICENSE.**

[(1) (2)] [Except for a Class 6 pub-brewery license, the] **THE** holder of a distillery, rectifying, winery, limited winery, or brewery license may apply for and obtain, under a different name, one or more additional distillery, rectifying, winery, limited winery, or brewery licenses for the same or another premises.

(3) Those licenses may be issued to different persons or under trade names used by persons occupying a part of or all of the same premises.

(4) A HOLDER OF A LICENSE LISTED IN PARAGRAPH (2) OF THIS SUBSECTION MAY HOLD ADDITIONAL LICENSES LISTED IN PARAGRAPH (2) OF THIS SUBSECTION OF THE SAME OR OF A DIFFERENT CLASS.

[(2) (5)] (i) The holder of a rectifying, winery, or brewery license may apply for and obtain a wholesaler's license of any class for the same premises or elsewhere as provided under this article.

(ii) The holder of a limited winery license may apply for and obtain a Class 6 limited wine wholesaler's license for the same premises or elsewhere as provided under this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 386

(House Bill 596)

AN ACT concerning

Child with a Disability – Individualized Education Program Meeting – Document Access

FOR the purpose of providing that the parents of a child with a disability may notify appropriate school personnel that they do not want to receive certain documents; ~~altering the period of time before a certain meeting that appropriate~~ authorizing

school personnel ~~must~~ to provide a copy of certain documents relating to the development of an individualized education program for a child with a disability to the parents of the child in a certain manner; defining certain terms; and generally relating to a meeting of the individualized education program team.

BY repealing and reenacting, with amendments,
Article – Education
Section ~~§ 405(e)~~ § 405
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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

Article – Education

8–405.

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

(2) “ACCESSIBLE COPY” ~~MEANS~~ INCLUDES A COPY OF A DOCUMENT PROVIDED TO AN INDIVIDUAL IN A FORMAT, ~~INCLUDING A SPECIALIZED FORMAT~~ AS DEFINED IN § 8–408 OF THIS SUBTITLE, ~~NECESSARY FOR THE UNDERSTANDING OF THE DOCUMENT BY THE INDIVIDUAL ACCEPTING THE DOCUMENT.~~

(3) “EXTENUATING CIRCUMSTANCE” MEANS:

(I) A DEATH IN THE FAMILY;

(II) A PERSONAL EMERGENCY;

(III) A NATURAL DISASTER; OR

(IV) ANY OTHER SIMILAR SITUATION DEFINED BY THE DEPARTMENT.

(B) When a team of qualified professionals and the parents meet for the purpose of discussing the identification, evaluation, educational program, or the provision of a free appropriate public education of a child with a disability:

(1) The parents of the child shall be afforded the opportunity to participate and shall be provided reasonable notice in advance of the meeting; and

(2) Reasonable notice shall be at least 10 calendar days in advance of the meeting, unless an expedited meeting is being conducted to:

- (i) Address disciplinary issues;
- (ii) Determine the placement of the child with a disability not currently receiving educational services; or
- (iii) Meet other urgent needs of a child with a disability to ensure the provision of a free appropriate public education.

[(b)] (C) The individualized education program team shall determine, on at least an annual basis, whether the child requires extended year services in order to ensure that the child is not deprived of a free appropriate public education by virtue of the normal break in the regular school year.

~~(D) (1) (i)~~ Except as provided in paragraph (2) of this subsection, and subject to ~~subparagraph (ii)~~ SUBPARAGRAPHS (II) AND (III) of this paragraph, at least 5 ~~[business] CALENDAR~~ days before a scheduled meeting of the individualized education program team or other multidisciplinary education team for any purpose for a child with a disability, appropriate school personnel shall provide the parents of the child with an accessible copy of each assessment, report, data chart, draft individualized education program, or other document that either team plans to discuss at the meeting.

(ii) Subject to subparagraph (i) of this paragraph, an assessment, report, data chart, or other document prepared by a school psychologist or other medical professional that either team plans to discuss at the meeting may be provided to the parents of the child orally and in writing prior to the meeting.

(III) THE PARENTS OF A CHILD MAY NOTIFY APPROPRIATE SCHOOL PERSONNEL THAT THEY DO NOT WANT TO RECEIVE THE DOCUMENTS REQUIRED TO BE PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(2) (i) Subject to subparagraph (ii) of this paragraph, appropriate school personnel are not required to comply with paragraph (1) of this subsection in the event of an extenuating circumstance.

(ii) In the event of an extenuating circumstance, appropriate school personnel who fail to comply with paragraph (1) of this subsection shall document the extenuating circumstance and communicate that information to the parents of the child.

[(d)] (E) (1) Not later than 5 business days after a scheduled meeting of the individualized education program team or other multidisciplinary team for a child

with a disability, appropriate school personnel shall provide the parents of the child with a copy of the completed individualized education program.

(2) If the individualized education program has not been completed by the 5th business day after the meeting, the parents shall be provided with the draft copy of the individualized education program.

(3) The completed or draft individualized education program shall be provided to the parents in an accessible format.

(F) ~~SCHOOL~~ TO FULFILL THE PURPOSES OF THIS SECTION, SCHOOL PERSONNEL MAY PROVIDE THE DOCUMENTS REQUIRED UNDER THIS SUBSECTION THROUGH ANY:

(1) ELECTRONIC DELIVERY;

(2) HOME DELIVERY WITH THE STUDENT; OR

(3) ANY OTHER REASONABLE AND LEGAL METHOD OF DELIVERY TO FULFILL THE PURPOSES OF THIS SECTION.

[(e)] (G) Failure to comply with this section does not constitute a substantive violation of the requirement to provide a student with a free appropriate public education.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 387

(House Bill 644)

AN ACT concerning

Environment – Reducing the Incidence of Lead Poisoning

FOR the purpose of altering the application of certain provisions of law relating to reducing lead risk in housing to apply to certain property constructed before a certain date; exempting certain properties built between certain dates from certain requirements relating to certain risk reduction standards; authorizing the Department of the Environment or a local health department to order a certain abatement in ~~any residential~~ certain property under certain

~~circumstances; authorizing the Department to enforce the terms of a certain abatement order in a certain manner; establishing a certain rebuttable presumption; providing that the presumption may be rebutted by clear and convincing a preponderance of the evidence; providing for the admissibility of certain evidence in certain actions for damages for alleged injury or loss caused by the ingestion of lead; requiring a court to require a certain party, the party's attorney, or both to pay certain costs under certain circumstances; altering a certain annual fee for certain rental property; authorizing the Department to administer a certain program consistent with certain federal regulations; requiring a certain vendor of certain property to deliver to a certain purchaser a certain lead-contaminated dust test under certain circumstances; declaring the intent of the General Assembly regarding certain compliance with certain provisions of law relating to reducing lead risk in housing~~ authorizing certain regulations adopted by the Department to include certain standards and procedures for certain abatement involving the renovation, repair, and painting of lead-containing substances; altering a certain definition; and generally relating to reducing the incidence of lead poisoning.

BY repealing and reenacting, without amendments,
 Article – Environment
 Section 6–801(a) and 6–843(a)(1)
 Annotated Code of Maryland
 (2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
 Article – Environment
 Section 6–801(b), ~~6–817(a)(1) and (b)(1), 6–819(f),~~ 6–822, 6–843(a)(2), ~~6–1001(b),~~
and 6–1003, and 6–1004
 Annotated Code of Maryland
 (2007 Replacement Volume and 2011 Supplement)

BY repealing
Article – Environment
Section 6–838
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY adding to
 Article – Environment
 Section ~~6–830.1 6–838; and 6–1002.1 to be under the amended subtitle “Subtitle~~
~~10. Accreditation of Lead Paint Abatement and Renovation Services”~~
 Annotated Code of Maryland
 (2007 Replacement Volume and 2011 Supplement)

~~BY adding to~~
~~Article – Real Property~~
~~Section 10–711~~

~~Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)~~

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

Article – Environment

6–801.

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

(b) (1) “Affected property” means:

(i) A property constructed before ~~[1950]~~ **1978** that contains at least one rental dwelling unit; ~~or~~

(II) ON AND AFTER JANUARY 1, 2015, A PROPERTY CONSTRUCTED BEFORE 1978 THAT CONTAINS AT LEAST ONE RENTAL UNIT; OR

~~(ii)~~ **(III)** Any residential rental property for which the owner makes an election under § 6–803(a)(2) of this subtitle.

(2) “Affected property” includes an individual rental dwelling unit within a multifamily rental dwelling.

(3) “Affected property” does not include property exempted under § 6–803(b) of this subtitle.

6–817.

(a) (1) [On] EXCEPT FOR PROPERTIES CONSTRUCTED BETWEEN JANUARY 1, 1950, AND DECEMBER 31, ~~1997~~ 1977, BOTH INCLUSIVE, ON and after February 24, 2001, an owner of affected properties shall ensure that at least 50% of the owner’s affected properties have satisfied the risk reduction standard specified in § 6–815(a) of this subtitle, without regard to the number of affected properties in which there has been a change in occupancy.

(b) (1) [On] EXCEPT FOR PROPERTIES CONSTRUCTED BETWEEN JANUARY 1, 1950, AND DECEMBER 31, ~~1997~~ 1977, BOTH INCLUSIVE, ON and after February 24, 2006, an owner of affected properties shall ensure that 100% of the owner’s affected properties in which a person at risk resides, and of whom the owner has been notified in writing, have satisfied the risk reduction standard specified in § 6–815(a) of this subtitle.

6–819.

(f) Except as provided in § 6-817(b) of this subtitle AND EXCEPT FOR PROPERTIES CONSTRUCTED BETWEEN JANUARY 1, 1950, AND DECEMBER 31, 1997 1977, BOTH INCLUSIVE, on and after February 24, 2006, an owner of affected properties shall ensure that 100% of the owner's affected properties in which a person at risk does not reside have satisfied the modified risk reduction standard.

6-822.

(a) The provisions of this subtitle do not affect:

(1) The duties and obligations of an owner of an affected property to repair or maintain the affected property as required under any applicable State or local law or regulation; or

(2) The authority of a State or local agency to enforce applicable housing or livability codes or to order lead abatements in accordance with any applicable State or local law or regulation.

(b) (1) Notwithstanding § 6-803 of this subtitle, following an environmental investigation in response to a report of a lead poisoned person at risk, **THE DEPARTMENT OR** a local jurisdiction, **INCLUDING THE LOCAL HEALTH DEPARTMENT,** may order an abatement, as defined in § 6-1001 of this title, in any residential property, **CHILD CARE CENTER, FAMILY CHILD CARE HOME, OR PRESCHOOL FACILITY.**

(2) No provision of this Act may be construed to limit the treatments which may be encompassed by an order to abate lead hazards.

(c) **(1)** Whenever there is a conflict between the requirements of an abatement order issued by a State or local agency to an owner of an affected property and the provisions of this subtitle, the more stringent provisions of this subtitle and of the abatement order shall be controlling in determining the owner's obligations regarding the necessary lead hazard reduction treatments that shall be performed in the affected property that is subject to the abatement order.

(2) THE DEPARTMENT MAY ENFORCE THE TERMS OF AN ABATEMENT ORDERED BY A LOCAL JURISDICTION OR LOCAL HEALTH DEPARTMENT IN A CIVIL OR AN ADMINISTRATIVE ACTION.

~~6-830.1.~~

~~(A) THERE IS A REBUTTABLE PRESUMPTION THAT A PERSON AT RISK WITH ELEVATED BLOOD LEAD DID NOT INGEST LEAD IN AN AFFECTED PROPERTY IF THE OWNER OF AN AFFECTED PROPERTY:~~

~~(1) HAS GIVEN TO THE TENANT THE NOTICES REQUIRED BY §§ 6-820 AND 6-823 OF THIS SUBTITLE; AND~~

~~(2) WAS IN COMPLIANCE WITH:~~

~~(i) THE REGISTRATION PROVISIONS OF PART III OF THIS SUBTITLE; AND~~

~~(ii) THE APPLICABLE RISK REDUCTION STANDARD AND RESPONSE STANDARD UNDER § 6-815 OR § 6-819 OF THIS SUBTITLE AND THE RISK REDUCTION SCHEDULE UNDER § 6-817 OF THIS SUBTITLE.~~

~~(B) THE PRESUMPTION ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION MAY BE REBUTTED BY CLEAR AND CONVINCING A PREPONDERANCE OF THE EVIDENCE.~~

[6-838.

(a) An owner of an affected property that is not in compliance with the provisions of Part IV of this subtitle during the period of residency of the person at risk is presumed to have failed to exercise reasonable care with respect to lead hazards during that period in an action seeking damages for alleged injury or loss caused by the ingestion of lead by a person at risk in the affected property.

(b) The owner has the burden of rebutting the presumption established under subsection (a) of this section by a preponderance of the evidence.]

6-838.

(A) (1) IN AN ACTION SEEKING DAMAGES FOR ALLEGED INJURY OR LOSS CAUSED BY THE INGESTION OF LEAD BY A PERSON AT RISK IN AN AFFECTED PROPERTY, EVIDENCE THAT THE OWNER OF THE AFFECTED PROPERTY WAS IN COMPLIANCE WITH THE PROVISIONS OF PART IV OF THIS SUBTITLE DURING THE PERIOD OF RESIDENCY OF THE PERSON AT RISK IS ADMISSIBLE AS EVIDENCE THAT THE OWNER EXERCISED REASONABLE CARE WITH RESPECT TO LEAD HAZARDS DURING THAT PERIOD.

(2) IN AN ACTION SEEKING DAMAGES FOR ALLEGED INJURY OR LOSS CAUSED BY THE INGESTION OF LEAD BY A PERSON AT RISK IN AN AFFECTED PROPERTY, EVIDENCE THAT THE OWNER OF THE AFFECTED PROPERTY WAS NOT IN COMPLIANCE WITH THE PROVISIONS OF PART IV OF THIS SUBTITLE DURING THE PERIOD OF RESIDENCY OF THE PERSON AT RISK IS ADMISSIBLE AS EVIDENCE THAT THE OWNER FAILED TO EXERCISE REASONABLE CARE WITH RESPECT TO LEAD HAZARDS DURING THAT PERIOD.

(B) IF A PARTY TO AN ACTION FOR DAMAGES ARISING FROM INGESTION OF LEAD BY A PERSON AT RISK IN AN AFFECTED PROPERTY ALLEGES OR DENIES THE TIME AND PLACE OF RESIDENCE OF, OR VISITATION BY, THE PERSON AT RISK WITHOUT A GOOD FAITH BASIS FOR THE ALLEGATION OR DENIAL, THE COURT SHALL REQUIRE THE OFFENDING PARTY, THE PARTY'S ATTORNEY, OR BOTH TO PAY THE REASONABLE COSTS, INCLUDING ATTORNEY'S FEES, INCURRED BY THE ADVERSE PARTY IN OPPOSING THE ALLEGATION OR DENIAL.

6-843.

(a) (1) Except as provided in this subsection and subsection (b) of this section, and in cooperation with the Department of Housing and Community Development, the State Department of Assessments and Taxation, and other appropriate governmental units, the Department shall provide for the collection of an annual fee for every rental dwelling unit in the State.

(2) The annual fee for an affected property is ~~[\$15]~~ **\$30**.

~~Subtitle 10. Accreditation of Lead Paint Abatement AND RENOVATION Services.~~

6-1001.

(b) "Abatement" means a set of measures [designed to] THAT eliminate or reduce lead-based paint hazards in residential, public, or commercial buildings, bridges, or other structures or superstructures in accordance with standards established by the Department which may include:

(1) The removal of lead-based paint and lead-contaminated dust, the containment or encapsulation of lead-based paint, the replacement or demolition of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; [and]

(2) All preparation, cleanup, disposal, and postabatement clearance testing activities associated with these measures; AND

(3) THE RENOVATION, REPAIR, AND PAINTING OF A LEAD-CONTAINING SUBSTANCE IN A RESIDENTIAL, PUBLIC, OR COMMERCIAL BUILDING BUILT BEFORE 1978.

~~6-1002.1.~~

~~THE DEPARTMENT MAY ADMINISTER A RENOVATION, REPAIR, AND PAINTING PROGRAM CONSISTENT WITH THE ENVIRONMENTAL PROTECTION AGENCY'S RENOVATION, REPAIR AND PAINTING RULE, 40 C.F.R. 745, SUBPART E.~~

6–1003.

(a) ~~{The} EXCEPT AS OTHERWISE PROVIDED IN § 6-1002.1 OF THIS SUBTITLE, THE~~ Department shall adopt regulations to carry out the provisions of this subtitle.

(b) Regulations adopted under this subtitle may include:

(1) Initial and continuing standards and procedures for accreditation, including education, training, examination, and job performance standards;

(2) Standards and procedures for renewal of accreditation;

(3) Standards and procedures for modification, suspension, or revocation of accreditation;

(4) Different standards and procedures for different lead paint abatement services;

(5) STANDARDS AND PROCEDURES FOR ABATEMENT INVOLVING THE RENOVATION, REPAIR, AND PAINTING OF LEAD-CONTAINING SUBSTANCES, INCLUDING A REQUIREMENT FOR LEAD-DUST TESTING;

~~(5)~~ **(6)** Recognition of accreditation or similar approvals of persons by other governmental entities; and

~~(6)~~ **(7)** Such other provisions as may be necessary to effectuate the purposes of this subtitle.

(c) The Department shall review and revise its certification and other regulations under this subtitle as necessary to ensure continued eligibility for federal funding of lead-hazard activities in the State.

(d) The Department shall set reasonable fees for the accreditation of persons who provide lead paint abatement, ~~RENOVATION, OR RENOVATION TRAINING~~ services sufficient to cover the Department's direct and indirect costs of administering this subtitle.

~~6-1004.~~

~~(a) There is a Lead Accreditation Fund.~~

~~(b) (1) All fees collected under § 6-1003(d) and fines and penalties imposed under § 6-1005 of this subtitle shall be deposited in the Lead Accreditation Fund.~~

~~(2) The Department may apply for and accept any funds or grants from any federal, State, local, or private source for credit to the Fund that might assist with development, establishment, administration, and education and enforcement activities of the lead paint abatement AND RENOVATION services accreditation [program] PROGRAMS under this subtitle.~~

~~(e) The Department shall use the Lead Accreditation Fund for activities by the Department that are related to processing, monitoring and regulating the accreditation of lead paint abatement services, and for program development of these activities.~~

~~(d) (1) The Lead Accreditation Fund shall be a continuing, nonlapsing special fund, and is not subject to § 7-302 of the State Finance and Procurement Article.~~

~~(2) The State Treasurer shall hold and the State Comptroller shall account for the Accreditation Fund.~~

~~(3) The Accreditation Fund shall be invested and reinvested. Any investment earnings shall be paid into the Accreditation Fund.~~

~~Article — Real Property~~

~~10-711.~~

~~(A) THIS SECTION APPLIES TO THE SALE OF PROPERTY ON WHICH A DWELLING BUILT BEFORE 1978 IS LOCATED.~~

~~(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, AT LEAST 7 DAYS BEFORE SETTLEMENT OF A CONTRACT FOR THE SALE OF PROPERTY, A VENDOR SHALL DELIVER TO EACH PURCHASER THE RESULTS OF A LEAD CONTAMINATED DUST TEST PERFORMED FOR THE PROPERTY IN ACCORDANCE WITH THE PROCEDURES AND STANDARDS ADOPTED UNDER § 6-816 OF THE ENVIRONMENT ARTICLE.~~

~~(C) A PURCHASER MAY WAIVE IN WRITING THE RIGHT TO RECEIVE THE RESULTS OF A LEAD CONTAMINATED DUST TEST.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that on or before January 1, 2013, an owner of affected property that was built between 1950 and 1978 shall be in compliance with:~~

~~(a) the notice requirements under §§ 6-820 and 6-823 of the Environment Article;~~

~~(b) the registration provisions of Title 6, Subtitle 8, Part III of the Environment Article;~~

~~(c) the risk reduction standard under § 6-815(a) of the Environment Article; and~~

~~(d) any other requirement under Title 6, Subtitle 8 of the Environment Article, applicable to affected properties.~~

SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 388

(House Bill 658)

AN ACT concerning

Public Safety – Emergency Management – Emergency Plans for Human Service Facilities – and Dialysis Centers

FOR the purpose of ~~altering the definition of “human service facility” to include certain kidney dialysis centers for purposes of certain provisions of law requiring a human service facility to develop a certain emergency plan; providing that a human service facility is~~ *certain facilities and centers are* solely responsible for certain financial obligations arising from certain activations of a certain emergency plan; ~~specifying that certain provisions of this Act do not prohibit a human service facility~~ *certain facility or center from applying for and receiving certain reimbursement; requiring certain kidney dialysis centers to have certain emergency plans; requiring certain plans to include certain policies and procedures; requiring certain kidney dialysis centers to provide access to certain plans to certain organizations for emergency management;* requiring the Department of Health and Mental Hygiene to adopt certain regulations on or before a certain date in consultation with representatives of certain entities; *requiring the Department to ensure that certain regulations do not conflict with certain federal requirements; defining a certain term;* and generally relating to emergency plans for human service facilities *and kidney dialysis centers.*

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 14-110.1

Annotated Code of Maryland
(2011 Replacement Volume)

BY adding to

Article – Public Safety

Section 14–110.2

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Public Safety

14–110.1.

(a) In this section, “human service facility” means a facility licensed by the State that is:

(1) a nursing home, as defined in § 19–1401 of the Health – General Article;

(2) an assisted living facility, as defined in § 19–1801 of the Health – General Article;

(3) a hospital, as defined in § 19–301 of the Health – General Article;

(4) a related institution as defined in § 19–301 of the Health – General Article;

(5) a State–operated institution for mental disease;

(6) a group home as defined in § 7–101 of the Health – General Article;

(7) an alternative living unit as defined in § 7–101 of the Health – General Article; ~~and~~

(8) a State residential center as defined in § 7–101 of the Health – General Article; ~~AND~~

~~(9) A KIDNEY DIALYSIS CENTER AS DEFINED IN § 19–3B–01 OF THE HEALTH – GENERAL ARTICLE.~~

(b) A human service facility shall develop an emergency plan.

(c) An emergency plan shall include procedures that will be followed before, during, and after an emergency to address:

(1) the evacuation, transportation, or shelter-in-place of individuals served by the human service facility;

(2) the notification to families, staff, and licensing authorities regarding the action that will be taken concerning the safety and well-being of the individuals served by the human service facility;

(3) staff coverage, organization, and assignment of responsibilities;
and

(4) the continuity of operations, including:

(i) procuring essential goods, equipment, and services; and

(ii) relocation to alternate facilities.

(D) (1) THIS SUBSECTION DOES NOT PROHIBIT A HUMAN SERVICE FACILITY FROM APPLYING FOR AND RECEIVING REIMBURSEMENT:

(I) UNDER ANY APPLICABLE INSURANCE POLICY; OR

(II) FROM ANY STATE OR FEDERAL FUNDS THAT MAY BE AVAILABLE DUE TO A DECLARED STATE OR FEDERAL EMERGENCY.

(2) A HUMAN SERVICE FACILITY IS SOLELY RESPONSIBLE FOR ANY FINANCIAL OBLIGATION ARISING FROM VOLUNTARY OR MANDATORY ACTIVATION OF ANY ASPECT OF THE EMERGENCY PLAN DEVELOPED BY THE HUMAN SERVICE FACILITY UNDER THIS SECTION.

[(d)] (E) (1) On or before November 30, 2007, a State agency that is responsible for the licensing of a human service facility shall adopt regulations governing the development of emergency plans under this section.

(2) Regulations adopted under paragraph (1) of this subsection shall be developed in consultation with representatives of:

(i) the Maryland Emergency Management Agency;

(ii) the Maryland Institute for Emergency Medical Services
Systems;

(iii) local organizations for emergency management; and

(iv) human service facilities.

[(e)] (F) For purposes of coordinating local emergency planning efforts, a human service facility shall provide access to the emergency plans developed under this section to local organizations for emergency management.

14-110.2.

(A) IN THIS SECTION, "KIDNEY DIALYSIS CENTER" HAS THE MEANING STATED IN § 19-3B-01 OF THE HEALTH - GENERAL ARTICLE.

(B) A KIDNEY DIALYSIS CENTER SHALL HAVE AN EMERGENCY PLAN.

(C) AN EMERGENCY PLAN SHALL INCLUDE POLICIES AND PROCEDURES THAT WILL BE FOLLOWED BEFORE, DURING, AND AFTER AN EMERGENCY TO ADDRESS:

(1) THE SAFE MANAGEMENT OF INDIVIDUALS WHO ARE RECEIVING SERVICES AT THE KIDNEY DIALYSIS CENTER WHEN AN EMERGENCY OCCURS;

(2) NOTIFICATION OF PATIENTS, FAMILIES, STAFF, AND LICENSING AUTHORITIES REGARDING ACTIONS THAT WILL BE TAKEN CONCERNING THE PROVISION OF DIALYSIS SERVICES TO THE INDIVIDUALS SERVED BY THE KIDNEY DIALYSIS CENTER;

(3) STAFF COVERAGE, ORGANIZATION, AND ASSIGNMENT OF RESPONSIBILITIES; AND

(4) THE CONTINUITY OF OPERATIONS, INCLUDING PROCEDURES TO SECURE ACCESS TO ESSENTIAL GOODS, EQUIPMENT, AND DIALYSIS SERVICES.

(D) (1) THIS SUBSECTION DOES NOT PROHIBIT A KIDNEY DIALYSIS CENTER FROM APPLYING FOR AND RECEIVING REIMBURSEMENT:

(I) UNDER ANY APPLICABLE INSURANCE POLICY; OR

(II) FROM ANY STATE OR FEDERAL FUNDS THAT MAY BE AVAILABLE DUE TO A DECLARED STATE OR FEDERAL EMERGENCY.

(2) A KIDNEY DIALYSIS CENTER IS SOLELY RESPONSIBLE FOR ANY FINANCIAL OBLIGATION ARISING FROM VOLUNTARY OR MANDATORY ACTIVATION OF ANY ASPECT OF THE EMERGENCY PLAN DEVELOPED BY THE KIDNEY DIALYSIS CENTER UNDER THIS SECTION.

(E) FOR PURPOSES OF COORDINATING LOCAL EMERGENCY PLANNING EFFORTS, A KIDNEY DIALYSIS CENTER SHALL PROVIDE ACCESS TO THE EMERGENCY PLANS DEVELOPED UNDER THIS SECTION TO LOCAL ORGANIZATIONS FOR EMERGENCY MANAGEMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That~~en~~:

(a) On or before January 1, 2013, the Department of Health and Mental Hygiene shall adopt regulations governing the development of emergency plans by kidney dialysis centers subject to Section 1 of this Act, in consultation with representatives of:

- (1) the Maryland Emergency Management Agency;
- (2) the Maryland Institute for Emergency Medical Services Systems;
- (3) local organizations for emergency management; and
- (4) kidney dialysis centers.

(b) In developing the regulations required under this section, the Department shall ensure that the requirements for emergency plans for kidney dialysis centers under this Act do not conflict with federal requirements of kidney dialysis centers.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 389

(House Bill 668)

AN ACT concerning

Vehicle Laws – Historic Motor Vehicles – Trucks, Tractors, and Motor Homes

FOR the purpose of establishing a certain historic motor vehicle registration for certain trucks, tractors, and motor homes; establishing certain qualifications for a historic motor vehicle registration under this Act; establishing certain registration fees; prohibiting a vehicle registered under this Act from being used in a certain manner; requiring a certain owner applying for registration of a vehicle under this Act to certify that the vehicle will be maintained only for certain purposes; requiring the Motor Vehicle Administration to issue certain

registration plates under certain circumstances; providing that the presence of certain equipment is not required for the operation of a vehicle registered under this Act; exempting a vehicle registered under this Act from certain vehicle inspections; clarifying that this Act does not limit the authority of a police officer to issue a certain safety equipment repair order; prohibiting the transfer to a subsequent owner of a registration issued under this Act; defining a certain term; and generally relating to the registration of historic motor vehicles.

BY adding to

Article – Transportation
Section 13–936.2
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Transportation

13–936.2.

(A) IN THIS SECTION, “HISTORIC MOTOR VEHICLE” MEANS A CLASS E (TRUCK) WITH A MANUFACTURER’S GROSS VEHICLE WEIGHT RATING IN EXCESS OF 10,000 POUNDS, CLASS F (TRACTOR), OR A CLASS M (MULTIPURPOSE) MOTOR HOME THAT:

- (1) IS AT LEAST 25 YEARS OLD;
- (2) HAS NOT BEEN SUBSTANTIALLY ALTERED FROM THE MANUFACTURER’S ORIGINAL DESIGN; AND
- (3) MEETS CRITERIA CONTAINED IN REGULATIONS ADOPTED BY THE ADMINISTRATION.

(B) IN THIS SECTION, “HISTORIC MOTOR VEHICLE” DOES NOT INCLUDE A VEHICLE THAT HAS BEEN REMANUFACTURED OR RECONSTRUCTED AS A REPLICA OF AN ORIGINAL VEHICLE.

(C) IF REGISTERED WITH THE ADMINISTRATION UNDER THIS SECTION, EVERY HISTORIC MOTOR VEHICLE IS A CLASS L (HISTORIC) VEHICLE.

(D) EXCEPT AS PROVIDED IN SUBSECTION (I) OF THIS SECTION, FOR EACH CLASS L (HISTORIC) VEHICLE, THE ANNUAL REGISTRATION FEE IS \$25.50.

(E) (1) A HISTORIC MOTOR VEHICLE REGISTERED UNDER THIS SECTION MAY NOT BE USED FOR:

(I) GENERAL DAILY TRANSPORTATION; OR

(II) ANY COMMERCIAL TRANSPORTATION OF PASSENGERS OR PROPERTY ON HIGHWAYS.

(2) IN APPLYING FOR REGISTRATION OF A HISTORIC MOTOR VEHICLE UNDER THIS SECTION, THE OWNER OF THE VEHICLE SHALL SUBMIT WITH THE APPLICATION A CERTIFICATION THAT THE VEHICLE FOR WHICH THE APPLICATION IS MADE:

(I) WILL BE MAINTAINED FOR USE IN EXHIBITIONS, CLUB ACTIVITIES, PARADES, TOURS, AND SIMILAR USES;

(II) WILL NOT BE USED FOR:

1. GENERAL DAILY TRANSPORTATION; OR

2. ANY COMMERCIAL TRANSPORTATION OF PASSENGERS OR PROPERTY ON HIGHWAYS; AND

(III) IS INSURED BY A HISTORIC VEHICLE, A SHOW VEHICLE, OR AN ANTIQUE VEHICLE INSURANCE POLICY.

(F) EXCEPT AS PROVIDED IN § 13-936.1 OF THIS SUBTITLE, ON REGISTRATION OF A VEHICLE UNDER THE SECTION, THE ADMINISTRATION SHALL ISSUE A SPECIAL, HISTORIC MOTOR VEHICLE REGISTRATION PLATE OF THE SIZE AND DESIGN THAT THE ADMINISTRATION DETERMINES.

(G) UNLESS THE PRESENCE OF THE EQUIPMENT WAS SPECIFICALLY REQUIRED BY A STATUTE OF THIS STATE AS A CONDITION OF SALE WHEN THE VEHICLE WAS MANUFACTURED, THE PRESENCE OF ANY SPECIFIC EQUIPMENT IS NOT REQUIRED FOR THE OPERATION OF A VEHICLE REGISTERED UNDER THIS SECTION.

(H) (1) A VEHICLE REGISTERED UNDER THIS SECTION IS EXEMPT FROM ANY STATUTE THAT REQUIRES PERIODIC VEHICLE INSPECTIONS OR THAT REQUIRES THE USE AND INSPECTION OF EMISSION CONTROLS.

(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO LIMIT THE AUTHORITY OF A POLICE OFFICER TO ISSUE A

SAFETY EQUIPMENT REPAIR ORDER FOR DEFECTIVE EQUIPMENT UNDER § 23-105 OF THIS ARTICLE.

(I) (1) FOR A MOTOR VEHICLE MANUFACTURED AT LEAST 60 YEARS PRIOR TO THE CURRENT MODEL YEAR, THERE IS A ONETIME REGISTRATION FEE OF \$50.00.

(2) REGISTRATION OF A MOTOR VEHICLE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IS NOT TRANSFERABLE TO A SUBSEQUENT OWNER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 390

(House Bill 686)

AN ACT concerning

**Montgomery County – City of Takoma Park – Alcoholic Beverages – Class B
On- and Off-Sale License**

MC 17-12

FOR the purpose of adding an off-sale privilege to the Class B beer and light wine license issued for hotels and restaurants in the City of Takoma Park; providing for the termination of this Act; and generally relating to Class B beer and light wine, hotel and restaurant licenses in the City of Takoma Park.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 8-216(d)
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

8-216.

(d) (1) The Montgomery County Board of License Commissioners may issue, renew, and transfer and otherwise provide for 8 classes of alcoholic beverages licenses in the City of Takoma Park as follows:

(i) Class B [(on-sale)] **(ON- AND OFF-SALE)** beer and light wine, hotel and restaurant licenses;

(ii) Class H (on-sale) beer and light wine, hotel and restaurant licenses;

(iii) Class B (on-sale) beer, wine and liquor, hotel and restaurant licenses;

(iv) Class H-TP (on-sale) beer license;

(v) Class D-TP (on- and off-sale) beer and light wine license;

(vi) Class A-TP (off-sale) beer, wine and liquor license;

(vii) Class C-TP (on-sale) beer, wine and liquor license; and

(viii) Beer and wine sampling or tasting (BWST) licenses issued under § 8-408.2 of this title.

(2) (i) The provisions of this paragraph apply only to Class -TP type licenses.

(ii) The Prince George's County Board of License Commissioners shall certify a list to the Montgomery County Board of License Commissioners of the alcoholic beverages licenses as of June 30, 1997, in that portion of the City of Takoma Park that became part of Montgomery County on July 1, 1997.

(iii) On July 1, 1997, the Montgomery County Board shall issue Class -TP type licenses to those licensees who were certified by the Prince George's County Board. License fees may not be charged until May 1, 1998.

(iv) Unless revoked or not renewed for good cause, the certified licenses shall continue in existence and be renewed, subject to payment of the annual license fee.

(v) The Class -TP type licenses are not transferable to other locations but are transferable to other persons, subject to the restrictions on similar transfers for other alcoholic beverages licenses in Montgomery County.

(vi) Class -TP licenses are subject to the same conditions and restrictions specified by law or by the Montgomery County Board of License

Commissioners as are other licenses issued by the Board. However, the Board may waive whatever statutory and regulatory provisions it so chooses for the affected licenses so that equity, fairness, and reasonableness are achieved.

(vii) The Montgomery County Department of Health and Human Services may not charge an annual fee to the Class –TP licensees until January 1, 1998.

(3) (i) Notwithstanding that Class –TP licensees as of July 1, 1997 are subject to Montgomery County laws and regulations, those same licensees may retain the particular Prince George's County alcoholic beverages license they possessed prior to unification.

(ii) The Prince George's County license shall remain valid in every sense except that it does not apply to the licensed premises to which the Class –TP license applies, but is an open–location license. The Prince George's County licensee may transfer, to another person or to a new location with the same licensee, the license into Prince George's County without statutory or regulatory restriction.

(iii) While the Class –TP licensee remains in the same location where it was located on July 1, 1997, another license issued by Prince George's County may not be granted or transferred to another Prince George's licensee if the premises for which that license was issued is located within 300 feet of the premises licensed under the Class –TP license.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012. It shall remain effective for a period of 2 years and, at the end of June 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2012.

Chapter 391

(House Bill 717)

AN ACT concerning

Alcoholic Beverages – Distilleries – Tours, Samples, and Sales

FOR the purpose of expanding the privileges of a distillery license so that the holder of the license may conduct guided tours of the licensed premises, serve not more than a certain number of samples of products manufactured at the licensed premises, ~~sell certain foods and beverages~~, sell products manufactured on the licensed premises for consumption off the licensed premises under certain

circumstances, and sell related merchandise; prohibiting a license holder or entity in which a license holder has a pecuniary interest from acting as a caterer of food; specifying the times when certain activities may be conducted; providing that a Class 1 manufacturer's license allows the holder to operate a certain number of days a week, with a certain exception; requiring a license holder to file with the Comptroller a notice of a promotional event at least a certain time before the event is held; prohibiting a license holder from selling or allowing to be consumed at the licensed premises certain products, with a certain exception; providing that this Act does not limit the application of certain laws and regulations; and generally relating to the privileges of alcoholic beverages and distillery licenses.

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 2–202

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

2–202.

(A) A Class 1 manufacturer's license:

(1) Is a distillery license;

(2) Authorizes the:

(i) Establishment and operation in this State of a plant for distilling brandy, rum, whiskey, alcohol and neutral spirits;

(ii) Sale and delivery of those alcoholic beverages in bulk to persons authorized in this State to acquire them; and

(iii) Sale and delivery of those alcoholic beverages to persons located outside this State;

(3) Shall be obtained for each trade name and for each distillery in this State;

(4) Permits a distiller to manufacture alcoholic beverages in the name of another person or under a trade name, provided a distillery license has been issued to that other person or under that trade name, as the case may be; [and]

(5) Permits the holder of [such a] THE license to acquire bulk alcoholic beverages from the holder of a distillery, rectifying, or winery license in this State or from the holder of a nonresident dealer's permit; AND

(6) PERMITS THE HOLDER OF THE LICENSE TO:

(I) CONDUCT GUIDED TOURS OF THE LICENSED PREMISES;

(II) SERVE NOT MORE THAN THREE SAMPLES OF PRODUCTS MANUFACTURED AT THE LICENSED PREMISES, WITH EACH SAMPLE CONSISTING OF NOT MORE THAN ONE-HALF OUNCE FROM A SINGLE PRODUCT, TO PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE AND PARTICIPATED IN A GUIDED TOUR OF THE LICENSED PREMISES; AND

~~(III) SELL OR SERVE:~~

~~1. NONALCOHOLIC BEVERAGES;~~

~~2. BREAD AND OTHER BAKED GOODS;~~

~~3. CHILI;~~

~~4. CHOCOLATE;~~

~~5. CRACKERS;~~

~~6. CURED MEAT;~~

~~7. FRUITS (WHOLE AND CUT);~~

~~8. SALADS AND VEGETABLES (WHOLE AND CUT);~~

~~9. HARD AND SOFT CHEESE (WHOLE AND CUT);~~

~~10. ICE CREAM;~~

~~11. JELLY AND JAM;~~

~~12. VINEGAR;~~

~~13. PIZZA;~~

~~14. PREPACKAGED SANDWICHES AND OTHER PREPACKAGED FOODS READY TO BE EATEN;~~

~~15. SOUP; AND~~

~~16. CONDIMENTS; AND~~

~~(IV) SELL~~ (III) SUBJECT TO SUBSECTION (B) OF THIS SUBSECTION, SELL NOT MORE THAN THREE 750-MILLILITER BOTTLES OF PRODUCTS MANUFACTURED ON THE LICENSED PREMISES, FOR CONSUMPTION OFF THE LICENSED PREMISES, AND RELATED MERCHANDISE TO PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE AND PARTICIPATED IN A GUIDED TOUR OF THE LICENSED PREMISES.

(B) A HOLDER OF THE LICENSE MAY SELL BOTTLES OF PRODUCTS UNDER SUBSECTION (A)(6)(III) OF THIS SECTION ONLY IF THE HOLDER MANUFACTURES NOT MORE THAN 27,500 GALLONS OF PRODUCTS ANNUALLY.

(C) A HOLDER OF A CLASS 1 MANUFACTURER'S LICENSE OR ENTITY IN WHICH A HOLDER HAS A PECUNIARY INTEREST MAY NOT ACT AS A CATERER OF FOOD.

(D) SUBJECT TO SUBSECTION (E) OF THIS SECTION, A LICENSE HOLDER MAY CONDUCT THE ACTIVITIES SPECIFIED IN SUBSECTION (A)(6) OF THIS SECTION:

(1) FOR CONSUMPTION OFF THE LICENSED PREMISES OF PRODUCTS MANUFACTURED AT THE LICENSED PREMISES AND FOR SAMPLING, EACH DAY FROM 10 A.M. TO 10 P.M.; AND

(2) FOR CONSUMPTION ON THE LICENSED PREMISES OF PRODUCTS MANUFACTURED AT THE LICENSED PREMISES:

(i) FROM 10 A.M. TO 6 P.M. EACH DAY; OR

(ii) IF GUESTS ARE ATTENDING A PLANNED PROMOTIONAL EVENT OR OTHER ORGANIZED ACTIVITY ON THE LICENSED PREMISES, FROM 10 A.M. TO 10 P.M. EACH DAY.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A CLASS 1 MANUFACTURER'S LICENSE ALLOWS THE HOLDER TO OPERATE 7 DAYS A WEEK.

(2) IN GARRETT COUNTY, A LICENSE HOLDER MAY OPEN ON SUNDAYS TO ENGAGE IN THE ACTIVITIES LISTED IN SUBSECTION (A)(6) OF THIS SECTION ONLY IN AN ELECTION DISTRICT WHERE THE VOTERS, IN A

REFERENDUM AUTHORIZED BY LAW, HAVE APPROVED SUNDAY SALES AT A DISTILLERY.

(F) AT LEAST 14 DAYS BEFORE HOLDING A PLANNED PROMOTIONAL EVENT AFTER 6 P.M., A LICENSE HOLDER SHALL FILE A NOTICE OF THE PROMOTIONAL EVENT WITH THE COMPTROLLER ON THE FORM THAT THE COMPTROLLER PROVIDES.

(G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LICENSE HOLDER MAY NOT SELL OR ALLOW TO BE CONSUMED AT THE LICENSED PREMISES ANY PRODUCT OTHER THAN PRODUCTS PRODUCED BY THE LICENSE HOLDER UNDER THE AUTHORITY OF THIS SECTION.

(2) A HOLDER OF A CATERER'S LICENSE OR PRIVILEGE UNDER TITLE 6, SUBTITLE 7 OF THIS ARTICLE MAY EXERCISE THE PRIVILEGES OF THE LICENSE OR PRIVILEGE ON THE LICENSED PREMISES OF THE LICENSE HOLDER.

(H) NOTHING IN THIS SECTION LIMITS THE APPLICATION OF RELEVANT PROVISIONS OF TITLE 21 OF THE HEALTH – GENERAL ARTICLE, AND REGULATIONS ADOPTED UNDER THAT TITLE, TO A LICENSE HOLDER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 392

(House Bill 721)

AN ACT concerning

**Montgomery County – Solicitation and Collection of Money or Donations
from Occupants of Vehicles – Adoption of a Permit Program**

MC 10-12

FOR the purpose of authorizing the Montgomery County Council to enact a local law to require a person to obtain a certain permit before standing in a roadway or median divider or on a sidewalk adjacent to a roadway to solicit and collect money or donations of any kind from the occupant of a vehicle; prohibiting a person from standing, or causing, encouraging, allowing, or petitioning a person to stand in a roadway, median divider, or intersection, or on a sidewalk adjacent to a roadway, to solicit or collect money or donations from the occupant of a

vehicle, if a certain permit is required under a local law enacted under this Act ~~and the except in compliance with a permit has not been~~ obtained in accordance with the local law; prohibiting a local law enacted under this Act from authorizing a permit to be issued to a minor for certain purposes; *providing for the application and issuance of a permit issued under a local law enacted under this Act*; and generally relating to the solicitation and collection of money or donations from occupants of vehicles in Montgomery County.

BY repealing and reenacting, with amendments,
 Article – Transportation
 Section 21–507(g)
 Annotated Code of Maryland
 (2009 Replacement Volume and 2011 Supplement)

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

Article – Transportation

21–507.

(g) (1) **THIS SUBSECTION APPLIES ONLY IN MONTGOMERY COUNTY.**

[(1)] (2) (I) [In Montgomery County, a] **A** child under the age of 18 years may not stand in a roadway, median divider, or intersection to solicit **OR COLLECT** money or donations of any kind from the occupant of a vehicle.

[(2)] (II) This [subsection] **PARAGRAPH** shall be enforced by the issuance of a warning that informs the offender of the requirements of this [subsection] **PARAGRAPH**.

(3) (I) **THE MONTGOMERY COUNTY COUNCIL MAY ENACT A LOCAL LAW TO REQUIRE A PERSON TO OBTAIN A PERMIT BEFORE THE PERSON MAY STAND IN A ROADWAY OR MEDIAN DIVIDER OR ON A SIDEWALK ADJACENT TO A ROADWAY TO SOLICIT AND COLLECT MONEY OR DONATIONS OF ANY KIND FROM THE OCCUPANT OF A VEHICLE.**

(II) **IF A PERMIT IS REQUIRED UNDER A LOCAL LAW ENACTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, EXCEPT IN COMPLIANCE WITH A PERMIT OBTAINED IN ACCORDANCE WITH THE LOCAL LAW, A PERSON ~~WHO HAS NOT OBTAINED A PERMIT IN ACCORDANCE WITH THE LOCAL LAW~~ MAY NOT:**

1. **STAND IN A ROADWAY, MEDIAN DIVIDER, OR INTERSECTION, OR ON A SIDEWALK ADJACENT TO A ROADWAY, TO SOLICIT OR**

COLLECT MONEY OR DONATIONS OF ANY KIND FROM THE OCCUPANT OF A VEHICLE; OR

2. CAUSE, ENCOURAGE, ALLOW, OR PETITION A PERSON TO STAND IN A ROADWAY, MEDIAN DIVIDER, OR INTERSECTION, OR ON A SIDEWALK ADJACENT TO A ROADWAY, TO SOLICIT OR COLLECT MONEY OR DONATIONS OF ANY KIND FROM THE OCCUPANT OF A VEHICLE.

(III) A LOCAL LAW ENACTED UNDER THIS SECTION MAY NOT AUTHORIZE A PERMIT TO BE ISSUED TO A MINOR FOR THE PURPOSE OF STANDING IN A ROADWAY OR MEDIAN DIVIDER TO SOLICIT OR COLLECT MONEY OR DONATIONS OF ANY KIND FROM THE OCCUPANT OF A VEHICLE.

(IV) A PERMIT ISSUED UNDER A LOCAL LAW ENACTED UNDER THIS SECTION SHALL APPLY TO THE SOLICITATION AND COLLECTION OF MONEY OR DONATIONS ON ROADWAYS, MEDIAN DIVIDERS, AND SIDEWALKS ADJACENT TO ROADWAYS AND MAY NOT LIMIT THE AUTHORIZATION TO FEWER THAN ALL THREE OF THOSE LOCATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 393

(House Bill 786)

AN ACT concerning

Financial Institutions – Credit Unions and Depository Institutions – Authority to Conduct Savings Promotion Raffles

FOR the purpose of repealing a certain contingency on certain provisions of law that authorize certain depository institutions and credit unions to conduct certain savings promotion raffles; altering the circumstances under which certain depository institutions may conduct certain savings promotion raffles; requiring a depository institution or credit union offering a savings promotion raffle to post and disclose in certain materials a certain statement; clarifying language; altering certain definitions; and generally relating to the conduct of savings promotion raffles by financial institutions.

BY repealing

Chapter 627 of the Acts of the General Assembly of 2010

Section 2

BY repealing and reenacting, with amendments,
Chapter 627 of the Acts of the General Assembly of 2010
Section 3

BY repealing
Chapter 628 of the Acts of the General Assembly of 2010
Section 2

BY repealing and reenacting, with amendments,
Chapter 628 of the Acts of the General Assembly of 2010
Section 3

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 13–305(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2011 Supplement)
(As enacted by Chapters 627 and 628 of the Acts of the General Assembly of
2010)

BY repealing and reenacting, ~~with~~ without amendments,
Article – Criminal Law
Section 12–106(c)
Annotated Code of Maryland
(2002 Volume and 2011 Supplement)
(As enacted by Chapters 627 and 628 of the Acts of the General Assembly of
2010)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 1–211
Annotated Code of Maryland
(2011 Replacement Volume and 2011 Supplement)
(As enacted by Chapters 627 and 628 of the Acts of the General Assembly of
2010)

BY repealing and reenacting, ~~without~~ with amendments,
Article – Financial Institutions
Section 6–716
Annotated Code of Maryland
(2011 Replacement Volume and 2011 Supplement)
(As enacted by Chapters 627 and 628 of the Acts of the General Assembly of
2010)

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

Chapter 627 of the Acts of 2010

[SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010, contingent on depository institutions that are subject to regulation by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, or the Federal Reserve Board being allowed to provide prize-linked savings products such as a savings promotion raffle authorized by this Act. The Commissioner of Financial Regulation shall monitor federal regulatory and legislative action relating to the authorization of depository institutions to provide prize-linked savings products such as savings promotion raffles, and shall notify the Department of Legislative Services within 30 days after learning that federal action has been taken to allow depository institutions to provide prize-linked products such as a savings promotion raffle authorized by this Act. If notice from the Commissioner is not received by the Department on or before October 1, 2014, this Act shall be null and void without the necessity of further action by the General Assembly.]

SECTION 3. AND BE IT FURTHER ENACTED, That[, subject to Section 2 of this Act,] this Act shall take effect October 1, 2010.

Chapter 628 of the Acts of 2010

[SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010, contingent on depository institutions that are subject to regulation by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, or the Federal Reserve Board being allowed to provide prize-linked savings products such as a savings promotion raffle authorized by this Act. The Commissioner of Financial Regulation shall monitor federal regulatory and legislative action relating to the authorization of depository institutions to provide prize-linked savings products such as savings promotion raffles, and shall notify the Department of Legislative Services within 30 days after learning that federal action has been taken to allow depository institutions to provide prize-linked products such as a savings promotion raffle authorized by this Act. If notice from the Commissioner is not received by the Department on or before October 1, 2014, this Act shall be null and void without the necessity of further action by the General Assembly.]

SECTION 3. AND BE IT FURTHER ENACTED, That[, subject to Section 2 of this Act,] this Act shall take effect October 1, 2010.

Article – Commercial Law

- (a) This section does not apply to:
- (1) Trading stamps, as defined by § 13–101 of the Business Regulation Article;
 - (2) State lottery tickets issued under the authority of Title 9, Subtitle 1 of the State Government Article;
 - (3) Retail promotions, not involving the offer of gifts and prizes, which offer savings on consumer goods or services including “one-cent sales”, “two-for-the-price-of-one-sales”, or manufacturer’s “cents-off” coupons;
 - (4) Games of skill competition not involving sales promotion efforts; or
 - (5) A savings promotion raffle conducted by a credit union under § 6–716 of the Financial Institutions Article or by a depository institution under § 1–211 of the Financial Institutions Article.

Article – Criminal Law

12–106.

- (c) (1) Notwithstanding any other provision of this article, a credit union organized under Title 6 of the Financial Institutions Article may conduct a savings promotion raffle under § 6–716 of the Financial Institutions Article.
- (2) Notwithstanding any other provision of this article, a depository institution, as defined in § 1–211 of the Financial Institutions Article, may conduct a savings promotion raffle ~~AS AUTHORIZED~~ under § 1–211 of the Financial Institutions Article.

Article – Financial Institutions

1–211.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Depository institution” means any State-chartered or federally chartered financial institution, other-state bank, or foreign bank that:
- (i) Is located in this State or maintains a branch in this State;
 - (ii) Is authorized to maintain qualifying deposit accounts.
- and

(3) “Eligible customer” means an individual ~~customer of a depository institution~~ who:

(i) ~~Maintains a qualifying deposit account at a depository institution participating in a savings promotion raffle;~~

~~(ii)~~ Is an adult; and

~~(iii)~~ **(II)** Is a resident of this State.

(4) “Qualifying deposit account” means a savings account, savings program, or other time deposit offered to an eligible customer ~~for a savings promotion raffle.~~

(5) “Savings promotion raffle” means a ~~prize-linked savings product offered by a participating depository institution to an eligible customer~~ **CONTEST:**

(I) ASSOCIATED WITH ONE OR MORE QUALIFIED DEPOSIT ACCOUNTS;

(II) CONDUCTED BY A DEPOSITORY INSTITUTION, ALONE OR TOGETHER WITH OTHER BUSINESSES; AND

(III) IN WHICH ELIGIBLE CUSTOMERS ARE OFFERED ONE OR MORE CHANCES TO WIN SPECIFIED PRIZES.

(b) (1) ~~[A] TO THE EXTENT AUTHORIZED BY FEDERAL LAW, A depository institution may conduct a savings promotion raffle for the exclusive benefit of eligible customers if:~~

(i) ~~The sole consideration required~~ **A REQUIREMENT** for a chance to win a specified prize ~~is~~ **IS:**

1. the deposit of a minimum specified amount of money in a qualifying deposit account ACCORDING TO THE TERMS AND CONDITIONS DEVELOPED FOR THE SAVINGS PROMOTION RAFFLE; OR

2. THE SUBMISSION OF ANY ENTRY ACCORDING TO THE TERMS AND CONDITIONS DEVELOPED FOR THE SAVINGS PROMOTION RAFFLE WITH NO DEPOSIT OR PURCHASE NECESSARY;

(ii) Each ~~ticket or~~ entry in the savings promotion raffle has an equal chance of being drawn;

(iii) The depository institution maintains books and records relating to the savings promotion raffle; and

(iv) The savings promotion raffle will not:

1. Harm the depository institution's ability to operate in a safe and sound manner; or
2. Mislead the depository institution's customers.

(2) A DEPOSITORY INSTITUTION OFFERING A SAVINGS PROMOTION RAFFLE UNDER THIS SECTION SHALL POST IN ANY LOCATION WHERE ENTRIES MAY BE SUBMITTED AND DISCLOSE IN ANY MATERIALS PROMOTING THE RAFFLE A STATEMENT DESCRIBING THE TERMS AND CONDITIONS OF THE RAFFLING INCLUDING THAT:

(I) NO PURCHASE IS NECESSARY;

(II) MAKING DEPOSITS OR PURCHASING GOODS OR SERVICES WILL NOT IMPROVE THE ODDS OF WINNING; AND

(III) THE ODDS OF WINNING WILL BE DETERMINED BASED ON THE NUMBER OF ENTRIES RECEIVED.

~~(2)~~ **(3)** In addition to the requirements under paragraph (1) of this subsection, a savings promotion raffle conducted by a banking institution must be approved by the Commissioner.

(c) Except as preempted by federal law, the Commissioner may:

- (1) Examine the conduct of a savings promotion raffle; and
- (2) Issue a cease and desist order under § 5–808 of this article for a violation of this section.

6–716.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Eligible credit union member” means an individual member of a credit union who:
 - (i) Maintains a qualifying share certificate account at a credit union participating in a savings promotion raffle;
 - (ii) Is a member in good standing;

- (iii) Is an adult; and
- (iv) Is a resident of this State.

(3) “Qualifying share certificate account” means a savings account, savings program, or other time deposit offered to an eligible credit union member ~~for a savings promotion raffle.~~

(4) “Savings promotion raffle” means a ~~prize-linked savings product offered by a participating credit union to an eligible credit union member~~ **CONTEST:**

(I) ASSOCIATED WITH ONE OR MORE QUALIFIED SHARE CERTIFICATE ACCOUNTS;

(II) CONDUCTED BY A CREDIT UNION, ALONE OR TOGETHER WITH OTHER BUSINESSES; AND

(III) IN WHICH ELIGIBLE CREDIT UNION MEMBERS ARE OFFERED ONE OR MORE CHANCES TO WIN SPECIFIED PRIZES.

(b) Subject to the approval of the Commissioner, a credit union may conduct a savings promotion raffle for the exclusive benefit of eligible credit union members if:

(1) ~~The sole consideration required~~ **A REQUIREMENT** for a chance to win a specified prize ~~is~~ **IS:**

1. ~~the~~ THE deposit of a minimum specified amount of money in a qualifying share certificate account ACCORDING TO THE TERMS AND CONDITIONS DEVELOPED FOR THE SAVINGS PROMOTION RAFFLE; OR

2. THE SUBMISSION OF AN ENTRY ACCORDING TO THE TERMS AND CONDITIONS DEVELOPED FOR THE SAVINGS PROMOTION RAFFLE WITH NO DEPOSIT OR PURCHASE NECESSARY;

(2) Each ~~ticket or~~ entry in the savings promotion raffle has an equal chance of being drawn;

(3) The credit union maintains books and records relating to the savings promotion raffle; and

(4) The savings promotion raffle will not:

(i) Harm the credit union’s ability to operate in a safe and sound manner; or

- (ii) Mislead the credit union's members.

(C) A CREDIT UNION OFFERING A SAVINGS PROMOTION RAFFLE UNDER THIS SECTION SHALL POST IN ANY LOCATION WHERE ENTRIES MAY BE SUBMITTED AND DISCLOSE IN ANY MATERIALS PROMOTING THE RAFFLE A STATEMENT DESCRIBING THE TERMS AND CONDITIONS OF THE RAFFLE INCLUDING THAT:

(1) NO PURCHASE IS NECESSARY;

(2) MAKING DEPOSITS OR PURCHASING GOODS OR SERVICES WILL NOT IMPROVE THE ODDS OF WINNING; AND

(3) THE ODDS OF WINNING WILL BE DETERMINED BASED ON THE NUMBER OF ENTRIES RECEIVED.

~~(D)~~ **(D)** The Commissioner may:

(1) Examine the conduct of a savings promotion raffle; and

(2) Issue a cease and desist order under § 6–906 of this title for a violation of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 394

(House Bill 802)

AN ACT concerning

Education – Prince George's County School Board Budgets – Transparency

PG 410–12

FOR the purpose of requiring a certain Web site of the Prince George's County Board of Education to include certain budget data; requiring the Web site to contain annual data and to be searchable based on individual schools; providing for a delayed effective date; and generally relating to a searchable Web site of the Prince George's County Board of Education.

BY repealing and reenacting, with amendments,
Article – Education
Section 5–118
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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

Article – Education

5–118.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Payee” means any party who receives from the Prince George’s County Board of Education an aggregate payment of \$25,000 in a fiscal year.

(ii) “Payee” does not include:

1. A Prince George’s County public school employee with respect to the employee’s compensation; or

2. A Prince George’s County public school retiree with respect to the retiree’s retirement allowance.

(3) “Searchable Web site” means a Web site created in accordance with this section that displays and searches payment **AND BUDGET** data of the Prince George’s County Board of Education.

(b) On or before January 1, 2013, the Prince George’s County Board of Education shall develop and operate a single searchable Web site accessible to the public at no cost through the Internet.

(c) The searchable Web site shall contain Prince George’s County Board of Education [payment] **ANNUAL** data including:

(1) The name of a payee receiving a payment;

(2) The location of a payee by zip code; [and]

(3) The amount of a payment; **AND**

(4) **THE BUDGET DATA PREPARED UNDER § 5–101 OF THIS SUBTITLE.**

- (d) The searchable Web site shall allow the user to:
- (1) Search data for fiscal year 2012 and each fiscal year thereafter;
- and
- (2) Search by the following data fields:
- (i) A payee receiving a payment; [and]
- (ii) The zip code of a payee receiving a payment; **AND**

(III) INDIVIDUAL SCHOOLS.

(e) This section may not be construed to require the disclosure of information that is confidential under federal, State, or local law.

(f) This section shall be known and may be cited as the “Prince George’s County Public Schools Funding Accountability and Transparency Act”.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, budget data beginning with fiscal year 2013 and each fiscal year thereafter shall be included on the searchable Web site established under § 5–118 of the Education Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, ~~2012~~ 2013.

Approved by the Governor, May 2, 2012.

Chapter 395

(House Bill 803)

AN ACT concerning

**Prince George’s County – Board of Education – Operation of Schools –
Year–Round Basis**

PG 405–12

FOR the purpose of authorizing the Prince George’s County Board of Education to operate one or more schools within the county on a year–round basis under certain circumstances; and generally relating to the operation of one or more schools in Prince George’s County on a year–round basis.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–103
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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

Article – Education

7–103.

(a) Except as provided in subsections (b), (e), and (f) of this section, each public school under the jurisdiction of a county board:

(1) (i) Shall be open for pupil attendance for at least 180 actual school days and a minimum of 1,080 school hours during a 10–month period in each school year; or

(ii) If normal school attendance is prevented because of conditions described in subsection (b) of this section, shall be open for at least 1,080 hours during a 10–month period;

(2) Shall be open for pupil attendance a minimum of 3 hours during each school day; and

(3) May not be open on Saturdays, Sundays, or holidays in order to meet the 180–day or 1,080–hour requirement of this subsection.

(b) (1) If a county board submits a written application to the State Board that describes a demonstrated effort by the county board to comply with subsection (a) of this section, the State Board may permit:

(i) Adjustments in the length of the school year;

(ii) Exceptions from the requirement that the school year be completed within a 10–month period;

(iii) Adjustments in the length of the school day; and

(iv) Schools to be open on holidays.

(2) These adjustments may be granted only if normal school attendance is prevented because of:

- (i) Natural disaster;
- (ii) Civil disaster; or
- (iii) Severe weather conditions.

(3) Education funding from State or local sources may not be reduced if there are less than 180 school days in any year because of an approved application under this subsection.

(4) In case of emergency, the State Board may open schools on holidays.

(c) (1) The following days are public school holidays:

- (i) Thanksgiving Day and the day after;
- (ii) Christmas Eve and from then through January 1;
- (iii) Martin Luther King, Jr. Day;
- (iv) Presidents' Day;
- (v) The Friday before Easter and from then through the Monday after Easter;
- (vi) Memorial Day; and
- (vii) Primary and general election days.

(2) If the federal and State observances of a holiday are on different days, the board of education of each county shall determine which date shall be the date of observance for the public schools within the county.

(3) The public schools shall devote a part of the day to appropriate exercises for the following days:

- (i) Washington's Birthday;
- (ii) Lincoln's Birthday;
- (iii) Veterans' Day;
- (iv) Columbus Day;
- (v) Arbor Day; and

(vi) Any other day of national significance.

(4) Notwithstanding any other provisions of this article, the public schools, in the following counties, may remain open and in session on primary and general election days:

- (i) Calvert;
- (ii) Caroline;
- (iii) Dorchester;
- (iv) Kent;
- (v) Talbot; and
- (vi) Worcester.

(d) Except as provided in subsection (e) of this section, the State Board shall divide the school year into the terms it considers appropriate.

(e) (1) The county boards of Allegany, Anne Arundel, Calvert, Howard, [and] Montgomery, **AND PRINCE GEORGE'S** counties, and the Board of School Commissioners of Baltimore City, may elect to operate one or more schools within the county or Baltimore City on a year-round basis, provided that the 180-day and the minimum hour requirements under this section are met.

(2) Nothing in this section precludes a county board from conducting a year-round pilot study or program that is funded by the county board.

(f) Publicly funded prekindergarten programs are not subject to the requirements of subsection (a) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 396

(House Bill 805)

AN ACT concerning

**Prince George’s County Board of Education – Recycling Program – School
Facilities**

PG 403–12

FOR the purpose of requiring the Prince George’s County Board of Education to develop and implement a certain recycling program for all facilities under the jurisdiction of the county board; requiring the county board to address certain issues while developing a certain recycling program; requiring the county board to submit a certain report including certain information to the Prince George’s County Delegation to the General Assembly on or before a certain date regarding a certain recycling program; defining certain terms; and generally relating to a recycling program in school facilities in Prince George’s County.

BY adding to

Article – Education

Section 4–127

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

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

Article – Education

4–127.

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

(2) “RECYCLABLE MATERIALS” MEANS THOSE MATERIALS THAT:

(I) WOULD OTHERWISE BECOME SOLID WASTE FOR DISPOSAL IN A REFUSE DISPOSAL SYSTEM; AND

(II) MAY BE COLLECTED, SEPARATED, OR PROCESSED AND RETURNED TO THE MARKETPLACE IN THE FORM OF RAW MATERIALS OR PRODUCTS.

(3) “RECYCLING” MEANS ANY PROCESS IN WHICH MATERIALS THAT WOULD OTHERWISE BECOME SOLID WASTE ARE COLLECTED, SEPARATED, OR PROCESSED AND RETURNED TO THE MARKETPLACE IN THE FORM OF RAW MATERIALS OR PRODUCTS.

(B) THIS SECTION APPLIES ONLY IN PRINCE GEORGE’S COUNTY.

(C) THE PRINCE GEORGE'S COUNTY BOARD OF EDUCATION SHALL DEVELOP AND IMPLEMENT A RECYCLING PROGRAM FOR ALL FACILITIES UNDER THE JURISDICTION OF THE COUNTY BOARD.

(D) IN DEVELOPING THE RECYCLING PROGRAM UNDER SUBSECTION (C) OF THIS SECTION, THE COUNTY BOARD SHALL ADDRESS:

- (1) THE RECYCLABLE MATERIALS TO BE SEPARATED;
- (2) THE STRATEGY FOR COLLECTION, PROCESSING, MARKETING, AND DISPOSITION OF RECYCLABLE MATERIALS;
- (3) THE STRATEGY FOR THE COLLECTION, PROCESSING, AND DISPOSITION OF THE POLYSTYRENE TRAYS USED IN PUBLIC SCHOOL CAFETERIAS; AND
- ~~(4) METHODS OF FINANCING THE RECYCLING EFFORTS; AND~~
- ~~(5)~~ (4) METHODS FOR PROMOTING AND DETERMINING COMPLIANCE WITH THE RECYCLING PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before September 1, 2012, the Prince George's County Board of Education shall submit to the Prince George's County Delegation to the General Assembly a report regarding the recycling program established under § 4-127 of the Education Article, including:

- (1) a copy of the recycling program;
- (2) the status of the implementation of the recycling program; and
- (3) the methods used to promote and determine compliance with the recycling program requirements.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 397

(House Bill 834)

AN ACT concerning

Child Abuse and Neglect – ~~Child Welfare~~ – Alternative Response

FOR the purpose of authorizing the Secretary of Human Resources to establish an alternative response program for certain reports of child abuse or neglect; requiring the Department of Human Resources to establish ~~an~~ a certain advisory council to participate in the development of the alternative response implementation plan; specifying the composition and duties of the advisory council; providing for the chair of the advisory council; prohibiting certain reports of child abuse or neglect from being assigned for an alternative response; authorizing certain reports assigned for an alternative response to be reassigned for an immediate investigation based on certain factors; authorizing certain reports assigned for an investigation to be reassigned for an alternative response based on certain factors; requiring a local department to take certain actions following a report assigned for an alternative response; providing for the confidentiality ~~and~~ and maintenance, and expungement of certain records; requiring the ~~Social Services Administration of the~~ Department to develop a certain data collection process; requiring the Department to contract with an independent agency to conduct an evaluation of the alternative response program; providing that a certain independent agency may not receive certain funding; prohibiting the Department from beginning actual implementation of alternative response before a certain date; requiring the Department to submit a certain preliminary assessment and recommendations to the Governor and the General Assembly on or before a certain date; requiring the Department to submit a certain final report to the Governor and the General Assembly on or before a certain date; defining a certain term; and generally relating to child abuse and neglect and alternative response plans with respect to reports of child abuse and neglect.

BY repealing and reenacting, with amendments,
 Article – Family Law
 Section 5–706
 Annotated Code of Maryland
 (2006 Replacement Volume and 2011 Supplement)

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

Article – Family Law

5–706.

(a) (1) IN THIS SECTION, “ALTERNATIVE RESPONSE” MEANS A COMPONENT OF THE CHILD PROTECTIVE SERVICES PROGRAM THAT PROVIDES FOR A COMPREHENSIVE ASSESSMENT OF:

(I) RISK OF HARM TO THE CHILD;

(II) RISK OF SUBSEQUENT CHILD ABUSE OR NEGLECT;
(III) FAMILY STRENGTHS AND NEEDS; AND
(IV) THE PROVISION OF OR REFERRAL FOR NECESSARY SERVICES.

(2) "ALTERNATIVE RESPONSE" DOES NOT INCLUDE:

(I) AN INVESTIGATION; OR
(II) A FORMAL DETERMINATION AS TO WHETHER CHILD ABUSE OR NEGLECT HAS OCCURRED.

(B) Promptly after receiving a report of suspected abuse or neglect of a child who lives in this State that is alleged to have occurred in this State, the local department or the appropriate law enforcement agency, or both, if jointly agreed on, shall make a thorough investigation of a report of suspected abuse or neglect to protect the health, safety, and welfare of the child or children.

[(b)] (C) Within 24 hours after receiving a report of suspected physical or sexual abuse of a child who lives in this State that is alleged to have occurred in this State, and within 5 days after receiving a report of suspected neglect or suspected mental injury of a child who lives in this State that is alleged to have occurred in this State, the local department or the appropriate law enforcement agency shall:

- (1) see the child;
- (2) attempt to have an on-site interview with the child's caretaker;
- (3) decide on the safety of the child, wherever the child is, and of other children in the household; and
- (4) decide on the safety of other children in the care or custody of the alleged abuser.

[(c)] (D) The investigation under subsection [(b)] (C) of this section shall include:

- (1) a determination of the nature, extent, and cause of the abuse or neglect, if any;
- (2) if mental injury is suspected, an assessment by two of the following:

(i) a licensed physician, as defined in § 14–101 of the Health Occupations Article;

(ii) a licensed psychologist, as defined in § 18–101 of the Health Occupations Article; or

(iii) a licensed social worker, as defined in § 19–101 of the Health Occupations Article; and

(3) if the suspected abuse or neglect is verified:

(i) a determination of the identity of the person or persons responsible for the abuse or neglect;

(ii) a determination of the name, age, and condition of any other child in the household;

(iii) an evaluation of the parents and the home environment;

(iv) a determination of any other pertinent facts or matters; and

(v) a determination of any needed services.

[(d)] (E) On request by the local department, the local State's Attorney shall assist in an investigation under subsections **[(b) and (c)] (C) AND (D)** of this section.

[(e)] (F) The local department, the appropriate law enforcement agencies, the State's Attorney within each county and Baltimore City, the local department's office responsible for child care regulation, and the local health officer shall enter into a written agreement that specifies standard operating procedures for the investigation under subsections **[(b) and (c)] (C) AND (D)** of this section and prosecution of reported cases of suspected abuse or neglect.

[(f)] (G) (1) The agencies responsible for investigating reported cases of suspected sexual abuse, including the local department, the appropriate law enforcement agencies, and the local State's Attorney, shall implement a joint investigation procedure for conducting joint investigations of sexual abuse under subsections **[(b) and (c)] (C) AND (D)** of this section.

(2) The joint investigation procedure shall:

(i) include appropriate techniques for expediting validation of sexual abuse complaints;

(ii) include investigation techniques designed to:

and

1. decrease the potential for physical harm to the child;

2. decrease any trauma experienced by the child in the investigation and prosecution of the case; and

- (iii) establish an ongoing training program for personnel involved in the investigation or prosecution of sexual abuse cases.

[(g)] (H) (1) To the extent possible, an investigation under subsections **[(b) and (c)] (C) AND (D)** of this section shall be completed within 10 days after receipt of the first notice of the suspected abuse or neglect by the local department or law enforcement agencies.

(2) An investigation under subsections **[(b) and (c)] (C) AND (D)** of this section **[which] THAT** is not completed within 30 days shall be completed within 60 days of receipt of the first notice of the suspected abuse or neglect.

[(h)] (I) Within 10 days after the local department or law enforcement agency receives the first notice of suspected abuse of a child who lives in this State that is alleged to have occurred in this State, the local department or law enforcement agency shall report to the local State's Attorney the preliminary findings of the investigation.

[(i)] (J) Within 5 business days after completion of the investigation of suspected abuse of a child who lives in this State that is alleged to have occurred in this State, the local department and the appropriate law enforcement agency, if that agency participated in the investigation, shall make a complete written report of its findings to the local State's Attorney.

[(j)] (K) Promptly after receiving a report of suspected abuse or neglect of a child who lives in this State that is alleged to have occurred outside of this State, the local department shall:

- (1) forward the report to the appropriate agency outside of this State that is authorized to receive and investigate reports of suspected abuse or neglect;

- (2) cooperate to the extent requested with the out-of-state agency investigating the report; and

- (3) if determined appropriate by the local department:

- (i) interview the child to assess whether the child is safe; and

- (ii) provide services to the child and the child's family.

(L) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE SECRETARY MAY IMPLEMENT AN ALTERNATIVE RESPONSE PROGRAM FOR SELECTED REPORTS OF ~~CHILD~~ ABUSE OR NEGLECT.

(M) (1) THE DEPARTMENT SHALL CONVENE ~~AN~~ A MULTIDISCIPLINARY ALTERNATIVE RESPONSE ADVISORY COUNCIL ~~CONSISTING OF STAKEHOLDERS AND REPRESENTATIVES FROM LOCAL DEPARTMENTS OF SOCIAL SERVICES TO DEVELOP THE ALTERNATIVE RESPONSE IMPLEMENTATION PLAN.~~

(2) THE ADVISORY COUNCIL SHALL CONSIST OF THE FOLLOWING MEMBERS:

(I) THE SECRETARY OF HUMAN RESOURCES, OR THE SECRETARY'S DESIGNEE;

(II) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;

(III) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE SUPERINTENDENT'S DESIGNEE;

(IV) A REPRESENTATIVE FROM THE MARYLAND DISABILITY LAW CENTER;

(V) A REPRESENTATIVE FROM A CHILD ADVOCACY ORGANIZATION;

(VI) A REPRESENTATIVE FROM A COMMUNITY PARTNER OR A LOCAL SERVICE PROVIDER;

(VII) A PEDIATRICIAN WITH EXPERIENCE IN DIAGNOSING AND TREATING INJURIES RELATED TO ABUSE AND NEGLECT;

(VIII) AN ATTORNEY WITH EXPERIENCE REPRESENTING CHILDREN OR ADULTS IN ABUSE AND NEGLECT CASES;

(IX) A REPRESENTATIVE FROM THE OFFICE OF THE PUBLIC DEFENDER;

(X) A PARENT OR GUARDIAN WHO HAS PERSONAL EXPERIENCE WITH THE CHILD PROTECTIVE SERVICES SYSTEM;

(XI) A CHILD WHO HAS PERSONAL EXPERIENCE WITH THE CHILD PROTECTIVE SERVICES SYSTEM;

(XII) TWO REPRESENTATIVES FROM LOCAL DEPARTMENTS OF SOCIAL SERVICES; AND

(XIII) TWO REPRESENTATIVES FROM LOCAL CITIZENS REVIEW PANELS.

(3) THE SECRETARY OF HUMAN RESOURCES OR THE SECRETARY'S DESIGNEE SHALL BE THE CHAIR OF THE ADVISORY COUNCIL.

(4) THE ADVISORY COUNCIL SHALL ADVISE THE DEPARTMENT ON:

(I) THE DEVELOPMENT OF THE ALTERNATIVE RESPONSE IMPLEMENTATION PLAN, WHICH MAY INCLUDE A PILOT PROGRAM;

(II) OVERSIGHT AND MONITORING OF THE ALTERNATIVE RESPONSE IMPLEMENTATION PLAN;

(III) CONSULTING WITH LOCAL CITIZENS REVIEW PANELS, LOCAL SERVICES AFFILIATES, AND OTHER LOCAL PARTNERS FOR FEEDBACK AND RECOMMENDATIONS ON THE ALTERNATIVE RESPONSE IMPLEMENTATION PLAN;

(IV) DEFINING THE SCOPE OF THE INDEPENDENT EVALUATION OF THE IMPLEMENTATION OF THE ALTERNATIVE RESPONSE PROGRAM; AND

(V) DEFINING THE SCOPE OF THE ONGOING EVALUATION OF THE ALTERNATIVE RESPONSE PROGRAM.

(N) ~~A ONLY A LOW RISK REPORT OF CHILD ABUSE OR NEGLECT IN WHICH THERE IS A LOW RISK OF HARM TO THE CHILD~~ MAY BE CONSIDERED FOR AN ALTERNATIVE RESPONSE.

(O) A REPORT THAT IS NOT ASSIGNED FOR AN ALTERNATIVE RESPONSE SHALL BE ASSIGNED FOR INVESTIGATION IN ACCORDANCE WITH THIS SECTION.

(P) THE FOLLOWING REPORTS OF SUSPECTED ~~CHILD~~ ABUSE OR NEGLECT MAY NOT BE ASSIGNED FOR AN ALTERNATIVE RESPONSE:

(1) ~~CHILD~~ SEXUAL ABUSE; AND

(2) ~~CHILD~~ ABUSE OR NEGLECT:

(I) OCCURRING IN AN OUT-OF-HOME PLACEMENT;

~~(II)~~ (II) RESULTING IN DEATH OR SERIOUS PHYSICAL OR MENTAL INJURY; ~~OR~~

~~(III)~~ (III) ~~WHEN IF~~, IN THE PREVIOUS 3 YEARS, THE INDIVIDUAL SUSPECTED OF ~~CHILD~~ ABUSE OR NEGLECT HAS BEEN IDENTIFIED AS RESPONSIBLE FOR ~~CHILD~~ ABUSE OR NEGLECT AS DOCUMENTED IN THE RECORDS OF THE LOCAL DEPARTMENT; OR

(IV) IF THE INDIVIDUAL SUSPECTED OF ABUSE OR NEGLECT HAS HAD ONE REPORT ASSIGNED FOR AN ALTERNATIVE RESPONSE WITHIN THE PAST 12 MONTHS OR TWO REPORTS ASSIGNED FOR AN ALTERNATIVE RESPONSE WITHIN THE PAST 24 MONTHS.

(Q) A REPORT ASSIGNED FOR AN ALTERNATIVE RESPONSE MAY BE REASSIGNED AT ANY TIME FOR AN IMMEDIATE INVESTIGATION BASED ON ANY OF THE FOLLOWING FACTORS AND CIRCUMSTANCES:

(1) A REASSESSMENT OF THE REPORT OR RELEVANT FACTS;

(2) A DETERMINATION THAT THE CASE SATISFIES A CRITERION IN SUBSECTION (P) OF THIS SECTION; OR

(3) A FAMILY'S INABILITY OR REFUSAL TO COOPERATE, WHICH MAY INCLUDE:

~~(I) REFUSAL TO PROVIDE OR AUTHORIZE THE RELEASE OF INFORMATION NECESSARY TO COMPLETE THE ALTERNATIVE RESPONSE;~~

~~(II) REFUSAL TO ACCEPT SERVICES THAT WOULD DECREASE THE RISK OF CHILD ABUSE OR NEGLECT OR HAVE AN IMPACT ON CHILD SAFETY;~~

~~(III) AN INABILITY TO ACTIVELY PARTICIPATE IN THE ALTERNATIVE RESPONSE; OR~~

~~(IV) A REQUEST BY A FAMILY MEMBER FOR AN INVESTIGATION INSTEAD OF AN ALTERNATIVE RESPONSE~~ PARTICIPATE IN THE ALTERNATIVE RESPONSE ASSESSMENT.

(R) A REPORT ASSIGNED FOR AN INVESTIGATION MAY BE REASSIGNED FOR AN ALTERNATIVE RESPONSE AT ANY TIME BASED ON:

(1) A REASSESSMENT OF THE REPORT OR RELEVANT FACTS THAT DEMONSTRATE THAT THE CASE MEETS THE CRITERIA FOR AN ALTERNATIVE RESPONSE;~~AND~~

(2) A DETERMINATION THAT ACCEPTED SERVICES WOULD ADDRESS ALL ISSUES OF RISK OF ~~CHILD~~ ABUSE OR NEGLECT AND CHILD SAFETY;~~AND~~

(3) APPROVAL BY A CASEWORKER SUPERVISOR.

(S) WHEN A ~~CASE~~ REPORT IS REFERRED FOR AN ALTERNATIVE RESPONSE, THE LOCAL DEPARTMENT SHALL:

(1) ~~MEET WITH~~ SEE THE CHILD AND THE CHILD'S PARENT OR PRIMARY CARETAKER WITHIN 24 HOURS OF RECEIVING A REPORT OF PHYSICAL ABUSE;

(2) ~~MEET WITH~~ SEE THE CHILD AND THE CHILD'S PARENT OR PRIMARY CARETAKER WITHIN 5 DAYS OF RECEIVING A REPORT OF NEGLECT;

(3) ATTEMPT TO HAVE AN ON-SITE INTERVIEW WITH THE CHILD'S PARENT OR PRIMARY CARETAKER;

(4) EVALUATE THE CHILD'S HOME ENVIRONMENT;

(5) DECIDE ON THE SAFETY OF THE CHILD, WHEREVER THE CHILD IS, AND OF OTHER CHILDREN IN THE HOUSEHOLD;

(6) DECIDE ON THE SAFETY OF OTHER CHILDREN IN THE CARE OR CUSTODY OF THE INDIVIDUAL SUSPECTED OF ABUSE OR NEGLECT;

~~(3)~~ (7) ADVISE THE APPROPRIATE LAW ENFORCEMENT AGENCY THAT THE REPORT HAS BEEN ASSIGNED FOR AN ALTERNATIVE RESPONSE, IF THE LAW ENFORCEMENT AGENCY MADE THE REPORT OF ABUSE OR NEGLECT;

~~(4)~~ (8) INFORM THE INDIVIDUAL SUSPECTED OF CHILD ABUSE OR NEGLECT OF THE ALLEGATIONS MADE AGAINST THE INDIVIDUAL IN A MANNER CONSISTENT WITH LAWS PROTECTING THE RIGHTS OF THE PERSON WHO MADE THE REPORT;

~~(5)~~ (9) COMPLETE AN ALTERNATIVE RESPONSE ASSESSMENT WITHIN 60 DAYS AFTER THE RECEIPT OF THE REPORT; ~~AND~~

~~(6)~~ (10) WITHIN 10 DAYS AFTER COMPLETING THE ALTERNATIVE RESPONSE ASSESSMENT, PROVIDE A WRITTEN REPORT TO THE FAMILY MEMBERS WHO ARE PARTICIPATING IN THE ALTERNATIVE RESPONSE ~~PLAN~~ ASSESSMENT AS TO WHETHER AND WHAT SERVICES ARE NECESSARY TO ADDRESS:

(I) THE SAFETY OF THE CHILD ~~AND OTHER FAMILY MEMBERS~~ OR OTHER CHILDREN IN THE HOUSEHOLD; AND

(II) THE RISK OF SUBSEQUENT ~~CHILD~~ ABUSE OR NEGLECT; AND

(11) CONSISTENT WITH THE ASSESSMENT AND ANY SAFETY OR SERVICES PLANS:

(I) RENDER ANY APPROPRIATE SERVICES IN THE BEST INTERESTS OF THE CHILD;

(II) REFER THE FAMILY OR CHILD FOR ADDITIONAL SERVICES; OR

(III) AS NECESSARY FOR THE SAFETY OF THE CHILD OR OTHER CHILDREN IN THE HOUSEHOLD, ESTABLISH A PLAN TO MONITOR THE SAFETY PLAN AND THE PROVISION OR COMPLETION OF APPROPRIATE SERVICES.

(T) THE LOCAL DEPARTMENT:

(1) SHALL:

(I) MAINTAIN COMPLETE RECORDS RELATED TO AN ALTERNATIVE RESPONSE AND SERVICES FOR 3 YEARS AFTER THE REPORT WAS RECEIVED IF THERE IS NO SUBSEQUENT CHILD WELFARE INVOLVEMENT; AND

(II) EXPUNGE COMPLETE RECORDS RELATED TO AN ALTERNATIVE RESPONSE AND SERVICES IF THERE IS NO SUBSEQUENT CHILD WELFARE INVOLVEMENT AFTER 3 YEARS;

(2) MAY NOT USE OR DISCLOSE RECORDS RELATED TO AN ALTERNATIVE RESPONSE FOR PURPOSES OF RESPONDING TO A REQUEST FOR BACKGROUND INFORMATION FOR EMPLOYMENT OR VOLUNTARY SERVICES; AND

(3) SHALL PROTECT FROM DISCLOSURE RECORDS RELATED TO AN ALTERNATIVE RESPONSE IN ACCORDANCE WITH § 1-202 OF THE HUMAN SERVICES ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the ~~Social Services Administration in the Maryland~~ Department of Human ~~Services~~ Resources shall develop a data collection process to assess the impact of alternative response in the areas of child safety, timeliness of response, timeliness of service, coordination and provision of local human services, cost-effectiveness, record keeping, and any other significant related issues.

SECTION 3. AND BE IT FURTHER ENACTED, That ~~the~~:

(a) The Department of Human Resources shall contract with an independent agency to conduct an evaluation of the alternative response program.

(b) The independent agency may not receive any funding from any State agency other than the compensation received under the contract entered into under subsection (a) of this section.

SECTION 4. AND BE IT FURTHER ENACTED, That the Department of Human Resources may not begin actual implementation of alternative response in local departments of social services before July 1, 2013.

~~SECTION 3. 5.~~ AND BE IT FURTHER ENACTED, That on or before October 1, 2014, the Department of Human Resources shall submit ~~to the General Assembly~~ its preliminary assessment of, and recommendations for, the alternative response program established in this Act to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

~~SECTION 4. AND BE IT FURTHER ENACTED, That the Department of Human Resources may begin actual implementation of alternative response in local departments of social services no earlier than July 1, 2013.~~

SECTION 6. AND BE IT FURTHER ENACTED, That on or before October 1, 2015, the Department of Human Resources shall submit a final report on the alternative response program to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

~~SECTION 5. 7.~~ AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 398**(House Bill 835)**

AN ACT concerning

**Workers' Compensation – Permanent Partial Disability Benefits –
Washington Metropolitan Area Transit Authority**

FOR the purpose of altering a certain definition of “public safety employee” so as to apply a certain workers’ compensation provision relating to permanent partial disability benefits to police officers employed by the Washington Metropolitan Area Transit Authority; and generally relating to permanent partial disability benefits provided under workers’ compensation.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–628
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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

Article – Labor and Employment

9–628.

(a) In this section, “public safety employee” means:

(1) a firefighter, fire fighting instructor, or paramedic employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(2) a volunteer firefighter or volunteer ambulance, rescue, or advanced life support worker who is a covered employee under § 9–234 of this title and who provides volunteer fire or rescue services to:

(i) a municipal corporation;

- (ii) a county;
 - (iii) the State;
 - (iv) the State Airport Authority; or
 - (v) a fire control district;
- (3) a police officer employed by:
- (i) a municipal corporation;
 - (ii) a county;
 - (iii) the State;
 - (iv) the State Airport Authority; [or]
 - (v) the Maryland–National Capital Park and Planning Commission; **OR**

(VI) THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY;

- (4) a Prince George's County deputy sheriff or correctional officer;
- (5) a Montgomery County deputy sheriff or correctional officer;
- (6) an Allegany County deputy sheriff; or
- (7) a Howard County deputy sheriff, but only when the deputy sheriff is performing law enforcement duties expressly requested, defined, and authorized in accordance with a written memorandum of understanding executed between the Howard County Sheriff and other law enforcement agencies.

(b) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1988, the employer or its insurer shall pay the covered employee compensation that equals one-third of the average weekly wage of the covered employee but does not exceed \$80.

(c) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1989, the employer or its insurer shall pay the covered employee compensation that equals one-third of the average weekly wage of the covered employee but does not exceed \$82.50.

(d) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1993, the employer or its insurer shall pay the covered employee compensation that equals one-third of the average weekly wage of the covered employee but does not exceed \$94.20.

(e) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 2000, the employer or its insurer shall pay the covered employee compensation that equals one-third of the average weekly wage of the covered employee but does not exceed \$114.

(f) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks, the employer or its insurer shall pay to the covered employee compensation that equals one-third of the average weekly wage of the covered employee but does not exceed:

(1) for claims arising from events occurring on or after January 1, 2009, but before January 1, 2010, 14.3% of the State average weekly wage;

(2) for claims arising from events occurring on or after January 1, 2010, but before January 1, 2011, 15.4% of the State average weekly wage; and

(3) for claims arising from events occurring on or after January 1, 2011, 16.7% of the State average weekly wage.

(g) If a covered employee is awarded compensation for less than 75 weeks for a disability listed in § 9-627(b) of this subtitle, the employer or its insurer shall pay the covered employee weekly compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9-629 of this subtitle.

(h) If a public safety employee is awarded compensation for less than 75 weeks, the employer or its insurer shall pay the public safety employee compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9-629 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 399

(House Bill 841)

AN ACT concerning

Food Service Facilities – Open Windows and Doors – ~~Regulations~~

FOR the purpose of ~~requiring the Department of Health and Mental Hygiene, on or before a certain date, to adopt certain regulations that allow a food service facility to operate with the outer windows or outer doors of the facility open if a certain determination is made by a certain local health department;~~ authorizing a food service facility to operate with the outer doors or outer windows of the facility open unless the local health department finds evidence of certain vermin or flying insects while the facility is operating with the outer doors or outer windows open; requiring a food service facility to take certain actions under certain circumstances; authorizing a local health department to take certain actions under certain circumstances; providing for the application of this Act; and generally relating to ~~regulations for~~ open windows and doors at food service facilities.

BY adding to

Article – Health – General

Section 21–324.1

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – Health – General

21–324.1.

~~ON OR BEFORE JANUARY 1, 2013, THE DEPARTMENT SHALL ADOPT REGULATIONS THAT ALLOW FOOD SERVICE FACILITIES TO OPERATE WITH THE OUTER WINDOWS OR OUTER DOORS OF THE FACILITY OPEN FOR VENTILATION OR OTHER PURPOSES IF THE LOCAL HEALTH DEPARTMENT DETERMINES THAT THERE IS NO EVIDENCE OF INFESTATION BY FLYING INSECTS OR OTHER VERMIN THAT COULD CREATE AN IMMEDIATE THREAT TO THE PUBLIC HEALTH AT THE FACILITY.~~

(A) THIS SECTION DOES NOT APPLY TO AN OUTER DOOR OF A FOOD SERVICE FACILITY THAT LEADS FROM THE KITCHEN TO THE OUTSIDE.

(B) A FOOD SERVICE FACILITY MAY OPERATE WITH THE OUTER WINDOWS OR OUTER DOORS OPEN UNLESS, WHILE THE FOOD SERVICE FACILITY IS OPERATING WITH THE OUTER DOORS OR OUTER WINDOWS OPEN, THE LOCAL HEALTH DEPARTMENT:

(1) FINDS EVIDENCE OF VERMIN IN FOOD PREPARATION OR FOOD STORAGE AREAS; OR

(2) FINDS EVIDENCE OF FLYING INSECTS IN FOOD PREPARATION OR FOOD STORAGE AREAS THAT POSE A SIGNIFICANT THREAT TO SANITATION OR PUBLIC HEALTH.

(C) IF A LOCAL HEALTH DEPARTMENT FINDS THAT A FOOD SERVICE FACILITY IS OPERATING IN VIOLATION OF SUBSECTION (B) OF THIS SECTION, THE FOOD SERVICE FACILITY SHALL TAKE IMMEDIATE ACTION TO ELIMINATE THE VERMIN OR FLYING INSECTS.

(D) A LOCAL HEALTH DEPARTMENT MAY CLOSE A FOOD SERVICE FACILITY FOUND TO BE OPERATING IN VIOLATION OF SUBSECTION (B) OF THIS SECTION, OR ORDER A TEMPORARY CLOSURE OF THE OUTER WINDOWS AND OUTER DOORS AT THE FOOD SERVICE FACILITY, UNTIL THE VERMIN OR FLYING INSECTS ARE ELIMINATED FROM THE FOOD PREPARATION OR FOOD STORAGE AREAS, OR UNTIL ANOTHER ACTION APPROVED BY THE LOCAL HEALTH DEPARTMENT IS TAKEN.

(E) A FOOD SERVICE FACILITY FOUND TO BE OPERATING IN VIOLATION OF SUBSECTION (B) OF THIS SECTION ON THREE OR MORE SEPARATE OCCASIONS SHALL KEEP THE OUTER WINDOWS AND OUTER DOORS CLOSED AT ALL TIMES UNTIL:

(1) MODIFICATIONS APPROVED BY THE LOCAL HEALTH DEPARTMENT ARE MADE TO THE FOOD SERVICE FACILITY TO EFFECTIVELY PROTECT AGAINST THE ENTRANCE OF VERMIN AND FLYING INSECTS; OR

(2) ANOTHER ACTION APPROVED BY THE LOCAL HEALTH DEPARTMENT IS TAKEN.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 400

(House Bill 879)

AN ACT concerning

Environment – Statewide Electronics Recycling Program

FOR the purpose of altering the application of certain provisions of law relating to certain registration requirements under the Statewide Electronics Recycling Program; altering certain registration requirements and fees; requiring certain sales data to be treated as confidential and proprietary; requiring the Department of the Environment to maintain a certain list on its Web site; requiring a certain electronic device manufacturer that has implemented a certain takeback program to ~~destroy or sanitize~~ provide information relating to the destruction and sanitization of data from a returned electronic device in a certain manner; altering certain fines; repealing the authority of the Comptroller to assess and forward certain fines in a certain manner; authorizing the Department to assess certain fines; declaring the intent of the General Assembly; requiring the Department to convene a certain workgroup and report to certain Legislative Committees on or before a certain date; altering a certain definition; and generally relating to the Statewide Electronics Recycling Program.

BY repealing and reenacting, with amendments,
 Article – Environment
 Section ~~9–1701(f)~~, 9–1727, 9–1728, and 9–1730
 Annotated Code of Maryland
 (2007 Replacement Volume and 2011 Supplement)

BY adding to
 Article – Environment
 Section 9–1728.2
 Annotated Code of Maryland
 (2007 Replacement Volume and 2011 Supplement)

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

Article – Environment

9–1701.

(f) “Covered electronic device takeback” program means a program, established by a covered electronic device manufacturer OR A GROUP OF COVERED ELECTRONIC DEVICE MANUFACTURERS, for the collection and recycling.

refurbishing, or reuse of a covered electronic device labeled with the name of the manufacturer or the manufacturer's brand label, including:

(1) Providing, at no cost to the returner, a method of returning a covered electronic device to the manufacturer, including postage paid mailing packages or designated collection points throughout the State;

(2) Contracting with a recycler, local government, other manufacturer, or any other person; or

(3) Any other program approved by the Department.

9–1727.

(a) This section applies to a manufacturer that [manufactured an average of more than 1,000 covered electronic devices per year in the immediately preceding 3–year period] **SELLS OR OFFERS FOR SALE A NEW COVERED ELECTRONIC DEVICE IN THE STATE.**

(b) A manufacturer may not sell or offer for sale to any person in the State a new covered electronic device unless:

(1) The covered electronic device is labeled with the name of the manufacturer or the manufacturer's brand label; and

(2) The manufacturer has registered with and, **IF APPLICABLE**, submitted a registration fee to the Department as provided under this part.

9–1728.

(a) A covered electronic device manufacturer's registration shall include:

(1) The brand names under which the manufacturer sells or offers for sale covered electronic devices in the State;

(2) Whether the manufacturer has implemented a covered electronic device takeback program;

(3) If the manufacturer has implemented a covered electronic device takeback program:

(i) A toll-free number or website address that provides information about the takeback program, including a detailed description of how a person may return a covered electronic device for recycling, refurbishing, or reuse; and

(ii) One year after the implementation of the program and each year thereafter, a report on the implementation of the program during the prior year, including:

1. The total weight of the covered electronic devices received by the program from Maryland during the prior year;

2. The total number of covered electronic devices from Maryland recycled, refurbished, and reused during the prior year; and

3. The processes and methods used to recycle, refurbish, or reuse the covered electronic devices received from Maryland; [and]

(4) THE TOTAL NUMBER OF COVERED ELECTRONIC DEVICES SOLD IN THE STATE IN THE PRIOR YEAR, INCLUDING:

(I) THE TYPES OF COVERED ELECTRONIC DEVICES SOLD;
AND

(II) THE BRAND NAMES UNDER WHICH THE COVERED ELECTRONIC DEVICES WERE SOLD; AND

[(4)] (5) Any additional information required by the Department in regulation.

(b) The registration shall:

(1) Be submitted to the Department by [January 1] **MARCH 1** of each year; and

(2) If the manufacturer has implemented a covered electronic device takeback program, be updated prior to any significant change in the program.

(c) [The covered electronic device manufacturer registration fee is:

(1) \$10,000 for the initial registration by the manufacturer;

(2) (i) \$5,000 for each subsequent annual registration by a manufacturer that did not have an implemented covered electronic device takeback program in the prior year; or

(ii) \$500 for each subsequent annual registration by a manufacturer that had an implemented covered electronic device takeback program in the prior year;

(3) Submitted to the Department by January 1 of each year; and

(4) Paid into the State Recycling Trust Fund.]

(1) THE COVERED ELECTRONIC DEVICE MANUFACTURER REGISTRATION FEE SHALL BE PAID BY A MANUFACTURER IN ACCORDANCE WITH THIS SUBSECTION.

(2) FOR THE INITIAL REGISTRATION BY A MANUFACTURER, THE REGISTRATION FEE IS:

(I) \$10,000 FOR A MANUFACTURER THAT SOLD AT LEAST 1,000 COVERED ELECTRONIC DEVICES IN THE STATE IN THE PRIOR YEAR; AND

(II) \$5,000 FOR A MANUFACTURER THAT SOLD AT LEAST ~~250~~ 100 BUT NOT MORE THAN 999 COVERED ELECTRONIC DEVICES IN THE STATE IN THE PRIOR YEAR; ~~AND~~

~~(III) \$1,250 FOR A MANUFACTURER THAT SOLD AT LEAST 50 BUT NOT MORE THAN 249 COVERED ELECTRONIC DEVICES IN THE STATE IN THE PRIOR YEAR.~~

(3) FOR EACH SUBSEQUENT ANNUAL REGISTRATION BY A MANUFACTURER THAT DID NOT HAVE AN IMPLEMENTED COVERED ELECTRONIC DEVICE TAKEBACK PROGRAM IN THE PRIOR YEAR, THE REGISTRATION FEE IS:

(I) 1. ON OR AFTER MARCH 1, 2013, AND BEFORE MARCH 1, 2016, \$10,000 FOR A MANUFACTURER THAT SOLD AT LEAST 1,000 COVERED ELECTRONIC DEVICES IN THE STATE IN THE PRIOR YEAR; AND

2. ON OR AFTER MARCH 1, 2016, \$5,000 FOR A MANUFACTURER THAT SOLD AT LEAST 1,000 COVERED ELECTRONIC DEVICES IN THE STATE IN THE PRIOR YEAR; AND

(II) \$5,000 FOR A MANUFACTURER THAT SOLD AT LEAST ~~250~~ 100 BUT NOT MORE THAN 999 COVERED ELECTRONIC DEVICES IN THE STATE IN THE PRIOR YEAR; ~~AND~~

~~(III) \$1,250 FOR A MANUFACTURER THAT SOLD AT LEAST 50 BUT NOT MORE THAN 249 COVERED ELECTRONIC DEVICES IN THE STATE IN THE PRIOR YEAR.~~

(4) FOR EACH SUBSEQUENT ANNUAL REGISTRATION BY A MANUFACTURER THAT HAD AN IMPLEMENTED COVERED ELECTRONIC DEVICE TAKEBACK PROGRAM IN THE PRIOR YEAR, THE REGISTRATION FEE IS \$500.

(5) THERE IS NO REGISTRATION FEE FOR A MANUFACTURER THAT SOLD LESS THAN ~~50~~ 100 COVERED ELECTRONIC DEVICES IN THE STATE IN THE PRIOR YEAR.

(6) THE REGISTRATION FEE REQUIRED UNDER THIS SUBSECTION SHALL:

(I) BE SUBMITTED TO THE DEPARTMENT BY MARCH 1 OF EACH YEAR; AND

(II) BE PAID INTO THE STATE RECYCLING TRUST FUND.

(d) (1) The Department shall:

(i) Review the registration submitted under this section; and

(ii) If the registration does not meet the requirements of this section and the regulations adopted by the Department under this subtitle, notify the manufacturer of the insufficiency.

(2) Within 60 days after receipt of a notice of insufficiency, the manufacturer shall submit a revised registration that addresses the insufficiencies noted by the Department.

(e) [(1)] The Department shall maintain a list of registered covered electronic device manufacturers **ON ITS WEB SITE**.

[(2) The Department shall provide a list of registered covered electronic device manufacturers to the Comptroller in a manner agreed on by the Department and the Comptroller.]

(F) THE SALES DATA SUBMITTED IN ACCORDANCE WITH SUBSECTION (A)(4) OF THIS SECTION SHALL BE TREATED AS CONFIDENTIAL AND PROPRIETARY, AND MAY NOT BE DISCLOSED EXCEPT AS OTHERWISE REQUIRED BY LAW.

9-1728.2.

(A) A MANUFACTURER THAT HAS IMPLEMENTED A COVERED ELECTRONIC DEVICE TAKEBACK PROGRAM SHALL INCLUDE EDUCATIONAL AND INSTRUCTIONAL MATERIALS RELATING TO THE DESTRUCTION AND SANITIZATION OF DATA FROM A COVERED ELECTRONIC DEVICE:

(1) WITH EACH NEW COVERED ELECTRONIC DEVICE SOLD OR OFFERED FOR SALE IN THE STATE;

(2) ON THE MANUFACTURER'S COVERED ELECTRONIC DEVICE TAKEBACK PROGRAM WEB SITE; OR

(3) AS INFORMATION PROVIDED THROUGH THE MANUFACTURER'S COVERED ELECTRONIC DEVICE TAKEBACK PROGRAM TOLL-FREE NUMBER.

(B) A MANUFACTURER THAT IS PARTICIPATING IN A COVERED ELECTRONIC DEVICE TAKEBACK PROGRAM ESTABLISHED BY A GROUP OF COVERED ELECTRONIC DEVICE MANUFACTURERS SHALL BE CONSIDERED AS HAVING IMPLEMENTED A COVERED ELECTRONIC DEVICE TAKEBACK PROGRAM UNDER THIS PART.

~~(1) DESTROY OR SANITIZE DATA FROM A COVERED ELECTRONIC DEVICE THAT IS ACCEPTED BY THE TAKEBACK PROGRAM FROM A RETURNER IN THE STATE; AND~~

~~(2) CERTIFY TO THE RETURNER THAT THE DATA HAS BEEN DESTROYED OR SANITIZED.~~

9-1730.

(a) The provisions and penalties of § 9-342 of this title shall be used and shall apply to enforce violations of this part.

(b) (1) In addition to any other penalty provided by law, the [Comptroller] **DEPARTMENT** may assess against any retailer that violates § 9-1728.1(b) of this part a fine up to [**\$500**] **\$1,000** for each violation, but not exceeding [**\$5,000**] **\$10,000** total.

(2) A fine under paragraph (1) of this subsection may be assessed only after the retailer that committed the violation has been issued three warnings regarding the violation.

(3) Each day on which a violation occurs or continues is a separate violation under this subsection.

[(4) At the end of each quarter, the Comptroller shall forward all fines to the State Recycling Trust Fund in a manner agreed on by the Department and the Comptroller.]

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the annual registration fee collected under § 9-1728(c)(3) of this Act be increased to \$10,000 for a 3-year period beginning March 1, 2013, to provide incentives for manufacturers to implement a covered electronic device takeback program for Maryland returners.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) On or before October 1, 2015, the Secretary of the Environment shall convene a workgroup consisting of representatives of the various sectors of the electronics industry and representatives from appropriate public and private entities to review and assess the impact of the \$10,000 annual registration fee collected under § 9-1728(c)(3) of the Environment Article, as enacted by Section 1 of this Act, on the number of covered electronic device takeback programs implemented by manufacturers.

(b) On or before December 31, 2015, in accordance with § 2-1246 of the State Government Article, the Department of the Environment shall report the findings and recommendations of the workgroup established under subsection (a) of this section to the Legislative Policy Committee, the House Environmental Matters Committee, the Senate Finance Committee, and the Senate Education, Health, and Environmental Affairs Committee.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 401

(House Bill 897)

AN ACT concerning

Prince George's County – Property Tax – Installment Payment Schedule

PG 416-12

FOR the purpose of authorizing the governing body of Prince George's County to provide, by law, a ~~six-installment~~ certain installment payment schedule for ~~State,~~ county, municipal, and special taxing district property taxes due on certain residential property under certain circumstances; requiring the governing body of Prince George's County to provide, by law, for additional eligibility criteria for the payment schedule, a process for electing the payment schedule, the due date of each payment installment, and any other provision

necessary to carry out the installment payment schedule; providing for the application of this Act; and generally relating to a certain property tax payment schedule in Prince George's County.

BY adding to

Article – Tax – Property

Section 10–204.3(k)

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

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

Article – Tax – Property

10–204.3.

(K) (1) THE GOVERNING BODY OF PRINCE GEORGE'S COUNTY MAY AUTHORIZE, BY LAW, ~~A SIX-INSTALLMENT~~ AN INSTALLMENT PAYMENT SCHEDULE OF NO MORE THAN SIX PAYMENTS EACH YEAR FOR ~~STATE,~~ COUNTY, MUNICIPAL, AND SPECIAL TAXING DISTRICT PROPERTY TAXES DUE ON OWNER-OCCUPIED RESIDENTIAL PROPERTY OWNED BY A HOMEOWNER IF:

(I) THE HOMEOWNER IS ~~ELIGIBLE FOR THE TAX CREDIT PROVIDED UNDER § 9-104 OF THIS ARTICLE~~ AT LEAST 62 YEARS OLD; AND

(II) THE OWNER-OCCUPIED RESIDENTIAL PROPERTY IS NOT SUBJECT TO A DEED OF TRUST, MORTGAGE, OR OTHER ENCUMBRANCE.

(2) THE GOVERNING BODY OF PRINCE GEORGE'S COUNTY SHALL PROVIDE, BY LAW, FOR:

(I) ANY ADDITIONAL ELIGIBILITY CRITERIA FOR THE INSTALLMENT PAYMENT SCHEDULE UNDER THIS SUBSECTION;

(II) THE PROCESS FOR ELECTING AN INSTALLMENT PAYMENT SCHEDULE;

(III) THE DUE DATE OF EACH PAYMENT INSTALLMENT; AND

(IV) ANY OTHER PROVISION NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012, and shall be applicable to all taxable years beginning after June 30, 2013.

Approved by the Governor, May 2, 2012.

Chapter 402

(House Bill 898)

AN ACT concerning

Prince George's County – Property Tax – ~~Exemption for Economic Development Projects~~ Payment in Lieu of Taxes Agreements

PG 418–12

FOR the purpose of providing for certain exemptions from county property tax under certain circumstances for certain economic development projects located in certain designated focus areas in Prince George's County; setting forth certain requirements in order to qualify for the property tax exemption; requiring certain annual reports on projects for which Prince George's County has entered into payment in lieu of taxes agreements; defining certain terms; requiring the Prince George's County Office of the County Executive to report to certain delegations of the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to a property tax exemption for certain property located in Prince George's County.

BY adding to

Article – Tax – Property

Section 7–516

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

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

Article – Tax – Property

7–516.

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

(2) “DESIGNATED FOCUS AREA” MEANS:

(I) A TRANSIT-ORIENTED DEVELOPMENT, DEFINED AS A DEVELOPMENT OR PROJECT WITHIN ONE-HALF MILE OF A WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY TRANSIT STATION OR ONE-HALF MILE OF A MARYLAND AREA REGIONAL COMMUTER TRANSIT STATION, AS MEASURED FROM THE MAIN ENTRANCE OF THE BUILDING TO THE NEAREST ENTRANCE OF THE TRANSIT STATION;

(II) A REVITALIZATION TAX CREDIT DISTRICT, AS DEFINED IN § 10-235.02 OF THE PRINCE GEORGE’S COUNTY CODE AND DESIGNATED BY THE GOVERNING BODY OF PRINCE GEORGE’S COUNTY; ~~AND~~ OR

(III) AN URBAN RENEWAL AREA, AS DESIGNATED BY THE GOVERNING BODY OF PRINCE GEORGE’S COUNTY.

(3) “ECONOMIC DEVELOPMENT PROJECT” MEANS A REAL ESTATE DEVELOPMENT PROJECT THAT CONSISTS OF NEWLY CONSTRUCTED OR REHABILITATED COMMERCIAL ~~OR MULTIFAMILY RESIDENTIAL~~ PROPERTY IF THE REAL ESTATE DEVELOPMENT PROJECT:

(I) HAS A CERTIFICATE OF OCCUPANCY ISSUED ON OR AFTER OCTOBER 1, 2012;

(II) IS LOCATED ON ONE OR MORE PARCELS OF LAND, ALL OF WHICH ARE SITUATED IN A DESIGNATED FOCUS AREA; AND

(III) INCLUDES AT LEAST ONE OF THE FOLLOWING:

1. A HOTEL THAT:

A. PROVIDES AT LEAST 100 FULL-TIME EQUIVALENT JOB OPPORTUNITIES; AND

B. HAS A PRIVATE CAPITAL INVESTMENT OF EQUITY AND DEBT COMBINED OF AT LEAST \$20,000,000;

2. AN OFFICE BUILDING THAT:

A. PROVIDES AT LEAST ~~150~~ 100 FULL-TIME EQUIVALENT JOB OPPORTUNITIES; AND

B. HAS A PRIVATE CAPITAL INVESTMENT OF EQUITY AND DEBT COMBINED OF AT LEAST \$20,000,000;

3. A RETAIL FACILITY THAT:
 - A. PROVIDES AT LEAST 100 FULL-TIME EQUIVALENT JOB OPPORTUNITIES; AND
 - B. HAS A PRIVATE CAPITAL INVESTMENT OF EQUITY AND DEBT COMBINED OF AT LEAST \$10,000,000;

~~4. A MULTIFAMILY RESIDENTIAL FACILITY THAT HAS A PRIVATE CAPITAL INVESTMENT OF EQUITY AND DEBT COMBINED OF AT LEAST \$5,000,000;~~

- ~~5.~~ AN OFF-STREET PARKING FACILITY THAT:
 - A. CONTAINS AT LEAST 250 PARKING SPACES; AND
 - B. HAS A PRIVATE CAPITAL INVESTMENT OF EQUITY AND DEBT COMBINED OF AT LEAST \$2,500,000; OR

~~6.~~ 5. A MIXED-USE FACILITY THAT CONTAINS ONE OR MORE OF THE FACILITIES DESCRIBED IN ITEMS 1 THROUGH ~~5~~ 4 OF THIS ITEM, AT LEAST ONE OF WHICH SATISFIES THE MINIMUM CRITERIA SET FORTH IN ITEM 1, 2, 3, ~~4~~, OR ~~5~~ 4 OF THIS ITEM.

(B) THE GOVERNING BODY OF PRINCE GEORGE'S COUNTY, BY RESOLUTION, MAY EXEMPT OR PARTIALLY EXEMPT AN ECONOMIC DEVELOPMENT PROJECT FROM THE COUNTY REAL PROPERTY TAX IF:

(1) THE OWNER OR OWNERS OF THE ECONOMIC DEVELOPMENT PROJECT DEMONSTRATE TO THE SATISFACTION OF THE COUNTY EXECUTIVE AND COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY:

(i) THAT THE COUNTY OR ITS DESIGNATED AGENCY HAS CONDUCTED AN ECONOMIC ANALYSIS OF THE PROJECT, INCLUDING:

1. A DETAILED DESCRIPTION OF THE PROJECT AND THE DEVELOPMENT BUDGET, INCLUDING THE IDENTIFICATION OF ALL SOURCES OF DEBT AND EQUITY FINANCING;

2. A MULTIYEAR CASH FLOW PRO FORMA OF THE PROJECT DETAILING ALL INCOMING AND OUTGOING CASH FLOW REVENUES, OPERATING EXPENSES, DEBT SERVICE, TAXES, CAPITAL EXPENDITURES, AND ANY OTHER CASH OUTLAYS;

3. THE PROJECTED RETURN ON INVESTMENT FOR THE OWNER OR OWNERS;

4. A DETERMINATION THAT THE PROJECT IS AN ECONOMIC DEVELOPMENT PROJECT THAT MEETS THE REQUIREMENTS OF THIS SECTION; AND

5. ANY OTHER RELEVANT ANALYSIS;

(II) THE PUBLIC BENEFIT THAT THE PROJECT WILL PROVIDE, INCLUDING:

1. THE NUMBER OF JOBS EXPECTED TO BE CREATED, DIRECTLY OR INDIRECTLY, AS A RESULT OF THE PROJECT AND THE PERCENTAGE OF THOSE JOBS EXPECTED TO BE HELD BY PRINCE GEORGE'S COUNTY RESIDENTS;

2. THE WAGE RATES AND BENEFIT PACKAGES FOR THE JOBS EXPECTED TO BE CREATED;

3. OTHER PRINCE GEORGE'S COUNTY TAX REVENUES, EXCLUSIVE OF REAL PROPERTY TAXES, THAT THE PROJECT IS EXPECTED TO GENERATE DURING THE TERM OF THE PAYMENT IN LIEU OF TAXES AGREEMENT, INCLUDING INCOME, ADMISSIONS AND AMUSEMENT, PERSONAL PROPERTY, HOTEL, PARKING, ENERGY, AND OTHER TAXES;

4. THE ENCOURAGEMENT OF ECONOMIC DEVELOPMENT;

5. THE GENERAL PROMOTION AND IMPROVEMENT OF PRINCE GEORGE'S COUNTY AND ITS FACILITIES; ~~AND~~

6. THE PARTICIPATION OF LOCAL MINORITY BUSINESS ENTERPRISES AND LOCAL BUSINESS ENTERPRISES IN THE ECONOMIC DEVELOPMENT PROJECT; AND

~~6. 7.~~ ANY OTHER RELEVANT BENEFITS;

(III) THE FINANCIAL NECESSITY FOR AN EXEMPTION AUTHORIZED UNDER THIS SECTION; AND

(IV) THAT THE PRIVATE CAPITAL BEING INVESTED IN THE ECONOMIC DEVELOPMENT PROJECT INCLUDES AN EQUITY INVESTMENT THAT IS:

1. COMMENSURATE WITH THE OVERALL UNDERTAKING; AND

2. A. FOR A HOTEL OR AN OFFICE BUILDING, AN AMOUNT GREATER THAN OR EQUAL TO 10% OF THE COMBINED EQUITY AND DEBT INVESTMENT; OR

B. FOR ~~A MULTIFAMILY RESIDENTIAL FACILITY OR~~ AN OFF-STREET PARKING FACILITY, AN AMOUNT GREATER THAN OR EQUAL TO \$250,000;

(2) THE OWNER OR OWNERS OF THE ECONOMIC DEVELOPMENT PROJECT AND THE GOVERNING BODY OF PRINCE GEORGE'S COUNTY ENTER INTO A PAYMENT IN LIEU OF TAXES AGREEMENT THAT SPECIFIES:

(I) AN AMOUNT THAT THE OWNER OR OWNERS SHALL PAY TO THE COUNTY EACH YEAR IN LIEU OF THE PAYMENT OF COUNTY REAL PROPERTY TAXES DURING THE TERM OF THE AGREEMENT THAT IS NOT LESS THAN THE SUM OF:

1. THE TAXES ON THE PROPERTY BEFORE THE CONSTRUCTION OR REHABILITATION OF THE PROJECT; AND

2. ~~5%~~ 25% OF THE COUNTY REAL PROPERTY TAXES RELATED TO THE ECONOMIC DEVELOPMENT PROJECT THAT WOULD HAVE OTHERWISE BEEN DUE ABSENT THE AGREEMENT;

(II) THE TERM OF THE AGREEMENT, NOT TO EXCEED ~~25~~ 15 YEARS FROM THE DATE A CERTIFICATE OF OCCUPANCY FOR THE PROJECT IS ISSUED; AND

(III) THAT EACH YEAR AFTER THE EXPIRATION OF THE AGREEMENT, FULL PROPERTY TAXES SHALL BE PAYABLE ON THE PROPERTY; ~~AND~~

(3) PRIOR TO OR NO LATER THAN 18 MONTHS FROM THE DATE OF ENTERING INTO THE PAYMENT IN LIEU OF TAXES AGREEMENT, CONSTRUCTION OF THE PROJECT HAS COMMENCED AND ALL CONDITIONS FOR THE FINANCING REQUIRED FOR THE CONSTRUCTION OF THE PROJECT HAVE BEEN SATISFIED OR WAIVED; AND

(4) THE AUTHORIZING RESOLUTION STATES THAT THE PROJECT MAY NOT INVOLVE GAMBLING ACTIVITIES.

(C) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE PRINCE GEORGE'S COUNTY EXECUTIVE OR THE COUNTY EXECUTIVE'S DESIGNATED AGENCY SHALL SUBMIT A REPORT TO THE PRINCE GEORGE'S COUNTY COUNCIL AND TO THE PRINCE GEORGE'S COUNTY HOUSE AND SENATE DELEGATIONS OF THE GENERAL ASSEMBLY OF MARYLAND THAT CONTAINS:

(1) A DESCRIPTION OF EACH PROJECT FOR WHICH THE COUNTY ENTERED INTO A PAYMENT IN LIEU OF TAXES AGREEMENT UNDER THIS SECTION DURING THE PRIOR FISCAL YEAR, INCLUDING A STATEMENT OF:

(I) THE BASIS ON WHICH EACH PROJECT MET THE REQUIREMENTS FOR THE DEFINITION OF AN ECONOMIC DEVELOPMENT PROJECT SET FORTH IN SUBSECTION (A) OF THIS SECTION; AND

(II) THE ANALYSIS OF THE PROJECT DESCRIBED IN SUBSECTION (B)(1) OF THIS SECTION; AND

(2) FOR THOSE PROJECTS THAT HAVE A PAYMENT IN LIEU OF TAXES AGREEMENT AND FOR WHICH CONSTRUCTION OR REHABILITATION HAS BEEN COMPLETED:

(I) THE NUMBER AND TYPES OF JOBS CREATED DURING THE PRECEDING FISCAL YEAR AND ESTIMATED TO BE CREATED DURING THE FOLLOWING FISCAL YEAR;

(II) THE TOTAL TAXES THAT THE PROJECT IS ESTIMATED TO HAVE GENERATED DIRECTLY AND INDIRECTLY FOR THE COUNTY DURING THE PRECEDING FISCAL YEAR AND ESTIMATED TO BE GENERATED DURING THE FOLLOWING FISCAL YEAR; AND

(III) ANY OTHER ECONOMIC BENEFITS OF THE PROJECT.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31, 2016, the Prince George's County Office of the County Executive shall report to the Chairs of the Prince George's County House and Senate Delegations, in accordance with § 2-1246 of the State Government Article, on the implementation of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2012. It shall remain effective for a period of 5 years and, at the end of June 30, 2017, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2012.

Chapter 403

(House Bill 901)

AN ACT concerning

Washington Suburban Sanitary Commission – High Performance Buildings

PG/MC 110–12

FOR the purpose of requiring certain buildings owned by the Washington Suburban Sanitary Commission to be high performance buildings under certain circumstances; exempting certain building types from certain high performance building standards; authorizing the Commission to request a certain waiver from certain high performance building standards from a certain county; authorizing a certain county council, with approval of the county executive, to issue a certain waiver under certain circumstances; expressing a certain intent of the General Assembly; defining certain terms; and generally relating to the Washington Suburban Sanitary Commission and high performance buildings.

BY adding to

Article – Public Utilities

Section 21–104

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

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

Article – Public Utilities

21–104.

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

(2) “HIGH PERFORMANCE BUILDING” MEANS A BUILDING THAT:

(I) MEETS OR EXCEEDS THE CURRENT VERSION OF THE U.S. GREEN BUILDING COUNCIL’S LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) GREEN BUILDING RATING SYSTEM SILVER RATING; OR

(II) ACHIEVES AT LEAST A COMPARABLE NUMERIC RATING ACCORDING TO A NATIONALLY RECOGNIZED, ACCEPTED, AND APPROPRIATE NUMERIC SUSTAINABLE DEVELOPMENT RATING SYSTEM, GUIDELINE, OR STANDARD APPROVED BY THE SECRETARY OF BUDGET AND MANAGEMENT AND THE SECRETARY OF GENERAL SERVICES.

(3) “MAJOR RENOVATION” MEANS THE RENOVATION OF A BUILDING WHERE:

(I) THE BUILDING SHELL IS TO BE REUSED FOR THE NEW CONSTRUCTION;

(II) THE HEATING, VENTILATING, AND AIR-CONDITIONING (HVAC), ELECTRICAL, AND PLUMBING SYSTEMS ARE TO BE REPLACED; AND

(III) THE SCOPE OF THE RENOVATION IS 7,500 SQUARE FEET OR GREATER.

(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT, TO THE EXTENT PRACTICABLE:

(1) THE COMMISSION SHALL EMPLOY GREEN BUILDING TECHNOLOGIES WHEN CONSTRUCTING OR RENOVATING A COMMISSION-OWNED BUILDING NOT SUBJECT TO THIS SECTION; AND

(2) HIGH PERFORMANCE BUILDINGS SHALL MEET THE CRITERIA AND STANDARDS ESTABLISHED UNDER THE “HIGH EFFICIENCY GREEN BUILDING PROGRAM” ADOPTED BY THE MARYLAND GREEN BUILDING COUNCIL.

(C) EXCEPT AS PROVIDED IN SUBSECTIONS (D) AND (E) OF THIS SECTION, IF A CAPITAL PROJECT INCLUDES THE CONSTRUCTION OR MAJOR RENOVATION OF A BUILDING THAT IS 7,500 SQUARE FEET OR GREATER, THE BUILDING SHALL BE CONSTRUCTED OR RENOVATED TO BE A HIGH PERFORMANCE BUILDING.

(D) THE FOLLOWING TYPES OF UNOCCUPIED BUILDINGS ARE NOT REQUIRED TO BE CONSTRUCTED OR RENOVATED TO BE HIGH PERFORMANCE BUILDINGS:

(1) WAREHOUSE AND STORAGE FACILITIES;

- (2) GARAGES;
- (3) MAINTENANCE FACILITIES;
- (4) TRANSMITTER BUILDINGS;
- (5) PUMPING STATIONS; AND
- (6) OTHER SIMILAR TYPES OF BUILDINGS, AS DETERMINED BY THE COMMISSION.

(E) (1) THE COMMISSION MAY REQUEST FROM THE COUNTY WHERE THE PROPOSED CAPITAL PROJECT IS LOCATED A WAIVER FROM COMPLYING WITH SUBSECTION (C) OF THIS SECTION.

(2) ON RECEIPT OF A WRITTEN REQUEST OF A WAIVER UNDER THIS SUBSECTION, WITH APPROVAL OF THE COUNTY EXECUTIVE, THE COUNTY COUNCIL OF THE COUNTY WHERE THE PROPOSED CAPITAL PROJECT IS LOCATED MAY ISSUE A WAIVER UNDER THIS SUBSECTION IF THE COUNTY COUNCIL DETERMINES THAT THE USE OF A HIGH PERFORMANCE BUILDING IN A PROPOSED CAPITAL PROJECT IS NOT PRACTICABLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 404

(House Bill 902)

AN ACT concerning

Washington Suburban Sanitary Commission – Minority Business Enterprise Utilization Program – Termination Extension

PG/MC 102–12

FOR the purpose of continuing until a certain date certain provisions relating to procurement from minority business enterprises by the Washington Suburban Sanitary Commission; and generally relating to procurement by the Washington Suburban Sanitary Commission from minority business enterprises.

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 20–208
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Public Utilities

20–208.

This subtitle shall be of no effect and may not be enforced after July 1, [2012] **2017**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 405

(House Bill 904)

AN ACT concerning

Prince George’s County – Drug Free School Zones – Hotline Number on Signs

PG 406–12

FOR the purpose of requiring that a certain hotline number to report information concerning suspected illegal drug activity be included on certain signs designating certain areas as drug free school zones in Prince George’s County; and generally relating to drug free school zone signs in Prince George’s County.

BY repealing and reenacting, with amendments,
Article – Education
Section 4–124
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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

Article – Education

4–124.

(a) A county board may adopt regulations requiring the posting of signs designating the areas within 1,000 feet of public and nonpublic elementary and secondary schools as “drug free school zones”.

(b) The signs shall be designed in order to provide notice of the provisions of § 5–627 of the Criminal Law Article.

(c) In Baltimore City **AND PRINCE GEORGE’S COUNTY**, all new and replacement signs shall include a hotline number to report information concerning suspected illegal drug activity.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 406**(House Bill 924)**

AN ACT concerning

Vehicle Laws – Local Authority – Use of Highways by Snowmobiles

FOR the purpose of altering the authority of local jurisdictions to designate a portion of a highway for snowmobile use to facilitate access between trails by repealing the requirement that the snowmobile trails accessed be designated by the Department of Natural Resources; making certain technical corrections; and generally relating to the authority of local jurisdictions over the use of highways by snowmobiles.

BY repealing and reenacting, with amendments,

Article – Transportation

Section 25–102(a)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – Transportation

25–102.

(a) The provisions of the Maryland Vehicle Law do not prevent a local authority, in the reasonable exercise of its police power, from exercising the following powers as to highways under its jurisdiction:

- (1) Subject to the provisions of § 21–1003.1 of this article, regulating or prohibiting the stopping, standing, or parking of vehicles;
- (2) Regulating traffic by means of police officers or traffic control devices;
- (3) Regulating or prohibiting processions or assemblies on highways;
- (4) Designating particular highways or separate roadways as one–way highways and requiring that all vehicles on them move in one specified direction;
- (5) Regulating the speed and weight of vehicles in public parks;
- (6) Designating any highway as a through highway or designating any intersection as a stop intersection or a yield intersection;
- (7) Restricting the use of highways as provided in Title 24 of this article;
- (8) Regulating the operation of bicycles, requiring them to be registered, and imposing a registration fee;
- (9) Regulating or prohibiting the turning of vehicles or specified types of vehicles at intersections;
- (10) Altering speed limits as provided in Title 21, Subtitle 8 of this article;
- (11) Regulating through truck traffic and prohibiting trucks from using any highway or alley that is not designated or maintained as a part or extension of the State or federal highway system, provided the local authority has designated an adequate alternate route for diverted truck traffic;
- (12) Adopting any other traffic regulations as specifically authorized in the Maryland Vehicle Law;
- (13) Regulating taxi stands, including taxi stands in the middle of a block;

(14) (i) Except in Garrett County, designating a certain portion of highways [or roadways] upon which snowmobiles may travel for the sole purpose of gaining access to snowmobile trails [which have been designated by the Department of Natural Resources]. However, only those highways [and roadways] which divide snowmobile trails and which would otherwise obstruct direct access between snowmobile trails may be so designated **BY THE LOCAL AUTHORITY**; and

(ii) In Garrett County, permitting a person to cross a highway [or roadway] on a snowmobile at a right angle, and designating a certain portion of highways [or roadways] upon which snowmobiles may travel for the sole purpose of gaining access to snowmobile trails [which have been designated by the Department of Natural Resources];

(15) Requiring a motorized minibike to be permitted by the local authority, and imposing a permit fee;

(16) In Allegany County, designating crossings on county highways where a person operating a golf cart may cross the highway for continued access to any portion of a golf course; and

(17) Restricting use of a low speed vehicle on a highway.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 407

(House Bill 1005)

AN ACT concerning

Washington County – Tip Jars – Accountability and Oversight

FOR the purpose of authorizing the County Commissioners of Washington County to require the Washington County Volunteer Fire and Rescue Association to submit certain financial reports; authorizing the county commissioners to adopt certain regulations; authorizing the county commissioners to withhold certain funds under certain circumstances; requiring the Washington County Volunteer Fire and Rescue Association to submit its budget to the county commissioners each year; requiring the county commissioners to accept or reject the budget in a certain manner; expanding the authority of the county commissioners to establish certain procedures; prohibiting certain funds from being used for

certain fire and rescue services; and generally relating to the use of certain tip jar gaming proceeds in Washington County.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 13–2435
Annotated Code of Maryland
(2002 Volume and 2011 Supplement)

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

Article – Criminal Law

13–2435.

(a) In this section, “gross profits” means the total proceeds from the operation of a tip jar less the amount of money winnings or value of prizes distributed.

(b) There is a Washington County Gaming Fund.

(c) (1) The county commissioners shall establish:

(i) the method and time of deposits to the fund; and

(ii) other procedures necessary to carry out subsections [(d) and (e)] **(D), (E), AND (F)** of this section.

(2) In accordance with a written agreement between the county commissioners and the gaming commission, the gaming commission may use money from the fund to reimburse the county commissioners for the costs to the county for administering Part III of this subtitle.

(3) (I) THE COUNTY COMMISSIONERS MAY REQUIRE THE WASHINGTON COUNTY VOLUNTEER FIRE AND RESCUE ASSOCIATION TO SUBMIT FINANCIAL REPORTS OF THE ASSOCIATION.

(II) THE COUNTY COMMISSIONERS MAY ADOPT REGULATIONS SPECIFYING THE TIME FRAMES FOR SUBMISSION OF THE REPORTS, BUT THE REGULATIONS SHALL BE LIMITED IN SCOPE TO THE TIMING OF SUBMISSION OF THE REPORTS ONLY.

(III) THE FINANCIAL REPORTS OF THE WASHINGTON COUNTY VOLUNTEER FIRE AND RESCUE ASSOCIATION MAY INCLUDE AN ANNUAL BUDGET AS APPROVED UNDER PARAGRAPH (4) OF THIS SUBSECTION, BUDGET REPORTS, AND RELATED DOCUMENTATION THAT SHOWS HOW MONEY

HAS BEEN SPENT BY THE WASHINGTON COUNTY VOLUNTEER FIRE AND RESCUE ASSOCIATION DURING THE PREVIOUS FISCAL YEAR.

(IV) IF THE FINANCIAL REPORTS ARE NOT SUBMITTED WITHIN THE TIME REQUIRED UNDER THE REGULATIONS, THE COUNTY COMMISSIONERS MAY WITHHOLD FUNDS THAT WOULD OTHERWISE BE DISTRIBUTED UNDER SUBSECTION (F)(1) OF THIS SECTION UNTIL THE REPORTS ARE SUBMITTED.

(4) (I) EACH YEAR THE WASHINGTON COUNTY VOLUNTEER FIRE AND RESCUE ASSOCIATION SHALL SUBMIT ITS BUDGET TO THE COUNTY COMMISSIONERS.

(II) THE COUNTY COMMISSIONERS SHALL ACCEPT OR REJECT THE BUDGET BY A MAJORITY VOTE.

(III) THE ACCEPTANCE OR REJECTION OF THE BUDGET MAY NOT BE DELEGATED TO ANY DESIGNEE.

(IV) THE COUNTY COMMISSIONERS MAY WITHHOLD FUNDS THAT WOULD OTHERWISE BE DISTRIBUTED UNDER SUBSECTION (F)(1) OF THIS SECTION UNTIL THE BUDGET OF THE WASHINGTON COUNTY VOLUNTEER FIRE AND RESCUE ASSOCIATION IS ACCEPTED BY THE COUNTY COMMISSIONERS.

(d) (1) This subsection applies only to a person who holds a tip jar license under § 13-2420(b)(7), (8), or (9) of this subtitle.

(2) Subject to paragraph (3) of this subsection, a person subject to this subsection shall deposit with a financial institution designated by the gaming commission, to the credit of the fund, the gross profits from each tip jar that the person operates.

(3) To offset the costs of operating a tip jar, a person with a tip jar license may retain the lesser of \$45 or 50% of the gross profits from each tip jar game.

(e) (1) This subsection applies only to a person who holds a tip jar license under § 13-2420(b)(1) through (6) of this subtitle.

(2) A person subject to this subsection shall deposit with a financial institution designated by the gaming commission, to the credit of the fund, 15% of the gross profits earned through the operation of tip jars during the 12-month period ending June 30.

(3) If a person fails to contribute the full amount required under paragraph (2) of this subsection, the person shall deposit the balance required during the next year.

(f) After the reimbursement under subsection (c)(2) of this section, each year the gaming commission shall distribute:

(1) 50% of the money deposited in the fund to the Washington County Volunteer Fire and Rescue Association; and

(2) subject to any restriction that the county commissioners adopt by regulation, 50% of the money deposited in the fund to bona fide charitable organizations in the county.

(G) THE COUNTY COMMISSIONERS MAY NOT REQUIRE THAT FUNDS DISTRIBUTED UNDER (F)(1) OF THIS SECTION BE USED FOR FIRE AND RESCUE SERVICES FOR WHICH FUNDS PREVIOUSLY HAVE BEEN APPROPRIATED IN THE COUNTY OPERATING BUDGET.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 408

(House Bill 1017)

AN ACT concerning

~~Injured Workers' Insurance Fund – Conversion to Chesapeake Employers' Insurance Company~~
Task Force to Study Maryland Insurance of Last Resort Programs

FOR the purpose of establishing the Task Force to Study Maryland Insurance of Last Resort Programs; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to study and make recommendations regarding certain matters; requiring the Task Force to report its preliminary and final findings to the General Assembly on or before a certain date certain dates; making this Act an emergency measure; providing for the termination of this Act; and generally relating to the Task Force to Study Maryland Insurance of Last Resort Programs. converting the Injured Workers' Insurance Fund into a statutorily created, private, nonprofit, and nonstock workers' compensation insurer to be

~~named the Chesapeake Employers' Insurance Company; requiring the Company to file certain documents and take certain actions before a certain transfer date; providing that the Company has certain powers, privileges, and immunities granted by and is subject to certain provisions imposed on certain insurers; providing that the Company is a member of the Property and Casualty Insurance Guaranty Corporation; requiring the Company to be an authorized insurer and certain insurer of last resort; specifying the circumstances under which the Company may cancel or refuse to renew or issue a policy; authorizing the Company to engage only in a certain business; establishing the Board for the Chesapeake Employers' Insurance Company; specifying the qualifications and terms of members of the Board; requiring the Board to adopt rules, bylaws, and procedures; authorizing the Board to declare a policyholder dividend in a certain form under certain circumstances; providing that the Company is independent of State government and that the employees of the Company are not State employees and not members of the State Retirement and Pension System; providing that the money of the Company is not part of the General Fund of the State; providing that the State may not budget for or provide General Fund appropriations to the Company; providing that the debts, claims, obligations, and liabilities of the Company are not a debt of the State or a pledge of the credit of the State; requiring the Board to attempt to use minority business enterprises under certain circumstances for certain brokerage and investment management services; requiring the Board to submit a certain report on or before a certain date each year; requiring, on a certain date, that certain functions, powers, duties, assets, property, accounts, liabilities, contracts, and obligations be irrevocably transferred to the Company; prohibiting a certain contract or agreement with the State from being transferred or assigned to the Company until a certain time; prohibiting the Company from being converted to a mutual or stock company or being dissolved; requiring the Fund to serve as a certain insurer of last resort in a certain manner before a certain date; providing that the Fund shall continue to exist on and after a certain date; prohibiting the Fund from issuing certain policies or engaging in a certain business except through the Company on and after a certain date; authorizing the Fund to continue to be a certain third party administrator on and after a certain date; requiring the Company to utilize certain employees; authorizing the Fund to utilize certain employees; requiring the Company and the Fund to execute a certain agreement; prohibiting the Fund from hiring certain employees on and after a certain date; authorizing certain employees to remain employees of the Fund and continue to be State employees on and after a certain date; providing that certain employees of the Fund may not be required to be employees of the Company; authorizing certain employees to make a certain election; providing that members of the Board for the Fund continue to serve a certain term and serve on the Board for the Company under certain terms and conditions; requiring the Board for the Fund to be subject to certain rules, bylaws, and procedures; authorizing the President of the Fund to be the President of the Company; requiring the Fund to remain in existence under certain circumstances; providing for the termination of the Fund; repealing certain provisions relating to the Fund that are obsolete upon~~

~~the conversion of the Fund to the Company; providing that the Company is the successor of the Fund, the Board for the Company is the successor of the Board for the Fund, and the President of the Company is the successor of the President of the Fund; requiring that certain names and titles of certain agencies and officials mean the names and titles of the successor agency or official; providing that certain forms and documents may be used by the Company; providing that certain functions, powers, duties, equipment, assets, and liabilities be transferred to the Company on a certain date; providing that compliance with certain provisions of law is not required until a certain time; defining certain terms; stating a certain intent of the General Assembly; requiring the publisher of the Annotated Code, in consultation with the Department of Legislative Services, to make certain corrections in the Code; and generally relating to the conversion of the Injured Workers' Insurance Fund to the Chesapeake Employers' Insurance Company.~~

~~BY adding to~~

~~Article — Insurance~~

~~Section 24-301 through 24-311 to be under the new subtitle “Subtitle 3, Chesapeake Employers' Insurance Company” and the amended title “Title 24. State Created Mutual Societies and Other Entities”~~

~~Annotated Code of Maryland
(2011 Replacement Volume)~~

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

~~Article — Labor and Employment~~

~~Section 10-101, 10-104, 10-107, 10-109, and 10-113~~

~~Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)~~

~~BY repealing~~

~~Article — Labor and Employment~~

~~The part designation “Part I. Definitions” immediately preceding Section 10-101; and Section 10-105, 10-106, and 10-108 and the part “Part II. Fund”; 10-110, 10-111, 10-112, and 10-114 and the part “Part III. Board”; 10-117, 10-118, 10-120, 10-121, 10-122, 10-125, 10-126, and 10-127 and the part “Part IV. Purposes and Administration of Fund”; 10-130, 10-131, 10-132, 10-133, 10-134, 10-135, 10-136, 10-137, and 10-138 and the part “Part V. Insurance Program”; and 10-141 and the part “Part VI. Prohibited Acts; Penalty”~~

~~Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)~~

~~BY adding to~~

~~Article — Labor and Employment~~

~~Section 10-103 and 10-107~~

~~Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)~~

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

(a) There is a Task Force to Study Maryland Insurance of Last Resort Programs.

(b) The Task Force consists of the following members:

(1) three members of the Senate of Maryland, appointed by the President of the Senate;

(2) three members of the House of Delegates, appointed by the Speaker of the House;

(3) the Commissioner of the Maryland Insurance Administration, or the Commissioner's designee; and

(4) the following members, appointed by the Governor:

(i) a representative of the property and casualty insurance industry;

(ii) a representative of the private passenger automobile insurance industry;

(iii) a representative of the Injured Workers' Insurance Fund;

(iv) a representative of the Maryland Automobile Insurance Fund;

(v) a representative of the Property and Casualty Insurance Guaranty Corporation;

(vi) a representative of the Maryland Health Insurance Plan;

(vii) a representative of the Joint Insurance Association;

(viii) a representative of the Consumer Protection Division of the Office of the Attorney General; ~~and~~

(ix) a representative of the Maryland Consumer Rights Coalition;

(x) a representative of the Insurance Agents and Brokers of Maryland; and

~~(ix)~~ (xi) a representative of the public.

- (c) The Governor shall designate the chair of the Task Force.
- (d) The Department of Legislative Services shall provide staff for the Task Force.
- (e) A member of the Task Force:
 - (1) may not receive compensation as a member of the Task Force; but
 - (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.
- (f) The Task Force shall study and make recommendations regarding:
 - (1) potential benefits to the State from the affiliation of one or more of the State-created insurers of last resort;
 - (2) potential legal and corporate structures for such an affiliation, including whether the affiliation should be accomplished through a holding company structure;
 - (3) the extent to which the affiliation would support or impair each entity in performing its statutory duties;
 - (4) whether each entity should retain a separate existence with its own board of directors or governing committees;
 - (5) the extent to which an affiliation would affect the State's ability to regulate the entities in terms of solvency, rates, and market conduct;
 - (6) the extent to which an affiliation would affect the financial condition of any of the entities and whether safeguards are necessary to protect policyholders and other stakeholders;
 - (7) whether or not each entity should be financially independent and the extent of responsibility, if any, of each entity for the debts or liabilities of the other entities;
 - (8) the tax status of the affiliated entity and the effect of the affiliation on the tax status of each entity with respect to federal, State, and local taxation;
 - (9) whether the Joint Insurance Association should become an authorized insurer with a broader mandate;

(10) whether the Maryland Automobile Insurance Fund should be converted to a statutorily created private, nonprofit, and nonstock insurer for automobile and other forms of insurance;

(11) whether and under what circumstances any subsidiaries should be permitted to issue dividends; and

(12) any other relevant issues or considerations identified by the Task Force.

(g) (1) On or before December 1, 2012, the Task Force shall report its preliminary findings to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2-1246 of the State Government Article.

(2) On or before December 1, ~~2012~~ 2013, the Task Force shall report its final findings and recommendations, including any proposed legislation, to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2-1246 of the State Government Article.

~~Article — Insurance~~

~~Title 24. State Created Mutual Societies AND OTHER ENTITIES.~~

~~SUBTITLE 3. CHESAPEAKE EMPLOYERS' INSURANCE COMPANY.~~

~~24-301.~~

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

~~(B) "BOARD" MEANS THE BOARD FOR THE CHESAPEAKE EMPLOYERS' INSURANCE COMPANY.~~

~~(C) "COMPANY" MEANS THE CHESAPEAKE EMPLOYERS' INSURANCE COMPANY.~~

~~(D) "FUND" MEANS THE INJURED WORKERS' INSURANCE FUND ESTABLISHED UNDER TITLE 10 OF THE LABOR AND EMPLOYMENT ARTICLE.~~

~~24-302.~~

~~THE GENERAL ASSEMBLY FINDS AND DETERMINES THAT:~~

~~(1) EMPLOYERS' ACCESS TO AFFORDABLE WORKERS' COMPENSATION INSURANCE IS OF UTMOST IMPORTANCE TO THE ECONOMY OF THE STATE;~~

~~(2) THE FUND HAS BEEN THE STATE'S INSURER OF LAST RESORT FOR WORKERS' COMPENSATION INSURANCE SINCE 1914;~~

~~(3) SINCE ITS CREATION, THE FUND WAS PERMITTED TO COMPETE WITH THE PRIVATE INSURANCE MARKET; HOWEVER, THE FUND DID NOT BECOME AN EFFECTIVE COMPETITIVE INSURER UNTIL THE GENERAL ASSEMBLY EXEMPTED THE FUND FROM MOST LAWS THAT APPLY TO STATE GOVERNMENT AGENCIES AND REQUIRED THE FUND TO BE A REGULATED INSURER;~~

~~(4) THE MOST EFFECTIVE WAY TO ENSURE THAT MARYLAND'S WORKERS' COMPENSATION SYSTEM REMAINS STABLE AND AFFORDABLE IS TO ENCOURAGE AND CREATE AS MUCH COMPETITION IN THE MARKETPLACE AS POSSIBLE;~~

~~(5) THE LONG TERM COMPETITIVE SUCCESS OF THE FUND WOULD BE ENHANCED IF THE FINAL BARRIERS TO FULL COMPETITION WERE ELIMINATED BY CONVERTING THE FUND INTO A FULLY COMPETITIVE, FULLY REGULATED, PRIVATE INSURER;~~

~~(6) CONVERTING THE FUND INTO A PRIVATE, NONSTOCK, NONPROFIT INSURER WOULD LEVEL THE COMPETITIVE PLAYING FIELD FOR ALL WORKERS' COMPENSATION INSURERS OPERATING IN THE STATE;~~

~~(7) CONVERTING THE FUND INTO A PRIVATE, NONSTOCK, NONPROFIT INSURER WOULD PROVIDE ASSURANCE TO MARYLAND EMPLOYERS THAT THE FINANCIAL SUCCESS OF THE FUND WOULD INURE TO THEIR BENEFIT AS POLICYHOLDERS THROUGH DIVIDENDS AND LOWER RATES AND THAT SURPLUS FUNDS COULD NOT BE TRANSFERRED TO THE STATE'S GENERAL FUND;~~

~~(8) THE INTERESTS OF THE STATE WOULD BE PROTECTED IF THE FUND'S STATUTORY PURPOSE OF INSURER OF LAST RESORT FOR WORKERS' COMPENSATION INSURANCE IS PRESERVED AND THE GOVERNOR RETAINS THE RIGHT TO APPOINT THE MEMBERS OF THE BOARD OF THE NEW COMPANY;~~

~~(9) (I) THE INTERESTS OF THE EMPLOYEES OF THE FUND WOULD BE SATISFIED BY ENSURING THAT CURRENT EMPLOYEES HAVE THE OPTION TO REMAIN STATE EMPLOYEES OF THE FUND AFTER THE CONVERSION OF THE FUND TO A PRIVATE, NONSTOCK, NONPROFIT INSURER; AND~~

~~(II) THE INTERESTS OF EMPLOYEES OF THE FUND WOULD FURTHER BE SATISFIED BY ENSURING THAT CURRENT LONG TERM STATE~~

~~EMPLOYEES WHO REMAIN STATE EMPLOYEES OF THE FUND AFTER THE CONVERSION OF THE FUND TO A PRIVATE, NONSTOCK, NONPROFIT INSURER SHALL REMAIN IN THE STATE RETIREMENT SYSTEM AND, THEREFORE, WOULD NOT BE UNFAIRLY PENALIZED BY BEING PREMATURELY FORCED OUT OF THE STATE RETIREMENT SYSTEM DUE TO THE CONVERSION; AND~~

~~(10) THE INTERESTS OF THE RESIDENTS OF THE STATE, BOTH EMPLOYERS AND EMPLOYEES, WILL BE BEST MET BY CONVERTING THE FUND INTO A PRIVATE, NONSTOCK, NONPROFIT, FULLY REGULATED, COMPETITIVE INSURER.~~

~~24-303.~~

~~(A) THERE IS A CHESAPEAKE EMPLOYERS' INSURANCE COMPANY.~~

~~(B) THE COMPANY SHALL BE:~~

~~(1) A PRIVATE, NONPROFIT, NONSTOCK COMPANY ORGANIZED UNDER STATE LAW; AND~~

~~(2) SUBJECT TO THE APPLICABLE PROVISIONS OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE AS A NONSTOCK COMPANY.~~

~~(C) BEFORE MARCH 1, 2013, THE COMPANY SHALL:~~

~~(1) FILE ARTICLES OF INCORPORATION UNDER THE CORPORATIONS AND ASSOCIATIONS ARTICLE; AND~~

~~(2) TAKE ALL STEPS NECESSARY TO BE A PRIVATE, NONPROFIT, NONSTOCK COMPANY ORGANIZED UNDER STATE LAW.~~

~~24-304.~~

~~(A) BEFORE MARCH 1, 2013, THE COMPANY SHALL:~~

~~(1) FILE AN APPLICATION FOR A CERTIFICATE OF AUTHORITY UNDER THIS ARTICLE; AND~~

~~(2) TAKE ALL STEPS NECESSARY TO BE AN AUTHORIZED DOMESTIC INSURER UNDER STATE LAW.~~

~~(B) ON APPROVAL OF THE APPLICATION FOR A CERTIFICATE OF AUTHORITY, THE COMMISSIONER SHALL ISSUE TO THE COMPANY A~~

~~CERTIFICATE OF AUTHORITY THAT AUTHORIZES THE COMPANY TO ISSUE POLICIES UNDER TITLE 9 OF THE LABOR AND EMPLOYMENT ARTICLE.~~

~~(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE COMPANY HAS THE POWERS, PRIVILEGES, AND IMMUNITIES GRANTED BY AND IS SUBJECT TO THE PROVISIONS APPLICABLE TO INSURERS AUTHORIZED TO WRITE WORKERS' COMPENSATION INSURANCE UNDER THIS ARTICLE.~~

~~(D) THE COMPANY IS A MEMBER OF THE PROPERTY AND CASUALTY INSURANCE GUARANTY CORPORATION.~~

~~24-305.~~

~~(A) THE COMPANY SHALL BE:~~

~~(1) AN AUTHORIZED INSURER; AND~~

~~(2) THE WORKERS' COMPENSATION INSURER OF LAST RESORT FOR EMPLOYERS COVERED UNDER TITLE 9 OF THE LABOR AND EMPLOYMENT ARTICLE.~~

~~(B) THE COMPANY MAY NOT CANCEL OR REFUSE TO RENEW OR ISSUE A POLICY EXCEPT FOR:~~

~~(1) NONPAYMENT OF A PREMIUM FOR CURRENT OR PRIOR POLICIES ISSUED BY THE FUND OR THE COMPANY;~~

~~(2) FAILURE TO PROVIDE PAYROLL INFORMATION TO THE FUND OR THE COMPANY; OR~~

~~(3) FAILURE TO COOPERATE IN ANY PAYROLL AUDIT CONDUCTED BY THE FUND OR THE COMPANY.~~

~~(C) THE COMPANY MAY ENGAGE ONLY IN THE BUSINESS OF WORKERS' COMPENSATION INSURANCE IN ACCORDANCE WITH STATE LAW.~~

~~24-306.~~

~~(A) THERE IS A BOARD FOR THE CHESAPEAKE EMPLOYERS' INSURANCE COMPANY.~~

~~(B) THE BOARD SHALL CONSIST OF NINE MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.~~

~~(C) EACH MEMBER SHALL BE A CITIZEN OF THE STATE.~~

~~(D) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.~~

~~(E) (1) THE TERM OF A MEMBER IS 5 YEARS.~~

~~(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD FOR THE FUND ON OCTOBER 1, 1991.~~

~~(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.~~

~~(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.~~

~~(5) A MEMBER MAY NOT SERVE FOR MORE THAN:~~

~~(I) TWO FULL TERMS; OR~~

~~(II) A TOTAL OF 10 YEARS.~~

~~(F) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR MISCONDUCT.~~

~~(G) THE BOARD SHALL ADOPT RULES, BYLAWS, AND PROCEDURES.~~

~~24-307.~~

~~(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE BOARD MAY DECLARE A POLICYHOLDER DIVIDEND IN THE FORM OF A CASH REFUND OR CREDIT TO:~~

~~(1) A POLICYHOLDER BASED ON THE ACTUAL LOSS RATIO THAT IS BETTER THAN THE LOSS RATIO USED TO CALCULATE THE POLICYHOLDER'S PREMIUM; OR~~

~~(2) ALL POLICYHOLDERS WHOSE LOSS RATIO CONTRIBUTED TO THE COMPANY'S SURPLUS FOR THAT YEAR.~~

~~(B) (1) THE BOARD MAY NOT ISSUE A POLICYHOLDER DIVIDEND UNDER SUBSECTION (A) OF THIS SECTION UNLESS THE COMMISSIONER HAS APPROVED THE POLICYHOLDER DIVIDEND.~~

~~(2) IN DETERMINING WHETHER TO APPROVE THE POLICYHOLDER DIVIDEND UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER SHALL CONSIDER:~~

~~(I) THE COMPANY'S SURPLUS;~~

~~(II) MATERIAL CHANGES IN PREMIUM RATES, CLAIMS, MARKET SHARE, OR TYPES OF INSURED RISKS;~~

~~(III) THE METHODOLOGY THE BOARD USED TO DETERMINE THAT POLICYHOLDERS ARE ELIGIBLE FOR THE POLICYHOLDER DIVIDEND; AND~~

~~(IV) ANY OTHER FACTOR THE COMMISSIONER CONSIDERS RELEVANT.~~

~~24-308.~~

~~(A) THE COMPANY IS NOT AND MAY NOT BE DEEMED TO BE A DEPARTMENT, UNIT, AGENCY, OR INSTRUMENTALITY OF THE STATE FOR ANY PURPOSE.~~

~~(B) EMPLOYEES OF THE COMPANY ARE NOT:~~

~~(1) EMPLOYEES OF THE STATE; OR~~

~~(2) MEMBERS OF THE STATE RETIREMENT AND PENSION SYSTEM.~~

~~(C) ALL DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE COMPANY, WHENEVER INCURRED, SHALL BE THE DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE COMPANY ONLY AND NOT OF THE STATE OR THE STATE'S DEPARTMENTS, UNITS, AGENCIES, INSTRUMENTALITIES, OFFICERS, OR EMPLOYEES.~~

~~(D) (1) MONEY OF THE COMPANY IS NOT PART OF THE GENERAL FUND OF THE STATE.~~

~~(2) THE STATE MAY NOT BUDGET FOR OR PROVIDE GENERAL FUND APPROPRIATIONS TO THE COMPANY.~~

~~(3) THE DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE COMPANY ARE NOT A DEBT OF THE STATE OR A PLEDGE OF THE CREDIT OF THE STATE.~~

~~24-309.~~

~~(A) CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE BOARD, THE BOARD SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES TO THE BOARD.~~

~~(B) FOR PURPOSES OF THIS SECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.~~

~~(C) (1) TO ASSIST THE BOARD IN ACHIEVING THE GOAL DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, THE BOARD SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE COMPANY.~~

~~(2) THE MEASURES UNDERTAKEN BY THE BOARD SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE BOARD'S WEB SITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE COMPANY.~~

~~(D) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, THE BOARD SHALL DEVELOP GUIDELINES TO ASSIST IT IN IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE COMPANY ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT MANAGEMENT SERVICES.~~

~~(E) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE BOARD SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:~~

~~(1) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS USED BY THE BOARD IN THE IMMEDIATELY PRECEDING FISCAL YEAR;~~

~~(2) THE PERCENTAGE AND DOLLAR VALUE OF THE COMPANY ASSETS THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS; AND~~

~~(3) THE MEASURES THE BOARD UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION.~~

~~24-310.~~

~~(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ON MARCH 1, 2013, ALL THE FUNCTIONS, POWERS, DUTIES, ASSETS, REAL AND PERSONAL PROPERTY, ACCOUNTS, LIABILITIES, CONTRACTS, AND OBLIGATIONS OF THE FUND SHALL BE IRREVOCABLY TRANSFERRED TO THE COMPANY, INCLUDING LIABILITY FOR ALL CLAIMS, WHETHER KNOWN OR UNKNOWN, ARISING OUT OF ANY INSURANCE POLICY PREVIOUSLY ISSUED BY THE FUND.~~

~~(B) ANY CONTRACT OR AGREEMENT WITH THE STATE FOR THE THIRD PARTY ADMINISTRATION OF THE STATE'S SELF-INSURED WORKERS' COMPENSATION PROGRAM FOR STATE EMPLOYEES MAY NOT BE TRANSFERRED OR ASSIGNED TO THE COMPANY UNTIL THE FUND NO LONGER HAS EMPLOYEES.~~

~~24-311.~~

~~THE COMPANY MAY NOT:~~

- ~~(1) BE CONVERTED TO A MUTUAL OR STOCK COMPANY; OR~~
- ~~(2) BE DISSOLVED.~~

~~Article Labor and Employment~~

~~{Part I. Definitions.}~~

~~10-101.~~

- ~~(a) In this subtitle the following words have the meanings indicated.~~
- ~~(b) "Administration" means the Maryland Insurance Administration.~~
- ~~(c) "Board" means the Board for the Injured Workers' Insurance Fund.~~
- ~~(d) "Commissioner" means the Maryland Insurance Commissioner.~~

~~(E) "COMPANY" MEANS THE CHESAPEAKE EMPLOYERS' INSURANCE COMPANY ESTABLISHED UNDER TITLE 24, SUBTITLE 3 OF THE INSURANCE ARTICLE.~~

~~[(c)] (F) "Fund" means the Injured Workers' Insurance Fund.~~

~~[(f)] "Policyholder" means an employer who holds a policy of insurance under this subtitle.~~

~~(g) (1) "Wage" means all earnings that are due to an employee for employment.~~

~~(2) "Wage" includes:~~

~~(i) a bonus;~~

~~(ii) overtime pay;~~

~~(iii) a share of profits; and~~

~~(iv) if, at the time of hiring, an employer and employee set a dollar value for board or a similar advantage, the advantage.]~~

~~[Part II. Fund.]~~

~~[10-104.] 10-102.~~

~~(A) There is an Injured Workers' Insurance Fund.~~

~~(B) BEFORE MARCH 1, 2013, THE FUND SHALL SERVE AS THE WORKERS' COMPENSATION INSURER OF LAST RESORT FOR WORKERS' COMPENSATION INSURANCE AND AS A COMPETITIVE WORKERS' COMPENSATION INSURER UNDER THE SAME TERMS AND CONDITIONS AS THE FUND SERVED BEFORE OCTOBER 1, 2012.~~

~~(C) ON AND AFTER MARCH 1, 2013, THE FUND:~~

~~(1) SHALL CONTINUE TO EXIST; BUT~~

~~(2) MAY NOT ISSUE NEW POLICIES OR OTHERWISE ENGAGE IN THE BUSINESS OF INSURANCE EXCEPT THROUGH THE COMPANY.~~

~~(D) ON AND AFTER MARCH 1, 2013, THE FUND MAY CONTINUE TO BE THE THIRD PARTY ADMINISTRATOR FOR THE STATE'S SELF-INSURED~~

~~WORKERS' COMPENSATION PROGRAM FOR STATE EMPLOYEES UNDER A CONTRACT WITH THE STATE.~~

~~(E) (1) IN THE OPERATION OF THE COMPANY, THE COMPANY SHALL UTILIZE EMPLOYEES OF THE FUND AND THE COMPANY.~~

~~(2) IN THE OPERATION OF THE FUND, THE FUND MAY UTILIZE EMPLOYEES OF THE FUND OR THE COMPANY.~~

~~(F) (1) THE COMPANY AND THE FUND SHALL ANNUALLY EXECUTE AN AGREEMENT THAT LISTS THE EMPLOYEES OF THE FUND AND THE EMPLOYEES OF THE COMPANY.~~

~~(2) THE AGREEMENT SHALL:~~

~~(I) SPECIFY THE EMPLOYEES THAT WILL BE UTILIZED BY THE COMPANY AND THE FUND;~~

~~(II) STATE THE RELATIONSHIP BETWEEN THE COMPANY AND THE FUND;~~

~~(III) PROVIDE THAT ALL ASSETS AND LIABILITIES OF THE FUND ARE THE ASSETS AND LIABILITIES OF THE COMPANY; AND~~

~~(IV) BE FILED WITH THE ADMINISTRATION.~~

~~10-103.~~

~~(A) ON AND AFTER MARCH 1, 2013:~~

~~(1) THE FUND MAY NOT HIRE NEW EMPLOYEES; AND~~

~~(2) EMPLOYEES OF THE FUND:~~

~~(I) MAY REMAIN EMPLOYEES OF THE FUND;~~

~~(II) SHALL CONTINUE TO BE STATE EMPLOYEES ONLY IF THEY REMAIN EMPLOYEES OF THE FUND;~~

~~(III) MAY NOT BE REQUIRED TO BE EMPLOYEES OF THE COMPANY;~~

~~(IV) SHALL BE SUBJECT TO EACH LAW THAT APPLIED TO EMPLOYEES OF THE FUND IMMEDIATELY BEFORE MARCH 1, 2013;~~

~~(V) SHALL BE SUBJECT TO THE SAME TERMS AND CONDITIONS OF EMPLOYMENT AS EXISTED IMMEDIATELY BEFORE MARCH 1, 2013, INCLUDING BENEFITS, LEAVE, AND PAY GRADE;~~

~~(VI) SHALL REMAIN IN THE STATE RETIREMENT SYSTEM ONLY IF THEY REMAIN EMPLOYEES OF THE FUND;~~

~~(VII) EXCEPT FOR CHANGES IN BENEFITS OR COMPENSATION APPLICABLE TO STATE EMPLOYEES GENERALLY, MAY NOT BE DENIED ANY COMPENSATION OR BENEFIT PROVIDED TO EMPLOYEES OF THE FUND AS OF MARCH 1, 2013;~~

~~(VIII) MAY NOT BE DENIED A PROMOTION, BASED ON THE EMPLOYEE'S STATUS AS AN EMPLOYEE OF THE FUND; AND~~

~~(IX) SUBJECT TO SUBSECTION (B) OF THIS SECTION, MAY ELECT TO BE AN EMPLOYEE OF THE COMPANY.~~

~~(B) IF AN EMPLOYEE OF THE FUND INTENDS TO ELECT TO BE AN EMPLOYEE OF THE COMPANY UNDER SUBSECTION (A)(2)(IX) OF THIS SECTION, THE COMPANY SHALL:~~

~~(1) REQUIRE THE EMPLOYEE TO MAKE THE ELECTION IN WRITING; AND~~

~~(2) PROVIDE THE EMPLOYEE WITH INFORMATION THAT:~~

~~(I) STATES THAT THE ELECTION OF THE EMPLOYEE TO BECOME AN EMPLOYEE OF THE COMPANY IS VOLUNTARY AND IRREVOCABLE; AND~~

~~(II) FULLY DISCLOSES THE TERMS OF EMPLOYMENT WITH THE COMPANY.~~

~~(C) AN EMPLOYEE OF THE COMPANY MAY NOT ELECT TO BE AN EMPLOYEE OF THE FUND.~~

~~[10-105.~~

~~(a) Except for Title 3, Subtitle 1, Title 8, Subtitle 3, and Title 11 of the Insurance Article and as otherwise provided by law, the Fund is subject to the Insurance Article to the same extent as an authorized domestic workers' compensation insurer.~~

~~(b) Notwithstanding subsection (a) of this section, the Fund shall register with the Commissioner and be subject to the provisions of Title 8, Subtitle 3 of the Insurance Article if the Fund operates as an administrator, as defined in § 8-301 of the Insurance Article.]~~

~~[10-106.~~

~~(a) Subject to subsection (b) of this section, the Fund shall operate in a manner similar to an authorized domestic workers' compensation insurer.~~

~~(b) The Fund shall:~~

~~(1) serve as a competitive insurer in the marketplace;~~

~~(2) guarantee the availability of workers' compensation insurance in the State;~~

~~(3) serve as the workers' compensation insurer of last resort; and~~

~~(4) engage only in the business of workers' compensation insurance in accordance with State law.]~~

~~[10-107.] 10-104.~~

~~(a) The Fund is independent of all State units.~~

~~(b) (1) Except as provided in paragraph (2) of this subsection and elsewhere in this subtitle, the Fund is not subject to any law, including § 6-106 of the State Government Article, that affects governmental units.~~

~~(2) The Fund is subject to:~~

~~(i) Title 10, Subtitle 6, Part III of the State Government Article;~~

~~(ii) Title 12 of the State Government Article;~~

~~(iii) the Maryland Public Ethics Law; and~~

~~(iv) Title 5, Subtitle 3 of the State Personnel and Pensions Article.~~

~~(3) Paragraph (1) of this subsection does not affect the exemption from property tax under § 7-210 of the Tax – Property Article.~~

~~[(c) The Fund is a member of the Property and Casualty Insurance Guaranty Corporation.]~~

~~[10-108.]~~

~~Beginning with calendar year 1994, the calendar year is the fiscal year of the Fund.]~~

~~[Part III. Board.]~~

~~[10-100.] 10-105.~~

~~(A) There is a Board for the Injured Workers' Insurance Fund.~~

~~(B) THE BOARD IS THE BOARD FOR THE COMPANY ESTABLISHED UNDER TITLE 24, SUBTITLE 3 OF THE INSURANCE ARTICLE.~~

~~(C) MEMBERS OF THE BOARD THAT WERE APPOINTED TO THE BOARD AS OF OCTOBER 1, 2012, SHALL:~~

~~(1) CONTINUE TO SERVE THE CURRENT TERM ON THE BOARD;~~
~~AND~~

~~(2) SERVE ON THE BOARD FOR THE COMPANY UNDER THE SAME TERMS AND CONDITIONS AS IF THEY WERE APPOINTED TO THE BOARD FOR THE COMPANY UNDER TITLE 24, SUBTITLE 3 OF THE INSURANCE ARTICLE.~~

~~(D) THE BOARD:~~

~~(1) SHALL BE SUBJECT TO THE RULES, BYLAWS, AND PROCEDURES THAT THE BOARD FOR THE COMPANY ADOPTS UNDER TITLE 24, SUBTITLE 3 OF THE INSURANCE ARTICLE; AND~~

~~(2) MAY ADOPT ANY POLICY TO CARRY OUT THIS SUBTITLE.~~

~~[10-110.]~~

~~(a) The Board consists of 9 members appointed by the Governor with the advice and consent of the Senate.~~

~~(b) Each member shall be a citizen of the State.~~

~~(c) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.~~

~~(d) (1) The term of a member is 5 years.~~

~~(2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, 1991.~~

~~(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.~~

~~(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.~~

~~(5) A member may not serve for more than:~~

~~(i) two full terms; or~~

~~(ii) a total of 10 years.~~

~~(c) The Governor may remove a member for incompetence or misconduct.]~~

~~[10-111.~~

~~(a) From among its members, the Board annually shall elect a chairman, a vice chairman, and a secretary.~~

~~(b) The manner of election of officers shall be as the Board determines.]~~

~~[10-112.~~

~~(a) The Board may not act on any matter unless at least 5 members concur.~~

~~(b) Each member of the Board shall devote the time needed to carry out the duties of office.~~

~~(c) The Board shall determine the times and places of its meetings.~~

~~(d) (1) Each member of the Board is entitled to:~~

~~(i) the salary provided in the budget of the Board; and~~

~~(ii) reimbursement for reasonable expenses:~~

~~1. incurred in the performance of the Board member's duties; and~~

~~2. as provided in the budget of the Board.~~

~~(2) Each member of the Board shall be paid biweekly.]~~

~~[10-113.] 10-106.~~

~~(a) (1) The Board[;~~

~~(1)] shall appoint a President of the Fund[;~~

~~(2) shall appoint or employ attorneys to advise and represent the Fund in all legal matters and, where necessary, to sue or defend suits in the name of the Fund; and~~

~~(3) may employ other staff[.~~

~~(2) THE PRESIDENT OF THE FUND MAY BE THE PRESIDENT OF THE COMPANY.~~

~~(b) (1) Except as provided in paragraph (2) of this subsection, employees of the Fund are special appointments.~~

~~(2) A classified employee of the Fund hired before July 1, 1990 in a nonprofessional or nontechnical position shall remain a member of the classified service or its equivalent in the State Personnel Management System as long as the employee remains in a nonprofessional or nontechnical position with the Fund.~~

~~(c) (1) The Board shall set compensation for its employees.~~

~~(2) Except as otherwise provided in this subtitle, an employee of the Fund is not subject to any law, regulation, or executive order governing State employee compensation, including furloughs, salary reductions, or any other General Fund cost savings measure.~~

~~(d) (1) This subsection does not apply to the layoff of an employee because of lack of work.~~

~~(2) An employee of the Fund may not be permanently removed unless:~~

~~(i) written charges are filed;~~

~~(ii) the employee has an opportunity for a hearing in accordance with Title 10, Subtitle 2 of the State Government Article; and~~

~~(iii) there is cause for removal.~~

~~10-107.~~

~~THE FUND:~~

~~(1) SHALL REMAIN IN EXISTENCE SO LONG AS THE FUND CONTINUES TO HAVE EMPLOYEES; AND~~

~~(2) MAY BE TERMINATED ONLY BY THE REPEAL OF THIS SUBTITLE.~~

~~[10-114.~~

~~(a) The Board may adopt any policy to carry out this subtitle.~~

~~(b) (1) The Board shall have a plan to promote the services of the Fund to employers in the State.~~

~~(2) As part of the plan, the Board may prepare a pamphlet about the Fund and provide copies to each county for distribution to businesses with personal property tax bills.]~~

~~[Part IV. Purposes and Administration of Fund.]~~

~~[10-117.~~

~~The Board:~~

~~(1) shall use the Fund to insure employers against liability under Title 9 of this article; and~~

~~(2) may use the Fund:~~

~~(i) to provide employer's liability insurance; and~~

~~(ii) on behalf of a policyholder, to pay benefits equal to benefits allowed under:~~

~~1. a compensation law of another state; or~~

~~2. a federal compensation law.]~~

~~[10-118.~~

~~(a) The Fund shall consist of:~~

~~(1) premiums for insurance that the Fund issues;~~

~~(2) income from investments under § 10-122 of this subtitle;~~

~~(3) interests on deposits or investments of money from the Fund; and~~

~~(4) the money that the Attorney General collects under § 10-133(e) of this subtitle on debts.~~

~~(b) The Fund shall include each security or other property that is acquired with money of the Fund.~~

~~(e) The Board shall use the Fund to pay all of the expenses under this subtitle, including losses on insurance that the Fund issues.}]~~

~~[10-120.~~

~~(a) The Board shall administer the Fund.~~

~~(b) (1) The Board shall prepare capital and operating budgets for the Fund.~~

~~(2) For information only, the Board shall submit the budgets to the Senate Budget and Taxation Committee and the House Appropriations Committee.~~

~~(e) The Board shall issue receipts for money that the Fund receives.}]~~

~~[10-121.~~

~~The Board shall keep reserves and surplus in accordance with the Insurance Article.}]~~

~~[10-122.~~

~~(a) Consistent with minority business purchasing standards applicable to units of State government under the State Finance and Procurement Article and consistent with the fiduciary duties of the Board, the Board shall attempt to use to the greatest extent feasible minority business enterprises to provide brokerage and investment management services to the Board.~~

~~(b) For purposes of this section, brokerage and investment management services shall include services relating to all allocated asset classes.~~

~~(e) (1) To assist it in achieving the goal described under subsection (a) of this section, the Board shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded by the Fund.~~

~~(2) The measures undertaken by the Board shall include the use of a wide variety of media, including the Board's website, to provide notice to a broad and~~

~~varied range of potential providers about the brokerage and investment management services opportunities afforded by the Fund.~~

~~(d) In conjunction with the Governor's Office of Minority Affairs, the Board shall develop guidelines to assist it in identifying and evaluating qualified minority business enterprises in order to help the Fund achieve the objective for greater use of minority business enterprises for brokerage and investment management services.~~

~~(e) On or before September 1 each year, the Board shall submit a report to the Governor's Office of Minority Affairs and, subject to § 2-1246 of the State Government Article, the General Assembly on:~~

~~(1) the identity of the minority business enterprise brokerage and investment management services firms used by the Board in the immediately preceding fiscal year;~~

~~(2) the percentage and dollar value of the Fund assets that are under the investment control of minority business enterprise brokerage and investment management services firms; and~~

~~(3) the measures the Board undertook in the immediately preceding fiscal year in accordance with subsection (e)(2) of this section.]~~

~~[10-125.~~

~~(a) The Fund shall be examined by the Commissioner in accordance with Title 2, Subtitle 2 (Enforcement) of the Insurance Article.~~

~~(b) As part of an examination under § 2-205 of the Insurance Article, the Commissioner shall, at least once every 5 years, determine whether the Fund's rate making practices produce actuarially sound rates.]~~

~~[10-126.~~

~~(a) Within 90 days after the close of each fiscal year, the Board shall submit to the Governor an annual report that includes a detailed statement of:~~

~~(1) the condition and expenses of the Fund in detail;~~

~~(2) growth of the Fund;~~

~~(3) changes in earned premiums of the Fund;~~

~~(4) changes in the number of policyholders of the Fund;~~

~~(5) the degree of the Fund's personnel flexibility;~~

~~(6) trends in the overall market share; and~~

~~(7) trends in the premium to expense ratio.~~

~~(b) (1) On or before October 1 of each year, the Fund shall submit to the Governor:~~

~~(i) a copy of each policy form that the Fund will use during the next calendar year;~~

~~(ii) the schedule of premium rates that the Fund will charge for the next calendar year;~~

~~(iii) information about provision for claim payment, as defined in § 11-330(a) of the Insurance Article, for each class for which the Fund writes coverage; and~~

~~(iv) other information that the Governor requests about premium rates, including classes, financial information, and losses.~~

~~(2) (i) Information required under paragraph (1)(ii) through (iv) of this subsection shall be submitted on the form that the Governor requires.~~

~~(ii) The form shall conform as closely as possible to the form that a rating organization uses to comply with §§ 11-307, 11-329, and 11-330 of the Insurance Article.]~~

~~[10-127.~~

~~If the General Assembly repeals this subtitle, money in the Fund at the time of repeal shall be distributed:~~

~~(1) as the General Assembly provides; or~~

~~(2) if the General Assembly does not provide for distribution, as justice requires, with due regard for existing obligations for compensation.]~~

~~[Part V. Insurance Program.]~~

~~[10-130.~~

~~(a) The Board shall adopt a schedule of premium rates in accordance with sound actuarial practices and shall ensure that the rates are not excessive, inadequate, or unfairly discriminatory.~~

~~(b) The Commissioner shall review the Fund's rates as part of an examination under § 2-205 of the Insurance Article to determine whether the Fund's rate-making practices produce actuarially sound rates.~~

~~(e) (1) The Board shall determine the schedule by:~~

~~(i) classifying all of the policyholders on the basis of the respective level of hazard of their enterprises; and~~

~~(ii) setting a premium rate for each class on the basis of:~~

~~1. its level of hazard; and~~

~~2. incentives to prevent injuries to employees.~~

~~(2) To determine the schedule, the Board shall use the rating system that, in the opinion of the Board:~~

~~(i) most accurately measures the level of hazard for each policyholder on the basis of the number of injuries that occur in the enterprises of the policyholder;~~

~~(ii) encourages the prevention of injuries; and~~

~~(iii) ensures the solvency of the Fund from year to year.~~

~~(3) The Board may set minimum premium rates.~~

~~(d) (1) The Board shall state premium rates as a percentage of the gross annual wages of employees to whom Title 9 of this article applies.~~

~~(2) For employees who work partly in and partly outside the State, the premium shall be based on wages for employment in the State.~~

~~(e) (1) Except as provided in paragraph (2) of this subsection, the schedule of premium rates in effect at the beginning of a calendar year remains in effect for the year.~~

~~(2) The Board shall adjust classes and rates as often as the Board determines to be just and advantageous to meet the criteria under subsection (e)(2) of this section and to reflect changes in levels of hazards.】~~

~~[10-131.~~

~~An employer shall apply for insurance under this subtitle in accordance with the policies of the Board.】~~

~~[10-132.~~

~~Each employer who applies and is eligible for insurance under this subtitle shall be assigned, after consideration of the number of employees and the relative hazards of the various types of work performed in the enterprise of the employer:~~

- ~~(1) to the class that includes the work; or~~
- ~~(2) if more than 1 class clearly applies to the work, to each applicable class.]~~

~~[10-133.~~

~~(a) The Board shall adopt policies that provide procedures and standards for the payment of premiums:~~

~~(b) (1) Subject to paragraph (2) of this subsection, the Board, the President of the Fund, or the Executive Vice President of the Fund may:~~

~~(i) cancel the insurance of a policyholder who fails to pay a premium due to the Fund; and~~

~~(ii) refer to the Attorney General, for collection, the debt of any policyholder whose insurance is being canceled under this paragraph.~~

~~(2) At least 10 days before the date set for cancellation of insurance under this subsection, the Board shall:~~

~~(i) serve on the policyholder, by personal service or by certified or registered mail sent to the last known resident address of the policyholder, a notice of intention to cancel insurance; and~~

~~(ii) submit a copy of the notice to the Workers' Compensation Commission's designee.~~

~~(3) Notice under this subsection may be given:~~

~~(i) for a policyholder that is a corporation, to an official or other agent of the corporation on whom legal process may be served; and~~

~~(ii) for a policyholder that is a partnership, to any partner.~~

~~(4) Notice under this subsection shall state the date on which the cancellation is to become effective.~~

~~(5) Whenever a debt is referred under this subsection for collection, the insurance may not be reinstated until the debt is paid in full.~~

~~(e) (1) Whenever a debt is referred under this section for collection, the Board, the President of the Fund, or the Executive Vice President of the Fund shall provide the Attorney General with:~~

~~(i) the name of the policyholder;~~

~~(ii) each known business or resident address of the policyholder;~~

~~and~~

~~(iii) a statement of the amount that the policyholder owes to the~~

~~Fund.~~

~~(2) The Attorney General may sue, in the name of the Fund, to collect the debt.~~

~~(d) If the President of the Fund considers settlement to be in the best interest of the Fund, a debt that is referred under this section for collection may be settled.]~~

~~[10-134.~~

~~The Board shall issue a certificate of insurance.]~~

~~[10-135.~~

~~(a) The Board may:~~

~~(1) adopt requirements for uniform payroll; and~~

~~(2) require each policyholder to conform to the requirements.~~

~~(b) In accordance with the requirements that the Board adopts, each policyholder shall submit a report on wages or other documentation to the Board at intervals that the Board sets.~~

~~(c) The Board or its authorized employee may inspect at any time the payroll of a policyholder.~~

~~(d) (1) Subject to paragraph (2) of this subsection, the Board, the President of the Fund, or the Executive Vice President of the Fund may cancel the insurance of a policyholder who:~~

~~(i) fails to comply with subsection (b) of this section; or~~

~~(ii) refuses to allow an inspection authorized under subsection~~

~~(c) of this section.~~

~~(2) At least 30 days before the date set for cancellation of insurance under this subsection, the Board shall:~~

~~(i) serve on the policyholder, by personal service or by certified or registered mail sent to the last known resident address of the policyholder, a notice of intention to cancel insurance; and~~

~~(ii) submit a copy of the notice to the Workers' Compensation Commission's designee.~~

~~(3) Notice under this subsection may be given:~~

~~(i) for a policyholder that is a corporation, to an official or other agent of the corporation on whom legal process may be served; and~~

~~(ii) for a policyholder that is a partnership, to any partner.~~

~~(4) Notice under this subsection shall state the date on which the cancellation is to become effective.}]~~

~~[10-136.~~

~~A policyholder may cancel a policy under this subtitle, if the policyholder:~~

~~(1) gives the Fund written notice; and~~

~~(2) promptly pays all premiums owed to the Fund.}]~~

~~[10-137.~~

~~If the Board considers an account to be uncollectible, the account may be charged from the books of the Fund.}]~~

~~[10-138.~~

~~(a) Subject to subsection (b) of this section, the President of the Fund may settle a claim that the Fund has against a governmental unit or person who is alleged to be liable for an accident for which the Fund pays compensation.~~

~~(b) The President may settle a claim under this section only if:~~

~~(1) the Workers' Compensation Commission consents; and~~

~~(2) for a settlement that will prejudice any right of an injured employee, the employee consents.}]~~

~~[Part VI. Prohibited Act; Penalty.]~~

~~[10-141.]~~

~~(a) An employer may not with fraudulent intent misrepresent to the Board the wages on which a premium under this subtitle is based.~~

~~(b) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both.]~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That, as provided in this Act:~~

~~(1) The Chesapeake Employers' Insurance Company is the successor of the Injured Workers' Insurance Fund, the Board for the Chesapeake Employers' Insurance Company is the successor of the Board for the Injured Workers' Insurance Fund, and the President of the Chesapeake Employers' Insurance Company is the successor of the President of the Injured Workers' Insurance Fund.~~

~~(2) In every law, executive order, rule, regulation, policy, or document created by an official, employee, or unit of this State, the names and titles of those agencies and officials mean the names and titles of the successor agency or official, as provided in this Act.~~

~~(3) Policy forms and other documents that were approved prior to March 1, 2013, by the Maryland Insurance Administration or the Workers' Compensation Commission in the name of the Injured Workers' Insurance Fund may be used by the Chesapeake Employers' Insurance Company to the same extent as if the policy forms and other documents had been approved in the name of the Chesapeake Employers' Insurance Company.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That, on March 1, 2013, all the functions, powers, duties, equipment, assets, and liabilities of the Injured Workers' Insurance Fund shall be transferred to the Chesapeake Employers' Insurance Company.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That:~~

~~(1) Notwithstanding any other provision of law, full compliance by the Chesapeake Employers' Insurance Company with Title 11 of the Insurance Article is not required until 5 years after the effective date of this Act; and~~

~~(2) It is the intent of the General Assembly that the Chesapeake Employers' Insurance Company and the rating organization phase in the rating plan to avoid disruption to policyholders.~~

~~SECTION 5. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2012 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction in an editor's note following the section affected.~~

~~SECTION 6. 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective through May 31, 2013 2014, and, at the end of May 31, 2013 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2012.

Chapter 409

(House Bill 1023)

AN ACT concerning

Calvert County – Litter Control Law – Local Ordinance

FOR the purpose of authorizing the governing body of Calvert County to adopt a certain ordinance to prohibit littering and to impose certain criminal and civil penalties for a violation of the ordinance; and generally relating to the litter control law.

BY repealing and reenacting, with amendments,
 Article – Criminal Law
 Section 10–110
 Annotated Code of Maryland
 (2002 Volume and 2011 Supplement)

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

Article – Criminal Law

10–110.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Bi-county unit” means:
- (i) the Maryland–National Capital Park and Planning Commission; or
- (ii) the Washington Suburban Sanitary Commission.
- (3) “Litter” means all rubbish, waste matter, refuse, garbage, trash, debris, dead animals, or other discarded materials of every kind and description.
- (4) “Public or private property” means:
- (i) the right-of-way of a road or highway;
- (ii) a body of water or watercourse or the shores or beaches of a body of water or watercourse;
- (iii) a park;
- (iv) a parking facility;
- (v) a playground;
- (vi) public service company property or transmission line right-of-way;
- (vii) a building;
- (viii) a refuge or conservation or recreation area;
- (ix) residential or farm property; or
- (x) timberlands or a forest.
- (b) The General Assembly intends to:
- (1) prohibit uniformly throughout the State the improper disposal of litter on public or private property; and
- (2) curb the desecration of the beauty of the State and harm to the health, welfare, and safety of its citizens caused by the improper disposal of litter.
- (c) A person may not:

(1) dispose of litter on a highway or perform an act that violates the State Vehicle Laws regarding disposal of litter, glass, and other prohibited substances on highways; or

(2) dispose or cause or allow the disposal of litter on public or private property unless:

(i) the property is designated by the State, a unit of the State, or a political subdivision of the State for the disposal of litter and the person is authorized by the proper public authority to use the property; or

(ii) the litter is placed into a litter receptacle or container installed on the property.

(d) If two or more individuals are occupying a motor vehicle, boat, airplane, or other conveyance from which litter is disposed in violation of subsection (c) of this section, and it cannot be determined which occupant is the violator:

(1) if present, the owner of the conveyance is presumed to be responsible for the violation; or

(2) if the owner of the conveyance is not present, the operator is presumed to be responsible for the violation.

(e) Notwithstanding any other law, if the facts of a case in which a person is charged with violating this section are sufficient to prove that the person is responsible for the violation, the owner of the property on which the violation allegedly occurred need not be present at a court proceeding regarding the case.

(f) (1) A person who violates this section is subject to the penalties provided in this subsection.

(2) (i) A person who disposes of litter in violation of this section in an amount not exceeding 100 pounds or 27 cubic feet and not for commercial gain is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 30 days or a fine not exceeding \$1,500 or both.

(ii) A person who disposes of litter in violation of this section in an amount exceeding 100 pounds or 27 cubic feet, but not exceeding 500 pounds or 216 cubic feet, and not for commercial gain is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$12,500 or both.

(iii) A person who disposes of litter in violation of this section in an amount exceeding 500 pounds or 216 cubic feet or in any amount for commercial gain is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$30,000 or both.

(3) In addition to the penalties provided under paragraph (2) of this subsection, a court may order the violator to:

(i) remove or render harmless the litter disposed of in violation of this section;

(ii) repair or restore any property damaged by, or pay damages for, the disposal of the litter in violation of this section;

(iii) perform public service relating to the removal of litter disposed of in violation of this section or to the restoration of an area polluted by litter disposed of in violation of this section; or

(iv) reimburse the State, county, municipal corporation, or bi-county unit for its costs incurred in removing the litter disposed of in violation of this section.

(4) In addition to, or instead of, the penalties provided in paragraphs (2) and (3) of this subsection, the court may suspend for up to 7 days the license of the person to operate the type of conveyance used in the violation who is presumed to be responsible for the violation under subsection (d) of this section.

(g) A law enforcement unit, officer, or official of the State or a political subdivision of the State, or an enforcement unit, officer, or official of a commission of the State, or a political subdivision of the State, shall enforce compliance with this section.

(h) A unit that supervises State property shall:

(1) establish and maintain receptacles for the disposal of litter at appropriate locations where the public frequents the property;

(2) post signs directing persons to the receptacles and serving notice of the provisions of this section; and

(3) otherwise publicize the availability of litter receptacles and the requirements of this section.

(i) (1) Fines collected for violations of this section shall be disbursed:

(i) to the county or municipal corporation where the violation occurred; or

(ii) if the bi-county unit is the enforcement unit and the violations occurred on property over which the bi-county unit exercises jurisdiction, to the bi-county unit.

(2) Fines collected shall be used to pay for litter receptacles and posting signs as required by subsection (h) of this section and for other purposes relating to the removal or control of litter.

(j) (1) The legislative body of a municipal corporation may:

(i) prohibit littering; and

(ii) classify littering as a municipal infraction under Article 23A, § 3(b) of the Code.

(2) The governing [body] **BODIES** of Prince George's County **AND CALVERT COUNTY** may **EACH** adopt an ordinance to prohibit littering under this section and, for violations of the ordinance, may impose criminal penalties and civil penalties that do not exceed the criminal penalties and civil penalties specified in subsection (f)(1) through (3) of this section.

(k) This section may be cited as the "Litter Control Law".

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 410

(House Bill 1031)

AN ACT concerning

Criminal Procedure – Right of Appeal from Final Judgments – Conditional Guilty Plea

FOR the purpose of providing that an appeal from a final judgment entered following a conditional plea of guilty may be taken in accordance with the Maryland Rules; defining a certain term; and generally relating to the right of appeal from final judgments in criminal cases.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 12–302(e)
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

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

Article – Courts and Judicial Proceedings

12–302.

(e) (1) IN THIS SUBSECTION, “CONDITIONAL PLEA OF GUILTY” MEANS A GUILTY PLEA WITH WHICH THE DEFENDANT PRESERVES IN WRITING ANY PRETRIAL ISSUES THAT THE DEFENDANT INTENDS TO APPEAL.

(2) [Section] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, § 12–301 of this subtitle does not permit an appeal from a final judgment entered following a plea of guilty in a circuit court. Review of such a judgment shall be sought by application for leave to appeal.

(3) AN APPEAL FROM A FINAL JUDGMENT ENTERED FOLLOWING A CONDITIONAL PLEA OF GUILTY MAY BE TAKEN IN ACCORDANCE WITH THE MARYLAND RULES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 411

(House Bill 1046)

AN ACT concerning

Howard County – Alcoholic Beverages Sales – Golf Courses

Ho. Co. 7–12

FOR the purpose of altering the starting time for selling beer, wine, and liquor at certain golf courses in Howard County that hold a certain license; and generally relating to alcoholic beverages in Howard County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 11–514(a)(3)
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

11-514.

(a) Except as otherwise stipulated by the Howard County Board of License Commissioners, in Howard County holders of:

(3) A 7-day Class GC license may sell beer, wine and liquor from [11] 6:30 a.m. to 2 a.m. the next day, Monday through Sunday, inclusive.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 412

(House Bill 1047)

AN ACT concerning

Howard County – Alcoholic Beverages – Refillable Beer Containers

Ho. Co. 10-12

FOR the purpose of authorizing the Board of License Commissioners for Howard County to issue a refillable container permit to a holder of a ~~Class B special beer and wine~~ certain alcoholic beverages license under certain circumstances; authorizing a holder of a Class B special beer and wine license ~~in Howard County~~ to sell draft beer in certain refillable containers for consumption off the licensed premises ~~only to persons who have purchased food or alcohol an alcoholic beverage from the licensed premises~~; *requiring that certain applicants meet certain advertising, posting of notice, and public hearing requirements*; requiring a refillable container to meet certain requirements; specifying the term of and hours of sale for the permit; requiring that a holder of the permit may refill only a refillable container that was branded by the permit holder; and generally relating to alcoholic beverages in Howard County.

BY repealing and reenacting, without amendments,
 Article 2B – Alcoholic Beverages
 Section 7-101(p-1)(1) and (2)

Annotated Code of Maryland
(2011 Replacement Volume)

BY adding to

Article 2B – Alcoholic Beverages
Section 7–101(p–1)(11)
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section ~~7–101(p–1)(7)(i)~~ 7–101(p–1)(11)
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

7–101.

- (p–1) (1) This subsection applies only in Howard County.
- (2) There is a Class B special beer and wine (B–SBW) (off–sale) license.
- ~~(7) A holder of a B–SBW license:~~
- ~~(i) May sell beer and wine, INCLUDING DRAFT BEER IN REFILLABLE CONTAINERS WITH A CAPACITY OF NOT LESS THAN 32 OUNCES AND NOT MORE THAN 128 OUNCES, for consumption off the licensed premises only to persons who have purchased food or alcohol from the licensed premises; and~~

(11) (i) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A REFILLABLE CONTAINER PERMIT TO A HOLDER OF A B–SBW LICENSE ANY CLASS OF ALCOHOLIC BEVERAGES LICENSE ISSUED BY THE BOARD OF LICENSE COMMISSIONERS EXCEPT A CLASS C LICENSE AND A CLASS GC LICENSE:

- 1. ON COMPLETION OF AN APPLICATION FORM THAT THE BOARD PROVIDES; AND**
- 2. AT NO COST TO THE B–SBW LICENSE HOLDER.**

(II) A REFILLABLE CONTAINER PERMIT ENTITLES THE HOLDER TO SELL DRAFT BEER FOR CONSUMPTION OFF THE LICENSED PREMISES;

~~1. IN A REFILLABLE CONTAINER WITH A CAPACITY OF NOT LESS THAN 32 OUNCES AND NOT MORE THAN 128 OUNCES;~~
~~AND~~

~~2. TO AN INDIVIDUAL WHO HAS PURCHASED FOOD OR AN ALCOHOLIC BEVERAGE FROM THE LICENSED PREMISES.~~

(III) TO BE USED AS A REFILLABLE CONTAINER UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, A CONTAINER SHALL:

1. BE SEALABLE;
2. BE BRANDED WITH AN IDENTIFYING MARK OF THE LICENSE HOLDER;
3. BEAR THE FEDERAL HEALTH WARNING STATEMENT REQUIRED FOR CONTAINERS OF ALCOHOLIC BEVERAGES UNDER 27 C.F.R. 16.21;
4. DISPLAY INSTRUCTIONS FOR CLEANING THE CONTAINER; AND
5. BEAR A LABEL STATING THAT:
 - A. CLEANING THE CONTAINER IS THE RESPONSIBILITY OF THE CONSUMER; AND
 - B. CONTENTS OF THE CONTAINER ARE PERISHABLE AND SHOULD BE REFRIGERATED IMMEDIATELY AND CONSUMED WITHIN 48 HOURS AFTER PURCHASE.

(IV) THE TERM OF AND HOURS OF SALE FOR A REFILLABLE CONTAINER PERMIT ISSUED TO AN APPLICANT IS ARE THE SAME AS THAT OF THE APPLICANT'S ~~B-SBW~~ ALCOHOLIC BEVERAGES LICENSE.

~~(V) THE HOURS OF SALE FOR A REFILLABLE CONTAINER PERMIT ARE THE SAME AS THOSE FOR A B-SBW LICENSE.~~

(V) AN APPLICANT WHO HOLDS AN ALCOHOLIC BEVERAGES LICENSE WITHOUT AN OFF-SALE PRIVILEGE SHALL MEET THE SAME

ADVERTISING, POSTING OF NOTICE, AND PUBLIC HEARING REQUIREMENTS AS THOSE FOR THE ALCOHOLIC BEVERAGES LICENSE THAT THE APPLICANT HOLDS.

(VI) A HOLDER OF A REFILLABLE CONTAINER PERMIT MAY REFILL ONLY A REFILLABLE CONTAINER THAT WAS BRANDED BY THE PERMIT HOLDER.

[(11)] (12) The Board of License Commissioners may adopt regulations to carry out this subsection, including a limit on the number of licenses to be issued.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 413

(House Bill 1054)

AN ACT concerning

Charles County – Property Tax Credit – Conservation Easements

FOR the purpose of authorizing the governing body of Charles County to grant, by law, a property tax credit against the county property tax imposed on certain real property subject to a perpetual conservation easement under certain circumstances; authorizing the governing body of Charles County to provide, by law, for the amount and duration of the credit and any other provision necessary to carry out the tax credit; providing for the application of this Act; and generally relating to a county property tax credit for certain property in Charles County subject to a perpetual conservation easement.

BY adding to

Article – Tax – Property

Section 9–310(i)

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

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

Article – Tax – Property

9–310.

(I) (1) THE GOVERNING BODY OF CHARLES COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY PROPERTY TAX IMPOSED ON REAL PROPERTY THAT IS SUBJECT TO A PERPETUAL CONSERVATION EASEMENT DONATED TO THE CONSERVANCY FOR CHARLES COUNTY, INC., OR ANOTHER QUALIFIED ENTITY APPROVED BY THE GOVERNING BODY.

(2) THE PROPERTY TAX CREDIT GRANTED UNDER THIS SECTION SHALL:

(I) BENEFIT THE ORIGINAL GRANTOR OF THE PERPETUAL CONSERVATION EASEMENT;

(II) BE GRANTED FOR THE DURATION THAT THE ORIGINAL GRANTOR OF THE PERPETUAL CONSERVATION EASEMENT CONTINUES TO RESIDE ON THE PROPERTY SUBJECT TO THE EASEMENT;

(III) TERMINATE ON TRANSFER OF THE PROPERTY SUBJECT TO THE CONSERVATION EASEMENT BY THE GRANTOR; AND

(IV) BE APPLICABLE TO PREEXISTING CONSERVATION EASEMENTS.

(3) THE GOVERNING BODY OF CHARLES COUNTY MAY PROVIDE, BY LAW, FOR:

(I) THE AMOUNT AND DURATION OF THE PROPERTY TAX CREDIT UNDER THIS SUBSECTION; AND

(II) ANY OTHER PROVISION NECESSARY TO CARRY OUT THE PROPERTY TAX CREDIT UNDER THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012, and shall be applicable to all taxable years beginning after June 30, 2012.

Approved by the Governor, May 2, 2012.

Chapter 414

(House Bill 1089)

AN ACT concerning

Calvert County – Appointment of Assistant Sheriff – Candidates

FOR the purpose of requiring the Sheriff of Calvert County to appoint as assistant sheriff an individual who is an active duty deputy sheriff and holds a certain rank in the Calvert County Sheriff's Office or an individual who is not a current employee of the Sheriff's Office; establishing that the Sheriff has sole discretion to appoint the assistant sheriff; authorizing the Sheriff to appoint the assistant sheriff without subjecting the candidate to a written examination; establishing that the assistant sheriff serves at the pleasure of the Sheriff; establishing the salary, benefits, and merit status of the assistant sheriff based on the position the assistant sheriff held immediately before appointment; requiring an active duty deputy sheriff who was appointed to the position of assistant sheriff to be permitted to return to the position the assistant sheriff held before appointment including certain salary adjustments; and generally relating to sheriffs in Calvert County.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 2–309(f)
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

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

Article – Courts and Judicial Proceedings

2–309.

(f) (1) (i) The Sheriff of Calvert County shall receive an annual salary of:

1. \$78,000 for calendar year 2006;
2. \$81,000 for calendar year 2007;
3. \$84,000 for calendar year 2008; and
4. \$87,000 for calendar year 2009 and each subsequent calendar year.

(ii) 1. On or after January 1, 2011, the County Commissioners may pay to the Sheriff additional compensation equal to the amount of contributions the County Commissioners would have made to the Calvert County Employees' Savings Plan on behalf of the Sheriff for the years of service the Sheriff

accrued as the Sheriff of Calvert County prior to joining the Calvert County Employees' Savings Plan.

2. The amount payable in subparagraph 1 of this subparagraph may be made in one or more payments as deemed appropriate by the County Commissioners.

(2) The Sheriff may appoint deputy sheriffs in the number and at the salary approved by the County Commissioners. The deputy sheriffs shall serve under the direction of the Sheriff. Within one year of their appointment, they shall complete the course prescribed for police officers by the Maryland Police Training Commission. The deputy sheriffs funded by the County Commissioners will become merit system employees of the Calvert County Sheriff's Office upon completion of their initial probation period and may not be dismissed without cause, except the deputy sheriffs funded through grants or other sources may be dismissed without cause when the funding source is depleted. There may be no honorary deputy sheriffs of Calvert County and no one is authorized to carry badges, certificates, or other materials for the purpose of identifying the bearer as an honorary deputy sheriff. However, the Sheriff may appoint as special deputy sheriffs any members of the police force of the towns of North Beach or Chesapeake Beach who shall have all of the powers and authority of the deputy sheriffs. The County Commissioners are authorized to reimburse the towns of North Beach and Chesapeake Beach in whole or in part for services performed by the special deputy sheriffs outside the town limits.

(3) (I) The Sheriff may appoint 1 full-time assistant sheriff who shall:

[(i)] 1. Serve under the direction of the Sheriff; and

[(ii)] 2. Be designated by the Sheriff as a line officer.

(II) THE SHERIFF SHALL APPOINT AN INDIVIDUAL TO SERVE AS THE ASSISTANT SHERIFF WHO:

1. IS AN ACTIVE DUTY DEPUTY SHERIFF AND HOLDS THE RANK OF A COMMISSIONED OFFICER IN THE CALVERT COUNTY SHERIFF'S OFFICE; OR

2. IS NOT A CURRENT EMPLOYEE OF THE CALVERT COUNTY SHERIFF'S OFFICE.

(III) 1. THE APPOINTMENT OF THE ASSISTANT SHERIFF IS IN THE SOLE DISCRETION OF THE SHERIFF.

2. THE SHERIFF MAY APPOINT THE ASSISTANT SHERIFF WITHOUT SUBJECTING THE CANDIDATE TO A WRITTEN EXAMINATION.

3. THE ASSISTANT SHERIFF SERVES AT THE PLEASURE OF THE SHERIFF.

(IV) 1. IF THE ASSISTANT SHERIFF WAS AN ACTIVE DUTY DEPUTY SHERIFF IN THE CALVERT COUNTY SHERIFF'S OFFICE IMMEDIATELY BEFORE APPOINTMENT, THE ASSISTANT SHERIFF:

A. SHALL RECEIVE AN ANNUAL SALARY THAT DOES NOT EXCEED BY MORE THAN 6 PERCENT THE SALARY OF THE HIGHEST RANKING OFFICER IN THE CALVERT COUNTY SHERIFF'S OFFICE;

B. SHALL RETAIN MERIT STATUS; AND

C. AT THE END OF AN APPOINTMENT, SHALL BE PERMITTED TO RETURN TO THE PREVIOUS RANK THE ASSISTANT SHERIFF HELD PRIOR TO APPOINTMENT, INCLUDING ANY COST-OF-LIVING ADJUSTMENTS AND SALARY STEP INCREASES THE ASSISTANT SHERIFF WOULD HAVE RECEIVED IF THE DEPUTY SHERIFF HAD NOT BEEN APPOINTED ASSISTANT SHERIFF.

2. IF THE ASSISTANT SHERIFF WAS NOT AN EMPLOYEE OF THE CALVERT COUNTY SHERIFF'S OFFICE IMMEDIATELY BEFORE APPOINTMENT, THE ASSISTANT SHERIFF:

A. SHALL RECEIVE AN ANNUAL SALARY THAT IS ESTABLISHED THROUGH A MUTUAL AGREEMENT BETWEEN THE SHERIFF AND THE COUNTY COMMISSIONERS OF CALVERT COUNTY; ~~AND~~

B. SHALL BE AFFORDED ALL THE BENEFITS AVAILABLE TO FULL-TIME EMPLOYEES IN THE CALVERT COUNTY SHERIFF'S OFFICE; AND

C. MAY NOT BE GIVEN MERIT STATUS.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, any Sheriff of Calvert County who, since 1948, has served for three or more terms shall receive a pension when he leaves office in the annual amount of \$150 for each year served. This pension shall be paid not less frequently than once a month.

(ii) This paragraph does not apply to a term of office that begins on or after July 1, 1988.

(5) (i) The County Commissioners of Calvert County may provide in their annual budget for a pension to be paid to the surviving spouse, if any, of any Sheriff of Calvert County who was in office as of October 1970.

(ii) The pension shall be in the amount of \$250 a month and shall be paid to the surviving spouse, if any, for the life of that surviving spouse.

(6) (i) This paragraph applies to an individual who:

1. On or after July 1, 2008, serves as the Sheriff of Calvert County; and

2. As the Sheriff of Calvert County does not participate in the Employees' Pension System under Title 23 of the State Personnel and Pensions Article.

(ii) An individual described in subparagraph (i) of this paragraph may participate in the Calvert County Employees' Savings Plan.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 415

(House Bill 1120)

AN ACT concerning

Missing Children – Search Efforts and Collaboration (Phylcia's Law)

FOR the purpose of altering a certain factor that a law enforcement agency considers when evaluating a report regarding a missing child; ~~altering a certain factor that a law enforcement agency considers when evaluating a report regarding a missing child;~~ altering the requirement that a law enforcement agency institute appropriate search procedures to locate certain missing children to include the coordination of volunteer search teams; clarifying the name of the organization that a law enforcement agency must notify after receiving a certain missing child report; ~~requiring a law enforcement agency that is attempting to locate a child to make an effort to include certain organizations and groups if appropriate;~~ requiring the State Clearinghouse for Missing Children ~~to coordinate certain entities to locate certain missing children; requiring the Clearinghouse to oversee search efforts used to locate certain missing children;~~ ~~requiring the Clearinghouse~~ to publish certain information relating to missing children in the State; authorizing the Clearinghouse to establish and maintain a list of organizations and groups that provide volunteer search teams or

resources relating to missing children; and generally relating to missing children.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 9–402 and 9–403
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

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

Article – Family Law

9–402.

(a) On receipt of a report regarding a missing child by a law enforcement agency, the law enforcement agency shall immediately determine if:

(1) the missing child has not been the subject of a prior missing persons report;

(2) the missing child suffers from a mental or physical handicap or illness;

(3) the disappearance of the missing child is of a suspicious or dangerous nature;

(4) the person filing the report of a missing child has reason to believe that the missing child may have been abducted;

(5) the missing child has ever previously been the subject of a child abuse report filed with the State or local law enforcement agency; or

(6) the missing child is under ~~14~~ ~~17~~ 17 years of age.

(b) Upon conclusion by the law enforcement agency that any one of the conditions specified in subsection (a) of this section exists, the law enforcement agency shall immediately:

(1) enter all necessary and available information into the Maryland Interagency Law Enforcement System (MILES) and the National Crime Information Center (NCIC) computer networks;

(2) institute appropriate intensive search procedures, **INCLUDING THE COORDINATION OF VOLUNTEER SEARCH TEAMS**;

(3) notify the National [Missing Children Information Center] **CENTER FOR MISSING AND EXPLOITED CHILDREN** and forward to the State Clearinghouse for Missing Children a copy of the missing persons report involving the missing child;

(4) notify the appropriate local department and, to the extent possible, obtain any information that may assist in the locating of the missing child; and

(5) enlist the aid of the Department of State Police, when appropriate, in locating the missing child.

(c) If the conditions specified in subsection (a) of this section do not exist, the law enforcement agency shall:

(1) immediately seek to determine the circumstances surrounding the disappearance of the missing child; and

(2) implement the procedures set forth in subsection (b) of this section within 12 hours of the filing of a report regarding a missing child, if the missing child has not been located.

(d) Notwithstanding any provision of law to the contrary, if a missing child has not been located within 24 hours of the filing of a missing persons report and either the local law enforcement agency or the Department of State Police have reason to believe that the missing child may be located in a jurisdiction other than the jurisdiction where the missing persons report was filed, the Department of State Police shall enter the investigation and, in cooperation with the appropriate local law enforcement agencies, assist State and national efforts to locate the missing child.

(e) (1) A law enforcement agency may not establish a mandatory waiting period before beginning an investigation to locate a missing child.

(2) A law enforcement agency may not adopt rules, regulations, or policies that prohibit or discourage the filing of a report or the taking of any action on a report that a child is a missing child or that a child is believed to be a missing child.

(f) Every person filing a report of a missing child shall be required to notify the local law enforcement agency and the Department of State Police immediately upon the locating of the missing child if it is unlikely that the local law enforcement agency or the Department of State Police have knowledge that the missing child has been located.

~~(g) A LOCAL LAW ENFORCEMENT AGENCY THAT IS ATTEMPTING TO LOCATE A MISSING CHILD SHALL MAKE AN EFFORT TO INCLUDE ORGANIZATIONS AND GROUPS THAT PROVIDE VOLUNTEER SEARCH TEAMS OR RESOURCES RELATING TO MISSING CHILDREN IF APPROPRIATE.~~

9-403.

(a) There is a State Clearinghouse for Missing Children operated by the Department of State Police that is responsible for:

(1) the receipt, collection, and distribution of general information and annual statistics regarding missing children; and

(2) coordination of law enforcement agencies and other interested persons or groups within and outside the State regarding information on children who have disappeared from, or are thought to be located in, Maryland.

(B) FOR CHILDREN WHO HAVE DISAPPEARED FROM OR ARE THOUGHT TO BE LOCATED IN THE STATE, THE STATE CLEARINGHOUSE FOR MISSING CHILDREN ~~SHALL~~:

~~(1) COORDINATE LOCAL LAW ENFORCEMENT AGENCIES, NATIONAL MISSING CHILDREN'S ORGANIZATIONS, MISSING CHILDREN EXPERTS, AND THE FAMILY OF A MISSING CHILD TO LOCATE THE MISSING CHILDREN;~~

~~(2) OVERSEE SEARCH EFFORTS USED TO LOCATE MISSING CHILDREN; AND~~

~~(3)~~ SHALL PUBLISH:

(I) THE NAMES OF AND RELEVANT AVAILABLE INFORMATION ON MISSING CHILDREN; AND

~~(II) UPDATES REGARDING THE LOCATION OF MISSING CHILDREN; AND~~

~~(III) ANNUAL STATISTICS REGARDING MISSING CHILDREN;~~
AND

(2) MAY ESTABLISH AND MAINTAIN A LIST OF ORGANIZATIONS AND GROUPS THAT PROVIDE VOLUNTEER SEARCH TEAMS OR RESOURCES RELATING TO MISSING CHILDREN.

[(b)] (C) The Secretary of State Police may develop, in cooperation with local law enforcement agencies, a plan for voluntary fingerprinting programs for children.

[(c)] (D) (1) An advisory council shall be appointed having the following responsibilities:

- (i) review of the activities of the State Clearinghouse;
- (ii) review of the training provided for, and investigatory procedures used by, law enforcement personnel in the locating of missing children;
- (iii) examine possible methods for identifying missing children prior to enrollment in a public or nonpublic school; and
- (iv) explore the feasibility and effectiveness of utilizing the Federal Parent Locator Service in locating missing children.

(2) The advisory council shall consist of the following members:

- (i) 1 person from the Department of Juvenile Services, to be designated by the Secretary of Juvenile Services;
- (ii) 1 person from the Maryland State Department of Education, to be designated by the State Superintendent of Schools;
- (iii) 1 person from the Department of State Police, to be appointed by the Secretary of State Police;
- (iv) the Special Secretary of the Office for Children, Youth, and Families, who shall serve as chairman of the advisory council;
- (v) the President of the Governor's Youth Advisory Council or a designee of the President from the Council;
- (vi) 1 member from the State Sheriff's Association, to be designated by the President of the Association;
- (vii) 1 member from the State Chiefs of Police Association, to be designated by the President of the Association; and
- (viii) 2 members from the public at-large, to be appointed by the Governor.

[(d)] (E) (1) The term of council members from the public shall be 2 years.

(2) At the end of a term, a council member from the public shall continue to serve until a successor is appointed.

(3) Council members from the public may serve successive terms.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 416

(House Bill 1122)

AN ACT concerning

Juveniles – Confinement in Juvenile Facilities – Report

FOR the purpose of ~~providing that a certain child for whom the juvenile court has waived jurisdiction under certain circumstances is required to remain detained in a juvenile detention facility except under certain circumstances; providing that a certain child is required to be transferred to a certain juvenile facility under certain circumstances; establishing the circumstances under which a certain child may not be transferred to a juvenile facility; prohibiting a child from being transported together with certain adults except under certain circumstances; requiring a court exercising criminal jurisdiction in a case involving a child, or the District Court at a bail review or preliminary hearing, to order a certain child to be held in a secure juvenile facility pending a certain determination except under certain circumstances; authorizing a certain defendant to receive certain credit against and a reduction of the term of a certain sentence for all time spent in the custody of a juvenile detention facility under certain circumstances; making stylistic changes~~ requiring the Department of Juvenile Services to make a certain report to the General Assembly on or before a certain date; and generally relating to juveniles and confinement in juvenile facilities.

~~BY repealing and reenacting, with amendments,
Article — Courts and Judicial Proceedings
Section 3 – SA 06 and 3 – SA 16
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)~~

~~BY repealing and reenacting, without amendments,
Article — Courts and Judicial Proceedings
Section 3 – SA 22
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article — Criminal Procedure~~

~~Section 4-202 and 6-218
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)~~

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

~~Article—Courts and Judicial Proceedings~~

~~§ 8A-06.~~

~~(a) The court may waive the exclusive jurisdiction conferred by § 3-8A-03 of this subtitle with respect to a petition alleging delinquency by:~~

~~(1) A child who is 15 years old or older; or~~

~~(2) A child who has not reached his 15th birthday, but who is charged with committing an act which if committed by an adult, would be punishable by death or life imprisonment.~~

~~(b) The court may not waive its jurisdiction under this section until after it has conducted a waiver hearing, held prior to an adjudicatory hearing and after notice has been given to all parties as prescribed by the Maryland Rules. The waiver hearing is solely to determine whether the court should waive its jurisdiction.~~

~~(c) (1) Notice of the waiver hearing shall be given to a victim as provided under § 11-104 of the Criminal Procedure Article.~~

~~(2) (i) A victim may submit a victim impact statement to the court as provided in § 11-402 of the Criminal Procedure Article.~~

~~(ii) This paragraph does not preclude a victim who has not filed a notification request form under § 11-104 of the Criminal Procedure Article from submitting a victim impact statement to the court.~~

~~(iii) The court may consider a victim impact statement in determining whether to waive jurisdiction under this section.~~

~~(d) (1) The court may not waive its jurisdiction under this section unless it determines, from a preponderance of the evidence presented at the hearing, that the child is an unfit subject for juvenile rehabilitative measures.~~

~~(2) For purposes of determining whether to waive its jurisdiction under this section, the court shall assume that the child committed the delinquent act alleged.~~

~~(c) In making its determination, the court shall consider the following criteria individually and in relation to each other on the record:~~

~~(1) Age of the child;~~

~~(2) Mental and physical condition of the child;~~

~~(3) The child's amenability to treatment in any institution, facility, or program available to delinquents;~~

~~(4) The nature of the offense and the child's alleged participation in it;~~
and

~~(5) The public safety.~~

~~(f) (1) If jurisdiction is waived under this section, the court shall order the child held for trial [under]:~~

~~(i) UNDER the regular procedures of the court which would have jurisdiction over the offense if committed by an adult; AND~~

~~(ii) AS PROVIDED UNDER SUBSECTION (i) OF THIS SECTION.~~

~~(2) The petition alleging delinquency shall be considered a charging document for purposes of detaining the child pending a bail hearing.~~

~~(g) An order waiving jurisdiction is interlocutory.~~

~~(h) If the court has once waived its jurisdiction with respect to a child in accordance with this section, and that child is subsequently brought before the court on another charge of delinquency, the court may waive its jurisdiction in the subsequent proceeding after summary review.~~

~~(i) IF THE COURT HAS WAIVED JURISDICTION UNDER THIS SECTION, THE CHILD SHALL REMAIN DETAINED IN A JUVENILE DETENTION FACILITY UNLESS:~~

~~(1) RELEASED ON BAIL; OR~~

~~(2) A FINDING IS MADE, AFTER A HEARING AND BASED ON EVIDENCE OTHER THAN SOLELY THE ALLEGATIONS WITHIN THE CHARGING DOCUMENT, THAT THE CHILD IS A THREAT TO THE SAFETY OR SECURITY OF THE STAFF OR YOUTH AND CANNOT BE HELD IN A JUVENILE FACILITY.~~

~~(a) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court or the intake officer immediately when a person, who is or appears to be under the age of 18 years, is received at the facility and shall deliver [him] THE PERSON to the court upon request or transfer [him] THE PERSON to the JUVENILE facility designated by the intake officer or the court, unless [the]:~~

~~(1) THE court has waived its jurisdiction with respect to the person [and he];~~

~~(2) THE PERSON is being proceeded against as an adult; AND~~

~~(3) A FINDING HAS BEEN MADE, AFTER A HEARING AND BASED ON EVIDENCE OTHER THAN SOLELY THE ALLEGATIONS WITHIN THE CHARGING DOCUMENT, THAT THE PERSON:~~

~~(I) IS A THREAT TO THE SAFETY OR SECURITY OF THE STAFF OR YOUTH IN A JUVENILE DETENTION FACILITY; AND~~

~~(II) CANNOT BE HELD IN A JUVENILE DETENTION FACILITY.~~

~~(b) When a case is transferred to another court for criminal prosecution, the child shall promptly be transferred to the appropriate officer or adult OR JUVENILE detention facility in accordance with the law governing the detention of persons charged with crime.~~

~~(c) A child may not be transported together with adults who have been charged with or convicted of a crime unless [the]:~~

~~(1) THE court has waived its jurisdiction [and the];~~

~~(2) THE child is being proceeded against as an adult; AND~~

~~(3) A FINDING HAS BEEN MADE, AFTER A HEARING AND BASED ON EVIDENCE OTHER THAN SOLELY THE ALLEGATIONS WITHIN THE CHARGING DOCUMENT, THAT THE CHILD IS A SAFETY OR SECURITY THREAT AND CANNOT BE HELD IN A JUVENILE FACILITY.~~

~~§ 3-8A-22.~~

~~(a) A child may not be detained at, or committed or transferred to, a correctional facility, as defined in § 1-101 of the Correctional Services Article, except in accordance with § 3-8A-16 of this subtitle.~~

~~(b) A child who is not delinquent may not be committed or transferred to a facility used for the confinement of delinquent children.~~

~~(c) Unless an individualized treatment plan developed under § 10-706 of the Health-General Article indicates otherwise:~~

~~(1) A child may not be committed or transferred to any public or private facility or institution unless the child is placed in accommodations that are separate from other persons 18 years of age or older who are confined to that facility or institution; and~~

~~(2) The child may not be treated in any group with persons who are 18 years of age or older.~~

~~Article—Criminal Procedure~~

~~4-202.~~

~~(a) (1) In this section the following words have the meanings indicated:~~

~~(2) “Victim” has the meaning stated in § 11-104 of this article.~~

~~(3) “Victim’s representative” has the meaning stated in § 11-104 of this article.~~

~~(b) Except as provided in subsection (c) of this section, a court exercising criminal jurisdiction in a case involving a child may transfer the case to the juvenile court before trial or before a plea is entered under Maryland Rule 4-242 if:~~

~~(1) the accused child was at least 14 but not 18 years of age when the alleged crime was committed;~~

~~(2) the alleged crime is excluded from the jurisdiction of the juvenile court under § 3-8A-03(d)(1), (4), or (5) of the Courts Article; and~~

~~(3) the court determines by a preponderance of the evidence that a transfer of its jurisdiction is in the interest of the child or society.~~

~~(c) The court may not transfer a case to the juvenile court under subsection (b) of this section if:~~

~~(1) the child previously has been transferred to juvenile court and adjudicated delinquent;~~

~~(2) the child was convicted in an unrelated case excluded from the jurisdiction of the juvenile court under § 3-8A-03(d)(1) or (4) of the Courts Article; or~~

~~(3) the alleged crime is murder in the first degree and the accused child was 16 or 17 years of age when the alleged crime was committed.~~

~~(d) In determining whether to transfer jurisdiction under subsection (b) of this section, the court shall consider:~~

~~(1) the age of the child;~~

~~(2) the mental and physical condition of the child;~~

~~(3) the amenability of the child to treatment in an institution, facility, or program available to delinquent children;~~

~~(4) the nature of the alleged crime; and~~

~~(5) the public safety.~~

~~(e) In making a determination under this section, the court may order that a study be made concerning the child, the family of the child, the environment of the child, and other matters concerning the disposition of the case.~~

~~(f) The court shall make a transfer determination within 10 days after the date of a transfer hearing.~~

~~(g) If the court transfers its jurisdiction under this section, the court may order the child held for an adjudicatory hearing under the regular procedure of the juvenile court.~~

~~(h) [(1)] Pending a determination under this section to transfer its jurisdiction, the court [may] SHALL order a child to be held in a secure juvenile facility[.~~

~~(2) A hearing on a motion requesting that a child be held in a juvenile facility pending a transfer determination shall be held not later than the next court day, unless extended by the court for good cause shown.] UNLESS:~~

~~(1) THE CHILD IS RELEASED ON BAIL; OR~~

~~(2) A FINDING IS MADE, AFTER A HEARING AND BASED ON EVIDENCE OTHER THAN SOLELY THE ALLEGATIONS WITHIN THE CHARGING DOCUMENT, THAT THE CHILD IS A SAFETY OR SECURITY THREAT AND CANNOT BE HELD IN A JUVENILE FACILITY.~~

~~(i) (1) A victim or victim's representative shall be given notice of the transfer hearing as provided under § 11-104 of this article.~~

~~(2) (i) A victim or a victim's representative may submit a victim impact statement to the court as provided in § 11-402 of this article.~~

~~(ii) This paragraph does not preclude a victim or victim's representative who has not filed a notification request form under § 11-104 of this article from submitting a victim impact statement to the court.~~

~~(iii) The court shall consider a victim impact statement in determining whether to transfer jurisdiction under this section.~~

~~(j) At a bail review or preliminary hearing before the District Court involving a child whose case is eligible for transfer under subsection (b) of this section, the District Court, **REGARDLESS OF WHETHER THE DISTRICT COURT HAS CRIMINAL JURISDICTION OVER THE CASE:**~~

~~(1) **SHALL ORDER THAT THE CHILD BE HELD IN A SECURE JUVENILE FACILITY PENDING A TRANSFER DETERMINATION UNLESS:**~~

~~(i) **THE CHILD IS RELEASED ON BAIL; OR**~~

~~(ii) **A FINDING IS MADE, AFTER A HEARING AND BASED ON EVIDENCE OTHER THAN SOLELY THE ALLEGATIONS WITHIN THE CHARGING DOCUMENT, THAT THE CHILD IS A SAFETY OR SECURITY THREAT AND CANNOT BE HELD IN A JUVENILE FACILITY; AND**~~

~~(2) may order that a study be made under the provisions of subsection (e) of this section[, or that the child be held in a secure juvenile facility under the provisions of subsection (h) of this section, regardless of whether the District Court has criminal jurisdiction over the case].~~

~~6-218.~~

~~(a) This section does not apply to a parolee who is returned to the custody of the Division of Correction because of a subsequent crime and is confined before being sentenced for the subsequent crime.~~

~~(b) (1) A defendant who is convicted and sentenced shall receive credit against and a reduction of the term of a definite or life sentence, or the minimum and maximum terms of an indeterminate sentence, for all time spent in the custody of a correctional facility, hospital, facility for persons with mental disorders, **JUVENILE DETENTION FACILITY**, or other unit because of:~~

~~(i) the charge for which the sentence is imposed; or~~

~~(ii) the conduct on which the charge is based.~~

~~(2) If a defendant is in custody because of a charge that results in a dismissal or acquittal, the time that would have been credited if a sentence had been imposed shall be credited against any sentence that is based on a charge for which a warrant or commitment was filed during that custody.~~

~~(3) In a case other than a case described in paragraph (2) of this subsection, the sentencing court may apply credit against a sentence for time spent in custody for another charge or crime.~~

~~(e) A defendant whose sentence is set aside because of a direct or collateral attack and who is reprosecuted or resentenced for the same crime or for another crime based on the same transaction shall receive credit against and a reduction of the term of a definite or life sentence, or the minimum and maximum terms of an indeterminate sentence, for all time spent in custody under the prior sentence, including credit applied against the prior sentence in accordance with subsection (b) of this section.~~

~~(d) A defendant who is serving multiple sentences, one of which is set aside as the result of a direct or collateral attack, shall receive credit against and a reduction of the remaining term of a definite or life sentence, or the remaining minimum and maximum terms of an indeterminate sentence, for all time spent in custody under the sentence set aside, including credit applied against the sentence set aside in accordance with subsection (b) of this section.~~

~~(e) (1) The court shall award the credit required by this section at the time of sentencing.~~

~~(2) After having communicated with the parties, the court shall tell the defendant and shall state on the record the amount of the credit and the facts on which the credit is based.~~

(a) On or before December 1, 2012, the Department of Juvenile Services shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the manner in which the Department will use existing resources to ensure work toward ensuring that youth charged as adults can be detained in juvenile detention facilities.

(b) The report shall include information on:

(1) the number of youth charged as adults held in adult detention facilities from ~~December 1, 2011 through December 1, 2012~~ *January 1, 2011 through December 31, 2011*; and

(2) the Department's plan to reduce the overall number of youth in juvenile detention, including:

(i) the number of youth transferred from adult detention to juvenile detention pending a transfer determination;

(ii) the number of youth transferred to juvenile court jurisdiction on a motion to transfer from adult court jurisdiction;

(iii) the number of youth in juvenile detention receiving Detention Risk Assessment Instrument (DRAI) screening;

(iv) the use of the Juvenile Detention Alternative Initiative;

(v) the use of prevention and diversion services;

(vi) the plan for reducing the number of youth in detention pending placement; and

(vii) the average length of stay for youth charged as adults in juvenile facilities.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 417

(House Bill 1138)

AN ACT concerning

Criminal Procedure – Charging or Arrest of Minor – Notification of Parent or Guardian

FOR the purpose of requiring a certain law enforcement officer who charges a minor with a criminal offense to make a reasonable attempt to notify the minor's parent or guardian of the charge; requiring a certain law enforcement officer or the officer's designee who takes a minor into custody to make a reasonable attempt to notify the minor's parent or guardian of the arrest within a certain time period; and generally relating to notification of a parent or guardian of the charging or arrest of a minor.

BY adding to

Article – Criminal Procedure

Section 2–108

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

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

Article – Criminal Procedure

2–108.

(A) A LAW ENFORCEMENT OFFICER WHO CHARGES A MINOR WITH A CRIMINAL OFFENSE SHALL MAKE A REASONABLE ATTEMPT TO NOTIFY THE PARENT OR GUARDIAN OF THE MINOR OF THE CHARGE.

(B) IF A LAW ENFORCEMENT OFFICER TAKES A MINOR INTO CUSTODY, THE LAW ENFORCEMENT OFFICER OR THE OFFICER'S DESIGNEE SHALL MAKE A REASONABLE ATTEMPT TO NOTIFY THE PARENT OR GUARDIAN OF THE MINOR WITHIN 48 HOURS OF THE ARREST OF THE MINOR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 418

(House Bill 1141)

AN ACT concerning

Maryland Health Care Commission – Cardiac Surgery and Percutaneous Coronary Intervention Services

FOR the purpose of requiring, with a certain exception, a certificate of need for the establishment of percutaneous coronary intervention (PCI) services; requiring, beginning on a certain date, an acute general hospital to have a certificate of conformance before the hospital may establish ~~primary~~ emergency PCI services or ~~nonprimary~~ elective PCI services; prohibiting the Maryland Health Care Commission from issuing a certificate of conformance unless the Commission finds that the proposed ~~primary~~ emergency PCI services or proposed ~~nonprimary~~ elective PCI services meet certain standards; providing that a certificate of conformance is not required, notwithstanding certain provisions of this Act, for an acute general hospital to establish ~~primary~~ emergency PCI services or elective PCI services under certain circumstances; requiring an acute ~~care~~ general hospital that provides cardiac surgery or PCI services under certain authorization to obtain and maintain a certificate of ongoing performance to continue to provide cardiac surgery services, ~~primary~~ emergency

PCI services, or ~~nonprimary~~ elective PCI services; requiring an acute general hospital that is providing ~~nonprimary~~ elective PCI services under a research waiver issued by the Commission and does not meet certain requirements to obtain a certificate of conformance for its ~~nonprimary~~ elective PCI services before it may obtain a certificate of ongoing performance to provide the ~~nonprimary~~ elective PCI services; requiring the Commission to adopt certain regulations; requiring the regulations to include certain items; requiring the Commission to establish a clinical advisory group for a certain purpose; requiring the Commission to develop certain recommended regulations, post the recommended regulations on its Web site, and submit the recommended regulations to the Governor and certain legislative committees for review and comment; establishing certain parameters for the process established by the Commission for issuing a certificate of conformance; authorizing a certain hospital, notwithstanding certain provisions of this Act, to provide ~~nonprimary~~ elective PCI services until the Commission takes ~~certain actions~~ a certain action; requiring the Commission to consider a certain factor in issuing a certificate of conformance; requiring a certain process and a certain requirement established in regulation to operate and be implemented in certain manners; providing that certain requirements of this Act do not apply to a hospital that provided cardiac surgery services and PCI services on a certain date until the Commission takes certain actions; defining certain terms; and generally relating to the regulation of cardiac surgery and percutaneous coronary intervention services by the Maryland Health Care Commission.

BY repealing and reenacting, without amendments,

Article – Health – General

Section 19–120(j)(1)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19–120(j)(2)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health – General

Section 19–120.1

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – Health – General

19–120.

(j) (1) A certificate of need is required before the type or scope of any health care service is changed if the health care service is offered:

- (i) By a health care facility;
- (ii) In space that is leased from a health care facility; or
- (iii) In space that is on land leased from a health care facility.

(2) This subsection does not apply if:

(i) The Commission adopts limits for changes in health care services and the proposed change would not exceed those limits;

(ii) The proposed change and the annual operating revenue that would result from the addition is entirely associated with the use of medical equipment;

(iii) The proposed change would establish, increase, or decrease a health care service and the change would not result in the:

1. Establishment of a new medical service or elimination of an existing medical service;

2. Establishment of [an open heart] A CARDIAC surgery, organ transplant surgery, or burn or neonatal intensive health care service;

3. EXCEPT AS PROVIDED IN § 19–120.1 OF THIS SUBTITLE, ESTABLISHMENT OF PERCUTANEOUS CORONARY INTERVENTION SERVICES;

[3.] 4. Establishment of a home health program, hospice program, or freestanding ambulatory surgical center or facility; or

[4.] 5. Expansion of a comprehensive care, extended care, intermediate care, residential treatment, psychiatry, or rehabilitation medical service, except for an expansion related to an increase in total bed capacity in accordance with subsection (h)(2)(i) of this section; or

(iv) 1. At least 45 days before increasing or decreasing the volume of one or more health care services, written notice of intent to change the volume of health care services is filed with the Commission;

2. The Commission in its sole discretion finds that the proposed change:

A. Is pursuant to the consolidation or merger of two or more health care facilities, the conversion of a health care facility or part of a facility to a nonhealth-related use, or the conversion of a hospital to a limited service hospital;

B. Is not inconsistent with the State health plan or the institution-specific plan developed and adopted by the Commission;

C. Will result in the delivery of more efficient and effective health care services; and

D. Is in the public interest; and

3. Within 45 days of receiving notice under item 1 of this item, the Commission notifies the health care facility of its finding.

19-120.1.

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

(2) “CERTIFICATE OF CONFORMANCE” MEANS AN APPROVAL ISSUED BY THE COMMISSION THAT ALLOWS AN ACUTE GENERAL HOSPITAL TO ESTABLISH ~~PRIMARY~~ EMERGENCY PCI SERVICES OR ~~NONPRIMARY~~ ELECTIVE PCI SERVICES WITHOUT A CERTIFICATE OF NEED.

(3) “CERTIFICATE OF ONGOING PERFORMANCE” MEANS AN APPROVAL ISSUED BY THE COMMISSION THAT THE CARDIAC SURGERY SERVICES, ~~PRIMARY~~ EMERGENCY PCI SERVICES, OR ~~NONPRIMARY~~ ELECTIVE PCI SERVICES PROVIDED BY AN ACUTE GENERAL HOSPITAL MEET STANDARDS EVIDENCING CONTINUED QUALITY.

(4) ~~(I)~~ “~~NONPRIMARY ELECTIVE PCI~~” ~~MEANS PCI CAPABLE OF RELIEVING CORONARY VESSEL NARROWING ASSOCIATED WITH CORONARY ARTERY DISEASE UNRELATED TO ST SEGMENT ELEVATION MYOCARDIAL INFARCTION~~ (ALSO KNOWN AS “NONPRIMARY PCI”) INCLUDES PCI PROVIDED TO A PATIENT WHO IS NOT SUFFERING FROM AN ACUTE CORONARY SYNDROME, BUT WHOSE CONDITION IS APPROPRIATELY TREATED WITH PCI BASED ON REGULATIONS ESTABLISHED BY THE COMMISSION.

~~(II) “NONPRIMARY PCI” INCLUDES ELECTIVE PCI.~~

(5) “EMERGENCY PCI” (ALSO KNOWN AS “PRIMARY PCI”) INCLUDES PCI CAPABLE OF RELIEVING CORONARY VESSEL NARROWING ASSOCIATED WITH STEMI OR, AS DEFINED BY THE COMMISSION IN REGULATIONS, STEMI EQUIVALENT.

~~(5)~~ (6) “PCI” MEANS PERCUTANEOUS CORONARY INTERVENTION.

~~(6)~~ (7) (I) “PERCUTANEOUS CORONARY INTERVENTION” MEANS A PROCEDURE IN WHICH A CATHETER IS INSERTED INTO A BLOOD VESSEL AND GUIDED TO THE SITE OF THE NARROWING OF A CORONARY ARTERY TO RELIEVE CORONARY NARROWING.

(II) “PERCUTANEOUS CORONARY INTERVENTION” INCLUDES A VARIETY OF CATHETER-BASED TECHNIQUES, INCLUDING BALLOON ANGIOPLASTY.

~~(7) “PRIMARY PCI” MEANS PCI CAPABLE OF RELIEVING CORONARY VESSEL NARROWING ASSOCIATED WITH ST SEGMENT ELEVATION MYOCARDIAL INFARCTION.~~

(8) “STEMI” (ST-SEGMENT-ELEVATION MYOCARDIAL INFARCTION) MEANS A TYPE OF HEART ATTACK OR MYOCARDIAL INFARCTION THAT IS CAUSED BY A PROLONGED PERIOD OF BLOCKED BLOOD SUPPLY, WHICH AFFECTS A LARGE AREA OF THE HEART MUSCLE AND CAUSES CHANGES ON AN ELECTROCARDIOGRAM AND IN THE BLOOD LEVELS OF KEY CHEMICAL MARKERS.

(B) (1) BEGINNING JULY 1, 2012, BEFORE AN ACUTE GENERAL HOSPITAL MAY ESTABLISH ~~PRIMARY~~ EMERGENCY PCI SERVICES OR ~~NONPRIMARY~~ ELECTIVE PCI SERVICES, THE HOSPITAL SHALL OBTAIN A CERTIFICATE OF CONFORMANCE FROM THE COMMISSION.

(2) THE COMMISSION MAY NOT ISSUE A CERTIFICATE OF CONFORMANCE UNLESS THE COMMISSION FINDS THAT THE PROPOSED ~~PRIMARY~~ EMERGENCY PCI SERVICES OR PROPOSED ~~NONPRIMARY~~ ELECTIVE PCI SERVICES:

(I) ARE CONSISTENT WITH THE STATE HEALTH PLAN FOR FACILITIES AND SERVICES;

(II) WILL RESULT IN THE DELIVERY OF MORE EFFICIENT AND EFFECTIVE HEALTH CARE SERVICES; AND

(III) ARE IN THE PUBLIC INTEREST.

(C) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, A CERTIFICATE OF CONFORMANCE IS NOT REQUIRED FOR AN ACUTE GENERAL HOSPITAL TO ESTABLISH ~~PRIMARY~~ EMERGENCY PCI SERVICES IF:

(1) THE ACUTE GENERAL HOSPITAL WAS PROVIDING ~~PRIMARY~~ EMERGENCY PCI SERVICES ON JANUARY 1, 2012; AND

(2) THE COMMISSION DETERMINES THAT THE ~~PRIMARY~~ EMERGENCY PCI SERVICES ARE CONSISTENT WITH THE STATE HEALTH PLAN FOR FACILITIES AND SERVICES.

(D) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, A CERTIFICATE OF CONFORMANCE IS NOT REQUIRED FOR AN ACUTE GENERAL HOSPITAL TO ESTABLISH ELECTIVE PCI SERVICES IF:

(1) ON JANUARY 1, 2012, THE ACUTE GENERAL HOSPITAL WAS PROVIDING ELECTIVE PCI SERVICES THROUGH THE C-PORT E REGISTRY UNDER AUTHORITY OF A RESEARCH WAIVER ISSUED BY THE COMMISSION;

(2) THE COMMISSION FINDS THAT THE C-PORT E STUDY PRODUCED RESULTS THAT SHOULD GUIDE PUBLIC POLICY; AND

(3) THE COMMISSION DETERMINES THAT THE ELECTIVE PCI SERVICES PROVIDED BY THE ACUTE GENERAL HOSPITAL CONTINUE TO BE CONSISTENT WITH:

(I) THE REQUIREMENTS OF THE C-PORT E REGISTRY;
AND

(II) EXCEPT FOR THE REQUIREMENTS UNDER COMAR 10.24.05.05, THE REQUIREMENTS FOR MAINTAINING A RESEARCH WAIVER UNDER COMAR 10.24.05 AND 10.24.17, TABLE A-1.

~~(D)~~ (E) (1) THIS SUBSECTION APPLIES TO AN ACUTE ~~CARE~~ GENERAL HOSPITAL THAT PROVIDES CARDIAC SURGERY OR PCI SERVICES UNDER:

(I) A CERTIFICATE OF NEED ISSUED UNDER § 19-120 OF THIS SUBTITLE;

(II) A CERTIFICATE OF CONFORMANCE ISSUED UNDER THIS SECTION; OR

(III) AN EXCEPTION FROM THE CERTIFICATE OF CONFORMANCE REQUIREMENTS UNDER SUBSECTION (C) OR (D) OF THIS SECTION.

(2) AN ACUTE GENERAL HOSPITAL SHALL OBTAIN AND MAINTAIN A CERTIFICATE OF ONGOING PERFORMANCE TO CONTINUE TO PROVIDE:

- (I) CARDIAC SURGERY SERVICES;
- (II) ~~PRIMARY~~ EMERGENCY PCI SERVICES; OR
- (III) ~~NONPRIMARY~~ ELECTIVE PCI SERVICES.

~~(E)~~ (F) AN ACUTE GENERAL HOSPITAL THAT IS PROVIDING ~~NONPRIMARY~~ ELECTIVE PCI SERVICES UNDER A RESEARCH WAIVER ISSUED BY THE COMMISSION AND DOES NOT MEET THE REQUIREMENTS OF SUBSECTION (D) OF THIS SECTION SHALL OBTAIN A CERTIFICATE OF CONFORMANCE FOR ITS ~~NONPRIMARY~~ ELECTIVE PCI SERVICES BEFORE THE ACUTE GENERAL HOSPITAL MAY OBTAIN A CERTIFICATE OF ONGOING PERFORMANCE TO PROVIDE THE ~~NONPRIMARY~~ ELECTIVE PCI SERVICES.

~~(F)~~ (G) (1) THE COMMISSION SHALL ADOPT REGULATIONS THROUGH AN UPDATE TO THE STATE HEALTH PLAN FOR FACILITIES AND SERVICES TO IMPLEMENT THIS SECTION.

(2) THE REGULATIONS SHALL:

- (I) ADDRESS QUALITY, ACCESS, AND COST;
- (II) ESTABLISH A PROCESS AND MINIMUM STANDARDS FOR OBTAINING A CERTIFICATE OF CONFORMANCE;
- (III) ESTABLISH A PROCESS AND MINIMUM STANDARDS FOR OBTAINING AND MAINTAINING A CERTIFICATE OF ONGOING PERFORMANCE;
- (IV) SET AN APPROPRIATE TIME PERIOD FOR THE EXPIRATION OF A CERTIFICATE OF ONGOING PERFORMANCE; ~~AND~~
- (V) REQUIRE, AS A CONDITION OF THE ISSUANCE OF A CERTIFICATE OF CONFORMANCE OR A CERTIFICATE OF ONGOING PERFORMANCE TO AN ACUTE GENERAL HOSPITAL WITHOUT ON-SITE CARDIAC SURGERY SERVICES, THAT ~~AN~~ THE ACUTE GENERAL HOSPITAL AGREE TO VOLUNTARILY RELINQUISH ITS AUTHORITY TO PROVIDE ~~CARDIAC SURGERY~~

~~SERVICES, PRIMARY EMERGENCY PCI SERVICES, OR NONPRIMARY ELECTIVE PCI SERVICES IF THE HOSPITAL FAILS TO MEET THE APPLICABLE STANDARDS ESTABLISHED BY THE COMMISSION;~~

(VI) ESTABLISH A PROCESS FOR AN ACUTE GENERAL HOSPITAL THAT IS OUT OF COMPLIANCE WITH MINIMUM STANDARDS FOR A CERTIFICATE OF ONGOING PERFORMANCE TO RETURN TO GOOD STANDING;

(VII) REQUIRE THAT AN ACUTE GENERAL HOSPITAL, EXCEPT FOR AN ACUTE GENERAL HOSPITAL LOCATED IN A PART OF THE STATE THAT DOES NOT HAVE SUFFICIENT ACCESS TO EMERGENCY PCI SERVICES, HAVE PROVIDED EMERGENCY PCI SERVICES IN ACCORDANCE WITH ESTABLISHED STANDARDS BEFORE SEEKING A CERTIFICATE OF CONFORMANCE FOR ELECTIVE PCI SERVICES;

(VIII) PROHIBIT AN ACUTE GENERAL HOSPITAL FROM PROVIDING ELECTIVE PCI SERVICES UNLESS THE ACUTE GENERAL HOSPITAL ALSO PROVIDES EMERGENCY PCI SERVICES;

(IX) INCORPORATE, TO THE EXTENT APPROPRIATE, THE STANDARDS FOR CARDIAC SURGERY SERVICES, EMERGENCY PCI SERVICES, AND ELECTIVE PCI SERVICES RECOMMENDED BY THE CLINICAL ADVISORY GROUP ESTABLISHED UNDER PARAGRAPH (3) OF THIS SUBSECTION;

(X) INCLUDE REQUIREMENTS FOR PEER OR INDEPENDENT REVIEW, CONSISTENT WITH THE ACCF/AHA/SCAI GUIDELINES FOR PERCUTANEOUS CORONARY INTERVENTION (REPORT OF THE AMERICAN COLLEGE OF CARDIOLOGY FOUNDATION/AMERICAN HEART ASSOCIATION TASK FORCE ON PRACTICE GUIDELINES AND THE SOCIETY FOR CARDIOVASCULAR ANGIOGRAPHY AND INTERVENTIONS), OF DIFFICULT OR COMPLICATED CASES AND FOR RANDOMLY SELECTED CASES; AND

(XI) FOR A CERTIFICATE OF CONFORMANCE FOR ELECTIVE PCI SERVICES, GIVE WEIGHT TO THE EXPERIENCE, PERFORMANCE, INVESTMENT, AND SCOPE OF INTERVENTIONAL CAPABILITIES OF AN APPLICANT HOSPITAL THAT WAS PROVIDING EMERGENCY PCI SERVICES ON JANUARY 1, 2012.

(3) (I) THE COMMISSION SHALL ESTABLISH A CLINICAL ADVISORY GROUP TO ADVISE THE COMMISSION AND RECOMMEND STANDARDS FOR CARDIAC SURGERY SERVICES, EMERGENCY PCI SERVICES, AND ELECTIVE PCI SERVICES FOR INCLUSION IN REGULATIONS ADOPTED UNDER THIS SUBSECTION.

(II) THE CLINICAL ADVISORY GROUP SHALL BE COMPOSED OF EXPERTS IN CARDIAC SURGERY SERVICES AND PCI SERVICES, INCLUDING:

1. CLINICIANS AND REPRESENTATIVES FROM HOSPITALS IN THE STATE WITH AND WITHOUT ON-SITE CARDIAC SURGERY SERVICES AND WITH AND WITHOUT PCI SERVICES;

2. AT LEAST ONE REPRESENTATIVE OF AN ACUTE GENERAL HOSPITAL THAT IS NOT PART OF A MERGED ASSET SYSTEM AND PROVIDES ONLY EMERGENCY PCI SERVICES; AND

3. OTHER PERSONS WITH NEEDED EXPERTISE FROM INSIDE AND OUTSIDE THE STATE.

(4) (I) ON OR BEFORE SEPTEMBER 30, 2013, AFTER OBTAINING ADVICE FROM THE CLINICAL ADVISORY GROUP AND OTHER APPROPRIATE STAKEHOLDERS, THE COMMISSION SHALL:

1. DEVELOP RECOMMENDED REGULATIONS UNDER THIS SUBSECTION;

2. POST THE RECOMMENDED REGULATIONS ON ITS WEB SITE FOR PUBLIC COMMENT; AND

3. SUBMIT THE RECOMMENDED REGULATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE.

(II) THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE SHALL HAVE 60 DAYS FROM RECEIPT OF THE RECOMMENDED REGULATIONS FOR REVIEW AND COMMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That the process established by the Maryland Health Care Commission for issuing a certificate of conformance, as required under § 19-120.1 of the Health – General Article, as enacted by Section 1 of this Act:

(1) shall be similar to the process through which the Commission grants an exemption from certificate of need requirements for merged asset systems; ~~and~~

(2) may not allow interested party status; and

(3) shall consider, for a certificate of conformance to establish elective PCI services, applications from acute general hospitals that were providing emergency PCI services on January 1, 2012, before considering applications from other acute general hospitals.

SECTION 3. AND BE IT FURTHER ENACTED, That, in making a decision to issue a certificate of conformance, the Maryland Health Care Commission shall consider the circumstances of a hospital that is the sole hospital in a county.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That, ~~notwithstanding:~~

(a) Notwithstanding any other provision of this Act, an acute general hospital whose research waiver for ~~nonprimary~~ elective PCI services was extended by the Maryland Health Care Commission under COMAR 10.24.05 and that continues to meet the requirements under COMAR 10.24.05 may provide ~~nonprimary~~ elective PCI services under the authorization that existed on January 1, 2012, until the Commission:

(1) makes ~~one of the determinations or findings provided under COMAR 10.24.05.05; and~~

~~(2) depending on the results of the C-PORT E study and the Commission's actions taken under COMAR 10.24.05.05A(1) and B,~~ a determination under § 19–120.1(d)(3) of the Health – General Article, as enacted by Section 1 of this Act;

(2) considers the hospital's application under § 19–120.1(b) of the Health – General Article, as enacted by Section 1 of this Act, for a certificate of conformance for its ~~nonprimary~~ elective PCI services; or

(3) makes a determination under COMAR 10.24.05 to terminate the hospital's authority to provide elective PCI services.

(b) On or before December 31, 2012, the Commission shall determine for each hospital providing elective PCI services on January 1, 2012, through the C-PORT E registry under authority of a research waiver issued by the Commission, whether the conditions of § 19–120.1(d)(3) of the Health – General Article are satisfied.

SECTION 5. AND BE IT FURTHER ENACTED, That the process established in regulation under § 19–120.1(g)(2)(vi) of the Health – General Article, as enacted by Section 1 of this Act, for an acute general hospital that is out of compliance with minimum standards for a certificate of ongoing performance to return to good standing shall operate in a manner consistent with the process and underlying principles that:

(1) guided the Maryland Health Care Commission in its oversight of hospitals providing emergency PCI services and elective PCI services under a waiver and a research waiver, respectively; and

(2) provided a reasonable opportunity for an acute general hospital that was out of compliance with performance standards to come into compliance.

SECTION 6. AND BE IT FURTHER ENACTED, That the requirement established in regulation under § 19–120.1(g)(2)(v) of the Health – General Article, as enacted by Section 1 of this Act, as a condition of the issuance of a certificate of conformance or a certificate of ongoing performance for an acute general hospital without on-site cardiac surgery services to agree to voluntarily relinquish its authority to provide emergency PCI services or elective PCI services if the hospital fails to meet the applicable standards established by the Maryland Health Care Commission, shall:

(1) be implemented in a manner consistent with the regulations and underlying principles of the Commission in its oversight of hospitals providing emergency PCI services and elective PCI services under a waiver and a research waiver, respectively; and

(2) require an acute general hospital without on-site cardiac surgery services to:

(i) notify the Commission of the occurrence of specified events;
and

(ii) subject to Section 5 of this Act, on written notice from the Commission, immediately relinquish its authority to provide PCI services.

SECTION 7. AND BE IT FURTHER ENACTED, That:

(a) The requirements of § 19–120.1(e) of the Health – General Article, as enacted by Section 1 of this Act, do not apply to a hospital that provided cardiac surgery services and PCI services on January 1, 2012, until:

(1) the Maryland Health Care Commission consults with the clinical advisory group established under § 19–120.1(g)(3) of the Health – General Article, as enacted by Section 1 of this Act, and other appropriate stakeholders on appropriate standards for ongoing performance for cardiac surgery services and PCI services at acute general hospitals with on-site cardiac surgery services;

(2) the Commission develops recommendations for actions, including any changes in State law, that are necessary to enhance the Commission's ability to monitor ongoing performance and compliance with quality standards related to cardiac surgery services and PCI services at hospitals with on-site cardiac surgery services;

(3) the Commission;

(i) reports its recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee and the House Health and Government Operations Committee; and

(ii) posts the report on its Web site for a 60–day review and comment period; and

(4) the Commission adopts regulations to implement the recommendations.

(b) The Commission shall report its recommendations and post its report under subsection (a)(3) of this section on or before December 1, 2013.

(c) The report, recommendations, and regulations under subsection (a) of this section shall include:

(1) a mechanism for an acute general hospital with on–site cardiac surgery services that is out of compliance with performance standards for cardiac surgery services or PCI services to return to good standing; and

(2) a process through which the authority for an acute general hospital with on–site cardiac surgery services to provide cardiac surgery services and PCI services may be revoked for failure to meet performance standards.

SECTION ~~4~~ 8. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 419

(House Bill 1161)

AN ACT concerning

Charles County – Assessment for Abatement of Zoning Violation

FOR the purpose of authorizing the County Commissioners of Charles County to assess for abatement of zoning violations; adding the assessment to the annual tax bill of the property; specifying how the assessment will be collected; subjecting assessments to certain interest and penalties; specifying that an assessment is a lien against the property; providing for the effective date of this Act; and generally relating to assessment for abatement of zoning violations.

BY adding to

Article – Land Use

Section 9–807

Annotated Code of Maryland

(As enacted by Chapter 426 (S.B.____/H.B.____)(2lr0396) of the Acts of the General Assembly of 2012)

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

Article – Land Use

9–807.

(A) IF THE COUNTY COMMISSIONERS ABATE A VIOLATION OF A ZONING LAW, THE COUNTY COMMISSIONERS MAY ASSESS AGAINST THE PROPERTY THE REASONABLE COSTS OF THE ABATEMENT.

(B) THE ASSESSMENT SHALL BE:

(1) ADDED TO THE ANNUAL TAX BILL OF THE PROPERTY TO BE COLLECTED IN THE SAME MANNER AS ORDINARY TAXES ARE COLLECTED; AND

(2) SUBJECT TO THE SAME INTEREST AND PENALTY FOR NONPAYMENT AS PROVIDED BY LAW FOR THE NONPAYMENT OF COUNTY TAXES.

(C) THE ASSESSMENT IS A LIEN AGAINST THE PROPERTY FROM THE DATE OF ASSESSMENT UNTIL PAID.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect on the taking effect of Chapter 426 (S.B.____/H.B.____)(2lr0396) of the Acts of the General Assembly of 2012. If the effective date of Chapter 426 is amended, this Act shall take effect on the taking effect of Chapter 426.

Approved by the Governor, May 2, 2012.

Chapter 420

(House Bill 1175)

AN ACT concerning

Howard County – Workers’ Compensation – Students in Unpaid Work–Based Learning Experiences

Ho. Co. 9–12

FOR the purpose of authorizing the Howard County Board of Education to waive the requirement that a participating employer reimburse the county for the cost of certain workers' compensation insurance coverage for students placed in unpaid work–based learning experiences; and generally relating to the waiver of workers' compensation reimbursement in connection with unpaid work–based learning experiences.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–114
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 9–228(c)
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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

Article – Education

7–114.

(a) (1) In this section the following words have the meanings indicated.

(2) “Private noncollegiate institution” means a school or other institution that is not under the general control and supervision of a county board of education.

(3) “Unpaid work–based learning experience” means a program that provides a student with structured employer–supervised learning that:

(i) Occurs in the workplace;

(ii) Links with classroom instruction;

(iii) Is coordinated by a county board or private noncollegiate institution; and

(iv) Is conducted in accordance with the terms of an individual written work–based learning agreement between the county board of education or

private noncollegiate institution placing a participating student and the employer of that participating student.

(b) A student who has been placed with an employer in an unpaid work-based learning experience coordinated by a county board or private noncollegiate institution is a covered employee of that employer, as defined in Title 9 of the Labor and Employment Article, for the purposes of coverage under the State workers' compensation laws.

(c) (1) The participating employer where a student is placed in an unpaid work-based learning experience under this section shall secure workers' compensation coverage for that student.

(2) The participating employer may satisfy its obligation to secure workers' compensation coverage under this subsection if the county board or private noncollegiate institution that places the student in the unpaid work-based learning experience chooses to secure workers' compensation coverage for that student.

(d) (1) The county board or private noncollegiate institution that places a student with an employer in an unpaid work-based learning experience under this section may secure workers' compensation coverage for that student.

(2) Subject to subsection (e) of this section, if a county board or private noncollegiate institution chooses to secure workers' compensation coverage under this subsection, the participating employer shall reimburse the county board or private noncollegiate institution in an amount equal to the lesser of:

(i) The cost of the premium for the workers' compensation insurance coverage; or

(ii) A fee of \$250.

(e) The Allegany County Board [and], the Cecil County Board, **AND THE HOWARD COUNTY BOARD** may waive the requirement for reimbursement under subsection (d)(2) of this section.

Article – Labor and Employment

9-228.

(c) (1) A student is a covered employee when the student has been placed with an employer in an unpaid work-based learning experience coordinated by a county board or private noncollegiate institution under § 7-114 of the Education Article.

(2) For purposes of this title, the employer for whom the student works in the unpaid work-based learning experience is the employer of that student.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 421

(House Bill 1180)

AN ACT concerning

Vehicle Laws – Required Security – Electronic Reporting Requirements

FOR the purpose of requiring insurers and other providers of required vehicle security to immediately notify the Motor Vehicle Administration electronically of the issuance of certain new insurance policies; requiring insurers and other providers of required vehicle security to notify the Administration electronically within a certain time period of certain changes regarding certain fleet policies of insurance; requiring certain notices regarding the termination or lapse of required security to be made electronically; defining a certain term; and generally relating to vehicle security and the reporting requirements for insurers and other providers of required motor vehicle security.

BY repealing and reenacting, with amendments,

Article – Transportation
Section 17–101, 17–104, and 17–106(b)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Transportation
Section 17–106(a), (c) and (d)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Transportation

17–101.

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

(B) “FLEET POLICY” MEANS AN INSURANCE POLICY ISSUED FOR A FLEET OF VEHICLES THAT PROVIDES COVERAGE THAT IS NOT BASED ON A SCHEDULE OF INDIVIDUAL VEHICLES AT THE TIME THE POLICY IS ISSUED.

[(b)] (C) “Lapse” and “termination” mean a lapse or termination of required security, as defined in regulations adopted by the Administration.

[(c)] (D) “Required security” means security in the form and providing for the minimum benefits required under this subtitle or any other provisions of the Maryland Vehicle Law.

17-104.

(a) The Administration may not issue or transfer the registration of a motor vehicle unless the owner or prospective owner of the vehicle furnishes evidence satisfactory to the Administration that the required security is in effect.

(b) The owner of a motor vehicle that is required to be registered in this State shall maintain the required security for the vehicle during the registration period.

(C) EACH INSURER OR OTHER PROVIDER OF REQUIRED SECURITY SHALL:

(1) EXCEPT AS PROVIDED IN ITEM (2) OF THIS SUBSECTION, IMMEDIATELY NOTIFY THE ADMINISTRATION ELECTRONICALLY OF NEW MOTOR VEHICLE INSURANCE POLICIES ISSUED FOR INSURED VEHICLES REGISTERED IN THE STATE; AND

(2) FOR EACH FLEET POLICY, ELECTRONICALLY NOTIFY THE ADMINISTRATION EVERY 30 DAYS OF ANY ADDITIONS, DELETIONS, OR MODIFICATIONS TO THE FLEET POLICY, INCLUDING THOSE POLICY NUMBERS AFFECTED.

[(c)] (D) The Administration, in consultation with the Maryland Insurance Administration and representatives of the automobile insurance industry, shall adopt regulations that establish procedures to be used by an insurer to provide timely notification to an insured of the penalties that may be imposed in accordance with § 17-106 of this subtitle if the insured fails to renew or replace a policy of motor vehicle liability insurance without surrendering the evidences of registration.

[(d)] (E) (1) In this subsection, “replacement vehicle” means a vehicle that is loaned by an auto repair facility or a dealer, or that an individual rents temporarily, to use while a vehicle owned by the individual is not in use because of

loss, as “loss” is defined in that individual’s applicable private passenger automobile insurance policy or because of breakdown, repair, service, or damage.

(2) Subject to paragraph (3) of this subsection, an owner of a replacement vehicle may satisfy the requirement of subsection (a) of this section by maintaining the required security described in § 17–103 of this subtitle that is secondary to any other valid and collectible coverage and that extends coverage in amounts required under § 17–103(b) of this subtitle to the owner’s vehicle while it is used as a replacement vehicle.

(3) If an owner of a replacement vehicle provides coverage as provided under paragraph (2) of this subsection, the agreement for the replacement vehicle to be signed by the renter or the individual to whom the vehicle is loaned shall contain a provision on the face of the agreement, in at least 10 point bold type, that informs the individual that the coverage on the vehicle being serviced or repaired is primary coverage for the replacement vehicle and the coverage maintained by the owner on the replacement vehicle is secondary.

17–106.

(a) If the required security for any vehicle lapses at any time, the registration of that vehicle:

(1) Is suspended automatically as of the date of the lapse effective not later than 60 days after notification to the Administration that the lapse has occurred; and

(2) Remains suspended until:

(i) The required security is replaced and the vehicle owner submits evidence of replaced security on a form as prescribed by the Administration and certified by an insurer or insurance producer; and

(ii) Any uninsured motorist penalty fee assessed is paid to the Administration.

(b) (1) Except as provided in paragraph (2) of this subsection, each insurer or other provider of required security immediately shall notify the Administration **ELECTRONICALLY** of those terminations or other lapses that are final.

(2) Each insurer or other provider of required security for a vehicle registered as a Class B (for hire) vehicle under Title 13 of this article shall notify the Administration within 45 days of a termination or other lapse that is final and occurs anytime after the required security is issued or provided.

(c) On receipt of a notice under subsection (b) of this section, the Administration shall make a reasonable effort to notify the owner of the vehicle that his registration has been suspended.

(d) (1) Within 48 hours after an owner is notified by the Administration of the suspension of registration, the owner shall surrender all evidences of that registration to the Administration.

(2) If the owner fails to surrender the evidences of registration within the 48-hour period, the Administration:

(i) Shall attempt to recover from the owner the evidences of registration; and

(ii) May suspend his license to drive until he returns to the Motor Vehicle Administration the evidences of registration.

(3) The Administration may enter into contracts with private parties to procure the services of independent agents to assist in the recovery of the evidences of registration as authorized in paragraph (2) of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 422

(House Bill 1182)

AN ACT concerning

Charles County Sheriff – Collective Bargaining – Binding Arbitration

FOR the purpose of authorizing a certain collective bargaining agreement in Charles County to contain a grievance procedure providing for binding arbitration of ~~certain grievances~~ the interpretation of contract terms and clauses; and generally relating to collective bargaining agreements for the Office of the Sheriff in Charles County.

BY repealing and reenacting, with amendments,
 Article – Courts and Judicial Proceedings
 Section 2–309(j)
 Annotated Code of Maryland
 (2006 Replacement Volume and 2011 Supplement)

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

Article – Courts and Judicial Proceedings

2–309.

(j) (1) The salary for the Sheriff of Charles County is equal to the salary of a Department of State Police lieutenant colonel, at the highest available step for a lieutenant colonel under the Department of State Police pay plan in effect on the day prior to the day that the Sheriff begins a term of office.

(2) Any change in the salary paid under the Department of State Police pay plan during the term of Office of the Sheriff may not apply to the incumbent Sheriff, but the changed rate shall take effect at the beginning of the next following term of office.

(3) The Sheriff, in accordance with rules and regulations developed by the Board of County Commissioners and the Sheriff, shall appoint the number of deputy sheriffs that the Board of County Commissioners of Charles County and the Sheriff consider necessary.

(4) The books of the Sheriff shall be audited annually, and copies of the audit published by the County Commissioners in local newspapers.

(5) (i) This paragraph applies to all full-time, merit system sworn law enforcement officers and correctional officers in the Charles County Sheriff's Office at a rank of sergeant or below.

(ii) This paragraph does not apply to the following employees in the Charles County Sheriff's Office:

1. Sworn law enforcement officers or correctional officers in the Charles County Sheriff's Office at a rank of lieutenant or above;

2. Employees in appointed positions;

3. Civilian merit system employees;

4. Full-time reduced hours employees;

5. Part-time employees;

6. Contractual employees;

7. Temporary employees;

8. Emergency employees; or
9. Employees whose employment is administered under the county policies and procedures manual.
 - (iii) 1. A sworn law enforcement officer or correctional officer subject to this paragraph has the right to:
 - A. Take part in or refrain from taking part in forming, joining, supporting, or participating in any employee organization or its lawful activities;
 - B. Be represented by an exclusive representative, if any, in collective bargaining; and
 - C. Engage in other concerted activities for the purpose of collective bargaining.
 2. Sworn law enforcement officers and correctional officers subject to this paragraph may seek recognition in order to organize and bargain collectively in good faith with the Sheriff or the Sheriff's designee concerning the following matters:
 - A. Compensation, excluding salary, wages, and those benefits determined, offered, administered, controlled, or managed by the County Commissioners of Charles County;
 - B. Leave, holidays, and vacations; and
 - C. Hours, working conditions, and job security.
 3. A sworn law enforcement officer or correctional officer who is a member of a bargaining unit with an exclusive representative may discuss any matter with the employer without the intervention of the exclusive representative.
 4. A sworn law enforcement officer or correctional officer who is not a member of a bargaining unit with an exclusive representative may be required to pay a proportional service fee for costs associated with the administration and enforcement of any agreement that benefits the affected employees. An exclusive representative shall be selected in accordance with the procedures set forth in subparagraph (v) of this paragraph.
 5. This paragraph does not require that sworn law enforcement officers and correctional officers be represented by the same exclusive representative.

(iv) The Sheriff and the Office of the Sheriff for Charles County, through their appropriate officers and employees, may:

1. Determine the:
 - A. Mission;
 - B. Budget;
 - C. Organization;
 - D. Numbers, types, and grades of employees assigned;
 - E. Work projects, tours of duty, and methods, means, and personnel by which its operations are conducted;
 - F. Technology needs;
 - G. Internal security practices; and
 - H. Relocation of its facilities;
2. Maintain and improve the efficiency and effectiveness of governmental operations;
3. Determine the services to be rendered, operations to be performed, and technology to be used;
4. Determine the overall methods, processes, means, and classes of work or personnel by which governmental operations are to be conducted;
5. Hire, direct, supervise, and assign employees;
6.
 - A. Promote, demote, discipline, discharge, retain, and lay off employees; and
 - B. Terminate employment because of lack of funds, lack of work, a determination by the employer that continued work would be inefficient or nonproductive, or for other legitimate reasons;
7. Set the qualifications of employees for appointment and promotions;
8. Set standards of conduct;
9. Adopt office rules, regulations, and procedures;

10. Provide a system of merit employment according to a standard of business efficiency; and

11. Take actions, not otherwise specified in this paragraph, to carry out the mission of the Office of the Sheriff of Charles County.

(v) 1. Except as provided in subparagraph 2 of this subparagraph, an exclusive representative may not be recognized by the Sheriff unless that representative is selected and certified by the Department of Labor, Licensing, and Regulation.

2. Any petition to be recognized that is submitted on behalf of the sworn law enforcement officers shall be accompanied by a showing of interest supported by at least 51% of the sworn law enforcement officers indicating their desire to be exclusively represented by the petitioner for the purpose of collective bargaining.

3. Any petition to be recognized that is submitted on behalf of the correctional officers shall be accompanied by a showing of interest supported by at least 51% of the correctional officers indicating their desire to be exclusively represented by the petitioner for the purpose of collective bargaining.

(vi) 1. A. The Sheriff may designate at least one, but not more than three, individuals to represent the Sheriff in collective bargaining.

B. The exclusive representative shall designate at least one, but not more than three, individuals to represent the exclusive representative in collective bargaining.

2. The parties shall meet at reasonable times and engage in collective bargaining in good faith.

3. Negotiations or matters relating to negotiations shall be considered closed sessions under § 10-508 of the State Government Article.

4. The parties shall make every reasonable effort to conclude negotiations in a timely manner for inclusion by the Sheriff and the Office of the Sheriff of Charles County in its budget request to the County Commissioners of Charles County.

5. Negotiations for an agreement shall begin on or before each July 1 of the year before the expiration of any existing agreement.

(vii) To the extent that any matters negotiated between the Sheriff and the collective bargaining unit require legislative approval or the appropriation of funds, the matters shall be recommended to the General Assembly for

the approval of legislation or to the County Commissioners for the appropriation of funds.

(viii) An agreement is not valid if it extends for less than 1 year or for more than 2 years.

(ix) 1. An agreement shall contain all matters of agreement reached in the collective bargaining process.

2. AN AGREEMENT MAY CONTAIN A GRIEVANCE PROCEDURE FOR BINDING ARBITRATION OF ~~GRIEVANCES IN REFERENCE TO A LABOR CONTRACT, INCLUDING GRIEVANCES RELATED TO INTERPRETATION OF BREACH OF CONTRACT~~ THE INTERPRETATION OF CONTRACT TERMS AND CLAUSES.

[2.] 3. An agreement reached in accordance with this paragraph shall be in writing and signed by the designated representatives of the Sheriff and the exclusive representative involved in the collective bargaining negotiations.

[3.] 4. An agreement is not effective until it is ratified by the Sheriff and a majority of the votes cast by the employees in the bargaining unit.

[4.] 5. A modification to an existing agreement is not valid unless it is in writing and ratified by the Sheriff and a majority of the votes cast by the employees in the bargaining unit.

(x) This paragraph does not authorize a sworn law enforcement officer or correctional officer to engage in a strike as defined in § 3–303 of the State Personnel and Pensions Article.

(xi) Nothing in this paragraph shall be construed as subjecting disciplinary matters or the disciplinary process to negotiation as part of the collective bargaining process.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

AN ACT concerning

Howard County – Deputy Sheriffs – Collective Bargaining

Ho. Co. 11–12

FOR the purpose of authorizing the representatives of certain full–time deputy sheriffs in the Office of the Sheriff of Howard County to bargain collectively with the Sheriff on certain issues; authorizing certain deputy sheriffs to take certain actions in connection with certain labor organizations with regard to certain collective bargaining activities; providing for the procedures for certifying a labor organization as a certified labor organization for certain collective bargaining negotiations; requiring the certified labor organization and the Sheriff to follow certain procedures for collective bargaining; providing for a certain method to resolve a dispute if the certified labor organization and the Sheriff are unable to negotiate a certain agreement; establishing that any additional funding required as a result of a certain agreement is subject to approval by the County Executive and County Council; establishing a certain method for requesting certain additional funding; requiring a collective bargaining agreement to contain certain matters; providing for certain rights and responsibilities of the Sheriff that are not impaired by the provisions of this Act; establishing that any additional funding required as a result of a certain agreement is subject to approval by the County Executive and County Council; providing for the construction of this Act; and generally relating to collective bargaining for deputy sheriffs in Howard County.

BY adding to

Article – Courts and Judicial Proceedings

Section 2–309(o)(5)

Annotated Code of Maryland

(2006 Replacement Volume and 2011 Supplement)

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

Article – Courts and Judicial Proceedings

2–309.

(o) (5) (I) **THIS PARAGRAPH APPLIES ONLY TO FULL–TIME DEPUTY SHERIFFS IN THE OFFICE OF THE SHERIFF OF HOWARD COUNTY AT THE RANK OF ~~SERGEANT~~ SERGEANT CORPORAL AND BELOW.**

(II) **A DEPUTY SHERIFF MAY:**

1. TAKE PART IN OR REFRAIN FROM TAKING PART IN FORMING, JOINING, SUPPORTING, OR PARTICIPATING IN A LABOR ORGANIZATION OR ITS LAWFUL ACTIVITIES;

2. SELECT A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;

3. ENGAGE IN COLLECTIVE BARGAINING WITH THE SHERIFF OF HOWARD COUNTY, OR THE DESIGNEE OF THE SHERIFF, CONCERNING WAGES, BENEFITS, AND OTHER TERMS AND CONDITIONS, EXCEPT THOSE TERMS AND CONDITIONS EXPRESSLY RESERVED BY THE SHERIFF UNDER SUBPARAGRAPH (v)4A OF THIS PARAGRAPH, THROUGH A LABOR ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;

4. SUBJECT TO ITEM 2 OF THIS SUBPARAGRAPH, ENTER INTO A COLLECTIVE BARGAINING AGREEMENT, THROUGH THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH, COVERING THE WAGES, BENEFITS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH, EXCEPT THOSE TERMS AND CONDITIONS EXPRESSLY RESERVED BY THE SHERIFF IN SUBPARAGRAPH (v)4 OF THIS PARAGRAPH; AND

5. DECERTIFY A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH.

(III) 1. A LABOR ORGANIZATION SEEKING CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE MUST SUBMIT A PETITION TO THE SHERIFF THAT IS SIGNED BY AT LEAST 30% OF THE DEPUTY SHERIFFS INDICATING THE DESIRE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH TO BE REPRESENTED EXCLUSIVELY BY THE LABOR ORGANIZATION FOR THE PURPOSE OF COLLECTIVE BARGAINING.

2. IF THE SHERIFF DOES NOT CHALLENGE THE VALIDITY OF THE PETITION WITHIN 30 CALENDAR DAYS FOLLOWING THE RECEIPT OF THE PETITION, THE PETITION SHALL BE SUBMITTED TO THE COMMISSIONER OF LABOR AND INDUSTRY TO BE APPROVED BY A CONSENT ELECTION UNDER TITLE 4, SUBTITLE 2, PART II OF THE LABOR AND EMPLOYMENT ARTICLE.

3. IF THE SHERIFF CHALLENGES THE VALIDITY OF THE PETITION, EITHER PARTY MAY SUBMIT A REQUEST TO THE COMMISSIONER

OF LABOR AND INDUSTRY TO DETERMINE THE VALIDITY OF THE PETITION AND WHETHER TO CONDUCT A CONSENT ELECTION UNDER TITLE 4, SUBTITLE 2, PART II OF THE LABOR AND EMPLOYMENT ARTICLE.

4. THE COSTS ASSOCIATED WITH A DETERMINATION BY THE COMMISSIONER OF LABOR AND INDUSTRY UNDER SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH SHALL BE SHARED EQUALLY BY THE PARTIES.

5. A LABOR ORGANIZATION SHALL BE DEEMED DECERTIFIED IF A PETITION IS SUBMITTED TO THE SHERIFF THAT IS SIGNED BY MORE THAN 50% OF THE DEPUTY SHERIFFS INDICATING THE DESIRE OF THE DEPUTY SHERIFFS TO DECERTIFY THE LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH.

(IV) 1. FOLLOWING CERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF SHALL MEET AT REASONABLE TIMES AND ENGAGE IN COLLECTIVE BARGAINING IN GOOD FAITH.

2. THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF SHALL MAKE EVERY REASONABLE EFFORT TO CONCLUDE NEGOTIATIONS ON OR BEFORE FEBRUARY 1 OF THE YEAR IN WHICH A COLLECTIVE BARGAINING AGREEMENT IS TO TAKE EFFECT TO ALLOW FOR INCLUSION BY THE SHERIFF OF MATTERS AGREED ON IN ITS BUDGET REQUEST TO THE COUNTY EXECUTIVE.

3. A. IF THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF ARE UNABLE TO REACH AN AGREEMENT BEFORE THE DATE SET FORTH IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, AN IMPASSE SHALL BE DEEMED TO HAVE BEEN REACHED, EACH SIDE SHALL SUBMIT THEIR BEST AND FINAL OFFERS WITHIN 24 HOURS, AND WITHIN 5 DAYS AFTER AN IMPASSE IS REACHED THE DISPUTE, ALONG WITH EACH SIDE'S BEST AND FINAL OFFER, SHALL BE SUBMITTED TO THE FEDERAL MEDIATION AND CONCILIATION SERVICE.

B. THE MEDIATOR APPOINTED BY THE FEDERAL MEDIATION AND CONCILIATION SERVICE SHALL MEET WITH THE PARTIES AND MAKE WRITTEN FINDINGS OF FACT AND RECOMMENDATIONS FOR THE RESOLUTION OF THE DISPUTE BY MARCH 1.

C. THE COSTS ASSOCIATED WITH THE MEDIATOR OR MEDIATION PROCESS SHALL BE SHARED EQUALLY BY THE PARTIES.

D. COPIES OF THE MEDIATOR’S WRITTEN FINDINGS AND RECOMMENDATIONS SHALL BE SENT TO THE SHERIFF AND CERTIFIED LABOR ORGANIZATION.

E. THE SHERIFF AND CERTIFIED LABOR ORGANIZATION SHALL MEET WITHIN 5 DAYS AFTER THE CONCLUSION OF THE MEDIATION TO REACH A VOLUNTARY RESOLUTION OF THE DISPUTE.

F. IF NO RESOLUTION IS REACHED UNDER SUBSUBSUBPARAGRAPH E OF THIS SUBSUBPARAGRAPH, THE SHERIFF SHALL SUBMIT TO THE COUNTY EXECUTIVE THE BEST AND FINAL OFFER OF EACH SIDE AND THE MEDIATOR’S FINDINGS AND RECOMMENDATIONS AND THE COUNTY EXECUTIVE SHALL REVIEW ALL THE MATERIALS BEFORE MAKING A BUDGET SUBMISSION FOR THE SHERIFF’S OFFICE TO THE COUNTY COUNCIL.

4. A. ANY ADDITIONAL FUNDING REQUIRED AS A RESULT OF A NEGOTIATED COLLECTIVE BARGAINING AGREEMENT IS SUBJECT TO APPROVAL BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL.

B. A REQUEST FOR ADDITIONAL FUNDING SHALL BE SUBMITTED TO THE COUNTY EXECUTIVE BY THE SHERIFF WITHIN THE TIME SCHEDULE PROVIDED IN THE AGREEMENT.

C. THE COUNTY EXECUTIVE AND COUNTY COUNCIL MAY APPROVE OR REJECT A REQUEST FOR ADDITIONAL FUNDING IN WHOLE OR IN PART.

D. IF ANY PART OF A REQUEST FOR ADDITIONAL FUNDING IS REJECTED, THE ENTIRE AGREEMENT SHALL BE RETURNED TO THE PARTIES FOR FURTHER BARGAINING, DURING WHICH EITHER PARTY MAY RENEGOTIATE ALL OR PART OF THE AGREEMENT WITHIN THE LIMITS OF THE FUNDING ALLOCATED BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL AND WITHIN A TIMETABLE ESTABLISHED BY THE COUNTY EXECUTIVE.

(v) 1. A COLLECTIVE BARGAINING AGREEMENT SHALL CONTAIN ALL MATTERS OF AGREEMENT REACHED IN THE COLLECTIVE BARGAINING PROCESS.

2. A COLLECTIVE BARGAINING AGREEMENT MAY CONTAIN A GRIEVANCE PROCEDURE WHICH SHALL APPLY ONLY TO QUESTIONS CONCERNING THE INTERPRETATION OR APPLICATION OF A SPECIFIC PROVISION OF THE AGREEMENT.

3. A COLLECTIVE BARGAINING AGREEMENT REACHED IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE IN WRITING AND SIGNED BY THE CERTIFIED REPRESENTATIVES OF THE PARTIES INVOLVED IN THE COLLECTIVE BARGAINING NEGOTIATIONS.

4. AN AGREEMENT MADE UNDER THIS SUBPARAGRAPH MAY NOT IMPAIR THE RIGHT AND THE RESPONSIBILITY OF THE SHERIFF TO:

A. MAINTAIN THE ORDER AND EFFICIENCY OF THE PUBLIC SERVICE ENTRUSTED TO THE SHERIFF AND TO OPERATE AND MANAGE THE AFFAIRS OF THE OFFICE, INCLUDING ALL RIGHTS AND AUTHORITY HELD BY THE SHERIFF PRIOR TO SIGNING A COLLECTIVE BARGAINING AGREEMENT EXCEPT WHERE ABRIDGED BY AN EXPRESS PROVISION OF THE AGREEMENT;

B. DETERMINE THE PURPOSES AND OBJECTIVES OF EACH OF THE SHERIFF'S CONSTITUENT OFFICES AND DEPARTMENTS;

C. SET THE STANDARDS OF SERVICES TO BE OFFERED TO THE PUBLIC;

D. DETERMINE AND SET WORK PROJECTS, TOURS OF DUTY, SCHEDULES, ASSIGNMENTS, AND METHODS, MEANS, PERSONNEL, AND OTHER RESOURCES BY WHICH OPERATIONS ARE CONDUCTED;

E. DETERMINE AND SET TECHNOLOGY NEEDS, INTERNAL SECURITY PRACTICES, EQUIPMENT, AND THE LOCATION OF FACILITIES;

F. EXERCISE CONTROL AND DISCRETION OVER THE SHERIFF'S OFFICE AND OPERATIONS;

G. HIRE, PROMOTE, TRANSFER, ASSIGN, OR RETAIN DEPUTY SHERIFFS IN POSITIONS WITHIN THE OFFICE;

H. ESTABLISH WORK RULES;

I. DEMOTE, SUSPEND, DISCHARGE, OR TAKE ANY OTHER APPROPRIATE DISCIPLINARY ACTION AGAINST EMPLOYEES FOR JUST CAUSE AND IN ACCORDANCE WITH THE COUNTY CHARTER AND OTHER APPLICABLE LAW;

J. DETERMINE THE MISSION, BUDGET, ORGANIZATION, NUMBERS, TYPES, CLASSES, GRADES, AND RANKS OF DEPUTY

SHERIFFS ASSIGNED, THE SERVICES TO BE RENDERED, OPERATIONS TO BE PERFORMED, AND THE TECHNOLOGY TO BE USED;

K. SET THE STANDARDS OF SERVICE AND EXERCISE CONTROL OVER OPERATIONS, INCLUDING THE RIGHTS TO DETERMINE WORK SHIFTS AND THE NUMBER OF DEPUTY SHERIFFS ON EACH SHIFT;

L. DETERMINE AND SET THE QUALIFICATIONS OF DEPUTY SHERIFFS FOR APPOINTMENT AND PROMOTIONS;

M. SET THE STANDARDS OF PERFORMANCE, APPEARANCE, AND CONDUCT;

N. JUDGE SKILL, ABILITY, AND PHYSICAL FITNESS;

O. CREATE, ELIMINATE, OR CONSOLIDATE JOB CLASSIFICATIONS, DEPARTMENTS, OR OPERATIONS; AND

P. CONTROL AND REGULATE THE USE OF ALL EQUIPMENT AND OTHER PROPERTY OF THE COUNTY.

5. A COLLECTIVE BARGAINING AGREEMENT IS NOT EFFECTIVE UNTIL IT IS RATIFIED BY THE MAJORITY OF VOTES CAST BY THE DEPUTY SHERIFFS IN THE BARGAINING UNIT AND APPROVED BY THE SHERIFF.

(VI) NOTHING IN THIS PARAGRAPH MAY BE CONSTRUED TO:

1. AUTHORIZE OR OTHERWISE ALLOW A DEPUTY SHERIFF TO ENGAGE IN A STRIKE AS DEFINED IN § 3-303 OF THE STATE PERSONNEL AND PENSIONS ARTICLE; AND

2. RESTRICT IN ANY WAY THE AUTHORITY OF THE COUNTY EXECUTIVE OR COUNTY COUNCIL TO DETERMINE THE BUDGET FOR THE SHERIFF'S OFFICE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Chapter 424

(House Bill 1220)

AN ACT concerning

**Secondary Education – Electronic Reader Pilot Program in Baltimore City –
Study**

FOR the purpose of ~~establishing the Electronic Reader Pilot Program to be implemented in middle and high schools in Baltimore City; requiring the Chief Executive Officer of the Baltimore City Board of School Commissioners to award a grant to the Board for implementation of the Pilot Program; providing for the purpose of the Pilot Program; requiring the Chief Executive Officer and a certain organization to develop a plan to implement the Pilot Program; requiring the plan to meet certain requirements; providing for the funding of the Pilot Program; requiring the Baltimore City Board of School Commissioners to submit a certain report on or before a certain date and including certain information; defining certain terms; requiring the State Department of Education to study establishing an electronic reader pilot program in certain public middle schools or high schools in the State in accordance with certain requirements; requiring the Department to report certain findings and recommendations to certain committees of the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Electronic Reader Pilot Program in Baltimore City~~ studying the establishment of an electronic reader pilot program.

~~BY adding to~~

~~Article – Education~~

~~Section 7-10B-01 through 7-10B-08 to be under the new subtitle “Subtitle 10B-
Electronic Reader Pilot Program in Baltimore City”~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2011 Supplement)~~

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

~~Article – Education~~

~~SUBTITLE 10B. ELECTRONIC READER PILOT PROGRAM IN BALTIMORE CITY.~~

~~7-10B-01.~~

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

~~(B) “CHIEF EXECUTIVE OFFICER” MEANS THE CHIEF EXECUTIVE OFFICER OF THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS.~~

~~(C) “ELECTRONIC READER” MEANS A DEVICE WITH WIRELESS CONNECTIVITY FOR DOWNLOADING READING CONTENT, INCLUDING BOOKS, NEWSPAPERS, AND PERIODICALS.~~

~~(D) “PILOT PROGRAM” MEANS THE ELECTRONIC READER PILOT PROGRAM IN BALTIMORE CITY.~~

~~(E) “PILOT PROGRAM PROVIDER” MEANS A NONPROFIT ORGANIZATION THAT, AS DETERMINED BY THE CHIEF EXECUTIVE OFFICER OF THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS:~~

~~(1) EXCLUSIVELY FOCUSES ON THE IMPROVEMENT OF PERFORMANCE MANAGEMENT AND THE USE OF TECHNOLOGY FOR OTHER NONPROFIT ORGANIZATIONS AND SCHOOLS;~~

~~(2) HAS DEMONSTRATED EXPERIENCE IN PROVIDING A RANGE OF ASSISTANCE TO NONPROFIT COMMUNITY BASED ORGANIZATIONS AND SCHOOLS, INCLUDING:~~

~~(I) ASSESSING PERFORMANCE AND THE USE OF TECHNOLOGY; AND~~

~~(II) DEVELOPING AND IMPLEMENTING RECOMMENDATIONS TO IMPROVE PERFORMANCE AND THE USE OF TECHNOLOGY;~~

~~(3) HAS DEMONSTRATED THE ABILITY TO IDENTIFY AREAS FOR PROGRAM IMPROVEMENT RELATED TO THE USE OF TECHNOLOGY IN CLASSROOMS AND BY ADMINISTRATORS;~~

~~(4) HAS DEMONSTRATED THE ABILITY TO DEVELOP AN IMPLEMENTATION PLAN FOR RECOMMENDED IMPROVEMENTS;~~

~~(5) HAS DEMONSTRATED THE ABILITY TO ASSIST WITH AND PROVIDE ON-SITE, HANDS-ON GUIDANCE WITH THE IMPLEMENTATION OF THE RECOMMENDATIONS; AND~~

~~(6) HAS DEMONSTRATED THE ABILITY TO CREATE AN ONLINE COMMUNITY THAT ALLOWS TEACHERS, PARENTS, POLICYMAKERS, AND OTHER STAKEHOLDERS TO COMMUNICATE AND PROVIDE SUPPORT DURING AND FOLLOWING THE ASSESSMENT AND IMPLEMENTATION PROCESS.~~

~~7-10B-02.~~

~~THERE IS AN ELECTRONIC READER PILOT PROGRAM IN BALTIMORE CITY.~~

~~7-10B-03.~~

~~THE PURPOSE OF THE PILOT PROGRAM IS TO MAKE AVAILABLE TO MIDDLE SCHOOL AND HIGH SCHOOL STUDENTS IN BALTIMORE CITY REQUIRED READING LISTS AND READING LIST MATERIALS ON ELECTRONIC READERS IN CONJUNCTION WITH THE LIBRARY STAFF OF THE MIDDLE SCHOOLS AND HIGH SCHOOLS.~~

~~7-10B-04.~~

~~IN ACCORDANCE WITH § 7-10B-05 OF THIS SUBTITLE, THE CHIEF EXECUTIVE OFFICER AND THE PILOT PROGRAM PROVIDER, SELECTED BY THE CHIEF EXECUTIVE OFFICER, SHALL DEVELOP A PLAN TO IMPLEMENT THE PILOT PROGRAM IN MIDDLE SCHOOLS AND HIGH SCHOOLS IN BALTIMORE CITY.~~

~~7-10B-05.~~

~~THE PLAN TO IMPLEMENT THE PILOT PROGRAM SHALL BE DESIGNED TO:~~

- ~~(1) BE CAPABLE OF BEING IMPLEMENTED AT A REASONABLE COST;~~
- ~~(2) ENCOURAGE AND DEVELOP STUDENTS' FAMILIARITY WITH ELECTRONIC READERS AND TRAIN TEACHERS TO INTEGRATE THE USE OF ELECTRONIC READERS INTO THEIR CURRICULUM;~~
- ~~(3) ADD TO THE INCREASED PERFORMANCE OF THE STUDENTS PARTICIPATING IN THE PILOT PROGRAM; AND~~
- ~~(4) PROVIDE STUDENT PERFORMANCE EVALUATION INDICATORS THAT ILLUSTRATE HOW TEACHERS' FAMILIARITY WITH ELECTRONIC READERS AND THE TEACHING RESOURCES THAT MAY BE UTILIZED WITH ELECTRONIC READERS INCREASES THE PERFORMANCE OF STUDENTS PARTICIPATING IN THE PILOT PROGRAM.~~

~~7-10B-06.~~

~~ON APPROVAL OF THE PLAN TO IMPLEMENT THE PILOT PROGRAM INTO THE BALTIMORE CITY PUBLIC SCHOOL SYSTEM BY THE CHIEF EXECUTIVE OFFICER, THE CHIEF EXECUTIVE OFFICER SHALL PROVIDE A GRANT TO THE~~

~~BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS TO IMPLEMENT THE PILOT PROGRAM.~~

~~7-10B-07.~~

~~FUNDING FOR THE CHIEF EXECUTIVE OFFICER TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE SHALL BE AS PROVIDED IN THE STATE BUDGET.~~

~~7-10B-08.~~

~~THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS SHALL ISSUE A REPORT ON THE STATUS OF, AND THE BENEFITS ACCRUED FROM, THE PILOT PROGRAM, TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY WITHIN 2 YEARS FROM THE DATE THE CHIEF EXECUTIVE OFFICER AWARDS A GRANT TO THE BOARD UNDER THIS SUBTITLE.~~

(a) The State Department of Education shall study establishing an electronic reader pilot program in the public middle schools or high schools in the State.

(b) The Department shall study:

(1) whether there is an educational benefit to making available to middle school or high school students in public schools required reading lists and reading list materials on electronic readers in conjunction with the library staff of the middle schools or high schools;

(2) whether it is advisable to limit the pilot program to local school systems that have 65% of their students who qualify for the free- and reduced-price lunch program;

(3) whether the pilot program would be most effective in middle schools or high schools;

(4) whether the minimum standards for a pilot program should include:

(i) the encouragement and development of students' familiarity with electronic readers and training for teachers to integrate the use of electronic readers into their curriculum;

(ii) the increased academic performance of the students participating in the pilot program; and

(iii) student performance evaluation indicators that illustrate how teachers' familiarity with electronic readers and the teaching resources that may

be utilized with electronic readers increases the performance of students participating in the pilot program; and

(5) the projected costs of and savings from implementing the pilot program.

(c) The Department shall only consider the use of technology that meets the technical standards for electronic and information technology issued under Section 508 of the federal Rehabilitation Act of 1974, 29 U.S.C. § 794(a)(2).

(d) On or before December 31, 2012, the Department shall:

(1) determine whether to establish an electronic reader pilot program in public middle schools or high schools in the State; and

(2) report its findings and recommendations to the Senate Education, Health, and Environmental Affairs Committee and the House Committee on Ways and Means, in accordance with § 2-1246 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012. It shall remain effective for a period of 6 months and, at the end of December 31, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2012.

Chapter 425

(House Bill 1235)

AN ACT concerning

Public Safety – Emergency Number System – Next Generation 9-1-1 Services

FOR the purpose of altering the responsibilities of the Emergency Number Systems Board to include establishing planning guidelines for next generation 9-1-1 services system plans and deployment of next generation 9-1-1 service services; ~~authorizing the Board to limit a request for reimbursement to counties for the cost of enhancing a 9-1-1 system;~~ defining a certain term; and generally relating to emergency number systems and next generation 9-1-1 services.

BY repealing and reenacting, with amendments,
 Article – Public Safety
 Section 1-301 and 1-306
 Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Public Safety

1–301.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Additional charge” means the charge imposed by a county in accordance with § 1–311 of this subtitle.
- (c) “Board” means the Emergency Number Systems Board.
- (d) “Commercial mobile radio service” or “CMRS” means mobile telecommunications service that is:
 - (1) provided for profit with the intent of receiving compensation or monetary gain;
 - (2) an interconnected, two–way voice service; and
 - (3) available to the public.
- (e) “Commercial mobile radio service provider” or “CMRS provider” means a person authorized by the Federal Communications Commission to provide CMRS in the State.
- (f) “County plan” means a plan for a 9–1–1 system or enhanced 9–1–1 system, or an amendment to the plan, developed by a county or several counties together under this subtitle.
- (g) (1) “Customer” means:
 - (i) the person that contracts with a home service provider for CMRS; or
 - (ii) the end user of the CMRS if the end user of the CMRS is not the contracting party.
- (2) “Customer” does not include:
 - (i) a reseller of CMRS; or

(ii) a serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.

(h) "Enhanced 9-1-1 system" means a 9-1-1 system that provides:

- (1) automatic number identification;
- (2) automatic location identification; and
- (3) any other technological advancements that the Board requires.

(i) "FCC order" means an order issued by the Federal Communications Commission under proceedings regarding the compatibility of enhanced 9-1-1 systems and delivery of wireless enhanced 9-1-1 service.

(j) "Home service provider" means the facilities-based carrier or reseller that contracts with a customer to provide CMRS.

(k) **"NEXT GENERATION 9-1-1 SERVICES" MEANS AN INTERNET PROTOCOL (IP)-BASED SYSTEM, COMPRISED OF HARDWARE, SOFTWARE, DATA, AND OPERATIONAL POLICIES AND PROCEDURES, THAT:**

(1) PROVIDES STANDARDIZED INTERFACES FROM EMERGENCY CALL AND MESSAGE SERVICES TO SUPPORT EMERGENCY COMMUNICATIONS;

(2) PROCESSES ALL TYPES OF EMERGENCY CALLS, INCLUDING VOICE, TEXT, DATA, AND MULTIMEDIA INFORMATION;

(3) ACQUIRES AND INTEGRATES ADDITIONAL EMERGENCY CALL DATA USEFUL TO CALL ROUTING AND HANDLING;

(4) DELIVERS THE EMERGENCY CALLS, MESSAGES, AND DATA TO THE APPROPRIATE PUBLIC SAFETY ANSWERING POINT AND OTHER APPROPRIATE ~~PUBLIC SAFETY AGENCIES~~ EMERGENCY ENTITIES;

(5) SUPPORTS DATA OR VIDEO COMMUNICATIONS NEEDS FOR COORDINATED INCIDENT RESPONSE AND MANAGEMENT; ~~OR~~ AND

(6) PROVIDES BROADBAND SERVICE TO PUBLIC SAFETY ANSWERING POINTS OR OTHER ~~PUBLIC SAFETY AGENCIES~~ FIRST RESPONDER ENTITIES.

(L) "9-1-1-accessible service" means telephone service or another communications service that connects an individual dialing the digits 9-1-1 to an established public safety answering point.

[(l)] (M) “9–1–1 fee” means the fee imposed in accordance with § 1–310 of this subtitle.

[(m)] (N) (1) “9–1–1 service carrier” means a provider of CMRS or other 9–1–1-accessible service.

(2) “9–1–1 service carrier” does not include a telephone company.

[(n)] (O) (1) “9–1–1 system” means telephone service that:

(i) meets the planning guidelines established under this subtitle; and

(ii) automatically connects an individual dialing the digits 9–1–1 to an established public safety answering point.

(2) “9–1–1 system” includes:

(i) equipment for connecting and outswitching 9–1–1 calls within a telephone central office;

(ii) trunking facilities from a telephone central office to a public safety answering point; and

(iii) equipment to connect 9–1–1 calls to the appropriate public safety agency.

[(o)] (P) “9–1–1 Trust Fund” means the fund established under § 1–308 of this subtitle.

[(p)] (Q) “Public safety agency” means:

(1) a functional division of a public agency that provides fire fighting, police, medical, or other emergency services; or

(2) a private entity that provides fire fighting, police, medical, or other emergency services on a voluntary basis.

[(q)] (R) “Public safety answering point” means a communications facility that:

(1) is operated on a 24-hour basis;

(2) first receives 9–1–1 calls in a 9–1–1 service area; and

(3) as appropriate, dispatches public safety services directly, or transfers 9-1-1 calls to appropriate public safety agencies.

[(r)] (S) “Secretary” means the Secretary of Public Safety and Correctional Services.

[(s)] (T) “Wireless enhanced 9-1-1 service” means enhanced 9-1-1 service under an FCC order.

1-306.

(a) The Board shall coordinate the enhancement of county 9-1-1 systems.

(b) The Board’s responsibilities include:

(1) establishing planning guidelines for enhanced 9-1-1 system plans and deployment of wireless enhanced 9-1-1 service in accordance with this subtitle;

(2) establishing procedures to review and approve or disapprove county plans and to evaluate requests for variations from the planning guidelines established by the Board;

(3) establishing procedures for the request for reimbursement of the costs of enhancing a 9-1-1 system by a county or counties in which a 9-1-1 system is in operation, and procedures to review and approve, ~~LIMIT,~~ or disapprove the request;

(4) transmitting the planning guidelines and procedures established under this section, and any amendments to them, to the governing body of each county;

(5) submitting to the Secretary each year a schedule for implementing the enhancement of county or multicounty 9-1-1 systems, and an estimate of funding requirements based on the approved county plans;

(6) developing, with input from counties, and publishing on or before July 1, 2004, an implementation schedule for deployment of wireless enhanced 9-1-1 service;

(7) reviewing and approving or disapproving requests for reimbursement of the costs of enhancing 9-1-1 systems, and submitting to the Secretary each year a schedule for reimbursement and an estimate of funding requirements;

(8) reviewing the enhancement of 9-1-1 systems;

(9) providing for an audit of county expenditures for the operation and maintenance of 9-1-1 systems;

(10) ensuring inspections of public safety answering points;

(11) reviewing and approving or disapproving requests from counties with operational enhanced 9–1–1 systems to be exempted from the expenditure limitations under § 1–312 of this subtitle; [and]

(12) authorizing expenditures from the 9–1–1 Trust Fund that:

(i) are for enhancements of 9–1–1 systems that:

1. are required by the Board;
2. will be provided to a county by a third party contractor; and
3. will incur costs that the Board has approved before the formation of a contract between the county and the contractor; and

(ii) are approved by the Board for payment:

1. from money collected under § 1–310 of this subtitle; and
2. directly to a third party contractor on behalf of a county; AND

(13) ESTABLISHING PLANNING GUIDELINES FOR NEXT GENERATION 9–1–1 SERVICES SYSTEM PLANS AND DEPLOYMENT OF NEXT GENERATION 9–1–1 ~~SERVICE~~ SERVICES IN ACCORDANCE WITH THIS SUBTITLE.

(c) The guidelines established by the Board under subsection (b)(1) AND **(13)** of this section:

(1) shall be based on available technology and equipment; and

(2) may be based on any other factor that the Board determines is appropriate, including population and area served by 9–1–1 systems.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.
