

SENATE BILL 493

P5

EMERGENCY BILL

7lr1139

By: **The President (By Request – Department of Legislative Services)**

Introduced and read first time: January 30, 2017

Assigned to: Rules

Committee Report: Favorable

Senate action: Adopted

Read second time: February 15, 2017

CHAPTER _____

1 AN ACT concerning

2 **Annual Curative Bill**

3 FOR the purpose of generally curing previous Acts of the General Assembly with possible
4 title defects; repealing a certain provision of law that limits to distillery license
5 holders that manufacture not more than a certain amount of product the authority
6 to sell bottles of products and related merchandise to certain participants in guided
7 tours; requiring the Garrett County Board of License Commissioners to charge
8 certain issuing fees for certain alcoholic beverages licenses in Garrett County;
9 expanding coverage of regional development councils under the Local Government
10 Tort Claims Act by altering the definition of “local government” to include certain
11 regional development councils; authorizing the Secretary of Commerce by regulation
12 to establish certain requirements related to the aerospace, electronics, or defense
13 contract tax credit program; establishing immunity from certain liability for certain
14 acts or omissions of individuals providing diabetes care services to students under
15 certain circumstances; repealing a certain condition that a religious educational
16 institution must satisfy in order to operate without a certificate of approval from the
17 Maryland Higher Education Commission and enroll Maryland students in a certain
18 online distance education program without a certain registration; repealing certain
19 provisions of law authorizing an institution of higher education to use up to a certain
20 percentage of a certain Part–Time Grant Program allocation for certain purposes;
21 providing that the Maryland Corps Program Fund may be subject to an audit by the
22 Legislative Auditor; requiring that certain accumulated contributions of a public
23 employee subject to a certain forfeiture order be reduced by an amount equal to
24 certain benefit payments; prohibiting the total aggregate amount of certain credits
25 claimed by members of pass–through entities against the State income tax for

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 certain preservation and conservation easements from exceeding a certain amount
2 for each taxable year; requiring the Administrative Office of the Courts to report on
3 or before a certain date to the Governor and the General Assembly on the operation
4 and results of the Courthouse Dog and Child Witness Pilot Program; providing for
5 the effect and construction of certain provisions of this Act; making this Act an
6 emergency measure; and generally repealing and reenacting without amendments
7 certain Acts of the General Assembly that may be subject to possible title defects in
8 order to validate those Acts.

9 BY repealing and reenacting, without amendments,

10 Article – Alcoholic Beverages

11 Section 2–202(a) and (c)(5)(iii), 21–601(a) and (c)(2), 21–602(a) and (e), 21–604(a) and
12 (c)(2), 21–701(a) and (d)(2), 21–801(a) and (c)(2), 21–802(a) and (e), 21–803(a)
13 and (f), 21–805(a) and (f), 21–902(a) and (h), 21–903(a) and (g), 21–904(b) and
14 (g)(2), 21–905(a)(1) and (f), and 21–1001(a) and (f)

15 Annotated Code of Maryland

16 (2016 Volume and 2016 Supplement)

17 BY repealing and reenacting, without amendments,

18 Article – Courts and Judicial Proceedings

19 Section 3–1301(a), 3–1302, 3–1307, 3–1308, and the subtitle designation “Subtitle
20 13. Remedies for Shoplifting and Employee Theft”; and 5–301(d)(17) and (e)

21 Annotated Code of Maryland

22 (2013 Replacement Volume and 2016 Supplement)

23 BY repealing and reenacting, without amendments,

24 Article – Criminal Law

25 Section 5–601(c)(2)(i)

26 Annotated Code of Maryland

27 (2012 Replacement Volume and 2016 Supplement)

28 (As enacted by Chapter 515 of the Acts of the General Assembly of 2016)

29 BY repealing and reenacting, without amendments,

30 Article – Economic Development

31 Section 6–707

32 Annotated Code of Maryland

33 (2008 Volume and 2016 Supplement)

34 BY repealing and reenacting, without amendments,

35 Article – Education

36 Section 7–426.4(d), 11–202.1(b), 18–1402(a), and 24–1108(a) and (l)

37 Annotated Code of Maryland

38 (2014 Replacement Volume and 2016 Supplement)

39 BY repealing and reenacting, without amendments,

40 Article – Election Law

41 Section 14–101(a)

1 Annotated Code of Maryland
2 (2010 Replacement Volume and 2016 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article – Health – General
5 Section 13–1406
6 Annotated Code of Maryland
7 (2015 Replacement Volume and 2016 Supplement)

8 BY repealing and reenacting, without amendments,
9 Article – Housing and Community Development
10 Section 4–201(f)
11 Annotated Code of Maryland
12 (2006 Volume and 2016 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article – Natural Resources
15 Section 8–716(c)
16 Annotated Code of Maryland
17 (2012 Replacement Volume and 2016 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – State Personnel and Pensions
20 Section 21–708
21 Annotated Code of Maryland
22 (2015 Replacement Volume and 2016 Supplement)
23 (As enacted by Chapter 220 of the Acts of the General Assembly of 2016)

24 BY repealing and reenacting, without amendments,
25 Article – Tax – General
26 Section 10–723(d)(5)(i)
27 Annotated Code of Maryland
28 (2016 Replacement Volume)

29 BY repealing and reenacting, without amendments,
30 Article – Tax – Property
31 Section 9–304(c)(1)
32 Annotated Code of Maryland
33 (2012 Replacement Volume and 2016 Supplement)

34 BY repealing and reenacting, without amendments,
35 Chapter 467 of the Acts of the General Assembly of 2016
36 Section 1(e)

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

Article – Alcoholic Beverages

2–202.

(a) There is a Class 1 distillery license.

(c) A license holder may:

(5) (iii) sell not more than three 750–milliliter bottles of products manufactured on the licensed premises, for off–premises consumption, and related merchandise to an individual who has attained the legal drinking age and participated in a guided tour of the licensed premises.

DRAFTER’S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 68 (Senate Bill 410) of the Acts of 2016.

21–601.

(a) There is a Class A beer license.

(c) (2) The Board shall charge a one–time issuing fee for a new license in an amount equal to the annual license fee.

21–602.

(a) There is a Class B beer license.

(e) The Board shall charge a one–time issuing fee for a new license in an amount equal to the annual license fee.

21–604.

(a) There is a Class D beer license.

(c) (2) The Board shall charge a one–time issuing fee for a new license in an amount equal to the annual license fee.

21–701.

(a) There is a Class A wine license in the county.

(d) (2) The Board shall charge a one–time issuing fee for a new license in an amount equal to the annual license fee.

1 21-801.

2 (a) There is a Class A beer and wine license.

3 (c) (2) The Board shall charge a one-time issuing fee for a new license in an
4 amount equal to the annual license fee.

5 21-802.

6 (a) There is a Class B beer and wine license.

7 (e) The Board shall charge a one-time issuing fee for a new license in an amount
8 equal to the annual license fee.

9 21-803.

10 (a) There is a Class BDR (deluxe restaurant) beer and wine license.

11 (f) The Board shall charge a one-time issuing fee for a new license in an amount
12 equal to the annual license fee.

13 21-805.

14 (a) There is a Class D beer and wine license.

15 (f) The Board shall charge a one-time issuing fee for a new license in an amount
16 equal to the annual license fee.

17 21-902.

18 (a) There is a Class B beer, wine, and liquor license.

19 (h) The Board shall charge a one-time issuing fee for a new license in an amount
20 equal to the annual license fee.

21 21-903.

22 (a) There is a Class BDR (deluxe restaurant) beer, wine, and liquor license.

23 (g) The Board shall charge a one-time issuing fee for a new license in an amount
24 equal to the annual license fee.

25 21-904.

26 (b) There is a Class C (club and organization) beer, wine, and liquor license.

(g) (2) The Board shall charge a one-time issuing fee for a new license in an amount equal to the annual license fee.

21-905.

(a) (1) There is:

(i) a Class D (75% on-sale) beer, wine, and liquor license; and

(ii) a Class D (75% off-sale) beer, wine, and liquor license.

(f) The Board shall charge a one-time issuing fee for a new license in an amount equal to the annual license fee.

21-1001.

(a) There is a Class B-B&B (bed and breakfast) beer, wine, and liquor license.

(f) The Board shall charge a one-time issuing fee for a new license in an amount equal to the annual license fee.

DRAFTER'S NOTE:

Error: Purpose paragraphs of bills being cured failed to accurately describe the changes made by the bills.

Occurred: Chapters 590 and 591 (Senate Bill 879/House Bill 1072) of the Acts of 2016.

Article – Courts and Judicial Proceedings

Subtitle 13. Remedies for Shoplifting and Employee Theft.

3-1301.

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

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured failed to indicate that the subtitle designation immediately preceding § 3-1301 of the Courts and Judicial Proceedings Article was being amended.

Occurred: Chapter 679 (Senate Bill 508) of the Acts of 2016.

3-1302.

A responsible person is civilly liable to the merchant:

(1) To restore the merchandise to the merchant or, if the merchandise is not recoverable, has been damaged, or otherwise has lost all or part of its value, to pay the merchant an amount equal to the merchant's stated sales price for the merchandise; and

(2) To pay the merchant for any other actual damages sustained by the merchant, not including the loss of time or wages incurred in connection with the apprehension or prosecution of the shoplifter or employee.

3-1307.

The procedures required by § 3-1303 of this subtitle do not otherwise limit a merchant or other person from electing to pursue any other civil remedy or cause of action for damages against any responsible person under this subtitle or otherwise as permitted by law.

3-1308.

The District Court has exclusive original civil jurisdiction in an action under this subtitle if the damages claimed do not exceed \$10,000, exclusive of attorney's fees.

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that §§ 3-1302, 3-1307, and 3-1308 of the Courts and Judicial Proceedings Article were unamended.

Occurred: Chapter 679 (Senate Bill 508) of the Acts of 2016.

5-301.

(d) "Local government" means:

(17) A regional development council;

(e) (1) "Regional development council" means a regional or municipal council established under Title 13 of the Economic Development Article.

(2) "Regional development council" includes:

(i) The Baltimore Metropolitan Council;

(ii) The Mid-Shore Regional Council;

(iii) The Upper Shore Regional Council;

(iv) The Tri-County Council for the Lower Eastern Shore of Maryland;

(v) The Tri-County Council for Southern Maryland; and

(vi) The Tri-County Council for Western Maryland.

DRAFTER'S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 466 (Senate Bill 1097) of the Acts of 2016.

Article – Criminal Law

5–601.

(c) (2) (i) Except as provided in subparagraph (ii) of this paragraph, a person whose violation of this section involves the use or possession of marijuana is guilty of the misdemeanor of possession of marijuana and is subject to imprisonment not exceeding 6 months or a fine not exceeding \$1,000 or both.

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that § 5–601(c)(2), rather than § 5–601(c)(2)(i), was being amended.

Occurred: Chapter 515 (Senate Bill 1005) of the Acts of 2016.

Article – Economic Development

6–707.

The Secretary may establish by regulation any other requirements necessary and appropriate to carry out this subtitle.

DRAFTER'S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 320 (Senate Bill 1112) of the Acts of 2016.

Article – Education

7–426.4.

(d) (1) An individual who has received instruction to provide diabetes care services to students in accordance with the guidelines adopted under this section is not civilly liable for any act or omission in the course of providing diabetes care services to a student if:

(i) The individual is acting in good faith while providing diabetes care services to a student who is in need of diabetes care services or to a student who the individual believes in good faith to be in need of diabetes care services;

(ii) The diabetes care services are provided in a reasonably prudent manner; and

(iii) The diabetes care services are provided to the student without fee or other compensation.

(2) Paragraph (1) of this subsection does not affect, and may not be construed to affect, any immunities from civil liability or defenses established by any other provision of law to which an individual may be entitled.

DRAFTER'S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 277 (House Bill 771) of the Acts of 2016.

11-202.1.

(b) (1) Subject to the requirements imposed by this section, and except as prohibited in paragraph (2) of this subsection, a religious educational institution may operate without a certificate of approval from the Commission and may enroll Maryland students in a fully online distance education program in the State without a registration from the Commission if the institution:

(i) Is established for religious educational purposes;

(ii) Provides educational programs only for religious vocations or purposes;

(iii) Offers only sectarian instruction designed for and aimed at individuals who hold or seek to learn the particular religious faiths or beliefs taught by the institution; and

(iv) States on the certificate or diploma the religious nature of the award.

(2) A religious educational institution that is accredited by an accrediting body recognized by the United States Department of Education may not operate without a certificate of approval from the Commission.

DRAFTER'S NOTE:

Error: Purpose paragraphs of bills being cured failed to accurately describe the changes made by the bills.

Occurred: Chapters 161 and 162 (Senate Bill 128/House Bill 878) of the Acts of 2016. 18–1402.

(a) Funds for the Part–Time Grant Program shall be allocated by the Commission to each institution of higher education based upon the number of undergraduate part–time students with demonstrated financial need who are enrolled in degree–granting programs at the institution.

DRAFTER'S NOTE:

Error: Purpose paragraphs of bills being cured failed to accurately describe the changes made by the bills.

Occurred: Chapters 689 and 690 (Senate Bill 676/House Bill 1014) of the Acts of 2016. 24–1108.

(a) There is a Maryland Corps Program Fund.

(l) The Fund may be subject to an audit by the Legislative Auditor.

DRAFTER'S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 654 (House Bill 1488) of the Acts of 2016.

Article – Election Law

14–101.

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

DRAFTER'S NOTE:

1 Error: Function paragraph of bill being cured incorrectly indicated that § 14–101(a)
2 of the Election Law Article was being amended.

3 Occurred: Chapter 252 (House Bill 112) of the Acts of 2016.

4 **Article – Health – General**

5 13–1406.

6 (a) There is a Spinal Cord Injury Research Trust Fund.

7 (b) The Fund shall consist of money transferred to the Fund under § 6–103.1 of
8 the Insurance Article or received from any other lawful source.

9 (c) (1) Money in the Fund shall be used to:

10 (i) Make grants for spinal cord injury research that is focused on
11 basic, preclinical, and clinical research for developing new therapies to restore neurological
12 function in individuals with spinal cord injuries; and

13 (ii) Administer the Advance Directive Program established under §
14 5–620 of this article.

15 (2) For the purpose specified in paragraph (1) of this subsection, a grant
16 may include an award to or for:

17 (i) A public or private entity;

18 (ii) A university researcher;

19 (iii) A research institution;

20 (iv) Private industry;

21 (v) A clinical trial;

22 (vi) A supplement to an existing charitable or private industry grant;

23 (vii) A matching fund;

24 (viii) A fellowship in spinal cord injury research;

25 (ix) A research meeting concerning spinal cord injury research; or

26 (x) Any other recipient or purpose which the Board determines is
27 consistent with the purpose specified in paragraph (1) of this subsection.

(d) (1) The Fund is a continuing, nonlapsing fund, not subject to § 7–302 of the State Finance and Procurement Article.

(2) (i) The Fund shall be used exclusively to offset the actual documented direct costs of fulfilling the statutory and regulatory duties of the Board under this subtitle.

(ii) The Department shall pay the indirect costs the Board incurs in fulfilling the statutory and regulatory duties of the Board under this subtitle.

(3) 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 purpose specified in subsection (c) of this section.

(e) The chairman of the Board or the designee of the chairman shall administer the Fund.

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

DRAFTER’S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that § 13–406, rather than § 13–1406, of the Health – General Article was being amended.

Occurred: Chapter 510 (House Bill 1385) of the Acts of 2016.

Article – Housing and Community Development

4–201.

(f) (1) “Development costs” means the costs that the Department considers reasonable and necessary to carry out:

(i) a community development project;

(ii) an energy conservation project;

(iii) a home improvement project;

(iv) an infrastructure project;

(v) a public purpose project;

(vi) a solar energy project;

(vii) a special housing facility; or

1 (viii) a business project.

2 (2) "Development costs" includes:

3 (i) the costs of:

4 1. studies, surveys, plans and specifications, and
5 architectural, engineering, or other special services;

6 2. acquisition of land and any buildings on the land;

7 3. site preparation and development, construction,
8 reconstruction, rehabilitation, and improvement; and

9 4. acquisition of machinery, equipment, and furnishings;

10 (ii) expenses incurred in connection with initial occupancy or
11 operation of the project;

12 (iii) an allocable portion of the administrative and operating
13 expenses of the Department;

14 (iv) the cost of financing the project, including interest on bonds and
15 notes issued to finance the project from the date issued to the date the Department
16 determines that the project is substantially occupied or substantially in operation;

17 (v) the cost of other items, including indemnity and surety bonds,
18 premiums on insurance, fees, relocation costs, and charges and expenses of trustees,
19 depositories, and paying agents for bonds and notes issued; and

20 (vi) operating and expansion costs for business projects.

21 DRAFTER'S NOTE:

22 Error: Function paragraph of bill being cured incorrectly indicated that § 4–201(e),
23 rather than § 4–201(f), of the Housing and Community Development Article was being
24 amended.

25 Occurred: Chapter 482 (House Bill 326) of the Acts of 2016.

26 Article – Natural Resources

27 8–716.

28 (c) (1) Subject to the limitation under paragraph (3) of this subsection and
29 except as provided in § 8–715(d) of this subtitle and in subsections (e) and (f) of this section,

1 and in addition to the fees prescribed in subsection (b) of this section, an excise tax is levied
2 at the rate of 5% of the fair market value of the vessel on:

3 (i) The issuance of every original certificate of title required for a
4 vessel under this subtitle;

5 (ii) The issuance of every subsequent certificate of title for the sale,
6 resale, or transfer of the vessel;

7 (iii) The sale within the State of every other vessel; and

8 (iv) The possession within the State of a vessel used or to be used
9 principally in the State.

10 (2) Notwithstanding the provisions of this subsection, no tax is paid on
11 issuance of any certificate of title if the owner of the vessel for which a certificate of title is
12 sought was the owner of the vessel prior to June 1, 1965, or paid Maryland sales and use
13 tax on the vessel as required by law at the time of acquisition. The Department may require
14 the applicant for titling to submit satisfactory proof that the applicant owned the vessel
15 prior to June 1, 1965.

16 (3) (i) Subject to subparagraph (ii) of this paragraph, the excise tax
17 imposed under this subsection may not exceed \$15,000 for any vessel.

18 (ii) The maximum amount of the excise tax imposed for any vessel
19 as specified in subparagraph (i) of this paragraph shall be increased by \$100 on:

20 1. July 1, 2016; and

21 2. July 1 of each subsequent year.

22 **DRAFTER'S NOTE:**

23 Error: Function paragraphs of bills being cured incorrectly indicated that § 8–716(c)
24 of the Natural Resources Article was unamended.

25 Occurred: Chapters 656 and 657 (Senate Bill 58/House Bill 14) of the Acts of 2016.

26 **Article – State Personnel and Pensions**

27 21–708.

28 (a) A public employee subject to a forfeiture order issued under § 21–704 of this
29 subtitle is entitled to a return of the individual's accumulated contributions on request
30 under § 29–501 of this article.

(b) The public employee's accumulated contributions shall be reduced by an amount equal to any benefit payments received by the public employee that would have been subject to forfeiture and have not been recovered by the Board of Trustees under § 21-705 of this subtitle.

DRAFTER'S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 220 (Senate Bill 542) of the Acts of 2016.

Article – Tax – General

10-723.

(d) (5) (i) For a taxable year, the total aggregate amount of credits claimed by members of pass-through entities under this section may not exceed \$200,000.

DRAFTER'S NOTE:

Error: Purpose paragraphs of bills being cured failed to accurately describe the changes made by the bills.

Occurred: Chapters 351 and 352 (Senate Bill 137/House Bill 276) of the Acts of 2016.

Article – Tax – Property

9-304.

(c) (1) In this subsection, "vacant dwelling" means residential real property that:

(i) contains no more than four dwelling units; and

(ii) 1. has been cited with a vacant building notice; or

2. has been owned by the Mayor and City Council of Baltimore City for 1 year and is in need of substantial repair to comply with applicable city codes.

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that § 9-304(c)(1) of the Tax – Property Article was unamended.

Occurred: Chapter 607 (House Bill 36) of the Acts of 2016.

Chapter 467 of the Acts of 2016

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

That:

(e) On or before September 30, 2019, the Administrative Office of the Courts shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on the operation and results of the pilot program.

DRAFTER'S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 467 (Senate Bill 1106) of the Acts of 2016.

SECTION 2. AND BE IT FURTHER ENACTED, That the Drafter's Notes contained in this Act are not law and may not be considered to have been enacted as part 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 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:

Governor.

President of the Senate.

Speaker of the House of Delegates.