

# SENATE BILL 321

A1, E2, E4

0lr1427

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By: **Senators Bailey, Hough, and Ready**

Introduced and read first time: January 22, 2020

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Policing Authority – Comptroller’s Office and Alcohol and Tobacco Commission**

3 FOR the purpose of including certain employees of the Public Safety Bureau in the  
4 Comptroller’s Office and certain employees of the Division of the Office of the  
5 Executive Director of the Alcohol and Tobacco Commission in the defined term  
6 “police officer” in connection with provisions of law relating to the authority to make  
7 arrests and the Maryland Police Training and Standards Commission; including  
8 certain employees of the Public Safety Bureau in the Comptroller’s Office and certain  
9 employees of the Field Enforcement Division of the Office of the Executive Director  
10 of the Alcohol and Tobacco Commission in the defined term “law enforcement officer”  
11 in connection with provisions of law relating to the Law Enforcement Officers’ Bill of  
12 Rights; establishing the Public Safety Bureau in the Comptroller’s Office;  
13 establishing certain powers, duties, and responsibilities of certain members of the  
14 Public Safety Bureau in the Comptroller’s Office to enforce certain criminal and civil  
15 laws; making conforming changes; making this Act contingent on the taking effect of  
16 another Act; and generally relating to the authority of employees of the Public Safety  
17 Bureau in the Comptroller’s Office and the Division of the Office of the Executive  
18 Director of the Alcohol and Tobacco Commission.

19 BY repealing and reenacting, with amendments,  
20 Article – Criminal Procedure  
21 Section 2–101  
22 Annotated Code of Maryland  
23 (2018 Replacement Volume and 2019 Supplement)

24 BY repealing and reenacting, with amendments,  
25 Article – Public Safety  
26 Section 3–101 and 3–201  
27 Annotated Code of Maryland  
28 (2018 Replacement Volume and 2019 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY repealing and reenacting, with amendments,  
Article – Tax – General  
Section 2–107  
Annotated Code of Maryland  
(2016 Replacement Volume and 2019 Supplement)

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

**Article – Criminal Procedure**

2–101.

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

(b) “Emergency” means a sudden or unexpected happening or an unforeseen combination of circumstances that calls for immediate action to protect the health, safety, welfare, or property of a person from actual or threatened harm or from an unlawful act.

(c) “Police officer” means a person who in an official capacity is authorized by law to make arrests and is:

(1) a member of the Department of State Police;

(2) a member of the Police Department of Baltimore City;

(3) a member of the Baltimore City School Police Force;

(4) a member of the police department, bureau, or force of a county;

(5) a member of the police department, bureau, or force of a municipal corporation;

(6) a member of the Maryland Transit Administration Police Force or Maryland Transportation Authority Police Force;

(7) a member of the University System of Maryland Police Force or Morgan State University Police Force;

(8) a special police officer who is appointed to enforce the law and maintain order on or protect property of the State or any of its units;

(9) a member of the Maryland Capitol Police of the Department of General Services;

(10) the sheriff of a county whose usual duties include the making of arrests;

1 (11) a regularly employed deputy sheriff of a county who is compensated by  
2 the county and whose usual duties include the making of arrests;

3 (12) a member of the Natural Resources Police Force of the Department of  
4 Natural Resources;

5 (13) an authorized employee of the [Field Enforcement] **PUBLIC SAFETY**  
6 Bureau [of] **IN** the Comptroller's Office;

7 (14) a member of the Maryland–National Capital Park and Planning  
8 Commission Park Police;

9 (15) a member of the Housing Authority of Baltimore City Police Force;

10 (16) a member of the Crofton Police Department;

11 (17) a member of the WMATA Metro Transit Police, subject to the  
12 jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan Area  
13 Transit Authority Compact, which is codified at § 10–204 of the Transportation Article;

14 (18) a member of the Intelligence and Investigative Division of the  
15 Department;

16 (19) a member of the State Forest and Park Service Police Force of the  
17 Department of Natural Resources;

18 (20) a member of the Washington Suburban Sanitary Commission Police  
19 Force;

20 (21) a member of the Ocean Pines Police Department;

21 (22) a member of the police force of the Baltimore City Community College;

22 (23) a member of the police force of the Hagerstown Community College;

23 (24) an employee of the Warrant Apprehension Unit of the Division of Parole  
24 and Probation in the Department;

25 (25) a member of the police force of the Anne Arundel Community College;  
26 [or]

27 (26) a member of the police department of the Johns Hopkins University  
28 established in accordance with Title 24, Subtitle 12 of the Education Article; **OR**

29 **(27) AN AUTHORIZED EMPLOYEE OF THE DIVISION OF THE OFFICE OF**  
30 **THE EXECUTIVE DIRECTOR OF THE ALCOHOL AND TOBACCO COMMISSION.**

**Article – Public Safety**

3–101.

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

(b) (1) “Chief” means the head of a law enforcement agency.

(2) “Chief” includes the officer designated by the head of a law enforcement agency.

(c) (1) “Hearing” means a proceeding during an investigation conducted by a hearing board to take testimony or receive other evidence.

(2) “Hearing” does not include an interrogation at which no testimony is taken under oath.

(d) “Hearing board” means a board that is authorized by the chief to hold a hearing on a complaint against a law enforcement officer.

(e) (1) “Law enforcement officer” means an individual who:

(i) in an official capacity is authorized by law to make arrests; and

(ii) is a member of one of the following law enforcement agencies:

1. the Department of State Police;

2. the Police Department of Baltimore City;

3. the Baltimore City School Police Force;

4. the Baltimore City Watershed Police Force;

5. the police department, bureau, or force of a county;

6. the police department, bureau, or force of a municipal corporation;

7. the office of the sheriff of a county;

8. the police department, bureau, or force of a bicounty agency;

9. the Maryland Transportation Authority Police;

- 1                   10.    the police forces of the Department of Transportation;
- 2                   11.    the police forces of the Department of Natural Resources;
- 3                   12.    the [Field Enforcement] **PUBLIC SAFETY** Bureau [of] IN
- 4 the Comptroller's Office;
- 5                   13.    the Housing Authority of Baltimore City Police Force;
- 6                   14.    the Crofton Police Department;
- 7                   15.    the police force of the Maryland Department of Health;
- 8                   16.    the police force of the Maryland Capitol Police of the
- 9 Department of General Services;
- 10                  17.    the police forces of the University System of Maryland;
- 11                  18.    the police force of Morgan State University;
- 12                  19.    the office of State Fire Marshal;
- 13                  20.    the Ocean Pines Police Department;
- 14                  21.    the police force of the Baltimore City Community College;
- 15                  22.    the police force of the Hagerstown Community College;
- 16                  23.    the Internal Investigation Unit of the Department of
- 17 Public Safety and Correctional Services;
- 18                  24.    the Warrant Apprehension Unit of the Division of Parole
- 19 and Probation in the Department of Public Safety and Correctional Services;
- 20                  25.    the police force of the Anne Arundel Community College;
- 21 [or]
- 22                  26.    the police department of the Johns Hopkins University
- 23 established in accordance with Title 24, Subtitle 12 of the Education Article; **OR**

24                   **27.    THE DIVISION OF THE OFFICE OF THE EXECUTIVE**

25 **DIRECTOR OF THE ALCOHOL AND TOBACCO COMMISSION.**

26                   (2)    "Law enforcement officer" does not include:

27                   (i)    an individual who serves at the pleasure of the Police

Commissioner of Baltimore City;

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

(iii) the police chief of a municipal corporation;

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

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

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

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

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

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

(x) a Howard County fire and explosive investigator as defined in § 2–208.6 of the Criminal Procedure Article; or

(xi) the Chief of Police of the police department of the Johns Hopkins University established in accordance with Title 24, Subtitle 12 of the Education Article.

3–201.

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

(b) “Commission” means the Maryland Police Training and Standards Commission.

(c) “Department” means the Department of Public Safety and Correctional Services.

(d) (1) “Law enforcement agency” means a governmental police force, sheriff's office, or security force or law enforcement organization of the State, a county, or a municipal corporation that by statute, ordinance, or common law is authorized to enforce the general criminal laws of the State.

(2) “Law enforcement agency” does not include members of the Maryland National Guard who:

(i) are under the control and jurisdiction of the Military Department;

(ii) are assigned to the military property designated as the Martin State Airport; and

(iii) are charged with exercising police powers in and for the Martin State Airport.

(e) “Motorcycle profiling” means the arbitrary use of the fact that an individual rides a motorcycle or wears motorcycle-related clothing or paraphernalia as a factor in deciding to stop, question, take enforcement action, arrest, or search the individual or vehicle.

(f) (1) “Police officer” means an individual who:

(i) is authorized to enforce the general criminal laws of the State; and

(ii) is a member of one of the following law enforcement agencies:

1. the Department of State Police;
2. the Police Department of Baltimore City;
3. the police department, bureau, or force of a county;
4. the police department, bureau, or force of a municipal corporation;
5. the Maryland Transit Administration police force;
6. the Maryland Transportation Authority Police;
7. the police forces of the University System of Maryland;
8. the police force of Morgan State University;
9. the office of the sheriff of a county;
10. the police forces of the Department of Natural Resources;
11. the police force of the Maryland Capitol Police of the Department of General Services;

12. the police force of a State, county, or municipal corporation  
if the special police officers are appointed under Subtitle 3 of this title;

13. the Housing Authority of Baltimore City Police Force;

14. the Baltimore City School Police Force;

15. the Crofton Police Department;

16. the Washington Suburban Sanitary Commission Police  
Force;

17. the Ocean Pines Police Department;

18. the police force of the Baltimore City Community College;

19. the police force of the Hagerstown Community College;

20. the parole and probation employees of the Warrant  
Apprehension Unit of the Division of Parole and Probation in the Department who are  
authorized to make arrests;

21. the police force of the Anne Arundel Community College;  
or

22. the police department of the Johns Hopkins University  
established in accordance with Title 24, Subtitle 12 of the Education Article.

(2) "Police officer" includes:

(i) [a member] AN AUTHORIZED EMPLOYEE of the [Field  
Enforcement] PUBLIC SAFETY Bureau [of] IN the Comptroller's Office;

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

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

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

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

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



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

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

(ix) a Howard County fire and explosive investigator as defined in § 2–208.6 of the Criminal Procedure Article; AND

**(X) AN AUTHORIZED EMPLOYEE OF THE DIVISION OF THE OFFICE OF THE EXECUTIVE DIRECTOR OF THE ALCOHOL AND TOBACCO COMMISSION.**

(3) “Police officer” does not include:

(i) an individual who serves as a police officer only because the individual occupies another office or position;

(ii) a sheriff, the Secretary of State Police, a commissioner of police, a deputy or assistant commissioner of police, a chief of police, a deputy or assistant chief of police, or another individual with an equivalent title who is appointed or employed by a government to exercise equivalent supervisory authority; or

(iii) a member of the Maryland National Guard who:

1. is under the control and jurisdiction of the Military Department;

2. is assigned to the military property designated as the Martin State Airport; and

3. is charged with exercising police powers in and for the Martin State Airport.

(g) “SWAT team” means an agency–designated unit of law enforcement officers who are selected, trained, and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex, or unusual that they may exceed the capabilities of first responders or investigative units.

## **Article – Tax – General**

2–107.

**(a) THERE IS A PUBLIC SAFETY BUREAU IN THE COMPTROLLER’S OFFICE.**

1           **(B)** Authorized employees of the [Field Enforcement] **PUBLIC SAFETY** Bureau  
2 [of the Comptroller's Office]:

3           (1) shall be individuals who are sworn police officers; and

4           (2) have all the powers, duties, and responsibilities of a peace officer for the  
5 purpose of enforcing the **CRIMINAL AND CIVIL** laws pertaining to:

6                   (i) admissions and amusement tax;

7                   (ii) alcoholic beverage tax;

8                   (iii) income tax;

9                   (iv) motor carrier tax;

10                  (v) motor fuel and lubricants;

11                  (vi) motor fuel tax;

12                  (vii) sales and use tax;

13                  (viii) tobacco tax; and

14                  (ix) transient vendors within the meaning of Title 17, Subtitle 20A of  
15 the Business Regulation Article.

16           **[(b)] (C)** (1) The Department of State Police shall help the [Field  
17 Enforcement] **PUBLIC SAFETY** Bureau in enforcing the motor carrier tax, motor fuel tax  
18 and motor fuel and lubricants laws.

19           (2) The Comptroller shall pay the salaries and expenses of all Department  
20 of State Police staff assigned to the [Field Enforcement] **PUBLIC SAFETY** Bureau.

21           **[(c)] (D)** (1) (i) Except for the Sheriff, constables and bailiffs of Baltimore  
22 County, each law enforcement officer shall enforce the alcoholic beverage tax and tobacco  
23 tax laws.

24                   (ii) A State's Attorney or other prosecutor may prosecute alleged  
25 violations of the alcoholic beverage tax or tobacco tax laws.

26           (2) The [Field Enforcement] **PUBLIC SAFETY** Bureau:

27                   (i) shall advise a State's Attorney and law enforcement officers  
28 about enforcement problems; and

1 (ii) otherwise may work cooperatively with law enforcement officers  
2 and prosecutors to carry out the duties of the unit.

3 (3) This subsection does not restrict the appropriation of money by a  
4 political subdivision of the State to aid in the enforcement of the alcoholic beverage tax and  
5 tobacco tax laws.

6 **[(d)] (E)** (1) Each unit of the State government shall cooperate with the  
7 Comptroller's Office by making available, on request, any information in the unit's  
8 possession as may be of assistance in the administration and enforcement of the motor  
9 carrier tax, motor fuel tax, and motor fuel and lubricants laws.

10 (2) The **[Field Enforcement] PUBLIC SAFETY** Bureau shall cooperate with  
11 and help the federal government, other states, and local governments and law enforcement  
12 personnel of those jurisdictions to enforce the motor carrier tax, motor fuel tax, and motor  
13 fuel and lubricants laws.

14 **[(e)] (F)** On or before October 1 each year, the Comptroller's Office shall report  
15 to the General Assembly, in accordance with § 2–1257 of the State Government Article, on:

16 (1) the aggregate number of licensed tobacco retailers that committed a  
17 violation of § 10–107 of the Criminal Law Article and the aggregate number of minors who  
18 committed a violation of § 10–108 of the Criminal Law Article during the reporting period;

19 (2) the number of prior violations for licensed tobacco retailers and minors  
20 that committed a violation during the reporting period; and

21 (3) the subsequent action taken by the Comptroller's Office against each  
22 violator and, for each action taken, the number of violations committed by the violator.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
24 1, 2020, contingent on the taking effect of Chapter 12 of the Acts of the General Assembly  
25 of 2019, and if Chapter 12 does not become effective, this Act, with no further action  
26 required by the General Assembly, shall be null and void.