

HOUSE BILL 363

G2

(11r0303)

ENROLLED BILL

— *Environment and Transportation/Education, Health, and Environmental Affairs* —

Introduced by **Delegate Lierman**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 ~~Maryland Public Ethics Law – Officials and Employees – Acceptance of Gifts and~~
3 ~~Prohibited Retaliation for Reporting or Participating in Investigation~~
4 ~~Prohibition~~

5 FOR the purpose of prohibiting an official or State employee from accepting a gift from a
6 certain association or an entity acting on behalf of the association; prohibiting an
7 official or employee from retaliating against an individual for reporting or
8 participating in an investigation of a potential violation of the Maryland Public
9 Ethics Law; and generally relating to the Maryland Public Ethics Law.

10 BY repealing and reenacting, without amendments,
11 Article – General Provisions
12 Section 5–101(a), (g), (bb), (ff), and (ll) and 5–505(a) and (c)
13 Annotated Code of Maryland
14 (2019 Replacement Volume and 2020 Supplement)

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.

Italics indicate opposite chamber/conference committee amendments.



1 BY repealing and reenacting, with amendments,
 2 Article – General Provisions
 3 Section 5–505(b)
 4 Annotated Code of Maryland
 5 (2019 Replacement Volume and 2020 Supplement)

6 BY adding to
 7 Article – General Provisions
 8 Section 5–509
 9 Annotated Code of Maryland
 10 (2019 Replacement Volume and 2020 Supplement)

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

13 **Article – General Provisions**

14 5–101.

15 (a) In this title the following words have the meanings indicated unless:

16 (1) the context clearly requires a different meaning; or

17 (2) a different definition is adopted for a particular provision.

18 (g) (1) “Employee” means an individual who is employed:

19 (i) by an executive unit;

20 (ii) by the Legislative Branch; or

21 (iii) in the Judicial Branch.

22 (2) “Employee” does not include:

23 (i) a public official; or

24 (ii) a State official.

25 (bb) “Official” means either a State official or a public official.

26 (ff) “Public official” means an individual determined to be a public official under
 27 § 5–103 of this subtitle.

28 (ll) “State official” means:

- 1 (1) a constitutional officer or officer–elect in an executive unit;
- 2 (2) a member or member–elect of the General Assembly;
- 3 (3) a judge or judge–elect of a court under Article IV, § 1 of the Maryland
4 Constitution;
- 5 (4) a judicial appointee as defined in Maryland Rule 18–200.3;
- 6 (5) a State’s Attorney;
- 7 (6) a clerk of the circuit court;
- 8 (7) a register of wills; or
- 9 (8) a sheriff.

10 5-505.

11 (a) (1) An official or employee may not solicit any gift.

12 (2) An official may not directly solicit or facilitate the solicitation of a gift,
13 on behalf of another person, from an individual regulated lobbyist described in § 5-702(a)(1)
14 of this title.

15 (b) (1) In this subsection, “entity” does not include a governmental unit.

16 (2) Except as provided in subsection (c) of this section, an official or
17 employee may not knowingly accept a gift, directly or indirectly, from an entity that the
18 official or employee knows or has reason to know:

19 (i) does or seeks to do any business of any kind, regardless of amount,
20 with the official’s or employee’s governmental unit;

21 (ii) engages in an activity that is regulated or controlled by the
22 official’s or employee’s governmental unit;

23 (iii) has a financial interest that may be affected substantially and
24 materially, in a manner distinguishable from the public generally, by the performance or
25 nonperformance of the official’s or employee’s official duties; [or]

26 (iv) is a regulated lobbyist with respect to matters within the
27 jurisdiction of the official or employee; **OR**

1 (V) IS AN ASSOCIATION, OR ANY ENTITY ACTING ON BEHALF OF
2 AN ASSOCIATION, THAT IS ENGAGED ONLY IN REPRESENTING COUNTIES OR
3 MUNICIPAL CORPORATIONS.

4 (c) (1) Notwithstanding subsection (b) of this section, an official or employee
5 may accept a gift listed in paragraph (2) of this subsection unless:

6 (i) the gift would tend to impair the impartiality and independent
7 judgment of the official or employee; or

8 (ii) as to a gift of significant value:

9 1. the gift would give the appearance of impairing the
10 impartiality and independent judgment of the official or employee; or

11 2. the official or employee believes or has reason to believe that
12 the gift is designed to impair the impartiality and independent judgment of the official or
13 employee.

14 (2) Subject to paragraph (1) of this subsection, subsection (b) of this section
15 does not apply to:

16 (i) 1. except for officials of the Legislative Branch, meals or
17 beverages received and consumed by the official or employee in the presence of the donor or
18 sponsoring entity;

19 2. for officials of the Legislative Branch, food or beverages
20 received and consumed by the official in the presence of the donor or sponsoring entity as
21 part of a meal or reception to which all members of a legislative unit were invited;

22 3. for a member of the General Assembly, food or beverages
23 received from a donor or sponsoring entity, other than an individual regulated lobbyist
24 described in § 5-701(a)(1) of this title, during a period when the General Assembly is not in
25 session, at a location that is within a county that contains the member's district, provided
26 that the donor or sponsoring entity is located within a county that contains the member's
27 district; or

28 4. for a member of the General Assembly, food or beverages
29 received at the time and geographic location of a meeting of a legislative organization for
30 which the member's presiding officer has approved the member's attendance at State
31 expense;

32 (ii) ceremonial gifts or awards of insignificant monetary value;

33 (iii) except for a State official of the Executive Branch or Legislative
34 Branch, unsolicited gifts of nominal value;

1 (iv) for a State official of the Executive Branch or Legislative Branch,
2 unsolicited gifts from a regulated lobbyist that are not meals or alcoholic beverages and that
3 do not exceed \$20 in cost;

4 (v) trivial gifts of informational value;

5 (vi) in return for participation on a panel or a speaking engagement
6 at a meeting, reasonable expenses for food, travel, lodging, or scheduled entertainment of the
7 official or employee if the expenses are associated with the meeting, except that, if such
8 expenses for a State official of the Legislative Branch or Executive Branch are to be paid by
9 a regulated lobbyist and are anticipated to exceed \$500, the official shall notify the
10 appropriate advisory body before attending the meeting;

11 (vii) for a member of the General Assembly, reasonable expenses for
12 food, travel, lodging, or scheduled entertainment to attend a legislative conference that has
13 been approved by the member's presiding officer;

14 (viii) tickets or free admission extended to an elected constitutional
15 officer from the person sponsoring or conducting the event, as a courtesy or ceremony to the
16 office, to attend a charitable, cultural, or political event;

17 (ix) a specific gift or class of gifts exempted from subsection (b) of this
18 section by the Ethics Commission on a written finding that:

19 1. acceptance of the gift or class of gifts would not be
20 detrimental to the impartial conduct of government; and

21 2. the gift is purely personal and private in nature;

22 (x) a gift from:

23 1. an individual related to the official or employee by blood or
24 marriage; or

25 2. any other individual who is a member of the household of
26 the official or employee; or

27 (xi) to the extent provided in subsection (d) of this section, honoraria.

28 **5-509.**

29 **AN OFFICIAL OR EMPLOYEE MAY NOT RETALIATE AGAINST AN INDIVIDUAL**
30 **FOR REPORTING OR PARTICIPATING IN AN INVESTIGATION OF A POTENTIAL**
31 **VIOLATION OF THE MARYLAND PUBLIC ETHICS LAW.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
2 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.