The following

PUBLIC GENERAL LAWS

enacted by the

1939 GENERAL ASSEMBLY OF MARYLAND

have been selected for publication by the Governor and Attorney General of the State, as provided by Article 76 of the Public General Laws of Maryland.

CHAPTER 126

AN ACT to repeal and re-enact with amendments Section 141 of Article 27 of the Annotated Code of Maryland (1924 Edition), title "Crimes and Punishments," sub-title "False Pretenses," relating to worthless checks.

Section 1. Be it enacted by the General Assembly of Maryland, That Section 141 of Article 27 of the Annotated Code of Maryland (1924 Edition), title "Crimes and Punishments," sub-title "False Pretenses," be and it is hereby repealed and re-enacted with amendments, to read as follows:

141. Every person who, with intent to cheat and defraud another, shall obtain money, credit, goods, wares or anything of value by means of a check, draft or any other negotiable instrument of any kind drawn, whether by such person or by any other person, persons, firm or corporation, upon any bank, person, firm or corporation, not indebted to drawer, or where the drawer or drawers thereof, shall not have provided for the payment or acceptance, and the same be not paid upon presentation, shall be deemed to have obtained such money, credit, goods or things of value by means of a false pretense, and upon conviction, shall be fined or imprisoned, or both, as provided in Section 139 of this Article, at the discretion of the Court. The giving of the aforesaid worthless check, draft or negotiable instrument shall be prima facie evidence of intent to cheat or defraud; provided that if such person shall be a bona fide resident of the State of Maryland and shall deposit with the drawee of such paper within ten days thereafter funds sufficient to meet the same, with all costs and interest which may have accrued, he shall not be prosecuted under this section, and no prosecution either by presentment, indictment or otherwise, shall be instituted or commenced until after the expiration of said period of ten days.

Sec. 2. And be it further enacted, That this Act shall take effect June 1, 1939.

Approved: May 24, 1939.

CHAPTER 230

AN ACT to repeal and re-enact with amendments Section 67 of Article 89B of the Annotated Code of Maryland (1935 Supplement), title "State Roads," sub-title "Road Signs," restricting the erection of signs along public highways.

Section 1. Be it enacted by the General Assembly of Maryland, That Section 67 of Article 89B of the Annotated Code of Maryland (1935 Supplement), title "State Roads," sub-title "Road Signs," be and it is hereby repealed and re-enacted with amendments to read as follows:

67. Any person, firm, corporation or association which in any manner paints, puts or fixes any advertisement, sign, notice or other writing or printing other than notices posted in pursuance of law on or on any stone, tree, fence, stump, pole, building or other structure which is in or upon the public highway or which is on the property of another, without first obtaining the written consent of such owner, shall be guilty of a misdemeanor, and upon conviction shall be punishable by fine of not more than $10.00, which fine shall be payable to the State Board of Forestry for the purposes described in this section; provided, however, that it shall be illegal for any person, firm, corporation or association other than the State Roads Commission or incorporated cities or towns of this State, to display within three hundred (300) feet of a road, street or highway in this State a sign bearing the word or words: stop, curve, warning, slow, danger, listen, look, school or slow, or any other such word or words used or to be used in directing drivers, and any person, firm, corporation or other association violating this provision shall be deemed guilty of a misdemeanor and, upon conviction, shall pay a fine of fifty dollars ($50) for the first offense and a fine of one hundred dollars ($100) or thirty days (30) in jail for the second and subsequent offenses. Provided, however, that nothing herein contained shall prohibit any person, firm, corporation or association with the approval of the owner and the State Roads Commission from erecting a sign or signs to indicate the direction and distance to a specific place or places designated on said sign or signs.

Sec. 2. And be it further enacted, That this Act shall take effect June 1, 1939.

Approved: May 3, 1939.

CHAPTER 245

AN ACT to add a new section to Article 51 of the Annotated Code of Maryland (1935 Supplement), title "Juries," said new section to be known as Section 25 and to follow immediately after Section 24 of said Article, providing for alternate jurors upon the request of either party or upon the court's motion.

Section 1. Be it enacted by the General Assembly of Maryland, That a new section be and it hereby is added to Article 51 of the Annotated Code of Maryland (1935 Supplement), title "Juries," to be known as Section 25, to follow immediately after Section 24, and to read as follows:

25. Whenever it appears that the trial of an action triable by a jury is likely to be a protracted one, the court may, upon the request of either party or upon its own motion, direct the calling of one or two additional jurors, to be known as "Alternate Jurors." Such jurors must be drawn from the same source, and in the same manner, and have the same qualifications as the jurors already sworn, and be subjected to the same examinations and challenges. Such alternate jurors shall be seated with the jurors with equal power and facilities for seeing and hearing the proceedings in the case, and sall take the same oath as the jurors already selected, and must attend at all times upon the trial of the cause in company with the other jurors; and for a failure so to do are liable to be punished for contempt. They shall obey the orders of and be bound by the admonition of the court upon each adjournment of the court; and except, as hereinafter provided, shall be discharged upon final submission of the case to the jury. If before the final submission of the case, a juror die, or become ill, or for any other reason he be unable to perform his duty, the court may order him to be discharged and draw the name of an alternate, so qualified as herebefore set forth, who shall then take the seat of the discharged juror in the jury box, and be subject to the same rules and regulations as though he had been selected as one of the original jurors.

Sec. 2. And be it further enacted, That this Act shall take effect June 1, 1939.

Approved: May 3, 1939.

CHAPTER 248

AN ACT to repeal Sections 115 to 121, inclusive, of Article 83 of the Annotated Code of Maryland (1935 Supplement), title "Sales and Notices," sub-title "Fair Trade Act," as said Sections were enacted by Chapter 211 of the Acts of 1937, and to enact in lieu thereof six new Sections, to be known as Sections 115 to 120, inclusive, relating to certain unfair trade practices.

Section 1. Be it enacted by the General Assembly of Maryland, That Sections 115 to 121, inclusive, of Article 83 of the Annotated Code of Maryland (1935 Supplement), title "Sales and Notices," sub-title "Fair Trade Act," as said Sections were enacted by Chapter 211 of the Acts of 1937, be and they are hereby repealed, and that six new Sections, to be known as Sections 115 to 120, inclusive, be enacted in lieu thereof, to read as follows:

115. (a) When used in this Act, the terms "cost to the retailer" shall mean the invoice cost of the merchandise to the retailer, or the replacement cost of the merchandise to the retailer in the quantity last purchased, whichever is lower; less all trade discounts except customary discounts for cash; to which shall be added (1) freight charges not otherwise included in the cost of the merchandise, (2) cartage to retail outlet if done or paid for by the retailer, which cartage cost shall be deemed to be three-fourths (¾) of one per cent. of the cost of the merchandise to the retailer as herein defined, unless said retailer claims and proves a lower cartage cost, and (3) a mark-up to cover in part the cost of doing business, which mark-up, in the absence of proof of a lesser cost, shall be six (6) per cent. of the total cost at retail outlet.

(b) When used in this Act, the term "cost to the wholesaler" shall mean the invoice cost of the merchandise to the wholesaler, or the replacement cost of the merchandise to the wholesaler, in the quantity last purchased, whichever is lower; less all trade discounts except customary discounts for cash; to which shall be added (1) freight charges not otherwise included in the cost of the merchandise, and (2) cartage to the retail outlet if done or paid for by the wholesaler, which cartage shall be deemed to be three-fourths (¾) of one per cent. of the cost of the merchandise to the wholesaler as herein defined, unless said wholesaler claims and proves a lower cartage cost.

(c) Where two or more items are advertised, offered for sale or sold at a combined price, the price of each item named shall be governed by the provisions of paragraphs (a) or (b), respectively, of this section.

(d) The terms "cost to the retailer" and "cost to the wholesaler" as defined in paragraphs (a) and (b) shall mean bona fide costs; and sales to consumers, retailers and wholesalers at prices which cannot be justified by existing market conditions within this state shall not be used as a basis for computing costs with respect to sales by retailers and wholesalers.

(e) The terms "sell at retail," "sales at retail" and "retail sale" shall mean and include any transfer for a valuable consideration, made in the ordinary course of trade or in the usual prosecution of the seller's business of title to tangible personal property to the purchaser for consumption or use other than resale or further processing or manufacturing. The above terms shall include any transfer of such property where title is retained by the seller as security for the payment of such purchase price.

(f) The terms "sell at wholesale," "sales at wholesale" and "wholesale sales" shall mean and include any transfer for a valuable consideration made in the ordinary course of trade or the usual prosecution of the seller's business, of title to tangible personal property to the purchaser for purposes of resale or further processing or manufacturing. The above terms shall include any such transfer of property where title is retained by the seller as security for the payment of the purchase price.

(g) The term "retailer" shall mean and include every person, partnership, corporation or association engaged in the business of making sales at retail within this state; provided that, in the case of a person, partnership, corporation or association engaged in the business of making sales both at retail and at wholesale, such term shall be applied only to the retail portion of such business.

(h) The term "wholesaler" shall mean and include every person, partnership, corporation or association engaged in the business of making sales at wholesale within this State; provided that, in the case of a person, partnership, corporation or association engaged in the business of making sales both at wholesale and at retail, such term shall be applied only to the wholesale portion of such business.

116. It is hereby declared that advertisement, offer to sell, or sale of any merchandise, either by retailers or wholesalers, at less than cost as defined in this Act, or giving, offering to give or advertising the intent of giving away of any merchandise, either by retailers or wholesalers, or the advertising by retailers or wholesalers of brands or types of merchandise they are not prepared to supply, with the intent, effect, or result of unfairly diverting trade from or otherwise injuring a competitor, or with the result of deceiving any purchaser or prospective purchaser, substantially lessening competition, unreasonably restraining trade, or tending to create a monopoly in any line of commerce, is an unfair method of competition, contrary to public policy, and in contravention of the policy of this Act.

117. Any retailer who shall, in contravention of the policy of this Act, advertise, offer to sell or sell at retail any item of merchandise as less than cost to the retailer as defined in this Act; or any wholesaler who shall, in contravention of the policy of this Act, advertise, offer to sell, or sell at retail any item of merchandise as less than cost to the wholesaler as defined in this Act, or any retailer or wholesaler who shall, in contravention of the policy of this Act, give, offer to give or advertise the intent to give away any merchandise for the purpose of injuring competitors and destroying competition, or to advertise brands or types of merchandise they are not prepared to supply, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $500.00. Proof of any such advertisement, offer to sell or sale by any retailer or wholesaler in contravention of the policy of this Act shall be prima facie evidence of a violation of this Act. Provided, however, that nothing herein shall preclude any retailer or wholesaler from offering merchandise "Free," in combinations with merchandise sold, but in such case the cost of the "Free" merchandise shall be considered as a part of the cost of the merchandise sold.

118. In addition to the penalties provided in this Act, the courts of this State are hereby invested with jurisdiction to prevent and restrain violations of this Act, and it shall be the duty of the several state's attorneys, in their respective districts, to institute proceedings in equity to prevent and restrain violations. Any person injured by any violation, or who may be threatened with loss or injury by reason of a violation of this Act, shall be entitled to sue for and have injunctive relief in any court of competent jurisdiction, to prevent, restrain and enjoin such violation or threatened violation. If in such action a violation or threatened violation of this Act shall be established, the court shall enjoin and restrain or otherwise prohibit such violation or threatened violation.

119. The provisions of this Act, shall not apply to sales at retail or sales at wholesale (a) where merchandise has been purchased at a forced, bankrupt, close-out sale, or other sale outside of the ordinary channels of trade and is kept separate from merchandise purchased in the ordinary channels of trade, and advertised, marked and sold as such, and the advertisement shall state the quantity of such merchandise to be sold or offered for sale; (b) where merchandise is sold in bona fide clearance sales, if advertised, marked, and sold as such and the advertisement shall state the quantity of such merchandise to be sold or offered for sale; (c) where perishable merchandise must be sold promptly in order to forestall loss; (d) where merchandise is imperfect or damaged or is being discontinued and is advertised, marked and sold as such and the advertisement shall state the quantity of such merchandise to be sold or offered for sale; (e) where merchandise is sold upon the final liquidation of any business; (f) where merchandise is sold for charitable purposes or to relief agencies; (g) where merchandise is sold on contract to departments of the government or governmental institutions; (h) where the price of merchandise is made in good faith to meet competition; (i) where merchandise is sold by any officer acting under the order or direction of any court.

120. If any section, sentence, clause or provision of this Act shall for any reason be held invalid or unconstitutional, the validity of the remaining parts hereof shall not be affected thereby.

Sec. 2. And be it further enacted, That this Act shall take effect June 1, 1939.

Approved: May 3, 1939.

CHAPTER 373

AN ACT to repeal and re-enact with amendments Section 257A of Article 77 of the Annotated Code of Maryland (1935 Supplement), title "Public Education," sub-title "Free Scholarships," to include Allegany County, Anne Arundel County and Washington County and St. Mary's County and Calvert County and Garrett County in the list of counties in which appointments for scholarships are made by the Senate.

Section 1. Be it enacted by the General Assembly of Maryland, That Section 257A of Article 77 of the Annotated Code of Maryland (1935 Supplement), title "Public Education," sub-title "Free Scholarships," be and it is hereby repealed and re-enacted with amendments, to read as follows:

257A. All scholarships to Blue Ridge College, Charlotte Hall, Maryland Institute, St. John's College, St. Mary's Female Seminary, Washington College and Western Maryland College, to which the Senatorial Districts of Baltimore City and Allegany, Anne Arundel, Washington, St. Mary's, Calvert, Garrett, Kent, Queen Anne's and Dorchester Counties are entitled under the preceding sections of this sub-title, or under any other provision of law, shall be awarded by the State Senator of the Legislative District and of Allegany, Anne Arundel, Washington, St. Mary's, Calvert, Garrett, Kent, Queen Anne's and Dorchester Counties entitled thereto. The said scholarships shall be awarded only after competitive examinations given by the said respective institutions and from the list of successful applicants passing said examinations, the said list to be furnished to the respective Senators by the respective institutions with the grades of each applicant. Provided, however, that the said respective Senators, in making said appointments, shall take into consideration the financial condition of the parents or guardians of the several applicants, and no applicant whose parents or guardians are able to pay said tuition and/or board shall be appointed. All laws inconsistent with the provisions of this Section are hereby repealed to the extent of such inconsistency.

Sec. 2. And be it further enacted, That this Act shall take effect June 1, 1939.

Approved: May 17, 1939.

CHAPTER 384

AN ACT to add a new section to Article 27 of the Annotated Code of Maryland (1924 Edition), title "Crimes and Punishments," sub-title "False Pretenses," said new section to be known as Section 141A and to follow immediately after Section 141 of said Article, providing for making fraudulent non-payment of wages a misdemeanor punishable by fine or imprisonment.

Section 1. Be it enacted by the General Assembly of Maryland, That a new section be and it is hereby added to Article 27 of the Annotated Code of Maryland (1924 Edition), title "Crimes and Punishments," sub-title "False Pretenses," said new section to be known as Section 141A, to follow immediately after Section 141 of said Article, and to read as follows:

141A. Every person who, with intent to cheat and defraud another, shall obtain services from such other on a promise of payment of wages therefor, and shall fail to pay for said services when payment is due and demanded shall be guilty of a misdemeanor and upon conviction shall be fined not more than Twenty-five Dollars ($25.00).

Sec. 2. And be it further enacted, That this Act shall take effect June 1st, 1939.

Approved: May 3, 1939.

CHAPTER 408

AN ACT to add a new Section to Article 89B of the Annotated Code of Maryland, 1935 Supplement, title "State Roads," said new Section to follow immediately after Section 9 of said Article, and to be known as Section 9A, to prohibit the removal of dirt, sand, gravel, stone, rock or any other material from land adjoining any highway of the State, and providing penalties for violating the provisions of this Act.

Section 1. Be it enacted by the General Assembly of Maryland, That one new Section be and the same is hereby added to Article 89B of the Annotated Code of Maryland, 1935 Supplement, title "State Roads," to follow immediately after Section 9 of said Article, and said new Section to be known as Section 9A of said Article, and to read as follows:

9A. It shall be unlawful for any person to remove such quantities of dirt, sand, gravel, stone, rock or any other material from the land adjoining any highway of the State, so as to affect the surface or construction of said highway, either by changing the supporting slopes in a fill or the slopes supporting the adjoining land in a cut, and in cases where the State Roads Commission has built up protecting barriers to protect or support any road, such as sand fences, retaining walls or any other structure, it shall be unlawful for any person to remove any material hereinbefore mentioned which shall be harmful to the construction or protection of the highway. Any person violating the provisions of this Section shall be guilty of a misdemeanor and shall be fined not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00), and upon conviction of a second offense in violation of this statute, shall be fined not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), and be imprisoned for not more than six months, or in the discretion of the Court, may be both fined and imprisoned, as aforesaid.

Sec. 2. And be it further enacted, That this Act shall take effect June 1st, 1939.

Approved: May 3, 1939.

CHAPTER 448

AN ACT to repeal and re-enact with amendments Section 209A of Article 56 of the Annotated Code of Public General Laws of Maryland, 1935 Supplement, as such section was amended by Chapter 193 of the Acts of 1937, Regular Session, title "Licenses," sub-title "Motor Vehicles," sub-heading "Rules of the Road," to require school busses operating throughout the State to carry a special design and color, to limit the speed of school busses, to require school busses to carry a fire extinguisher, to require school busses to have an emergency rear door, to require vehicles to stop in front of and behind said school busses operating throughout the State, to prohibit the use of vehicles marked as school busses when not actually used as such, to require inspection of school busses, to exempt from the operation of certain portions of this Act cities and towns of more than five thousand population, and to provide penalties for violation hereof.

Section 1. Be it enacted by the General Assembly of Maryland, That Section 209A of Article 56 of the Annotated Code of Public General Laws of Maryland, 1935 Supplement, as such section was amended by Chapter 193 of the Acts of 1937, Regular Session, title "Licenses," sub-title "Motor Vehicle," sub-heading "Rules of the Road," be and the same is hereby repealed and re-enacted, with amendments, to read as follows:

209A. 1. Definition: The term "school bus" as used in this Act shall be defined as a motor vehicle having a seating capacity of ten or more persons and transporting children to and from the elementary and/or high schools in the State and not operating under the jurisdiction of the Public Service Commission and/or not operated by a public service corporation furnishing mass transportation in a town of a population of more than 50,000 inhabitants.

2. Every vehicle when used as a school bus shall have both on the front and on the rear a sign plainly visible containing the words "school bus" in letters not less than four inches in height, with each stroke of not less than half an inch in width; such school bus shall also be equipped with stop signals visible both to the front and to the rear, and the body of such school bus shall be painted orange and black; with the orange color predominating. The Commissioner of Motor Vehicles is empowered to adopt rules and regulations, not inconsistent with this Article, relative to such school bus signs and stop signals.

3. The driver of a vehicle upon a highway outside the corporate limits of incorporated cities and towns of more than five thousand population, upon meeting or overtaking any school bus which has stopped on the highway for the purpose of receiving or discharging any school child or children, shall come to a full stop at least ten (10) feet from such school bus, either in front or rear thereof as the case may be, and such vehicle shall remain standing until the children are received or discharged and the school bus has again started. The foregoing shall be applicable only in the event the school bus shall be equipped with the school bus signs and stop signals and painted in the color scheme as prescribed in this Act, and shall not apply to vehicles approaching such school bus from the front on dual highways.

4. No school bus operating in the State while it is carrying any passengers to or from school shall be operated at a rate of speed greater than 35 miles per hour.

5. Every school bus operating within the State shall be equipped with a fire extinguisher which bears the label of approval of the Fire Underwriters' Association and which shall be kept properly filled and in satisfactory operating condition at all times. This extinguisher shall be placed in the school bus in a location readily accessible to the driver.

6. Every school bus operating in this State shall have a door in or near the rear of the bus readily accessible for the discharging of pupils in case of emergency. The rear bumper shall be so placed that it will not interfere with the egress of the passengers using the emergency door. The door shall be controlled by a safety device which in case of emergency may easily be operated independently of the driver and the device shall be protected against accidental or unauthorized release.

7. Every school bus operating in the State shall be required to come to a full stop within at least 10 feet and not more than 50 feet before crossing at grade any track or tracks of a railroad.

8. It shall be unlawful for any person to operate or permit to be operated any motor vehicle with the words "school bus" painted or printed thereon if such bus is not more or less regularly used as a bus for the transportation of children to and from school.

9. Every school bus transporting children to public schools in each county shall be inspected at least twice each year. Such inspection shall be made by the county superintendent of schools or his duly authorized agent, assisted by a person to be designated by the Commissioner of Motor Vehicles. One of the two inspections mentioned above shall be made during the month of September.

10. Any person operating a motor vehicle which fails to stop as required in Sub-section 3 of this section, when a school bus, with the stop signal set, stops to take on or discharge children, or who otherwise violates the provisions of this section when such bus actually halts for the purpose of taking on or discharging children, shall be guilty of a misdemeanor and shall upon conviction be fined not less than Five Dollars ($5.00) nor more than Fifty Dollars ($50.00). Furthermore, any school bus owner or operator permitting a school bus to be operated which does not meet the regulations mentioned in this section or which violates any other provision of this section shall be guilty of a misdemeanor and shall upon conviction be fined not less than Five Dollars ($5.00) nod more than Fifty Dollars ($50.00).

Sec. 2. And be it further enacted, That this Act shall take effect September 1, 1939.

Approved: May 3, 1939.

CHAPTER 575

AN ACT to add eleven new sections to Article 2A of the Annotated Code of Maryland (1935 Supplement), title "Agriculture," said new sections to be known as Sections 29 to 39, inclusive, to follow immediately after Section 28 of said Article, as said section was enacted by Chapter 437 of the Acts of 1937 (General Session), to be under a new sub-title to be known as "Fruits and Vegetables," relating to the grading and packing of fruits and vegetables and the marking of containers thereof.

Section 1. Be it enacted by the General Assembly of Maryland, That eleven new sections be and they are hereby added to Article 2A of the Annotated Code of Maryland (1935 Supplement), title "Agriculture," said new sections to be known as Sections 29 to 39, inclusive, to follow immediately after Section 28 of said Article, as said section was enacted by Chapter 437 of the Acts of 1937 (General Session), to be under a new sub-title to be known as "Fruits and Vegetables" and to read as follows:

29. For the purpose of this sub-title, unless otherwise required by the context:

(a) The term "Board" means the State Board of Agriculture.

(b) The term "Department" means the State Department of Markets.

(c) The term "person" means any person, firm, corporation or association.

(d) The terms "fruit" and "vegetable" mean any fruit or vegetable, both singular and plural, sold, offered or exposed for sale, packed for sale, transported for sale, shipped or presented for intrastate or interstate shipment, but not any fruit or vegetable which has been canned, dried, pickled or frozen.

(e) The terms "sell" and "sold" mean sale, offer or expose for sale, pack for sale, transport for sale, ship, or present for intrastate or interstate shipment, in the present, future or past tenses.

30. The State Board of Agriculture through the Maryland State Department of Markets and its duly authorized agents may, after investigation and public hearing: (1) prescribe from time to time, official standards or grades for any fruit or vegetable, (2) promulgate from time to time rules and regulations governing the markings which shall be required upon containers of any fruit or vegetable, for the purpose of showing: (a) the true grade and/or size of the product in accordance with any such standards or grades promulgated by the Board, and/or (b) the name and address of the grower or packer, and/or (c) the name of the State where grown, and/or (d) the variety, quantity, quality, condition and size of the product.

31. Standards, grades, rules or regulations established under Section 30 shall not take effect until thirty (30) days after having been officially adopted, but thereafter, every container of any fruit or vegetable shall bear plainly and conspicuously upon the outside thereof such markings as are prescribed by the Board under the provisions of this sub-title.

32. No standard, grade, rule or regulation prescribed under this sub-title shall affect the right of any person to sell his fruit or vegetable without conforming thereto, but no person shall mark his fruit or vegetable, or container thereof in such a manner as to indicate that his fruit or vegetable conforms with any standard or grade of the Board unless he shall have conformed with all rules and regulations of the Board in relation thereto.

33. The Board, through the Department and its agents, shall enforce the provisions of this sub-title and may promulgate and enforce such rules and regulations as may be necessary to secure uniformity in the enforcement of this sub-title and the proper marking of containers of any fruit or vegetable.

34. All persons whose power or duty it is to enforce the provisions of this sub-title may enter any building, vehicle or other enclosure or conveyance within this State, where any fruit or vegetable is produced, stored or sold; may examine any fruit or vegetable found in such place; and may take for further examination such samples of the produce and containers as may be necessary to determine whether or not this sub-title has been violated.

35. Any person violating any provisions of this sub-title or wilfully interfering with the Board or its duly authorized agent in the performance of its duties, is guilty of a misdemeanor and shall, upon conviction, be fined not less than $5.00 nor more than $50.00 for the first offense, and not less than $50.00 nor more than $100.00 for the second offense, and not less than $250.00 for each subsequent offense.

36. The State's Attorney and/or any other prosecuting officer of any county or city in which any violation of this sub-title may occur shall prosecute any person accused of any violation of this sub-title and shall also, at the request of the Board, or its duly authorized agent, institute and prosecute such action as may be proper under the provisions of this sub-title.

37. No person shall be prosecuted for violation of the provisions of this subtitle where it can be established that the fruit or vegetable passed inspection by an authorized inspector of the Department or by an inspector of the United States Department of Agriculture and was graded, packed and marked in accordance with the provisions of this sub-title. Certificates of inspection issued by all such inspectors shall be accepted as prima facie evidence in any Court of the facts contained therein.

38. Any person who sells any fruit or vegetable in a container which is not properly marked shall not be prosecuted therefor when he can establish by satisfactory evidence that he was not a party to the grading or packing of the fruit or vegetable in question, and had no knowledge that the same was mismarked or illegally packed.

39. This sub-title shall not be construed as repealing any existing law, but shall be in addition thereto, and the powers and duties herein vested in the State Board of Agriculture and the Maryland State Department of Markets shall be in addition to, and not in limitation of, any powers or duties which now are, or hereafter may be conferred upon the State Board of Agriculture or the Maryland State Department of Markets.

Sec. 2. And be it further enacted, That if any of the provisions of this Act or the application thereof to any persons or circumstance is held invalid, or is in conflict with any Federal law, the validity of the remainder of the Act and the application thereof to other persons or circumstances shall not be affected thereby.

Sec. 3. And be it further enacted, That this Act shall take effect June 1, 1939.

Approved: May 11, 1939.

CHAPTER 676

AN ACT to add a new section to Article 56 of the Annotated Code of Maryland (1935 Supplement), title "Licenses," sub-title "Motor Vehicles," sub-heading "Rules of the Road," said new section to be known as Section 209AA and to follow immediately after Section 209A of said Article, providing for the erection of certain signs at the State line on certain interstate highways.

Section 1. Be it enacted by the General Assembly of Maryland, That a new section be and it is hereby added to Article 56 of the Annotated Code of Maryland (1935 Supplement)), title "Licenses," sub-title "Motor Vehicles," sub-heading "Rules of the Road," said new section to be known as Section 209AA, to follow immediately after Section 209A of said Article, and to read as follows:

209AA. The State Roads Commission shall erect signs at the State line on all interstate roads entering Maryland apprising the public of the existence of the school bus laws in this State and giving a brief resume of the provisions of said law for its proper observance by motorists entering the State.

Sec. 2. And be it further enacted, That this Act shall take effect June 1, 1939.

Approved: May 17, 1939.

CHAPTER 749

AN ACT to add a new section to Article 27 of the Annotated Code of Public General Laws of Maryland, entitled "Crimes and Punishments," to be known as Section 259A, to follow Section 259, relating to the issuance of search warrants.

Section 1. Be it enacted by the General Assembly of Maryland, That a new section be and it is hereby added to Article 27 of the Annotated Code of Public General Laws of Maryland, entitled "Crimes and Punishments," to follow immediately after Section 259, to be known as Section 259A, and to read as follows:

"259A. Whenever it be made to appear to any judge of the Supreme Bench of Baltimore City, or to any judge of any of the Circuit Courts in the counties of this State, or to any justice of the peace in this State, by a writing signed and sworn to by the applicant, that there is probable cause, the basis of which shall be set forth in said writing, to believe that any misdemeanor or felony is being committeed by any individual, or in any building, apartment, premises, place or thing within the territorial jurisdiction of such judge or justice of the peace, or that any property subject to seizure under the criminal laws of the State is situated or located on the person of any such individual or in or on any such building, apartment, premises, place or thing, then such judge or justice of the peace may forthwith issue a search warrant directed to any duly constituted policeman, constable or police officer authorizing him to search such suspected individual, building, apartment, premises, place or thing, and to seize any property found liable to seizure under the criminal laws of this State, provided that any such search warrant shall name or describe, with reasonable particularity, the individual, building, apartment, premise, place or thing to be searched, the grounds for such search and the name of the applicant on whose written application as aforesaid the warrant was issued. If, at any time, on application to a Judge of the Circuit Court of any County or of the Criminal Court of Baltimore City, it appears that the property taken is not the same as that described in the warrant or that there is no probable cause for believing the existence of the grounds on which the warrant was issued, said judge must cause it to be restored to the person from whom it was taken; but if it appears that the property taken is the same as that described in the warrant and that there is probable cause for believing the existence of the grounds on which the warrant was issued, then said judge shall order the same retained in the custody of the person seizing it to be otherwise disposed of according to law.

"259B. Sections 449 to (and including) 452 of this Article (perjury and subornation of perjury) shall apply to and embrace all persons making oath or affirmation or procuring the same under the provisions of this Act, and such persons shall be subject to all the pains and penalties of said sections."

Approved: May 11, 1939.

CHAPTER 754

AN ACT to repeal and re-enact with amendments Sections 5, 6, 12, 17, 18, 24, 38, 39, 44, 45, 48 and 55 of Article 63 of the Annotated Code of Maryland (1924 Edition), title "Mechanics' Lien"; to add a new section to said Article, said new section to be known as Section 38A and to follow immediately after Section 38 of said Article; to repeal and re-enact with amendments Section 60 of said Article, as said section was enacted by Chapter 491 of the Acts of 1937 (General Session); and to repeal Sections 25 to 35, inclusive, Section 37, and Sections 49 to 52, inclusive, of said Article, providing that mechanics' liens, heretofore enforcible in equity or at law by writ of scire facias, shall be enforcible only in equity within two years from the date of filing such lien and that the owner of the property subject to the lien, or any other person interested therein, may have the property freed from the lien by posting bond and may bring proceedings in equity within said two years to compel the claimant to prove the validity of the lien or to have it declared void.

Section 1. Be it enacted by the General Assembly of Maryland, That Sections 5, 6, 12, 17, 18, 24, 38, 39, 44, 45, 48 and 55 of Article 63 of the Annotated Code of Maryland (1924 Edition), title "Mechanics' Lien,," and Section 60 of said Article, as said section was enacted by Chapter 491 of the Acts of 1937 (General Session), be and they are hereby repealed and re-enacted with amendments and that a new section to be known as Section 38A and to follow immediately after Section 38 of said Article be and is hereby added to said Article, all to read as follows:

5. The owner of any lot or farm who may be desirous of erecting any building or of contracting with any person for the erection thereof may define in writing the boundaries of the lot or land or curtilage appurtenant to such building previously to the commencement thereof and file the same with the clerk of the circuit court for the county, or of the circuit court of Baltimore City, as the case may be, for record, and such designation of boundaries shall be obligatory upon all persons concerned.

6. In default of such designation of boundaries previous to the commencement of any building, it shall be lawful for the owner of such lot or piece of ground, or for any person having a lien upon the same by mortgage, judgment or otherwise, or entitled to a lien by virtue of this article, to apply by petition in writing to the judge of the circuit court for the county or the circuit court of the City of Baltimore to designate the boundaries.

12. If such notice can not be given on account of absence or other causes, the claimant or his agent may, in the presence of a competent witness and within sixty days, place said notice upon the door or other front part of said building and shall file a claim with the clerk of the circuit court for the county or the circuit court of Baltimore City, as the case may be, as hereinafter mentioned.

17. Each person entitled to such lien shall file a claim or statement of his demand in the office of the clerk of the circuit court for the county or the circuit court of Baltimore City, as the case may be, and such claim or statement shall be re-delivered by the clerk to the party filing the same after it has been recorded as provided in section 18.

18. The clerks of the circuit courts for the several counties and the circuit court of Baltimore City shall each procure and keep a docket or book to be called "The mechanics' lien docket," in which he shall record all designations or descriptions of lots or pieces of ground and all claims which may be filed by virtue of this article together with the day of filing the same and shall cause the names of the owner of the lot of ground and of the contractor, architect or builder, if such be named, and of the person claiming the lien under this law to be recorded therein.

24. The proceedings to recover the amount of any lien under this Article, whether upon a house, machine, wharf, bridge, boat or vessel, shall be by bill in equity and the same proceedings shall be had as used by the courts of equity to enforce other liens and the court shall decree a sale and appoint a trustee to make sale thereof and shall apportion the proceeds of such sale among the persons entitled to liens according to their respective rights.

38. The lien of every such debt for which a claim may have been filed according to the provisions of this Article shall expire at the end of two years from the day on which it was filed, during which time the claimant may bring proceedings in equity to enforce the lien, and the owner of the property subject to the lien, or any other person interested therein, may bring proceedings in equity to compel the claimant to prove the validity of the lien or have it declared void; and in case the lien claimant or his assigns may be non-residents of the State of Maryland or may be persons who may be proceeded against as such non-residents, notice may be given to him, it or them by publication as in other equity cases.

38A. Whenever a lien has been filed under this Article on any property, the owner of the property or any other person interested therein may file with the Court a bond in an amount fifty per centum (50%) greater than the sum for which the lien has been filed and conditioned on payment of said sum plus the cost of recovering the same. If said bond shall be approved by the Circuit Court, or Clerk thereof, the property shall be released from the lien, but the bond shall remain subject to the final disposition of the claim. No such bond shall be approved by the court or the clerk thereof until the claimant shall have had at least ten days' notice of the intention to apply to the court for such release of the property from the lien, which notice shall give the names and addresses of the surety or sureties on the bond to be offered and the time when the proffer of the bond shall be made. The claimant may appear and object to such approval, but solely on the ground of insufficiency of the bond. The above notice shall be by personal service upon the lien claimant if a resident, and by registered mail to the last known address of said claimant if a non-resident of the State of Maryland.

39. In every case in which the amount of such lien shall be paid or otherwise satisfied, the claimant or his legal representative, at the request of the owner of the building or of any other person interested therein, and on payment of the costs, shall enter satisfaction on the record of such claim in the office of the clerk of the circuit court for the county or circuit court of Baltimore City, as the case may be, which shall forever discharge and release the same.

44. No person shall be entitled to a lien under the preceding section unless he shall, within six months from the commencement of the building, repairing, equipping or refitting of such boat or vessel, deliver to the clerk of the circuit court for the county where the building, repairing, equipping or refitting was done, or the clerk of the circuit court of Baltimore City, if done in the City of Baltimore, an account or statement verified by the oath of the claimant taken and subscribed before some justice of the peace or other officer authorized to administer an oath, setting forth the names of the claimant and debtor; and, if the debt was not contracted by the owner but by his agent, the name of such agent, the name or other certain description of the boat or vessel and the place where built, repaired, equipped or refitted and the particulars or items of the claim or debt; and which account or statement shall be re-delivered by such clerk to the party filing the same after it has been recorded as provided in section 45.

45. The clerks of the several circuit courts for the counties and of the circuit court of Baltimore City shall each keep a docket to be called "Boats' lien docket," wherein it shall be the duty of each of said clerks, upon application being made to him in accordance with the requirements of the preceding section, to record the said statements or accounts filed with him and, immediately thereafter, he shall docket a case between the parties to the claim, entering the claimant as plaintiff and the boat and its owner and the owner's agent, where the debt was contracted by an agent, as defendant, and the day when such claim was filed, and the amount thereof; and the clerk shall be entitled to fifty cents for each entry, to be paid by the defendant and taxes as costs against him, for which and for other costs in prosecuting the claim the defendant shall be liable, in case the lien be established; the clerk to be allowed the same fees for recording said statement of account as are now allowed for recording deeds or bills of sale.

48. The claimant under such lien on any boat or vessel may enforce the same by proceedings in equity according to the provisions of section 24 of this article.

55. Should the owner dispute the amount of the charge, or any part thereof, for which the lien is claimed as aforesaid, such dispute may be determined by appropriate legal proceedings, and the institution of any such legal proceedings shall operate as a stay of execution under said lien until the amount thereof shall have been judicially determined, or the owner of such motor vehicle shall have the right to immediately reposses himself of his said motor vehicle upon filing a good and sufficient corporate bond, in double the amount of said claim, with the Clerk of the Circuit Court for the County, or with the Clerk of the Circuit Court of Baltimore City, where the corporation, firm, individual, association, or person, claiming such lien may have repaired or stored said motor vehicle, which said bond shall be approved by the Clerk of said Court, and which said bond shall be conditioned upon the payment of the full amount of any final judgment which may be recovered upon such claim, together with interest, and all costs incident to any such suit, and any costs and expenses which may have been incurred in connection with the enforcement of such lien up to the time that such lien claimant is notified of the filing of such bond. And the filing of such bond shall operate as a stay of execution under said lien until the amount thereof shall have been judicially determined; and in any such suit against the owner of said motor vehicle by such lien claimant after filing of such bond, if any defendant is returned non est, service may be secured by publication as in the case of a suit against a non-resident, provided, however, that suit be instituted within six months from the presentation of said bond, otherwise the bond is to be null and void.

60. No such lien shall be effective, however, unless a written notice containing the name and address of the injured person, the date of the accident, the name and location of the hospital, the amount claimed, and the name of the person or persons, firm or firms, corporation or corporations alleged to be liable to the injured party for the injuries received, shall be filed in the office of the Clerk of the Circuit Court, if the services were rendered in the counties, or of the Circuit Court of Baltimore City, if rendered in Baltimore City, prior to the payment of any moneys to such injured person, his attorneys or legal representatives as compensation for such injuries; nor unless the hospital shall also mail, postage prepaid, by registered mail, a copy of such notice with a statement of the date of filing thereof to the person or persons, firm or firms, corporation or corporations, alleged to be liable to the injured party for the injuries sustained prior to the payment of any moneys to such injured person, his attorneys or legal representatives, as compens