

SENATE BILL 4

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(PRE-FILED)

11r0302
CF HB 363

By: **Senators Edwards, Feldman, Ferguson, and Klausmeier**

Requested: September 15, 2020

Introduced and read first time: January 13, 2021

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 20, 2021

CHAPTER _____

1 AN ACT concerning

2 ~~**Maryland Public Ethics Law – Officials and Employees – Acceptance of Gifts**~~
3 ~~**and 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)

15 BY repealing and reenacting, with amendments,
16 Article – General Provisions
17 Section 5–505(b)
18 Annotated Code of Maryland
19 (2019 Replacement Volume and 2020 Supplement)

20 BY adding to
21 Article – General Provisions

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.



Section 5–509
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

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

Article – General Provisions

5–101.

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

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

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

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

(i) by an executive unit;

(ii) by the Legislative Branch; or

(iii) in the Judicial Branch.

(2) “Employee” does not include:

(i) a public official; or

(ii) a State official.

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

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

(ll) “State official” means:

(1) a constitutional officer or officer–elect in an executive unit;

(2) a member or member–elect of the General Assembly;

(3) a judge or judge–elect of a court under Article IV, § 1 of the Maryland
Constitution;

(4) a judicial appointee as defined in Maryland Rule 18–200.3;

- (5) a State's Attorney;
- (6) a clerk of the circuit court;
- (7) a register of wills; or
- (8) a sheriff.

5-505.

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

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

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

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

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

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

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

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

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

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

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

(ii) as to a gift of significant value:

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

3 2. the official or employee believes or has reason to believe
4 that the gift is designed to impair the impartiality and independent judgment of the official
5 or employee.

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

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

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

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

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

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

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

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

30 (v) trivial gifts of informational value;

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

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

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

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

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

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

(x) a gift from:

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

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

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

5-509.

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

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