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REPORT ON SENATE BILL 40
TRANSPORTATION ARTICLE - VEHICLE LAWS

I. PURPOSE AND SCOPE OF CODE REVISION

The Transportation Article (House Bill 104 and Senate Bill 40) is a product of the continuing revision of the Annotated Code of Maryland, undertaken by the Commission to Revise the Annotated Code. This process was inaugurated during the First Extraordinary Session of 1973 and, to date, has resulted in the enactment of seven new major articles: Agriculture, Commercial Law, Corporations and Associations, Courts and Judicial Proceedings, Estates and Trusts, Natural Resources, and Real Property.

Each of these articles was a formal, bulk revision as mandated by the guidelines established in 1970, and included an improved scheme or organization, elimination of obsolete or unconsitutional provisions, resolutions of inconsistencies and conflicts in the law, corrections of inadvertent gaps or omissions in the law, deletion of repetitive or otherwise

superfluous language, and general improvement of language and expression.

The same guidelines have been followed in preparation of the Transportation Article. It is to be emphasized that the basic thrust of the Commission's work is formal and not substantive change; the basic purpose of its work is modernization and clarification and not policy-making. Nevertheless, at some points in its work, it becomes necessary to make recommendations which involve the substance of the laws. (In a sense, the elimination of even the most blatant of obsolete provisions effects a "substantive" change.) In each such case, the Commission has made every effort to assure that its recommendation conforms as nearly as possible to the apparent intent of the legislature; the revisor's notes attached to the appropriate section explain each change made and the reasons for it; and, finally, all significant changes have been carefully noted and explained during lengthy legislative hearings on the revision bills, receiving formal committee approval. (In this regard, see, also, Part IV of this Report.)

[Additional issues involving fundamental policy are also noted. Since resolution of such issues is beyond the purview of the revision process, no attempt is made by the Commission to resolve them other than by calling them to the attention of the General Assembly, for its independent action. (A checklist of unresolved, substantive issues relating to Senate Bill 40 is attached as Appendix D to this Report; see, also, Part V of this Report.]

For a more detailed discussion of the purposes of Code revision and the complete revision scheme, see the Commission's Revisor's Manual (Second Edition - 1973), available through the offices of the Commission.

As to the general rule of construction applied by the courts to bulk revision of this nature, see Welch v. Humphrey, 200 Md. 410, 417 (1952):

> "It is true that a codification of previously enacted legislation, eliminating repealed laws and systematically arranging the laws by subject matter, becomes an official Code when adopted by the Legislature, and, since it constitutes the latest expression of the legislative will, it controls over all previous expressions on the subject, if the Legislature so provides. However, the principal function of a Code is to reorganize the statutes and state them in simpler form. Consequently any changes made in them by a Code are presumed to be for the purpose of clarity rather than change of meaning. Therefore, even a change in the phraseology of a statute by a codification thereof will not ordinarily modify the law, unless the change is so radical and material that the intention of the Legislature to modify the law appears unmistakably from the language of the Code. Welsh v. Kuntz, 196 Md. 86, 97, 75 A 2d 343, 347."

See also, Crow v. Hubard, 62 Md. 560 (1884); Welsh v. Kuntz, 196 Md. 86 (1950); Baltimore Tank Lines v. Public Service Commission, 215 Md. 125 (1958); Bureau of Mines v. George's Creek Coal and Land Co., 272 Md. 143 (1974); and Matter of Anderson, 20 Md. App. 31 (1974).

II. FORM AND ORGANIZATION OF REVISION BILLS.

The Transportation Article introduced during the 1977 Regular Session of the General Assembly conforms with the organizational format and numbering system used in the previously revised articles.

Accordingly, it will be published in one or more separate, unnumbered, volumes and--in accordance with Art. 1, §25 of the Code--will be cited by name.

Within each revision article, a standard numbering system is used. This consists of one or more digits to the left of a dash and three or more digits to the right of a dash; this is essentially the same system used in the Uniform Commercial Code, present Article 66 1/2, and former Articles 21 and 93 of the Code. The number or numbers to the left of the dash designate the title within the article. The first number or numbers to the right of the dash designate the subtitle. The last two digits to the right of the dash designate the section within the subtitle. Thus, §13-203 of the Transportation Article is the third section in Subtitle 2 of Title 13 of that article.

The two Transportation Article bills introduced at the 1977 session reflect this system of organization and numbering. Each bill is arranged in a similar format, with the text of each article printed in all capital letters as though it were all new material. However, in most instances comparisons with the present Code indicate that changes are largely stylistic.

Because of the unprecedented bulk of material contained in this Article, it has been proposed and introduced in the form of two bills: House Bill 104 contains the first 10 titles to the Article, dealing with the Department of Transportation, generally, and transportation financing, aviation, mass transit, ports, and

highways, in particular; Senate Bill 40 contains the State's vehicle laws--primarily, present Article 66 1/2 of the Code--with an organization formed around 17 titles, beginning with Title 11 of the Article.

Those familiar with present Article 66 1/2 are aware that much of its provisions are based on the Uniform Vehicle Code adopted by the National Committee on Uniform Traffic Laws and Ordinances. By beginning its revision with Title 11--and by retaining, where uniform, the current ordering of provisions--Senate Bill 40 closely approximates the organization and numbering of the present law, but for the addition of "10" to the title designations. Thus, for example, what is now Subtitle "6" of Article 66 1/2 will be Title "16" of the Transportation Article, and what is now Subtitle "17" of Article 66 1/2 will be Title 27; similarly, "§3-405" of Article 66 1/2 easily translates to "§13-405" of Transportation, and "§11-1304" of Article 66 1/2 becomes "§21-1304" of Transportation. (An outline of Senate Bill 40 is attached as Appendix A to this Report.)

In addition to Article 66 1/2, other related vehicle law provisions, presently scattered throughout the Code, have been incorporated in this revision. Thus, portions of Article 41, dealing with the Motor Vehicle Administration, have been included in Title 12, Subtitle 1 of the Article. Several sections of present Article 89B also can be found in this revision: thus, for example, Art. 89B, §64A, dealing with livestock crossings, is included, as §21-708, in the subtitle dealing with special stops and crossings, generally; present Art. 89B, §66A, dealing with snow emergency routes, has been

combined with the like provisions of present Art. 66 1/2, §11-1119, and now appears as part of §21-1119 of the Article; and present Art. 89B, §§66 and 67, dealing with the preservation of State highways, appear as §§24-203 and 24-202, respectively. (A detailed Cross-Reference Table for the entire Transportation Article is available, on request, at the Page's Station.) Inclusion of these provisions serves not only the ideals of improved organization but, also, promotes uniformity in enforcement and related treatment.

III. REVISOR'S NOTES

Each section--or, in some instances, subsection--of the proposed Article is followed by a revisor's note ("RN") that explains all significant changes made by the revision.

These notes also facilitate comparison of the revised article with the law it replaces, and they show the relationship between present and proposed Code provision.

Furthermore, the revisor's notes--while not at all a part of the law itself (see Section 7 of Senate Bill 40, on page 678)--do serve an important function in preserving the intent and substance of the source law, indicating that, with but minor exceptions, the sole intent behind the revision is as to matters of clarity and style and not substance. See Murray v. State, 27 Md. App. 404 (1975), where the Court of Special Appeals recognized the importance of revisor's notes as not only a statement of the revisor's intent, but as a statement of legislative intent as well:

> "These notes were part of the legislation enacting the revisions explaining to the legislators not only what changes were effected but what changes were effected but what their expressed intention was in changing the wording." Id., at p. 409 (Emphasis in original).

Because of their importance as recognizable elements of legislative history, only minimal administrative changes will be made in the revisor's notes to Senate Bill 40 before its "third reader" printing. (The few changes required to be made are noted in Appendix C to this Report.)

IV. MATTERS REQUIRING MODIFICATION OR CHANGE

As noted above, an attempt is made to explain fully to the General Assembly--as well as other interested parties--all significant changes made in the revision process; this, both by explanatory revisor's notes and by lengthy testimony presented at committee hearings. (In addition, prior to introduction of Senate Bill 40, preliminary drafts of the Commission's work were distributed for comment and criticism to all affected governmental agencies, as well as various public and special interest groups with an interest in the subject matter of the bill.)

Extensive public hearings on Senate Bill 40--totaling in excess of some 40 hours of explanatory testimony by the Commission staff--were held during the 1976 Interim by the Senate Committee on Constitutional and Public Law, jointly with the House Judiciary Committee. A by-product of this Joint Committee's deliberations are the proposed amendments attached to this Report as Appendix B. In

some instances, the amendments reflect Committee disagreement with recommendations of the Commission (e.g., Amendment No. 60); in many instances, the amendments are proposed to effect further recommendations made by the Commission (e.g., Amendment Nos. 3, 35, 39, and 62), the Motor Vehicle Administration (e.g., Amendment No. 12), members of the Joint Committee (e.g., Amendment Nos. 20, 21, 22, 26, 30, and 33), and others (e.g., Amendment Nos. 4 and 25).

While an attempt in this Report to detail all changes would be impractical, the following is an illustrative, representative cross-section of the types of changes--within the guidelines discussed in Part I of this Report--as proposed by the revised article:

Obsolescense: Over the years, much of the language and nomenclature of our vehicle laws have become obsolete, or even--in some cases--archaic. Examples include: outdated references to the "Department of Motor Vehicles" and the "Commissioner of Motor Vehicles" [see RN's to §§11-102 and 11-103]; no longer meaningful and, therefore, obsolete terms such as "commercial motor vehicle" and "lien contract" [see GRN to Title 11, Subtitle 1]; extant definitions for terms, such as "chauffeur", that have long since been deleted from the substance of the law [see GRN, supra].

On occasion, entire provisions of "substantive" law have been overlooked and left in the Code, even after decades of nonuse and enactment of other, more modern, superseding legislation. An example of this is Art. 27, §50, which has been retained unchanged since it was first enacted in 1918 and since has been superseded by

Art. 66 1/2, §12-214 [see Comment to Amendment No. 2].

Unconstitutionality: Ocasionally the Commission is faced with provisions that are blatantly unconstitutional or, at best, of questionable constitutionality. An example is found in Art. 89B, §120B, which authorizes an administrative agency to itself establish the criminal penalties that would apply to violations of that agency's rules and regulations: recent opinions of the Court of Appeals indicate that such an authorization might well be an invalid delegation of legislative powers and otherwise violative of due process requirements; accordingly, the Joint Committee recommends its deletion [see Comment to Amendment No. 51]

Inconsistencies and Conflicts: Examples include the provisions of Art. 66 1/2, §1-104(a), which define "bicycle" in a manner that is at odds with the definition of "motorcycle" in Art. 66 1/2, §1-150. [The details of the conflict and its resolution are set forth in the RN to §11-104, on page 5 of Senate Bill 40, beginning at line 309.]

Another typical example is that noted in the revisor's note to §13-109 (page 89 of Senate Bill 40). As to the temporary registration of vehicles pending inspection, Art. 66 1/2, §3-109(b) provides for the Administration to "prescribe the period for which the registration shall be valid"; yet, Art. 66 1/2, §13-106 expressly

sets forth the time when the temporary registration is to expire. [This problem is resolved, in accordance with current practice, by conforming the former provision to the latter; see §13-109(b).]

What might be termed an internally self-inconsistent provision is that found in present Art. 66 1/2, §3-502(b). On the one hand, it provides that--on transfer of a vehicle and temporary continuation of the existing registration--that registration expires as soon as the plates are removed by the transferee; on the other hand, it prohibits the same transferee from even possessing the plates once the registration expires. [This problem--and the like problem appearing in Art. 66 1/2, §3-504--is resolved in the revision by providing for a 24-hour "grace" period within which the transferee may dispose of the plates; see §§13-501(b)(3) and 13-504(a)(3).]

Finally, there might be noted the interesting discrepancy between Art. 66 1/2, §11-1119--which appears to require snow tires or chains on all "vehicles" during snow emergencies--and Art. 89B, §66A--which only requires snow tires or chains on "motor vehicles". [As to the resolution of this and other related problems, see Comment to Amendment No. 50.]

Gaps and Omissions: A most subtle--and, therefore, common--form of statutory "gap" is that exemplified by Art. 66 1/2, §3-806(a). It provides for a $30 fee for the registration of Class E vehicles with a chassis and battery weight of "less than 2,500" pounds;

it provides for a $45 fee if the weight is "2,501 to 4,000" pounds. Thus, the law is silent as to fee applicable to a vehicle weighing exactly 2,500 pounds. [This gap is "plugged" simply enough by substituting the intended phrase "2,500 or less" for the offending "less than 2,500". See §13-916 of the bill and its RN.]

More serious gaps and omissions also require rectification. For example, Art. 66 1/2, §3-116.2, as to the registration of vehicles, very expressly provides for the procedure to be followed on change of a vehicle owner's name "by marriage or court [order]". Nowhere does the present law contemplate the possibility of a change in name of a corporation or other entity that is the registered owner of a vehicle. [In this regard, see §13-118 and its RN.]

On occasion one finds a situation such as that presented by Art. 66 1/2, §1-139, which very carefully defines the term "laned roadway". Unfortunately, in the substantive provisions where that term presumably was intended to be used, it does not at all appear. [See GRN to Title 11, Subtitle 1, Item (9) appearing on page 39 of Senate Bill 40, at line 2150.]

A final example is that presented by Ch. 425, Acts of 1976, which--in one all-too-brief sentence--attempted to provide for the licensing and regulation of a new industry (the manufacture, distribution, and sale of "two-stage vehicles") in the same manner that, for other industries, requires an entire subtitle to effectuate. [As to the details of the attendant problems and their resolutions, see §§13-113.2, 15-101(d), 15-201(b) and (c)

through (f) and their accompanying RN's.]

Superfluity: A most dramatic example of the same is Art. 66 1/2, §11-1401, which--for purposes of the subtitle following--elaborately defines some ten different terms, none of which appear anywhere in the subtitle. [See RN to §21-1401, on page 494 of Senate Bill 40.]

In some instances, superfluous language is more than merely unnecessary; by creating a result neither intended nor even contemplated, it can be substantively dangerous. An example of this can be found in the present definition of "distributor" (Art. 66 1/2, §1-119.1) and "franchise" (Art. 66 1/2, §1-130.1), both of which contain limiting language that literally apply to situations unrelated to the primary purposes intended for the definitions and, consequently, have ramifications both unintended by the General Assembly and potentially costly to the State. [See RN to §11-112 and the therein referenced §13-113.1.]

V. EXTANT ISSUES

As noted above, various issues of a substantive nature have been left unresolved, subject to independent consideration by the General Assembly. In addition to those noted in Appendix D, the Commission encountered two other areas requiring further legislative consideration.

The first of these relates to Title 22, Subtitles 1 through 4 of the proposed Article. As noted in the General Revisor's Note to Title 22 (beginning on page 577 of Senate Bill 40), these subtitles present unique difficulties that could not be resolved in the Code revision forum. Accordingly, pending review of these subtitles by the General Assembly, the Commission has made but the most minor of changes, revising only as required to correct grammatical errors and nomenclature and to conform basic elements of style necessary for consistency and clarity. The Commission understands that the Motor Vehicle Administration proposes to undertake an exhaustive review of Title 22 and prepare appropriate Departmental legislation.

Similarly, problems were encountered in the revision of Title 26 with regard to the provisions now appearing as Subtitle 2 of that title and relating to citation and arrest under the vehicle laws. Again, pending resolution of the issues noted in the General Revisor's Note to Title 26 (beginning on page 564 of Senate Bill 40), only the most minor of changes have been made. A special committee of the Commission has been appointed to study these citation and arrest provisions and soon will be presenting its proposals by separate legislation.

Respectfully Submitted,

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