

We have reviewed House Bill 349 for constitutionality and legal sufficiency. Because the title is inconsistent with the body of the bill, we regret that we are unable to approve the bill.

Maryland Constitution Article III, § 29 provides that "every Law enacted by the General Assembly shall embrace but one subject, and that shall be described in its title." The test for determining whether the title of an Act is so faulty that it violates this provision is whether there is a likelihood that the title may have led to a misconception of the enactment. Pressman v. State Tax Commission, 204 Md. 78 (1959).

The title of House Bill 349 provides:

FOR the purpose of altering the [burden] standard of proof for [the conviction] a violation of certain civil zoning [violations] provisions from a criminal [burden] standard to a preponderance of the evidence standard; eliminating the application of certain provisions under the municipal [infraction] infractions law to certain zoning violations; and generally relating to the enforcement of certain civil zoning violations under Article 66B of the Code.

The body of the bill, however, changes the standard to clear and convincing, not to preponderance of the evidence. Moreover, the bill does not limit the application of certain provisions of the municipal infractions law, but continues their applicability.

Thus, the provisions of the title directly contradict the provisions of the bill and could only lead to a misconception of the enactment. Therefore, the title violates Article III, § 29.¹

Very truly yours,
J. Joseph Curran, Jr.
Attorney General

¹ In other instances, we have stated that inaccurate portions of the title could be treated as surplusage and disregarded. In those cases, however, the inaccurate portions were not in direct contradiction to the actual effect of the bill.

House Bill No. 349

AN ACT concerning

Zoning Law – Civil Violations – ~~Burden~~ Standard of Proof

FOR the purpose of altering the ~~burden~~ standard of proof for ~~the conviction~~ a violation of certain civil zoning ~~violations~~ provisions from a criminal ~~burden~~ standard to a preponderance of the evidence standard; eliminating the application of certain provisions under the municipal ~~infraction~~ infractions law to certain zoning violations; and generally relating to the enforcement of certain civil zoning violations under Article 66B of the Code.

BY repealing and reenacting, with amendments,
Article 66B – Zoning and Planning
Section 7.01