

HOUSE BILL 64

C2

(PRE-FILED)

8lr0394

CF 8lr0392

By: **Delegate Kipke**

Requested: July 17, 2007

Introduced and read first time: January 9, 2008

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Fallen Soldier Privacy Act of 2008**

3 FOR the purpose of prohibiting a person from using the name, portrait, picture, or
4 image of a certain deceased soldier for certain purposes without prior consent
5 from certain individuals; defining a certain term; establishing a certain penalty;
6 and generally relating to the use of a deceased soldier's identity.

7 BY adding to

8 Article – Business Regulation

9 Section 19–401 through 19–403 to be under the new subtitle “Subtitle 4. Use of
10 a Deceased Soldier's Identity”

11 Annotated Code of Maryland

12 (2004 Replacement Volume and 2007 Supplement)

13 Preamble

14 WHEREAS, The State of Maryland recognizes the tremendous dedication and
15 sacrifice of those men and women who served in the armed forces and their
16 willingness to defend the freedoms that we as individuals hold dear; and

17 WHEREAS, This legislation was inspired by the untimely death of Eric
18 Kavanagh, a 20-year-old soldier and resident of Maryland, who was killed in action in
19 Iraq on September 20, 2006, during Operation Iraqi Freedom, and dedicated to every
20 man and woman in our armed forces who died protecting our country; and

21 WHEREAS, We believe that special honor should be given to those brave
22 soldiers and surviving family members; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, We also believe that it is imperative to protect the dignity of those
2 who have fallen while serving this great country and that no individual, group, or
3 organization should profit from the commercial use of a fallen soldier's name; and

4 WHEREAS, It is fitting that the State of Maryland enact legislation to ensure
5 that the privacy of these heroic soldiers be respected and maintained; now, therefore,

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

8 **Article - Business Regulation**

9 **SUBTITLE 4. USE OF A DECEASED SOLDIER'S IDENTITY.**

10 **19-401.**

11 **IN THIS SECTION, "SOLDIER" MEANS:**

12 **(1) AN ACTIVE DUTY MEMBER OF THE ARMED FORCES OF THE**
13 **UNITED STATES, INCLUDING THE ARMY, MARINE CORPS, NAVY, AIR FORCE,**
14 **COAST GUARD, NATIONAL GUARD, RESERVE FORCES, AND ANY OTHER**
15 **STANDARD UNITED STATES MILITARY AGENCY; OR**

16 **(2) A FEDERAL ACTIVE DUTY MEMBER OF THE STATE NATIONAL**
17 **GUARD OR RESERVE FORCE.**

18 **19-402.**

19 **A PERSON MAY NOT USE THE NAME, PORTRAIT, PICTURE, OR IMAGE OF A**
20 **SOLDIER KILLED IN THE LINE OF DUTY WITHIN THE PREVIOUS 50 YEARS, FOR**
21 **THE PURPOSE OF GAINING A COMMERCIAL ADVANTAGE BY ADVERTISING FOR**
22 **SALE A PRODUCT, GOOD, WARE, MERCHANDISE, OR SERVICE, WITHOUT FIRST**
23 **OBTAINING CONSENT FOR USE FROM THE SURVIVING SPOUSE, THE PERSONAL**
24 **REPRESENTATIVE, OR THE MAJORITY OF THE HEIRS OF THE DECEASED**
25 **SOLDIER.**

26 **19-403.**

27 **A PERSON THAT VIOLATES § 19-402 OF THIS SECTION IS GUILTY OF A**
28 **MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING**
29 **\$2,500 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.**

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2008.