

Department of Legislative Services

Maryland General Assembly

2002 Session

Revised

FISCAL NOTE

House Bill 295

(The Speaker) (Administration)

Environmental Matters

Education, Health, and Environmental Affairs

Air Quality and Radiation - Penalties

This Administration bill provides that a criminal prosecution or a civil action for a violation of specified air quality and radiation provisions must be instituted within three years after the violation was committed.

The bill takes effect July 1, 2002 and applies prospectively only.

Fiscal Summary

State Effect: The extent to which the change in the statute of limitations will result in additional violators prosecuted or sued over time is unknown; however, the bill is not expected to significantly affect State finances or operations.

Local Effect: See above.

Small Business Effect: A small business impact statement was not provided by the Administration in time for inclusion in this fiscal note. A revised fiscal note will be issued when the Administration's assessment becomes available.

Analysis

Current Law: For specified air quality violations, a person is guilty of a misdemeanor and on conviction is subject to: (1) for a first offense, a fine not exceeding \$25,000 or imprisonment not exceeding one year, or both; (2) for a violation committed after a first conviction, a fine not exceeding \$50,000 or imprisonment not exceeding two years, or both. For other specified air quality violations, a person is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$10,000 or imprisonment not exceeding six months, or both. A person who violates air quality provisions is liable for a civil

penalty not exceeding \$25,000, to be collected in a civil action in the circuit court for any county. If the Attorney General concurs, the Secretary of the Environment may compromise and settle any claim for a civil penalty.

For specified radiation violations, a person is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$25,000 or imprisonment not exceeding one year, or both. Before any prosecution is begun, the Secretary must serve written notice of each alleged violation on a person who is in charge of the place where the violation allegedly exists. In addition to any criminal penalty imposed, a person who violates radiation provisions is liable for a civil penalty not exceeding \$10,000, to be collected in a civil action in the circuit court for any county. Whether or not a court action has been filed, the Secretary, with the concurrence of the Attorney General, may compromise and settle any claim for a civil penalty.

Except as otherwise provided by law, a prosecution for a misdemeanor must be instituted within one year of the offense. Civil actions also must be instituted within one year of the violation, with specified exceptions.

Background: According to MDE, total penalty collections to the Maryland Clean Air Fund (including administrative, civil, and criminal penalties) from fiscal 1999 to fiscal 2001 for air pollution violations ranged from approximately \$457,400 in fiscal 1999 to approximately \$343,700 in fiscal 2001, as shown below.

<u>Fiscal Year</u>	<u>Total Penalties</u>	<u>Administrative</u>	<u>Civil</u>	<u>Criminal</u>
1999	\$457,380	\$351,380	\$105,000	\$1,000
2000	\$462,501	\$207,501	\$255,000	\$0
2001	\$343,695	\$205,350	\$135,000	\$3,345

Source: Maryland Department of the Environment

Total penalty collections to the State Radiation Control Fund from fiscal 1999 to fiscal 2001 for radiation control violations ranged from \$79,075 in fiscal 1999 to \$86,350 in fiscal 2001, as shown below.

<u>Fiscal Year</u>	<u>Total Penalties</u>	<u>Administrative</u>	<u>Civil</u>	<u>Criminal</u>
1999	\$79,075	\$68,175	\$10,900	\$0
2000	\$55,775	\$50,625	\$5,150	\$0
2001	\$86,350	\$86,350	\$0	\$0

Source: Maryland Department of the Environment

Additional Information

Prior Introductions: None.

Cross File: SB 245 (The President) (Administration) – Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of the Environment, Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2002
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