

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 324

(Senators Elfreth and Bailey)

Education, Health, and Environmental Affairs

Environment and Transportation

**Environment and Natural Resources – Complaints, Inspections, and
Enforcement – Information Maintenance and Reporting**

This bill establishes various tracking and reporting requirements for the Maryland Department of the Environment (MDE) and the Department of Natural Resources (DNR) with respect to the enforcement of environmental and natural resources laws. Among other things, (1) MDE must maintain specified complaint data and develop and maintain a website with specified information and data relating to the enforcement of certain environmental laws and (2) DNR must submit an annual report with specified data regarding the enforcement of natural resources and conservation laws. The applicability of the MDE provisions have staggered implementation dates beginning October 1, 2021.

Fiscal Summary

State Effect: General fund expenditures increase, likely by at least \$100,000 to \$150,000 annually, beginning in FY 2022. Revenues are not directly affected, but could be affected to the extent the bill results in any change in penalties collected for various environmental and natural resources violations.

Local Effect: The bill does not have a direct, material effect on local finances or operations.

Small Business Effect: None. The bill does not directly affect small businesses.

Analysis

Bill Summary:

Maryland Department of the Environment

“Alleged violation” means an alleged violation of any requirement in the Environment Article, or any related regulations, including federal requirements and standards delegated to the State. “Complaint” means a complaint regarding an alleged violation of any air or water quality requirement in the Environment Article, or any air or water quality regulation authorized by a provision of the Environment Article, including federal requirements and standards delegated to the State.

The bill establishes various tracking and reporting requirements (described below) for MDE that apply (1) beginning October 1, 2021, to water quality programs within MDE’s Water and Science Administration that are tracked through MDE’s Environmental Tracking System (or a comparable database) and (2) beginning June 30, 2022, to water quality programs within the MDE’s Land and Materials Administration and air quality programs within MDE’s Air and Radiation Administration that are tracked through MDE’s Environmental Tracking System or a comparable database.

MDE must (1) receive and process complaints that involve alleged violations; (2) keep an electronic record of each complaint received for 10 years, including information on the county where the alleged violation occurred and which administration within MDE is authorized to enforce the alleged violation; (3) maintain and update (on at least a quarterly basis) a list of new complaints received, complaints that remain open, and complaints that have been closed; and (4) on at least a monthly basis, update and publish on its website a list of legal settlements finalized by MDE that involve violations, along with specified related information, including, among other things, the name of the site or regulated entity and the affected site location, the amount of any penalty assessed, and a link to a downloadable document containing the final settlement agreement.

Additionally, MDE must develop and maintain a website that provides (1) a list of each complaint received by MDE, as specified; (2) a list of each inspection and enforcement action conducted and initiated by MDE during the previous 365 days under the authority of a State or federal law or regulation related to protecting the environment, as specified; (3) an electronic link to a digital copy, if readily available, of each of those inspection reports (if the information is maintained by MDE in the Environmental Tracking System or a comparable database); (4) a list of each violation discovered within the previous 365 days that MDE has deemed “significant noncompliance” or a “high-priority violation,” as specified; (5) a list of all expired and administratively continued environmental permits subject to the bill’s provisions, as specified; (6) all information required to be posted on

MDE's website under a provision of law relating to the enforcement of sediment and erosion control laws and regulations; and (7) a list of each sewage overflow incident in the State, as specified. The information that is required to be posted on the website (including the information on finalized settlements) must be (1) kept for at least 10 years; (2) updated on at least a monthly basis; and (3) maintained in a database format that is searchable by category of information.

Department of Natural Resources

By September 30 annually, DNR must submit a report to the Governor and the General Assembly on information for the prior fiscal year relating to the enforcement of natural resources and conservation laws. The report must include, on a statewide basis, the following information: (1) with respect to the enforcement of State conservation laws, the total number of inspections conducted, as specified, the total number of citations and warnings issued, and the total number of violations that led to a conviction; (2) with respect to the enforcement of the State Boat Act, the total number of inspections, the total number of citations and warnings issued, and the total number of boating accidents, as specified; and (3) with respect to activities reported to the Maryland Wildlife Crime Stoppers, the total number of reported incidents (including the total number that led to formal charges and convictions), and the total number of rewards of financial compensation distributed, as specified. Additionally, the report must include, for each of the Eastern, Southern, Western, and Central regions, (1) the total number of inspections of commercial and recreational fishing, crabs, oysters, game and wildlife, and boating and (2) the total number of oyster citations and warnings issued, the total number of operating-under-the-influence citations issued, and the total number of boating accidents, including the total number of fatalities and the total dollar amount of resulting property damage.

Intent of the General Assembly

The bill expresses the intent of the General Assembly that (1) the bill enhance efficiency and reduce the burden on State agencies by taking advantage of modern technology, maximizing collaboration, minimizing redundancy in agency activities, reducing staff time needed to respond to and complete Public Information Act (PIA) requests, and marshalling nongovernmental resources through the facilitation and enablement of public participation and (2) government agencies responsible for implementing the bill rely on, to the maximum extent practicable, existing budgeted resources to implement the bill, as specified. Nothing in the bill must be construed to require any unit of State government to undertake additional data collection, publish any confidential information not already subject to disclosure under State law, or perform any additional redaction of information to implement the bill.

Current Law:

Maryland Department of the Environment

MDE's primary mission is to protect and restore the environment for the health and well-being of all Marylanders.

The mission of MDE's Air and Radiation Administration is to improve and maintain air quality and control sources of radiation to protect the health and welfare of the people and the environment of Maryland while providing for enhanced community service and economic development. The regulatory activities of the administration include (1) monitoring air quality from various sources; (2) inspecting equipment that has the potential to emit radiation or cause air pollution; (3) reducing air pollution from motor vehicles by establishing and enforcing jointly with the Motor Vehicle Administration a vehicle emissions inspection program; (4) developing plans, programs, and standards to reduce and prevent air pollution and control sources of radiation in a cost effective manner that protects public health; and (5) investigating and resolving complaints.

The mission of MDE's Water and Science Administration is to restore and maintain the quality of the State's ground and surface waters, protect wetland habitats throughout the State, and manage the utilization of Maryland's mineral and water resources. The administration manages a broad range of activities, including (1) inspecting and maintaining compliance of various facilities and activities, including industrial and municipal wastewater discharges, agriculture, construction involving water and sewerage facilities, sediment control, stormwater management, wetlands, and waterways; (2) protecting public health and water quality through permitting for surface and groundwater discharges; (3) surveying and evaluating public water systems to ensure that they are optimized and to reduce the risk of passing pathogens to drinking water; and (4) providing technical assistance to water and wastewater utilities.

The mission of MDE's Land and Materials Administration is to preserve and restore land and water and protect public health by remediating properties and safely and sustainably managing materials. The regulatory activities for the administration include (1) permit development and compliance inspections at more than 30,000 locations in Maryland for proper management in areas of solid waste, hazardous waste, sewage sludge, petroleum products, medical waste, mining operations, animal feeding operations, lead, and scrap tires; (2) remediation of leaking underground storage tank sites and enforcement of laws pertaining to the proper installation and operation at more than 12,000 sites across the State; (3) enforcement of the State's lead abatement regulations, investigation of lead poisonings, and maintenance of the childhood lead poisoning registry; (4) providing oversight and compliance for animal feeding operations; and (5) issuing coal and noncoal mining permits and gas well permits.

Chapters 517 and 518 of 2019 required each jurisdiction that is delegated authority to enforce sediment and erosion control laws and regulations under Subtitle 1 of Title 4 of the Environment Article to submit an annual report to MDE by January 1 of each year. The report must provide information related to specified environmental violations. MDE must post the information collected under the Acts on its website. By March 1 of each year, MDE must report to the Governor and the General Assembly. Additionally, pursuant to § 1-301(d) of the Environment Article, the Secretary of Environment, in consultation with the Attorney General, must submit an annual report on MDE's enforcement activities for the prior fiscal year to the Legislative Policy Committee.

Department of Natural Resources

The mission of DNR is to lead Maryland in securing a sustainable future for our environment, society, and economy by preserving, protecting, restoring, and enhancing the State's natural resources. DNR's Fisheries Service manages commercial and recreational fishery harvests to maintain sustainable quality fisheries, enhance and restore fish and shellfish species in decline, promote ethical fishing practices, and ensure public involvement in the fishery management process. The Wildlife and Heritage Service regulates hunting, trapping, and other wildlife management activities through permitting and licensing. The Natural Resources Police is responsible for enforcing laws governing commercial fishing, aquaculture, wildlife, and boating.

State Expenditures: The bill includes uncodified language stating that it is the intent of the General Assembly that (1) the bill enhance efficiency and reduce the burden on State agencies, as specified, and (2) affected government agencies rely on, to the maximum extent practicable, existing budgeted resources to implement the bill. Despite the intent language, the bill results in costs for MDE and DNR to develop and/or update databases and to hire staff in order to meet the bill's tracking and reporting requirements. Without actual experience under the bill, a reliable estimate of the increase in costs cannot be made at this time. Even so, it is anticipated that general fund expenditures increase, likely by at least \$100,000 to \$150,000 annually, beginning in fiscal 2022.

It is anticipated that DNR needs to hire one new employee and that MDE likely needs to hire at least one or two new employees because (1) DNR does not track information on how court cases are disposed and the bill establishes a new, substantial reporting requirement; (2) the bill requires MDE to compile a significant amount of information and data across multiple administrations and track and report that information on an ongoing basis, in a manner that MDE is not currently doing; and (3) current MDE and DNR staff are fully subscribed with existing duties. MDE advises that it is developing a system (the Environmental Tracking System) that will have the capacity to host the information required by the bill. However, MDE further advises that there is a moderate amount of information that must be reported under the bill that MDE was not planning on including

in the system. Thus, additional programming is necessary. However, the Department of Legislative Services (DLS) does not have sufficient information at this time to determine the exact number of additional staff needed to implement the bill.

DLS notes that the bill may affect the number of PIA requests submitted to MDE and DNR each year. However, this estimate does not account for any such impact; without experience under the bill, the impact on the agencies' PIA workloads cannot be reliably estimated.

Additional Comments: Various enforcement actions apply to violations of the State's environmental and natural resources laws. This analysis does not reflect any change in specific enforcement activities undertaken and/or penalties collected.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 204 (Delegate Lierman) - Environment and Transportation.

Information Source(s): Office of the Attorney General; Maryland Department of the Environment; Department of Natural Resources; Department of Legislative Services

Fiscal Note History: First Reader - January 19, 2021
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