
By: Chairman, Environmental Matters Committee (Departmental - Environment)

Introduced and read first time: January 31, 1996

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environmental Noise Control - Repeal**

3 FOR the purpose of repealing the environmental noise control law and the
4 responsibilities of the Department of the Environment related to environmental
5 noise control; repealing restrictions on noise control ordinances adopted by political
6 subdivisions; abolishing the Environmental Noise Advisory Council and the
7 Interagency Noise Control Committee; providing transitional provisions relating to
8 the abolishment of the Advisory Council and the Committee; and generally relating
9 to the regulation of environmental noise by the State.

10 BY repealing

11 Article - Environment
12 Section 3-101 through 3-408, inclusive, and the title "Title 3. Noise Control" and
13 the various subtitles
14 Annotated Code of Maryland
15 (1993 Replacement Volume and 1995 Supplement)

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

18 **Article - Environment**

19 [Title 3. Noise Control.]

20 [Subtitle 1. Definitions; General Provisions.]

21 [3-101.

22 (a) In this title the following words have the meanings indicated.

23 (b) "Committee" means the Interagency Noise Control Committee.

24 (c) "Council" means the Environmental Noise Advisory Council.

25 (d) "Environmental noise standard" means a goal for the limitation of noise, from
26 all sources, that exists in a defined area under specified conditions.

27 (e) (1) "Noise" means the intensity, frequency, duration, and character of
28 sound.

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1 (2) "Noise" includes sound and vibration of subaudible frequencies.

2 (f) "Political subdivision" means a county or municipal corporation of this State.

3 (g) "Sound level limit" means the maximum allowable noise emission from a noise
4 source in a defined area under specified conditions.

5 (h) "Source" means any person or property from which sound originates.]

6 [3-102.

7 (a) The General Assembly finds:

8 (1) That the people of this State have a right to an environment that is free
9 from any noise that:

10 (i) May jeopardize their health, general welfare, or property; or

11 (ii) Degrades the quality of their lives;

12 (2) That there is a substantial body of knowledge about the adverse effects
13 of excessive noise on the public health, the general welfare, and property, and that this
14 knowledge should be used to develop environmental noise standards that will protect the
15 public health, the general welfare, and property with an adequate margin of safety; and

16 (3) That it is essential to have coordination and statewide leadership of the
17 noise control activities of the many State agencies and the county and local governments.

18 (b) It is the intent of the General Assembly that the Department shall:

19 (1) Seek appropriate resources to ensure enforcement of the sound level
20 limits and noise control rules and regulations adopted under this title; and

21 (2) Work cooperatively with the appropriate agencies of political
22 subdivisions in ensuring the implementation and enforcement of the requirements of this
23 title.]

24 [3-103.

25 (a) Except as otherwise provided by law, and in addition to the duties set forth
26 elsewhere in this title, the Department shall:

27 (1) Develop a plan for attaining and maintaining the environmental noise
28 standards that are adopted;

29 (2) Coordinate all State agency programs on noise control; and

30 (3) Keep a record of each sound level limit that is adopted by any political
31 subdivision or agency of this State.

32 (b) Each State agency shall consult with the Department before adopting any
33 sound level limit or noise control rule or regulation.]

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1 [3-104.

2 The Department may obtain any federal or other funds that are available to this
3 State for purposes that are within the scope of this title.]

4 [3-105.

5 (a) (1) Except as provided in this section, this title does not limit the power of
6 a political subdivision to adopt noise control ordinances, rules, or regulations.

7 (2) A political subdivision may not adopt any noise control ordinance, rule,
8 or regulation that is less stringent than the environmental noise standards, sound level
9 limits, and noise control rules and regulations adopted under this title.

10 (3) (i) A political subdivision may not adopt any noise control ordinance,
11 rule, or regulation, including the environmental noise standards, sound level limits, and
12 noise control rules and regulations adopted under this title, that prohibits trapshooting,
13 skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a
14 shooting sports club that is chartered and in operation as of July 1, 1983. However, this
15 prohibition does not apply if the sports shooting club moves to a parcel of land that is not
16 contiguous to the location of the club on July 1, 1983.

17 (ii) This paragraph does not apply in Allegany, Anne Arundel,
18 Baltimore City, Calvert, Charles, Garrett, Howard, Montgomery, St. Mary's, and
19 Washington counties.

20 (b) Each political subdivision shall:

21 (1) Send to the Department a copy of each noise control ordinance, rule, or
22 regulation that it adopts; and

23 (2) Identify on each zoning map, comprehensive plan, or other appropriate
24 document the sound level limits that are adopted under Subtitle 4 of this title.]

25 [Subtitle 2. Environmental Noise Advisory Council.]

26 [3-201.

27 There is an Environmental Noise Advisory Council in the Department.]

28 [3-202.

29 (a) (1) The Council consists of 5 members appointed by the Secretary.

30 (2) Of the 5 Council members:

31 (i) 1 shall be appointed from a list of at least 3 qualified individuals
32 submitted to the Secretary by the Acoustical Society of America;

33 (ii) 1 shall be a physician who specializes in hearing, appointed from a
34 list of at least 3 qualified individuals submitted to the Secretary by the Medical and
35 Chirurgical Faculty of the State of Maryland;

36 (iii) 1 shall be appointed from a list of at least 3 qualified individuals
37 submitted to the Secretary by the Chancellor of the University of Maryland System; and

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1 (iv) 2 shall be appointed from the general public.

2 (3) Before appointing the members from among the general public, the
3 Secretary shall request and consider suggestions for nominees from:

4 (i) The Maryland State Chamber of Commerce;

5 (ii) The Maryland Transportation Federation;

6 (iii) The Maryland Environmental Trust; and

7 (iv) Any other environmental groups that the Secretary selects.

8 (4) In making any appointment to the Council, the Secretary shall consider
9 giving appropriate representation to the various geographical areas of this State.

10 (b) Each member of the Council shall be a resident of this State.

11 (c) (1) The term of a member is 5 years.

12 (2) The terms of members are staggered as required by the terms provided
13 for members of the Council on July 1, 1982. The terms of those members end as follows:

14 (i) 1 in 1983;

15 (ii) 1 in 1984;

16 (iii) 1 in 1985;

17 (iv) 1 in 1986; and

18 (v) 1 in 1987.

19 (3) At the end of a term, a member continues to serve until a successor is
20 appointed and qualifies.

21 (4) A member who is appointed after a term has begun serves only for the
22 rest of the term and until a successor is appointed and qualifies.]

23 [3-203.

24 From among the Council members, the Secretary of the Environment shall appoint
25 a chairman, a vice chairman, and a secretary of the Council.]

26 [3-204.

27 (a) The Council shall meet at the times and places that the Secretary or the
28 chairman determines.

29 (b) A member of the Council:

30 (1) May not receive compensation; but

31 (2) Is entitled to reimbursement for expenses under the Standard State
32 Travel Regulations, as provided in the State budget.

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1 (c) The Department shall provide the Council with secretarial and stenographic
2 assistance.]

3 [3-205.

4 (a) Before the Department adopts any environmental noise standard or sound
5 level limit, the Department shall submit the proposed environmental noise standard or
6 sound level limit to the Council for advice.

7 (b) Within 60 days after receiving a proposed environmental noise standard or
8 sound level limit from the Department, the Council shall give the Department its advice
9 on the proposal by recommending:

10 (1) Adoption;

11 (2) Rejection; or

12 (3) Modification.]

13 [Subtitle 3. Interagency Noise Control Committee.]

14 [3-301.

15 There is an Interagency Noise Control Committee.]

16 [3-302.

17 (a) The Committee consists of:

18 (1) 1 member of the Governor's executive staff, appointed by the Governor;
19 and

20 (2) 1 representative of each of the following departments, appointed by the
21 Secretary of that department:

22 (i) The Department of the Environment;

23 (ii) The State Department of Transportation;

24 (iii) The Department of Natural Resources;

25 (iv) The Office of Planning; and

26 (v) Any other principal department that develops, adopts, or enforces
27 any noise control rule or regulation.

28 (b) The member who is appointed by the Secretary of the Environment is
29 chairman of the Committee.]

30 [3-303.

31 (a) The Committee shall meet at least twice a year, at the times and places that it
32 determines.

33 (b) A member of the Committee:

34 (1) May not receive compensation; but

6

1 (2) Is entitled to reimbursement for expenses under the Standard State
2 Travel Regulations, as provided in the State budget.

3 (c) (1) In accordance with the State budget, the Committee may:

4 (i) Employ a staff;

5 (ii) Employ consultants; and

6 (iii) Obtain office facilities.

7 (2) The Department of the Environment shall provide the Committee with
8 secretarial and stenographic assistance.]

9 [3-304.

10 (a) The Committee shall:

11 (1) Receive reports of progress, problems, and proposed plans for attaining
12 and maintaining State environmental noise standards from each agency that is
13 represented on the Committee;

14 (2) Evaluate the adequacy of existing and proposed efforts to attain and
15 maintain State environmental noise standards;

16 (3) Review the relationship of State noise control rules and regulations with
17 other environmental laws, rules, regulations, standards, and programs; and

18 (4) Recommend new or revised noise control rules, regulations, or
19 legislation.

20 (b) If the Council requests, the annual report of the Committee shall include a
21 report of the Council.]

22 [Subtitle 4. Rulemaking and Enforcement.]

23 [3-401.

24 (a) Except as otherwise provided by law, the Department shall adopt
25 environmental noise standards, sound level limits, and noise control rules and regulations
26 as necessary to protect the public health, the general welfare, and property.

27 (b) In adopting environmental noise standards, the Department shall consider:

28 (1) Information published by the Administrator of the United States
29 Environmental Protection Agency on the levels of environmental noise that must be
30 attained and maintained in defined areas under various conditions to protect public
31 health and welfare with an adequate margin of safety; and

32 (2) Scientific information about the volume, frequency, duration, and other
33 characteristics of noise that may harm public health, safety, or general welfare, including:

34 (i) Temporary or permanent hearing loss;

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1 (ii) Interference with sleep, speech communication, work, or other
2 human activities;

3 (iii) Adverse physiological responses;

4 (iv) Psychological distress;

5 (v) Harm to animal life;

6 (vi) Devaluation of or damage to property; and

7 (vii) Unreasonable interference with the enjoyment of life or property.

8 (c) (1) In adopting sound level limits and noise control rules and regulations,
9 the Department shall consider, among other things:

10 (i) The residential, commercial, or industrial nature of the area
11 affected;

12 (ii) Zoning;

13 (iii) The nature and source of various kinds of noise;

14 (iv) The degree of noise reduction that may be attained and
15 maintained using the best available technology;

16 (v) Accepted scientific and professional methods for measurement of
17 sound levels; and

18 (vi) The cost of compliance with the sound level limits.

19 (2) The sound level limits adopted under this subsection shall be consistent
20 with the environmental noise standards adopted by the Department.

21 (3) The sound level limits and noise control rules and regulations adopted
22 under this subsection may not prohibit trapshooting or other target shooting on any range
23 or other property in Frederick County that the Frederick County Department of Planning
24 and Zoning has approved as a place for those sporting events.

25 (4) The sound level limits and noise control rules and regulations adopted
26 under this subsection shall be as follows for residential heat pumps and air conditioning
27 units:

28 (i) Residential heat pumps 75dba;

29 (ii) Residential air conditioning units 70dba.

30 (5) (i) The sound level limits and noise control rules and regulations
31 adopted under this subsection may not prohibit trapshooting, skeetshooting, or other
32 target shooting between the hours of 9 a.m. and 10 p.m. on any range or other property of
33 a shooting sports club that is chartered and in operation as of July 1, 1983. However, this
34 prohibition does not apply if the sports shooting club moves to a parcel of land that is not
35 contiguous to the location of the club on July 1, 1983.

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1 (ii) This paragraph does not apply in Allegany, Anne Arundel,
2 Baltimore City, Calvert, Charles, Garrett, Howard, Montgomery, St. Mary's, and
3 Washington Counties.

4 (d) (1) This section does not authorize the Department to adopt environmental
5 noise standards, sound level limits, or noise control rules and regulations that apply to
6 noise from:

7 (i) Construction or repair work on public property; or

8 (ii) Fire or rescue station alerting devices.

9 (2) Noise control rules and regulations that apply to Department of
10 Transportation facilities shall be adopted jointly by the Department of Transportation
11 and the Department of the Environment.]

12 [3-402.

13 (a) The Department may not adopt any environmental noise standard, sound
14 level limit, or noise control rule or regulation unless the requirements of this section and
15 the Administrative Procedure Act are met.

16 (b) Before adopting any proposed environmental noise standard, sound level
17 limit, or noise control rule or regulation, the Department shall announce and hold a
18 public hearing on the subject.

19 (c) (1) At least 60 days before the public hearing, the Department shall publish
20 notice of the hearing in a newspaper of general circulation within the area concerned.

21 (2) The notice shall state:

22 (i) The date, time, and place of the hearing; and

23 (ii) The purpose of the hearing.

24 (d) At least 60 days before the public hearing, the Department shall make the
25 proposed environmental noise standard, sound level limit, or noise control rule or
26 regulation available to the public.

27 (e) After the public hearing, the Department may adopt the proposed
28 environmental noise standard, sound level limit, or noise control rule or regulation, with
29 or without modification.]

30 [3-403.

31 (a) The Department shall enforce the sound level limits and noise control rules
32 and regulations adopted under this title.

33 (b) To the maximum extent possible, the Department shall use the facilities and
34 services of appropriate agencies of political subdivisions in its enforcement under this
35 section.

36 (c) The Department may assist the noise control efforts of any appropriate agency
37 of any political subdivision by giving that agency technical assistance in the form of
38 personnel or equipment.

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1 (d) Each sound level limit shall be applied at the boundary of:

2 (1) A property; or

3 (2) A land use category, as determined by the Department.]

4 [3-404.

5 If the Department determines that there is a violation of this title or any sound level
6 limit or noise control rule or regulation adopted under this title, the Department, after
7 notice to the alleged violator, may issue a corrective order.]

8 [3-405.

9 (a) The Department may bring an action to enjoin any conduct that is a willful
10 violation of any provision of this title or any rule, regulation, or order adopted or issued
11 under this title.

12 (b) An action may not be brought under this section unless the person against
13 whom it is brought has been given a reasonable time to comply with the provision that is
14 the basis of the action.]

15 [3-406.

16 (a) A person who willfully violates any provision of this title or any rule,
17 regulation, or order adopted or issued under this title is liable to a civil penalty not
18 exceeding \$10,000, to be collected in a civil action brought by the Department in the
19 circuit court for any county. Each day a violation continues is a separate violation under
20 this section.

21 (b) If the Attorney General concurs, the Secretary may compromise and settle any
22 claim for a civil penalty under this section.

23 (c) If, within 1 year after a civil penalty is compromised and settled under
24 subsection (b) of this section, the person against whom the penalty is imposed satisfies the
25 Secretary that the violation has been eliminated or the order has been satisfied, the
26 Secretary, with the concurrence of the Attorney General, may return to the person not
27 more than 75 percent of the penalty paid.

28 (d) An action under this section is in addition to and not instead of an action for
29 injunctive relief under § 3-405 of this subtitle.]

30 [3-407.

31 (a) A person is not subject to action for a violation of a provision of this title or
32 any rule or regulation adopted under this title so long as the person acts in accordance
33 with a plan for compliance that:

34 (1) The person has submitted to the Secretary; and

35 (2) The Secretary has approved, with or without amendments.

36 (b) The Secretary shall act on any plan for compliance within 90 days after the
37 plan is submitted to the Secretary.]

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1 [3-408.

2 A condition that is caused by an act of God, a strike, a riot, a catastrophe, or a cause
3 over which an alleged violator has no control is not a violation of this title or any rule or
4 regulation adopted under this title.]

5 SECTION 2. AND BE IT FURTHER ENACTED, That the Environmental
6 Noise Advisory Council and the Interagency Noise Control Committee are abolished. The
7 books, records, papers, files, equipment, furniture, and other personalproperty of the
8 Environmental Noise Advisory Council and the Interagency Noise Control Committee are
9 hereby transferred to the Department of the Environment. Any staff or consultants
10 employed by the Interagency Noise Control Committee are terminated as of the effective
11 date of this act. Any staff assigned by the Department of the Environment to the
12 Committee or to the Environmental Noise Advisory Council under § 3-204(c) or §
13 3-303(c)(2) of the Environment Article shall remain employees of the Department of the
14 Environment without any diminution of position, title, salary, benefits, service credit, or
15 any other rights and privileges as State employees.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 June 1, 1996.