
By: Delegates Elliott, Edwards, Snodgrass, Brinkley, Stull, Stocksdale, Ports, Klima, Hutchins, Schade, Rzepkowski, Greenip, Harkins, Eckardt, Beck, Mossburg, McKee, Stup, Getty, Holt, Redmer, Kelly, D. Murphy, Faulkner, Kittleman, La Vay, O'Donnell, Baldwin, Jacobs, Walkup, D. Hughes, and McClenahan

Introduced and read first time: January 31, 1996

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Secretary of the Environment - Regulations - Authority**

3 FOR the purpose of prohibiting the Secretary of the Environment from adopting any
4 regulation or revision to a regulation that is more stringent than that which is
5 required by federal regulation or law in certain circumstances; creating exceptions
6 to this prohibition; making certain stylistic changes; and generally relating to the
7 authority of the Secretary to adopt regulations.

8 BY repealing and reenacting, with amendments,
9 Article - Environment
10 Section 1-404
11 Annotated Code of Maryland
12 (1993 Replacement Volume and 1995 Supplement)

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

15 **Article - Environment**

16 1-404.

17 (a) The Secretary is responsible for the budget of the office of the Secretary and
18 for the budget of each unit in the Department.

19 (b) (1) The Secretary may adopt [rules and] regulations to carry out the
20 provisions of law that are within the jurisdiction of the Secretary.

21 (2) The Secretary shall review and may revise the [rules and] regulations
22 of:

23 (i) Each unit in the Department that is authorized by law to adopt
24 [rules and] regulations; and

25 (ii) The Department.

1 (3) THE SECRETARY MAY NOT ADOPT ANY REGULATION OR REVISION
2 TO A REGULATION THAT IS MORE STRINGENT THAN THAT WHICH IS REQUIRED BY
3 FEDERAL REGULATION OR LAW, UNLESS:

4 (I) A PROVISION OF THIS ARTICLE MANDATES MORE STRINGENCY
5 THAN THAT WHICH IS REQUIRED BY FEDERAL REGULATION OR LAW; OR

6 (II) THE SECRETARY FINDS THAT A COMPELLING PURPOSE EXISTS
7 TO WARRANT A MORE STRINGENT REGULATION.

8 (c) The Secretary may create an advisory board for the Department. The
9 Secretary shall determine the size of the advisory board. The members shall be
10 representative of the different professional areas or fields of endeavor with which the
11 Department is concerned.

12 (d) The Secretary may create any advisory council that the Secretary considers
13 necessary and assign appropriate functions to it.

14 (e) (1) The Secretary is responsible for the coordination and direction of all
15 planning that the office of the Secretary initiates.

16 (2) The Secretary shall keep fully apprised of plans, proposals, and projects
17 of each unit in the Department and, except as expressly provided otherwise, may approve,
18 disapprove, or modify any of them.

19 (f) Each unit in the Department shall report to the Secretary as provided in the
20 [rules,] regulations[,], or written directives that the Secretary adopts.

21 (g) Except as expressly provided otherwise, the Secretary may transfer, by [rule,]
22 regulation[,], or written directive, any function, staff, or funds from any unit in the
23 Department to the office of the Secretary or another unit in the Department. Any staff
24 transferred to the office of the Secretary shall be provided space, equipment, and services
25 by the unit from which it was transferred, unless the Secretary orders removal to another
26 location for the proper and efficient functioning of that office.

27 (h) The Secretary may apply for, receive, and spend grants-in-aid by the federal
28 government or any of its agencies or any other federal funds made available to the
29 Department for use in carrying out the powers and duties of the Secretary or the
30 Department.

31 (i) Except as otherwise provided by law, the Secretary shall pay all money
32 collected by the Department under this article into the General Fund of this State.

33 (j) (1) The Secretary or a designee of the Secretary may subpoena any person
34 or evidence, administer oaths, and take depositions and other testimony.

35 (2) If a person fails to comply with a lawful order or subpoena issued under
36 this subsection, on petition of the Secretary or designee, a court of competent jurisdiction
37 may compel obedience to the order or subpoena or compel testimony or the production of
38 evidence.

39 (3) A witness who is subpoenaed at the request of the Secretary or designee
40 is entitled to receive the same fees and mileage provided for by law in civil cases.

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1 However, a witness who is subpoenaed at the request of any other party is not entitled to
2 fees or mileage, unless the Secretary or designee certifies that the testimony was material
3 to the matter investigated. The fee and mileage paid under this subsection shall be
4 audited and paid by this State in the same way other expenses are audited and paid and
5 shall be charged to the general appropriation for the Department.

6 (k) (1) The Secretary or any agent or employee of the Secretary may enter, at
7 any reasonable hour, a place of business or public premises if the entry is necessary to
8 carry out a duty under this article.

9 (2) A person may not deny or interfere with an entry under this subsection.

10 (3) A person who violates any provision of this subsection is guilty of a
11 misdemeanor and on conviction is subject to a fine not exceeding \$100.

12 (l) The Secretary shall carry out and enforce the provisions of this article, the
13 [rules and] regulations of the Department, and any other provisions of law that relate to
14 the Secretary or the Department.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 1996.