

BY: Commerce and Government Matters Committee

AMENDMENTS TO SENATE BILL NO. 195

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in lines 2 and 3, strike “Statute of Limitations” and substitute “Enforcement Procedures and Penalties”; strike in their entirety lines 11 through 15, inclusive, and substitute “establishing a civil citation procedure for the adjudication of certain violations of the State election law; providing for a civil penalty for certain violations of the Fair Election Practices Act of the Election Code and specifying a maximum fine for such civil violations; increasing the criminal fine for certain election law violations; authorizing the State Prosecutor to prosecute certain election law violations; providing for original jurisdiction of the District Court of the State for persons contesting a citation for a civil infraction of certain fair election practice laws; providing for the disposition of certain money collected by the court; altering the statute of limitations period for a prosecution for violations of certain fair election practices laws and certain ethics laws; repealing a certain statute of limitation provision; making certain stylistic changes; and generally relating to the statute of limitations period for certain election law and ethics law violations, the establishment of a system of civil penalties for certain violations of the Fair Election Practices Act of the State Election Code, and certain enforcement procedures and penalties for violations of the State ethics law and election law”.

AMENDMENT NO. 2

On page 1, strike in its entirety line 21 and substitute “Section 4-401(10) and 5-106”; and strike in its entirety line 26 and substitute “Section 26-13(c), 26-16(c), and 26-20”.

On page 2, after line 7, insert:

“BY adding to

Article 33 - Election Code

Section 26-20A

Annotated Code of Maryland

(1997 Replacement Volume)”.

(Over)

AMENDMENT NO. 3

On page 3, after line 6, insert:

“4-401.

Except as provided in § 4-402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(10) A proceeding for adjudication of:

(i) A municipal infraction as defined in Article 23A, § 3(b)(1) of the Code;

(ii) A Commission infraction as defined in Article 28, § 5-113 of the Code;

(iii) A WSSC infraction as defined in Article 29, § 18-104.1 of the Code, concerning rules and regulations governing publicly owned watershed property;

(iv) A WSSC infraction as defined in Article 29, § 18-104.2 of the Code, concerning WSSC regulations governing:

1. Erosion and sediment control for utility construction; and

2. Plumbing, gasfitting, and sewer cleaning;

(v) A zoning violation for which a civil penalty has been provided pursuant to Article 66B, § 7.01 or Article 28, § 8-120(c) of the Code;

(vi) A violation of an ordinance enacted:

1. By a charter county for which a civil penalty is provided under Article 25A, § 5(A) of the Code; or

2. By the Mayor and City Council of Baltimore for which a civil penalty is provided by ordinance;

(vii) A citation for a Code violation issued under Article 27, § 403 of the

Code;

(VIII) A CIVIL INFRACTION RELATING TO A VIOLATION OF THE FAIR ELECTION PRACTICES ACT OF THE ELECTION LAWS AS PROVIDED UNDER ARTICLE 33, § 26-20A OF THE CODE;

[(viii)] (IX) A violation of an ordinance or regulation enacted by a county without home rule, under authority granted under Article 25 of the Code, or any provision of the Code of Public Local Laws for that county, for which a civil penalty is provided; or

[(ix)] (X) A civil infraction that is authorized by law to be prosecuted by a sanitary commission;”.

AMENDMENT NO. 4

On page 3, strike in their entirety lines 33 through 38, inclusive, and substitute:

“(H) A PROSECUTION TO IMPOSE A CIVIL FINE FOR AN OFFENSE ARISING UNDER ARTICLE 33, § 26-20A OF THE CODE SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE OFFENSE WAS COMMITTED.

(I) A PETITION BY THE STATE ETHICS COMMISSION TO SEEK A CIVIL FINE UNDER § 15-902(B) OF THE STATE GOVERNMENT ARTICLE MAY NOT BE INITIATED UNLESS THE COMPLAINT IS FILED BY THE COMMISSION WITHIN 3 YEARS FROM THE TIME THE CONDUCT ENDED.”.

AMENDMENT NO. 5

On page 7, after line 13, insert:

“26-16.

(c) (1) It shall be the duty of the State's Attorney of Baltimore City and of the State's Attorney of each county of this State to prosecute, by the regular course of criminal procedure, any person whom [he may believe] THE STATE’S ATTORNEY BELIEVES to be guilty of having wilfully

(Over)

violated any of the provisions of this section within the city or county for which said State's Attorney may be acting as such.

(2) THE STATE PROSECUTOR MAY PROSECUTE, BY THE REGULAR COURSE OF CRIMINAL PROCEDURE, IN ANY JURISDICTION OF THE STATE, ANY PERSON WHOM THE STATE PROSECUTOR BELIEVES TO BE GUILTY OF HAVING WILLFULLY VIOLATED ANY OF THE PROVISIONS OF THIS SECTION.

26-20.

(A) [Any] EXCEPT AS PROVIDED IN § 26-15 OF THIS SUBTITLE, ANY person who KNOWINGLY AND WILLFULLY violates any of the provisions of this subtitle is guilty of a misdemeanor, and upon conviction shall be fined not more than [one thousand dollars (\$1,000.00)] \$25,000, or be imprisoned for not more than [one] 1 year, or both, in the discretion of the court.

(B) If a different penalty is specifically prescribed for violation of any section in this subtitle and expressly set forth therein, the specific penalty applies and the penalty set forth in this section does not apply.

26-20A.

(A) (1) ANY PERSON WHO, WITHOUT KNOWLEDGE OF THE ILLEGALITY OF THE ACT, VIOLATES ANY PROVISION OF THIS SUBTITLE SHALL PAY A CIVIL FINE IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED UNDER SUBSECTIONS (B) THROUGH (G) OF THIS SECTION.

(2) THE AMOUNT OF THE FINE IMPOSED UNDER THIS SECTION MAY NOT EXCEED \$5,000.

(3) AN INFRACTION UNDER THIS SECTION IS A CIVIL OFFENSE.

(4) IF A DIFFERENT PENALTY IS SPECIFICALLY PRESCRIBED FOR VIOLATION OF ANY SECTION IN THIS SUBTITLE AND EXPRESSLY SET FORTH THEREIN, THE SPECIFIC PENALTY APPLIES AND THE PENALTY SET FORTH IN THIS

SECTION DOES NOT APPLY.

(B) (1) WHEN THE STATE PROSECUTOR OR THE STATE'S ATTORNEY FOR A COUNTY, OR BOTH, DETERMINE THAT A PERSON HAS UNINTENTIONALLY, AND WITHOUT CRIMINAL INTENT, VIOLATED A PROVISION OF THIS SUBTITLE, THE STATE PROSECUTOR OR THE STATE'S ATTORNEY, OR BOTH, SHALL CAUSE TO BE ISSUED A CIVIL CITATION TO EACH PERSON WHO COMMITTED THE OFFENSE. THE CITATION SHALL CONTAIN:

(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;

(II) THE NATURE OF THE VIOLATION AND THE TIME, PLACE, AND MANNER IN WHICH IT OCCURRED;

(III) THE MAXIMUM FINE FOR THE VIOLATION THAT OCCURRED;

(IV) THE MANNER, LOCATION, AND TIME IN WHICH THE FINE MAY BE PAID; AND

(V) A STATEMENT THAT THE PERSON RECEIVING THE CITATION HAS A RIGHT TO A TRIAL IN THE DISTRICT COURT OF MARYLAND.

(2) THE ORIGINAL OF A CITATION SHALL BE FILED IN THE DISTRICT COURT HAVING PROPER VENUE.

(C) THE CITATION SHALL BE SERVED UPON THE PERSON NAMED IN THE CITATION BY MAIL OR BY PERSONAL SERVICE BY A SHERIFF OR A COMPETENT PRIVATE PERSON 18 YEARS OLD OR OLDER.

(D) THE SHERIFF OR PERSON WHO SERVES THE CITATION SHALL MAKE A PROMPT RETURN OF SERVICE TO THE COURT THAT SHOWS THE DATE, TIME, AND PLACE OF SERVICE.

(Over)

(E) (1) ON RECEIPT OF THE RETURN OF SERVICE, THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND NOTIFY THE PERSON NAMED IN THE CITATION OF THE TRIAL DATE.

(2) THE TRIAL IN THE DISTRICT COURT SHALL BE PROSECUTED IN THE SAME MANNER AND TO THE SAME EXTENT AS SET FORTH FOR MUNICIPAL INFRACTIONS UNDER ARTICLE 23A, § 3(B)(8) THROUGH (15) OF THE CODE.

(3) ALL LATE FEES COLLECTED BY THE DISTRICT COURT SHALL BE REMITTED TO THE STATE ADMINISTRATIVE BOARD OF ELECTION LAWS.

(4) AN ADJUDICATION OF A VIOLATION UNDER THIS SUBSECTION:

(I) IS NOT A CRIMINAL CONVICTION; AND

(II) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

(F) IF A PERSON IS FOUND TO HAVE COMMITTED THE VIOLATION SET FORTH IN THE CITATION, THE PERSON SHALL BE LIABLE FOR THE COSTS OF THE PROCEEDINGS IN THE DISTRICT COURT.

(G) (1) IF A PERSON WHO HAS BEEN SERVED WITH A CITATION FAILS TO APPEAR FOR TRIAL, THE COURT, AT THE REQUEST OF THE PROSECUTOR, MAY EITHER DISMISS THE CITATION OR GRANT A CIVIL JUDGMENT AGAINST THE PERSON NAMED IN THE CITATION IN FAVOR OF THE STATE ADMINISTRATIVE BOARD OF ELECTION LAWS IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

(2) THE AMOUNT OF A JUDGMENT UNDER THIS SUBSECTION MAY NOT EXCEED THE TOTAL OF THE MAXIMUM FINE SET FORTH IN SUBSECTION (A) OF THIS SECTION AND ANY LATE FEES OWED TO THE STATE ADMINISTRATIVE BOARD OF ELECTION LAWS.”.