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**By: Delegates Wood and Stup**

Introduced and read first time: February 24, 1997

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Mining Operations - Nuisance Actions**

3 FOR the purpose of providing that certain mining operations may not be considered to be  
4 a public or private nuisance; prohibiting certain private actions that relate to mining  
5 operations; defining certain terms; providing for the application of this Act; and  
6 generally relating to nuisance actions that relate to mining operations.

7 BY adding to

8 Article - Courts and Judicial Proceedings  
9 Section 5-308.2  
10 Annotated Code of Maryland  
11 (1995 Replacement Volume and 1996 Supplement)

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

14 **Article - Courts and Judicial Proceedings**

15 5-308.2.

16 (A) IN THIS SECTION, "OPERATION" MEANS THE FOLLOWING:

17 (1) THE BREAKING OF THE SURFACE SOIL IN ORDER TO FACILITATE OR  
18 ACCOMPLISH THE EXTRACTION OR REMOVAL OF MINERALS;

19 (2) ANY ACTIVITY OR PROCESS CONSTITUTING ALL OR PART OF A  
20 PROCESS FOR THE EXTRACTION OR REMOVAL OF MINERALS FROM THEIR  
21 ORIGINAL LOCATION; OR

22 (3) THE EXTRACTION OF SAND, GRAVEL, ROCK, STONE, EARTH, OR FILL  
23 FROM BORROW PITS FOR HIGHWAY CONSTRUCTION PURPOSES OR OTHER PUBLIC  
24 FACILITIES.

25 (B) THIS SECTION DOES NOT APPLY TO:

26 (1) A MINING OPERATION THAT DOES NOT CONFORM TO FEDERAL,  
27 STATE, OR LOCAL HEALTH OR ZONING REQUIREMENTS;

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1                   (2) A FEDERAL, STATE, OR LOCAL AGENCY WHEN ENFORCING AIR,  
2 WATER QUALITY, OR OTHER ENVIRONMENTAL STANDARDS UNDER FEDERAL,  
3 STATE, OR LOCAL LAW; OR

4                   (3) A MINING OPERATION THAT IS CONDUCTED IN A NEGLIGENT  
5 MANNER.

6                   (C) (1) IF A MINING OPERATION, INCLUDING ANY CHANGE IN THE  
7 OPERATION, HAS BEEN UNDER WAY FOR A PERIOD OF 1 YEAR OR MORE AND IF THE  
8 OPERATION OR THE CHANGE DID NOT CONSTITUTE A NUISANCE FROM THE DATE  
9 THE OPERATION BEGAN OR THE DATE ON WHICH THE CHANGE IN THE OPERATION  
10 BEGAN, THE MINING OPERATION MAY NOT BE CONSIDERED OR BECOME TO BE  
11 CONSIDERED A PUBLIC OR PRIVATE NUISANCE.

12                   (2) A PRIVATE ACTION AGAINST A MINING OPERATION THAT IS  
13 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE SUSTAINED ON  
14 THE GROUNDS THAT THE OPERATION INTERFERES OR HAS INTERFERED WITH THE  
15 USE OR ENJOYMENT OF OTHER PROPERTY, WHETHER PUBLIC OR PRIVATE.

16                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 1997.