

HOUSE BILL 926

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HB 1423/97 - ENV

1998 Regular Session
8r2332

By: **Delegates Stup, Wood, and Bissett**
Introduced and read first time: February 12, 1998
Assigned to: Environmental Matters

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
4 be a public or private nuisance; prohibiting certain private actions that relate to
5 mining operations; defining certain terms; and generally relating to nuisance
6 actions that relate to mining operations.

7 BY adding to
8 Article - Courts and Judicial Proceedings
9 Section 5-404.1
10 Annotated Code of Maryland
11 (1995 Replacement Volume and 1997 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 5-404.1.

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 ORIGINAL
21 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:

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

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

6 (3) A MINING OPERATION THAT IS CONDUCTED IN A NEGLIGENT
7 MANNER.

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

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

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 1998.