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

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Committee Report: Favorable with amendments  
House action: Adopted with floor amendments  
Read second time: March 25, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Local Governments - 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~~ authorizing the governing body of a county or municipal  
6 corporation to adopt certain provisions and take certain actions to protect  
7 relating to a certain authority to conduct mining operations; authorizing the  
8 establishment of local mining mediating councils for certain purposes; defining  
9 certain terms; providing for the application of this Act; and generally relating to  
10 ~~nuisance actions that relate to~~ mining operations.

11 BY adding to  
12 Article - Courts and Judicial Proceedings  
13 Section 5-404.1  
14 Annotated Code of Maryland  
15 (1995 Replacement Volume and 1997 Supplement)

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

18 **Article - Courts and Judicial Proceedings**

19 5-404.1.

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

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

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

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

7 (B) THIS SECTION DOES NOT APPLY TO:

8 (1) ACTIVITIES GOVERNED UNDER TITLE 15, SUBTITLES 1 THROUGH 7  
 9 OF THE ENVIRONMENT ARTICLE;

10 ~~(1)~~ (2) A MINING OPERATION THAT DOES NOT CONFORM TO FEDERAL,  
 11 STATE, OR LOCAL ENVIRONMENTAL, HEALTH, OR ZONING REQUIREMENTS;

12 ~~(2)~~ (3) A FEDERAL, STATE, OR LOCAL AGENCY WHEN ENFORCING AIR,  
 13 WATER QUALITY, OR OTHER ENVIRONMENTAL STANDARDS UNDER FEDERAL, STATE,  
 14 OR LOCAL LAW; OR

15 ~~(3)~~ (4) A MINING OPERATION THAT IS CONDUCTED IN A NEGLIGENT  
 16 MANNER.

17 ~~(C) (1) IF A MINING OPERATION, INCLUDING ANY CHANGE IN THE~~  
 18 ~~OPERATION, HAS BEEN UNDER WAY FOR A PERIOD OF 1 YEAR OR MORE AND IF THE~~  
 19 ~~OPERATION OR THE CHANGE DID NOT CONSTITUTE A NUISANCE FROM THE DATE~~  
 20 ~~THE OPERATION BEGAN OR THE DATE ON WHICH THE CHANGE IN THE OPERATION~~  
 21 ~~BEGAN, THE MINING OPERATION MAY NOT BE CONSIDERED OR BECOME TO BE~~  
 22 ~~CONSIDERED A PUBLIC OR PRIVATE NUISANCE.~~

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

27 (C) SUBJECT TO THE PROVISIONS OF THIS SECTION, AND CONSISTENT WITH  
 28 THE STATE REGULATION OF MINING OPERATIONS UNDER THE ENVIRONMENT  
 29 ARTICLE, THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY  
 30 ADOPT AN ORDINANCE OR REGULATION ~~TO PROTECT~~ RELATING TO THE AUTHORITY  
 31 TO CONDUCT MINING OPERATIONS WITHIN ITS JURISDICTION BY ESTABLISHING A  
 32 LOCAL MINING MEDIATING COUNCIL TO ADDRESS CONCERNS RELATED TO MINING  
 33 AS THEY MAY RELATE TO:

34 (1) PUBLIC OR PRIVATE NUISANCE; OR

35 (2) INTERFERENCE WITH THE PRIVATE USE OR ENJOYMENT OF  
 36 PROPERTY.

1     (D)     BEFORE ADOPTING AN ORDINANCE OR REGULATION UNDER THIS  
2 SECTION, THE LOCAL GOVERNING BODY SHALL HOLD A PUBLIC HEARING AND  
3 PROVIDE REASONABLE NOTICE OF THE HEARING IN ACCORDANCE WITH LOCAL LAW.

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