
By: **Chairman, Environmental Matters Committee (Departmental - Environment)**

Introduced and read first time: February 13, 1998

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 27, 1998

CHAPTER _____

1 AN ACT concerning

2 **Environment - Drinking Water**

3 FOR the purpose of altering the definition of a public water system; defining certain
4 terms; requiring each public supplier of water to provide certain public notice if
5 a certain system fails to meet certain standards; prohibiting a supplier of water
6 from making a false representation to the Department of Environment;
7 prohibiting a person from tampering with a public water system; imposing
8 certain civil penalties for tampering with a public water system; imposing
9 certain criminal penalties for making a false representation to the Department;
10 ~~authorizing the Department to impose certain administrative penalties for~~
11 ~~certain violations related to safe drinking water;~~ providing for hearing and
12 appeal procedures related to administrative ~~penalties~~ orders; imposing certain
13 performance requirements on new public water systems after a certain date;
14 and generally relating to public water systems and drinking water standards
15 and requirements.

16 BY repealing and reenacting, with amendments,
17 Article - Environment
18 Section 9-401, 9-410, 9-412, and 9-413
19 Annotated Code of Maryland
20 (1996 Replacement Volume and 1997 Supplement)

21 BY adding to
22 Article - Environment
23 Section 9-412.1, 9-414, 9-415, 9-416, and 9-417
24 Annotated Code of Maryland

(1996 Replacement Volume and 1997 Supplement)

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

Article - Environment

9-401.

(a) In this subtitle the following words have the meanings indicated.

(b) "Administrator" means the Administrator of the United States
Environmental Protection Agency.

(C) "COMMUNITY WATER SYSTEM" MEANS A PUBLIC WATER SYSTEM THAT:

(1) SERVES AT LEAST 15 SERVICE CONNECTIONS USED BY YEAR-ROUND
RESIDENTS OF THE AREA SERVED BY THE SYSTEM; OR

(2) REGULARLY SERVES AT LEAST 25 YEAR-ROUND RESIDENTS.

[(c)] (D) "Contaminant" means any chemical, biological, or radioactive
substance that is harmful to health if in the water.

[(d)] (E) "Federal Act" means the federal Safe Drinking Water Act.

[(e)] (F) "Federal agency" means any department, agency, or instrumentality
of the United States.

[(f)] (G) "National primary drinking water regulations" means the primary
drinking water rules or regulations that the Administrator adopts under the Federal
Act.

(H) "NONCOMMUNITY WATER SYSTEM" MEANS A PUBLIC WATER SYSTEM
THAT IS NOT A COMMUNITY WATER SYSTEM.

(I) "NONTRANSIENT NONCOMMUNITY WATER SYSTEM" MEANS A PUBLIC
WATER SYSTEM THAT IS NOT A COMMUNITY SYSTEM AND THAT REGULARLY SERVES
AT LEAST 25 OF THE SAME INDIVIDUALS OVER 6 MONTHS PER YEAR.

[(g)] (J) "Person" includes:

(1) The Washington Suburban Sanitary Commission;

(2) Any State, county, municipal corporation, or federal agency;

(3) Any special taxing area or district that operates a public water
system; and

(4) Any officer, agent, or employee of any of these.

1 [(h)] (K) "Primary drinking water regulation" means a rule or regulation that:

2 (1) Applies to public water systems;

3 (2) Specifies contaminants that, in the judgment of the Secretary, would
4 have an adverse effect on the health of human beings;

5 (3) Specifies for each contaminant either:

6 (i) A maximum contaminant level if, in the judgment of the
7 Secretary, it is economically and technologically feasible to determine the level of the
8 contaminant in water in public water systems; or

9 (ii) If, in the judgment of the Secretary, it is not economically or
10 technologically feasible to determine the level of the contaminant, each treatment
11 technique known to the Secretary that leads to a reduction in the level of the
12 contaminant sufficient to satisfy the requirements of this subtitle; and

13 (4) Contains standards and procedures:

14 (i) To ensure a supply of drinking water that dependably complies
15 with the maximum contaminant levels, including quality control and testing
16 procedures for compliance with those levels;

17 (ii) To ensure proper operation and maintenance of the system; and

18 (iii) To establish requirements as to:

19 1. The minimum quality of water that may be taken into the
20 system; and

21 2. Siting for new facilities for public water systems.

22 [(i)] (L) (1) "Public water system" means a system that:

23 (i) Provides to the public [piped] water for human [consumption;]
24 CONSUMPTION THROUGH PIPES OR OTHER CONSTRUCTED CONVEYANCES; and

25 (ii) 1. Has at least 15 service connections; or

26 2. Regularly serves at least 25 individuals.

27 (2) "Public water system" includes:

28 (i) Any collection, treatment, storage, or distribution facility that is
29 under the control of the operator of the system and is used primarily in connection
30 with the system; and

31 (ii) Any collection or pretreatment storage facility that is not under
32 the control of the operator of the system and is used primarily in connection with the
33 system.

1 [(j)] (M) "Supplier of water" means any person who owns or operates a public
2 water system.

3 (N) "TRANSIENT NONCOMMUNITY WATER SYSTEM" MEANS A
4 NONCOMMUNITY WATER SYSTEM THAT DOES NOT REGULARLY SERVE AT LEAST 25
5 OF THE SAME INDIVIDUALS OVER 6 MONTHS PER YEAR.

6 9-410.

7 (a) [Each public water system shall notify the Department, the Administrator,
8 and the communications media serving the area served by the public water system
9 whenever the system] EACH SUPPLIER OF WATER SHALL GIVE NOTICE TO THE
10 DEPARTMENT AND THE PERSONS SERVED BY THE SYSTEM WHENEVER THE SYSTEM:

11 (1) [Is not in compliance with the State primary drinking water
12 regulations] FAILS TO COMPLY WITH AN APPLICABLE MAXIMUM CONTAMINANT
13 LEVEL, TREATMENT TECHNIQUE REQUIREMENT, OR TESTING PROCEDURE
14 PRESCRIBED BY A DRINKING WATER REGULATION OR FAILS TO PERFORM REQUIRED
15 MONITORING;

16 (2) [Fails to perform the monitoring required by the rules and
17 regulations adopted by the Secretary;

18 (3) [Is subject to variance granted for an inability to meet a maximum
19 contaminant [level requirement] LEVEL;

20 [(4)] (3) Is subject to an exemption; [or]

21 [(5)] (4) Fails to comply with the requirements set by a variance or
22 exemption; OR

23 (5) ~~EXCEEDS THE LEVEL OF AN UNREGULATED CONTAMINANT FOR~~
24 ~~WHICH THE STATE REQUIRES PUBLIC NOTICE HAS CONCENTRATION LEVELS OF AN~~
25 UNREGULATED CONTAMINANT FOR WHICH THE STATE MAY REQUIRE NOTICE DUE
26 TO THE RISK TO PUBLIC HEALTH.

27 (b) [The] EACH notice shall:

28 (1) State the nature and possible health effects that may result;

29 [(2) Be published by the public water system in a newspaper of general
30 circulation, as determined by the Secretary, within the area served by the water
31 system at least once every 3 months as long as the violation, variance, or exemption
32 continues; and

33 (3) Be included with the water bills of the water system as follows so
34 long as the violation, variance, or exemption continues:

1 (i) If the water bills of the public water system are issued more
2 often than once every 3 months, the notice shall be included in at least 1 water bill of
3 the system for each customer every 3 months; or

4 (ii) If the system issues its water bills less often than once every 3
5 months, the notice shall be included in every water bill issued by the system for each
6 customer]

7 (2) BE PROVIDED TO THE PERSONS SERVED BY THE WATER SYSTEM;

8 (3) BE ISSUED IN A TIMELY MANNER BY MEANS OF RADIO, TELEVISION,
9 NEWSPAPER OF GENERAL CIRCULATION, WRITTEN NOTICE, OR OTHER MEANS
10 ACCEPTABLE TO THE DEPARTMENT; AND

11 (4) BE IN A FORM READILY UNDERSTANDABLE BY THE AFFECTED
12 POPULATION.

13 (c) (1) By rule or regulation, the Secretary [may] SHALL adopt notice
14 requirements [alternative] to MEET [those in] THE REQUIREMENTS OF this section.

15 (2) THE RULES AND REGULATIONS SHALL ESTABLISH NOTIFICATION
16 STANDARDS AND PROCEDURES THAT INCLUDE THE MANNER, FREQUENCY, FORM,
17 AND CONTENT OF THE NOTICES.

18 (D) FOR VIOLATIONS WITH THE POTENTIAL TO HAVE SERIOUS ADVERSE
19 EFFECTS ON HUMAN HEALTH AS A RESULT OF SHORT-TERM EXPOSURE, THE
20 SUPPLIER OF WATER SHALL PROVIDE NOTICE AS SOON AS PRACTICABLE, BUT NOT
21 LATER THAN 24 HOURS AFTER THE OCCURRENCE OF THE VIOLATION.

22 (E) FOR VIOLATIONS OTHER THAN THE VIOLATIONS DESCRIBED IN
23 SUBSECTION (D) OF THIS SECTION, THE SUPPLIER OF WATER SHALL PROVIDE
24 WRITTEN NOTICE TO EACH PERSON SERVED BY THE SYSTEM IN AN ANNUAL REPORT,
25 OR BY MAIL NOT LATER THAN 1 YEAR AFTER THE VIOLATION.

26 9-412.

27 (a) A supplier of water may not:

28 (1) Fail to comply with § 9-410 of this subtitle;

29 (2) Disseminate any false or misleading information in or about any
30 notice required under § 9-410 of this subtitle or about any remedial action being
31 undertaken to achieve compliance with State primary drinking water regulations;

32 (3) KNOWINGLY MAKE ANY FALSE STATEMENT, REPRESENTATION, OR
33 CERTIFICATION IN ANY APPLICATION, RECORD, REPORT, PLAN, OR OTHER
34 DOCUMENT FILED OR PERMIT ADOPTED OR ISSUED UNDER THIS SUBTITLE;

35 [(3)] (4) Fail to comply with the rules and regulations adopted under §
36 9-407 of this subtitle; or

1 [(4)] (5) Fail to comply with any conditions for variances or exemptions
2 authorized under § 9-409 of this subtitle.

3 (b) A person may not:

4 (1) [fail] FAIL to comply with any order issued by the Secretary under [§
5 9-405 of] this subtitle; OR

6 (2) FALSIFY OR KNOWINGLY RENDER INACCURATE ANY MONITORING
7 DEVICE OR METHOD REQUIRED TO BE MAINTAINED UNDER THIS SUBTITLE OR ANY
8 RULE, REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER THIS
9 SUBTITLE.

10 9-412.1.

11 (A) IN THIS SECTION, "TAMPER" MEANS TO:

12 (1) INTRODUCE A CONTAMINANT INTO A PUBLIC WATER SYSTEM WITH
13 THE INTENTION OF HARMING PERSONS;

14 (2) INTERFERE WITH THE OPERATION OF A PUBLIC WATER SYSTEM
15 WITH THE INTENTION OF HARMING PERSONS; OR

16 (3) ALTER, WITHOUT AUTHORIZATION, OPERATION OF A PUBLIC WATER
17 SYSTEM WITH THE INTENTION OF HARMING PERSONS.

18 (B) A PERSON MAY NOT TAMPER, ATTEMPT TO TAMPER, OR MAKE A THREAT
19 TO TAMPER WITH A PUBLIC WATER SYSTEM.

20 (C) (1) THE DEPARTMENT MAY BRING A CIVIL ACTION AGAINST ANY
21 PERSON WHO TAMPERS, ATTEMPTS TO TAMPER, OR MAKES A THREAT TO TAMPER
22 WITH A PUBLIC WATER SYSTEM.

23 (2) THE COURT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN
24 \$50,000 FOR ACTUAL TAMPERING, OR NOT MORE THAN \$20,000 FOR EACH ATTEMPT TO
25 TAMPER.

26 9-413.

27 (a) A person who willfully violates § 9-412(a) [(3)] (4) or [(4)] (5) of this
28 subtitle is subject to a civil penalty of up to \$5,000 for each day on which the violation
29 exists.

30 (b) A person who violates § 9-412(a)(1), [or] (2), OR (3) of this subtitle is guilty
31 of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 for each
32 day on which the violation occurs or failure to comply continues.

33 (c) In an action brought in the appropriate court to enforce the order, a person
34 who willfully violates or fails or refuses to comply with any order issued by the
35 Secretary under [§ 9-405 of] this subtitle may be fined not more than \$5,000 for each
36 day on which the violation occurs or failure to comply continues.

1 ~~(D)~~ (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW AND
2 AFTER AN OPPORTUNITY FOR A HEARING, WHICH MAY BE WAIVED IN WRITING BY
3 THE PERSON ACCUSED OF A VIOLATION, THE DEPARTMENT MAY IMPOSE A PENALTY
4 FOR VIOLATION OF ANY PROVISION OF THIS SUBTITLE OR ANY ORDER, REGULATION,
5 OR PLAN ADOPTED OR ISSUED UNDER THIS SUBTITLE.

6 (2) THE PENALTY IMPOSED ON A PERSON UNDER THIS SUBSECTION
7 SHALL BE:

8 (1) UP TO \$1,000 FOR EACH VIOLATION, BUT NOT EXCEEDING
9 \$25,000 TOTAL; AND

10 (11) ASSESSED WITH CONSIDERATION GIVEN TO:

11 1. THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO
12 WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY
13 THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED
14 REASONABLE CARE;

15 2. ANY ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN
16 HEALTH, INCLUDING INJURY TO OR IMPAIRMENT OF THE USE OF THE WATERS OF
17 THIS STATE OR THE NATURAL RESOURCES OF THE STATE;

18 3. THE COST OF CLEANUP AND THE COST OF RESTORATION
19 OF NATURAL RESOURCES;

20 4. THE NATURE AND DEGREE OF INJURY TO OR
21 INTERFERENCE WITH GENERAL WELFARE, HEALTH, AND PROPERTY;

22 5. THE EXTENT TO WHICH THE LOCATION OF THE
23 VIOLATION, INCLUDING LOCATION NEAR WATERS OF THIS STATE OR AREAS OF
24 HUMAN POPULATION, CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT
25 OR TO HUMAN HEALTH OR SAFETY;

26 6. THE AVAILABLE TECHNOLOGY AND ECONOMIC
27 REASONABLENESS OF CONTROLLING, REDUCING, OR ELIMINATING THE VIOLATION;

28 7. THE DEGREE OF HAZARD POSED BY THE PARTICULAR
29 POLLUTANT OR POLLUTANTS INVOLVED;

30 8. THE EXTENT TO WHICH THE CURRENT VIOLATION IS
31 PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION
32 COMMITTED BY THE VIOLATOR; AND

33 9. WHETHER OR NOT PENALTIES WERE ASSESSED OR WILL
34 BE ASSESSED UNDER OTHER PROVISIONS OF THIS SUBTITLE.

35 (3) EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION UNDER
36 THIS SUBSECTION.

1 (4) ~~ANY PENALTY IMPOSED UNDER THIS SUBSECTION IS PAYABLE TO~~
2 ~~THE STATE AND COLLECTIBLE IN ANY MANNER PROVIDED AT LAW FOR THE~~
3 ~~COLLECTION OF PENALTIES.~~

4 (5) ~~ALL PENALTIES COLLECTED UNDER THIS SUBTITLE SHALL BE PAID~~
5 ~~INTO THE MARYLAND CLEAN WATER FUND CREATED UNDER § 9-320 OF THIS~~
6 ~~ARTICLE.~~

7 9-414.

8 (A) THE DEPARTMENT MAY ISSUE AN ORDER OR NOTICE IF THE DEPARTMENT
9 HAS REASONABLE GROUNDS TO BELIEVE THAT A PERSON TO WHOM THE ORDER OR
10 NOTICE IS DIRECTED HAS VIOLATED:

11 (1) THIS SUBTITLE;

12 (2) ANY RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE; OR

13 (3) ANY ORDER OR PERMIT ISSUED UNDER THIS SUBTITLE.

14 (B) AN ORDER OR ~~PERMIT~~ NOTICE ISSUED UNDER THIS SUBTITLE SHALL:

15 (1) SPECIFY THE PROVISION THAT ALLEGEDLY HAS BEEN VIOLATED;

16 (2) STATE THE ALLEGED FACTS THAT CONSTITUTE THE VIOLATION;

17 (3) STATE THE ACTIONS NECESSARY TO CORRECT THE VIOLATION AND
18 THE TIME ALLOWED FOR CORRECTIONS; AND

19 (4) STATE THE PROCEDURE FOR REQUESTING A HEARING TO RESPOND
20 TO THE VIOLATION ALLEGED IN THE ORDER.

21 (C) IF THE PERSON SERVED WITH AN ORDER DOES NOT REQUEST A HEARING
22 WITHIN 30 DAYS, THE ORDER BECOMES A FINAL ORDER.

23 (D) ANY NOTICE OR ORDER ISSUED BY THE DEPARTMENT UNDER THIS
24 SUBTITLE MAY BE SERVED ON THE PERSON TO WHOM IT IS DIRECTED:

25 (1) PERSONALLY;

26 (2) BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE
27 PERSON'S LAST KNOWN ADDRESS AS SHOWN ON THE DEPARTMENT'S RECORDS; OR

28 (3) BY PUBLICATION.

29 9-415.

30 (A) THE DEPARTMENT SHALL GIVE NOTICE AND HOLD HEARINGS UNDER
31 THIS SUBTITLE IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

1 (B) (1) WITHIN 30 DAYS AFTER SERVICE OF THE ORDER UNDER THIS
2 SUBTITLE THE PERSON SERVED MAY REQUEST IN WRITING A HEARING BEFORE THE
3 DEPARTMENT.

4 (2) (I) IF A PERSON SERVED WITH AN ORDER UNDER THIS
5 SUBSECTION MAKES A TIMELY REQUEST FOR A HEARING, THE DEPARTMENT SHALL
6 GIVE THE PERSON WRITTEN NOTICE OF THE DATE, TIME, AND PLACE OF THE
7 HEARING, AT LEAST 10 DAYS BEFORE THE HEARING DATE.

8 (II) THE ORDER BECOMES FINAL WHEN THE DEPARTMENT
9 RENDERS ITS DECISION FOLLOWING THE HEARING.

10 (C) THE DEPARTMENT MAY MAKE A VERBATIM RECORD OF THE
11 PROCEEDINGS OF ANY HEARING HELD UNDER THIS SUBTITLE.

12 (D) (1) IN CONNECTION WITH ANY HEARING UNDER THIS SUBTITLE, THE
13 DEPARTMENT MAY:

14 (I) SUBPOENA ANY PERSON OR EVIDENCE; AND

15 (II) ORDER A WITNESS TO GIVE EVIDENCE.

16 (2) A SUBPOENAED WITNESS SHALL RECEIVE THE SAME FEES AND
17 MILEAGE REIMBURSEMENT AS IF THE HEARING WERE PART OF A CIVIL ACTION.

18 (3) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA OR ORDER
19 ISSUED UNDER THIS SUBSECTION, ON PETITION OF THE DEPARTMENT, A CIRCUIT
20 COURT, BY ORDER MAY:

21 (I) COMPEL OBEDIENCE TO THE DEPARTMENT'S ORDER OR
22 SUBPOENA; OR

23 (II) COMPEL TESTIMONY OR THE PRODUCTION OF EVIDENCE.

24 (4) THE COURT MAY PUNISH AS CONTEMPT ANY FAILURE TO OBEY ITS
25 ORDER ISSUED UNDER THIS SECTION.

26 (5) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE
27 DEPARTMENT IN CONNECTION WITH AN ORDER OR A PERMIT ISSUED UNDER THIS
28 SUBTITLE MAY TAKE JUDICIAL APPEAL IN ACCORDANCE WITH THE ADMINISTRATIVE
29 PROCEDURES ACT.

30 9-416.

31 (A) THE DEPARTMENT MAY BRING AN ACTION FOR AN INJUNCTION AGAINST
32 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY RULE,
33 REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED BY THE DEPARTMENT UNDER
34 THIS SUBTITLE.

1 (B) IN AN ACTION FOR AN INJUNCTION UNDER THIS SECTION, ANY FINDING
2 OF THE DEPARTMENT AFTER A HEARING IS PRIMA FACIE EVIDENCE OF EACH FACT
3 THE DEPARTMENT DETERMINES.

4 9-417.

5 EACH NEW COMMUNITY AND NONTRANSIENT NONCOMMUNITY WATER SUPPLY
6 SYSTEM THAT COMMENCES OPERATION AFTER OCTOBER 1, 1999 SHALL
7 DEMONSTRATE TO THE DEPARTMENT THAT IT HAS THE TECHNICAL, MANAGERIAL,
8 AND FINANCIAL CAPACITY TO OPERATE THE PROPOSED WATER SYSTEM IN
9 ACCORDANCE WITH THE DRINKING WATER REGULATIONS IN EFFECT, OR LIKELY TO
10 BE IN EFFECT, ON THE DATE OF THE COMMENCEMENT OF OPERATIONS.

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