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

Introduced and read first time: February 13, 1998

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Water Management - Penalties**

3 FOR the purpose of authorizing the Department of the Environment to impose
4 certain penalties for violations of water appropriation and use, waterway
5 construction and obstruction, nontidal and tidal wetlands, gas and oil, coastal
6 facilities, and surface mining provisions under certain circumstances;
7 establishing certain criteria for consideration in the assessment of the penalties;
8 and generally relating to the Department of the Environment's authority over
9 violations of water management program provisions.

10 BY repealing and reenacting, with amendments,
11 Article - Environment
12 Section 5-514, 5-911, 14-510, 15-832, and 16-502
13 Annotated Code of Maryland
14 (1996 Replacement Volume and 1997 Supplement)

15 BY adding to
16 Article - Environment
17 Section 14-121 and 16-502.1
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1997 Supplement)

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

22 **Article - Environment**

23 5-514.

24 (A) A person who violates or causes an act which violates a provision of this
25 subtitle or a regulation adopted under this subtitle or who violates or fails to comply
26 with a permit or an order of the Department when due notice is given is guilty of a
27 misdemeanor. Upon conviction the violator is subject to a fine not exceeding \$500 per

1 day for each day of the offense, and not to exceed a total fine of \$25,000, with costs
2 imposed in the discretion of the court.

3 (B) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN
4 EQUITY AND AFTER AN OPPORTUNITY FOR A HEARING WHICH MAY BE WAIVED IN
5 WRITING BY THE PERSON ACCUSED OF A VIOLATION, THE DEPARTMENT MAY
6 IMPOSE A PENALTY FOR VIOLATION OF ANY PROVISION OF THIS SUBTITLE OR ANY
7 RULE, REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER THIS
8 SUBTITLE. ANY REQUEST FOR A HEARING ON A PENALTY ISSUED UNDER THIS
9 SUBSECTION MUST BE MADE IN WRITING NO LATER THAN 10 WORKING DAYS AFTER
10 RECEIPT OF THE NOTICE ASSESSING A PENALTY.

11 (2) THE PENALTY IMPOSED ON A PERSON UNDER THIS SUBSECTION
12 SHALL BE:

13 (I) UP TO \$1,000 FOR EACH VIOLATION, BUT NOT EXCEEDING
14 \$50,000 TOTAL; AND

15 (II) ASSESSED WITH CONSIDERATION GIVEN TO:

16 1. THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO
17 WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY
18 THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED
19 REASONABLE CARE;

20 2. ANY ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN
21 HEALTH, INCLUDING INJURY TO OR IMPAIRMENT OF THE USE OF THE WATERS OF
22 THE STATE OR THE NATURAL RESOURCES OF THE STATE;

23 3. THE COST OF CLEANUP AND THE COST OF RESTORATION
24 OF NATURAL RESOURCES;

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

27 5. THE EXTENT TO WHICH THE LOCATION OF THE
28 VIOLATION, INCLUDING LOCATION NEAR WATERS OF THE STATE OR AREAS OF
29 HUMAN POPULATION, CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT
30 OR TO HUMAN HEALTH OR SAFETY;

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

33 7. THE DEGREE OF HAZARD POSED BY THE PARTICULAR
34 POLLUTANT OR POLLUTANTS INVOLVED; AND

35 8. THE EXTENT TO WHICH THE CURRENT VIOLATION IS
36 PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPES OF VIOLATIONS
37 COMMITTED BY THE VIOLATOR.

1 (3) EACH DAY A VIOLATION OCCURS OR CONTINUES IS A SEPARATE
2 VIOLATION UNDER THIS SUBSECTION.

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

6 (5) IF ANY PERSON WHO IS LIABLE TO PAY A PENALTY IMPOSED UNDER
7 THIS SUBSECTION FAILS TO PAY IT AFTER DEMAND, THE AMOUNT, TOGETHER WITH
8 INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL BE:

9 (I) A LIEN IN FAVOR OF THE STATE ON ANY PROPERTY, REAL OR
10 PERSONAL, OF THE PERSON; AND

11 (II) RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR THE
12 COUNTY IN WHICH THE PROPERTY IS LOCATED.

13 (6) ANY PENALTY COLLECTED UNDER THIS SUBSECTION FOR
14 VIOLATIONS OF § 5-503 OF THIS SUBTITLE SHALL BE PLACED IN THE NONTIDAL
15 WETLAND COMPENSATION FUND ESTABLISHED UNDER THIS SUBTITLE.

16 (7) ANY PENALTY COLLECTED UNDER THIS SUBSECTION FOR
17 VIOLATIONS OF § 5-502 OF THIS SUBTITLE SHALL BE PLACED IN THE MARYLAND
18 CLEAN WATER FUND UNDER § 9-320 OF THIS ARTICLE.

19 5-911.

20 (a) (1) The enforcement provisions in this section are in addition to any
21 other applicable provisions in this title.

22 (2) In addition to the enforcement authority granted the Department,
23 the enforcement provisions of this section may be exercised by any county that has
24 program delegation authority.

25 (b) The Department may revoke a permit for cause, including violation of
26 permit conditions, obtaining a permit by misrepresentation, failing to disclose a
27 relevant or material fact, or change in conditions. The Department shall notify the
28 violator in writing and provide an opportunity for a hearing.

29 (c) The Department may issue a stop work order against any person who
30 violates any provision of this subtitle or any regulation, order, or permit under this
31 subtitle related to a regulated activity.

32 (d) (1) A person who violates any provision of this subtitle or any regulation,
33 order, or permit under this subtitle is liable for a penalty not exceeding \$10,000,
34 which may be recovered in a civil action brought by the Department. Each day a
35 violation continues is a separate violation under this subsection.

36 (2) The court may issue an injunction requiring the person to cease the
37 violation and restore the area unlawfully disturbed.

1 (e) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN
2 EQUITY AND AFTER AN OPPORTUNITY FOR A HEARING WHICH MAY BE WAIVED IN
3 WRITING BY THE PERSON ACCUSED OF A VIOLATION, THE DEPARTMENT MAY
4 IMPOSE A PENALTY FOR VIOLATION OF ANY PROVISION OF THIS SUBTITLE OR ANY
5 RULE, REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER THIS
6 SUBTITLE. ANY REQUEST FOR A HEARING ON A PENALTY ISSUED UNDER THIS
7 SUBSECTION MUST BE MADE IN WRITING NO LATER THAN 10 WORKING DAYS AFTER
8 RECEIPT OF THE NOTICE ASSESSING THE PENALTY.

9 (2) THE PENALTY IMPOSED ON A PERSON UNDER THIS SUBSECTION
10 SHALL BE:

11 (I) UP TO \$1,000 FOR EACH VIOLATION, BUT NOT EXCEEDING
12 \$50,000 TOTAL; AND

13 (II) ASSESSED WITH CONSIDERATION GIVEN TO:

14 1. THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO
15 WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY
16 THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED
17 REASONABLE CARE;

18 2. ANY ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN
19 HEALTH, INCLUDING INJURY TO OR IMPAIRMENT OF THE USE OF THE WATERS OF
20 THE STATE OR THE NATURAL RESOURCES OF THE STATE;

21 3. THE COST OF CLEANUP AND THE COST OF RESTORATION
22 OF NATURAL RESOURCES;

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

25 5. THE EXTENT TO WHICH THE LOCATION OF THE
26 VIOLATION, INCLUDING LOCATION NEAR WATERS OF THE STATE OR AREAS OF
27 HUMAN POPULATION, CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT
28 OR TO HUMAN HEALTH OR SAFETY;

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

31 7. THE DEGREE OF HAZARD POSED BY THE PARTICULAR
32 POLLUTANT OR POLLUTANTS INVOLVED; AND

33 8. THE EXTENT TO WHICH THE CURRENT VIOLATION IS
34 PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION
35 COMMITTED BY THE VIOLATOR.

36 (3) EACH DAY A VIOLATION OCCURS OR CONTINUES IS A SEPARATE
37 VIOLATION UNDER 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 DEBTS.

4 (5) IF ANY PERSON WHO IS LIABLE TO PAY A PENALTY IMPOSED UNDER
5 THIS SUBSECTION FAILS TO PAY IT AFTER DEMAND, THE AMOUNT, TOGETHER WITH
6 INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL BE:

7 (I) A LIEN IN FAVOR OF THE STATE ON ANY PROPERTY, REAL OR
8 PERSONAL, OF THE PERSON; AND

9 (II) RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR THE
10 COUNTY IN WHICH THE PROPERTY IS LOCATED.

11 (6) ANY PENALTY COLLECTED UNDER THIS SUBSECTION SHALL BE
12 PLACED IN THE NONTIDAL WETLAND COMPENSATION FUND ESTABLISHED UNDER
13 THIS SUBTITLE.

14 (F) (1) A person who violates any provision of or fails to perform any duty
15 imposed by this subtitle or by a regulation, order, or permit under this subtitle is
16 guilty of a misdemeanor and on conviction is subject to:

17 (i) For a first offense, a fine not exceeding \$10,000; or

18 (ii) For a second or subsequent offense, a fine not exceeding
19 \$25,000.

20 (2) The court may order the person to restore the area unlawfully
21 disturbed.

22 14-121.

23 (A) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY
24 AND AFTER AN OPPORTUNITY FOR A HEARING WHICH MAY BE WAIVED IN WRITING
25 BY THE PERSON ACCUSED OF A VIOLATION, THE DEPARTMENT MAY IMPOSE A
26 PENALTY FOR VIOLATION OF ANY PROVISION OF THIS SUBTITLE OR ANY RULE,
27 REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER THIS SUBTITLE. ANY
28 REQUEST FOR A HEARING ON A PENALTY ISSUED UNDER THIS SECTION MUST BE
29 MADE IN WRITING NO LATER THAN 10 WORKING DAYS AFTER RECEIPT OF THE
30 NOTICE ASSESSING THE PENALTY.

31 (B) THE PENALTY IMPOSED ON A PERSON UNDER THIS SECTION SHALL BE:

32 (1) UP TO \$1,000 FOR EACH VIOLATION, BUT NOT EXCEEDING \$50,000
33 TOTAL; AND

34 (2) ASSESSED WITH CONSIDERATION GIVEN TO:

35 (I) THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO WHICH
36 THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY THE

1 VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED REASONABLE
2 CARE;

3 (II) ANY ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN
4 HEALTH, INCLUDING INJURY TO OR IMPAIRMENT OF THE USE OF THE WATERS OF
5 THE STATE OR THE NATURAL RESOURCES OF THE STATE;

6 (III) THE COST OF CLEANUP AND THE COST OF RESTORATION OF
7 NATURAL RESOURCES;

8 (IV) THE NATURE AND DEGREE OF INJURY TO OR INTERFERENCE
9 WITH GENERAL WELFARE, HEALTH, AND PROPERTY;

10 (V) THE EXTENT TO WHICH THE LOCATION OF THE VIOLATION,
11 INCLUDING LOCATION NEAR WATERS OF THE STATE OR AREAS OF HUMAN
12 POPULATION, CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT OR TO
13 HUMAN HEALTH OR SAFETY;

14 (VI) THE AVAILABLE TECHNOLOGY AND ECONOMIC
15 REASONABLENESS OF CONTROLLING, REDUCING, OR ELIMINATING THE VIOLATION;

16 (VII) THE DEGREE OF HAZARD POSED BY THE PARTICULAR
17 POLLUTANT OR POLLUTANTS INVOLVED; AND

18 (VIII) THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A
19 RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION COMMITTED
20 BY THE VIOLATOR.

21 (C) EACH DAY A VIOLATION OCCURS OR CONTINUES IS A SEPARATE
22 VIOLATION UNDER THIS SECTION.

23 (D) ANY PENALTY IMPOSED UNDER THIS SECTION IS PAYABLE TO THE STATE
24 AND COLLECTIBLE IN ANY MANNER PROVIDED BY LAW FOR THE COLLECTION OF
25 DEBTS.

26 (E) IF ANY PERSON WHO IS LIABLE TO PAY A PENALTY IMPOSED UNDER THIS
27 SECTION FAILS TO PAY IT AFTER DEMAND, THE AMOUNT, TOGETHER WITH
28 INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL BE:

29 (1) A LIEN IN FAVOR OF THE STATE ON ANY PROPERTY, REAL OR
30 PERSONAL, OF THE PERSON; AND

31 (2) RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR THE
32 COUNTY IN WHICH THE PROPERTY IS LOCATED.

33 (F) ANY PENALTY COLLECTED UNDER THIS SECTION SHALL BE PLACED IN
34 THE MARYLAND CLEAN WATER FUND ESTABLISHED UNDER § 9-320 OF THIS ARTICLE.

1 14-510.

2 (a) Any person who violates any provision of this subtitle may be enjoined by
3 a court of competent jurisdiction upon application of the Department acting through
4 the Attorney General.

5 (b) Any person who violates any provision of this subtitle or any regulation,
6 permit, or order issued thereunder, is liable to a penalty not exceeding \$10,000, as
7 well as being subject to being enjoined as provided in subsection (a). The monetary
8 penalty thus provided may be recovered in a civil action by the Department through
9 the Attorney General.

10 (C) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN
11 EQUITY AND AFTER AN OPPORTUNITY FOR A HEARING WHICH MAY BE WAIVED IN
12 WRITING BY THE PERSON ACCUSED OF A VIOLATION, THE DEPARTMENT MAY
13 IMPOSE A PENALTY FOR VIOLATION OF ANY PROVISION OF THIS SUBTITLE OR ANY
14 RULE, REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER THIS
15 SUBTITLE. ANY REQUEST FOR A HEARING ON A PENALTY ISSUED UNDER THIS
16 SUBSECTION MUST BE MADE IN WRITING NO LATER THAN 10 WORKING DAYS AFTER
17 RECEIPT OF THE NOTICE ASSESSING THE PENALTY.

18 (2) THE PENALTY IMPOSED ON A PERSON UNDER THIS SUBSECTION
19 SHALL BE:

20 (I) UP TO \$1,000 FOR EACH VIOLATION, BUT NOT EXCEEDING
21 \$50,000 TOTAL; AND

22 (II) ASSESSED WITH CONSIDERATION GIVEN TO:

23 1. THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO
24 WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY
25 THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED
26 REASONABLE CARE;

27 2. ANY ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN
28 HEALTH, INCLUDING INJURY TO OR IMPAIRMENT OF THE USE OF THE WATERS OF
29 THE STATE OR THE NATURAL RESOURCES OF THE STATE;

30 3. THE COST OF CLEANUP AND THE COST OF RESTORATION
31 OF NATURAL RESOURCES;

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

34 5. THE EXTENT TO WHICH THE LOCATION OF THE
35 VIOLATION, INCLUDING LOCATION NEAR WATERS OF THE STATE OR AREAS OF
36 HUMAN POPULATION, CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT
37 OR TO HUMAN HEALTH OR SAFETY;

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

3 7. THE DEGREE OF HAZARD POSED BY THE PARTICULAR
4 POLLUTANT OR POLLUTANTS INVOLVED; AND

5 8. THE EXTENT TO WHICH THE CURRENT VIOLATION IS
6 PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION
7 COMMITTED BY THE VIOLATOR.

8 (3) EACH DAY A VIOLATION OCCURS OR CONTINUES IS A SEPARATE
9 VIOLATION UNDER THIS SUBSECTION.

10 (4) ANY PENALTY IMPOSED UNDER THIS SUBSECTION IS PAYABLE TO
11 THE STATE AND COLLECTIBLE IN ANY MANNER PROVIDED AT LAW FOR THE
12 COLLECTION OF DEBTS.

13 (5) IF ANY PERSON WHO IS LIABLE TO PAY A PENALTY IMPOSED UNDER
14 THIS SUBSECTION FAILS TO PAY IT AFTER DEMAND, THE AMOUNT, TOGETHER WITH
15 INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL BE:

16 (I) A LIEN IN FAVOR OF THE STATE ON ANY PROPERTY, REAL OR
17 PERSONAL, OF THE PERSON; AND

18 (II) RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR THE
19 COUNTY IN WHICH THE PROPERTY IS LOCATED.

20 (6) ANY PENALTY COLLECTED UNDER THIS SUBSECTION SHALL BE
21 PLACED IN THE MARYLAND CLEAN WATER FUND ESTABLISHED UNDER § 9-320 OF
22 THIS ARTICLE.

23 15-832.

24 (a) In addition to the State prosecuting a criminal action under any provision
25 of this subtitle, the Attorney General may bring a civil action in the circuit court of
26 the county or city where the mining operation is located against any person who
27 violates any provision of this subtitle or any regulation, permit, notice, or order issued
28 under this subtitle. The circuit court may find the violator liable to the State for a
29 penalty not exceeding \$5,000 for each offense. Each day on which the violation occurs
30 constitutes a separate offense.

31 (b) On application of the Department, verified by oath or affirmation, the
32 circuit court of the county or city where the mining operation is located, may enforce
33 by injunction compliance with, or restrain the violation of any order, notice, permit,
34 rule, or regulation of the Department made pursuant to the provisions of this subtitle
35 or restrain the violation or attempted violation of any of the provisions of this subtitle.

36 (C) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN
37 EQUITY AND AFTER AN OPPORTUNITY FOR A HEARING WHICH MAY BE WAIVED IN
38 WRITING BY THE PERSON ACCUSED OF A VIOLATION, THE DEPARTMENT MAY

1 IMPOSE A PENALTY FOR VIOLATION OF ANY PROVISION OF THIS SUBTITLE OR ANY
2 RULE, REGULATION, ORDER, NOTICE, OR PERMIT ADOPTED OR ISSUED UNDER THIS
3 SUBTITLE. ANY REQUEST FOR A HEARING ON A PENALTY ISSUED UNDER THIS
4 SUBSECTION MUST BE MADE IN WRITING NO LATER THAN 10 WORKING DAYS AFTER
5 RECEIPT OF THE NOTICE ASSESSING THE PENALTY.

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

8 (I) UP TO \$1,000 FOR EACH VIOLATION, BUT NOT EXCEEDING
9 \$50,000 TOTAL; AND

10 (II) 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 THE 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 THE 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; AND

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.

33 (3) EACH DAY A VIOLATION OCCURS OR CONTINUES IS A SEPARATE
34 VIOLATION UNDER THIS SUBSECTION.

35 (4) ANY PENALTY IMPOSED UNDER THIS SUBSECTION IS PAYABLE TO
36 THE STATE AND COLLECTIBLE IN ANY MANNER PROVIDED AT LAW FOR THE
37 COLLECTION OF DEBTS.

1 (5) IF ANY PERSON WHO IS LIABLE TO PAY A PENALTY IMPOSED UNDER
2 THIS SUBSECTION FAILS TO PAY IT AFTER DEMAND, THE AMOUNT, TOGETHER WITH
3 INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL BE:

4 (I) A LIEN IN FAVOR OF THE STATE ON ANY PROPERTY, REAL OR
5 PERSONAL, OF THE PERSON; AND

6 (II) RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR THE
7 COUNTY IN WHICH THE PROPERTY IS LOCATED.

8 (6) ANY PENALTY COLLECTED UNDER THIS SUBSECTION SHALL BE
9 PLACED IN THE SURFACE MINING LAND RECLAMATION FUND ESTABLISHED UNDER
10 THIS SUBTITLE.

11 16-502.

12 (a) In [lieu of] ADDITION TO the State prosecuting a criminal action under
13 any provision of this title, the Attorney General may bring a civil action in the circuit
14 court against any person who violates any provision of this title or any regulation,
15 permit, license, or order issued under this title.

16 (b) The circuit court may issue an injunction requiring the person to cease the
17 violation and restore the area unlawfully dredged or filled.

18 16-502.1.

19 (A) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY
20 AND AFTER AN OPPORTUNITY FOR A HEARING WHICH MAY BE WAIVED IN WRITING
21 BY THE PERSON ACCUSED OF A VIOLATION, THE DEPARTMENT MAY IMPOSE A
22 PENALTY FOR VIOLATION OF ANY PROVISION OF THIS SUBTITLE OR ANY RULE,
23 REGULATION, ORDER, PERMIT, OR LICENSE ADOPTED OR ISSUED UNDER THIS
24 SUBTITLE. ANY REQUEST FOR A HEARING ON A PENALTY ISSUED UNDER THIS
25 SECTION MUST BE MADE IN WRITING NO LATER THAN 10 WORKING DAYS AFTER
26 RECEIPT OF THE NOTICE ASSESSING THE PENALTY.

27 (B) THE PENALTY IMPOSED ON A PERSON UNDER THIS SECTION SHALL BE:

28 (1) UP TO \$1,000 FOR EACH VIOLATION, BUT NOT EXCEEDING \$50,000
29 TOTAL; AND

30 (2) ASSESSED WITH CONSIDERATION GIVEN TO:

31 (I) THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO WHICH
32 THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY THE
33 VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED REASONABLE
34 CARE;

35 (II) ANY ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN
36 HEALTH, INCLUDING INJURY TO OR IMPAIRMENT OF THE USE OF THE WATERS OF
37 THE STATE OR THE NATURAL RESOURCES OF THE STATE;

1 (III) THE COST OF CLEANUP AND THE COST OF RESTORATION OF
2 NATURAL RESOURCES;

3 (IV) THE NATURE AND DEGREE OF INJURY TO OR INTERFERENCE
4 WITH GENERAL WELFARE, HEALTH, AND PROPERTY;

5 (V) THE EXTENT TO WHICH THE LOCATION OF THE VIOLATION,
6 INCLUDING LOCATION NEAR WATERS OF THE STATE OR AREAS OF HUMAN
7 POPULATION, CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT OR TO
8 HUMAN HEALTH OR SAFETY;

9 (VI) THE AVAILABLE TECHNOLOGY AND ECONOMIC
10 REASONABLENESS OF CONTROLLING, REDUCING, OR ELIMINATING THE VIOLATION;

11 (VII) THE DEGREE OF HAZARD POSED BY THE PARTICULAR
12 POLLUTANT OR POLLUTANTS INVOLVED; AND

13 (VIII) THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A
14 RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION COMMITTED
15 BY THE VIOLATOR.

16 (C) EACH DAY A VIOLATION OCCURS OR CONTINUES IS A SEPARATE
17 VIOLATION UNDER THIS SECTION.

18 (D) ANY PENALTY IMPOSED UNDER THIS SECTION IS PAYABLE TO THE STATE
19 AND COLLECTIBLE IN ANY MANNER PROVIDED BY LAW FOR THE COLLECTION OF
20 DEBTS.

21 (E) IF ANY PERSON WHO IS LIABLE TO PAY A PENALTY IMPOSED UNDER THIS
22 SECTION FAILS TO PAY IT AFTER DEMAND, THE AMOUNT, TOGETHER WITH
23 INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL BE:

24 (1) A LIEN IN FAVOR OF THE STATE ON ANY PROPERTY, REAL OR
25 PERSONAL, OF THE PERSON; AND

26 (2) RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR THE
27 COUNTY IN WHICH THE PROPERTY IS LOCATED.

28 (F) ANY PENALTY COLLECTED UNDER THIS SECTION SHALL BE PLACED IN
29 THE WETLANDS COMPENSATION FUND ESTABLISHED UNDER § 16-205 OF THIS
30 ARTICLE.

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