
By: **Senators Frosh, Sfikas, Conway, and Pinsky**
Introduced and read first time: February 6, 1998
Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Environmental Laws - Violations and Enforcement**

3 FOR the purpose of altering certain civil and criminal penalties for certain violations
4 of certain environmental laws; establishing that severely injuring or killing a
5 person in the course of committing certain environmental violations is a crime
6 subject to certain penalties; providing that attempts to commit certain crimes
7 are subject to the same penalty as the commitment of the crime; defining certain
8 terms; and generally relating to violations and enforcement of environmental
9 laws.

10 BY adding to

11 Article - Environment
12 Section 1-101(n) and (o)
13 Annotated Code of Maryland
14 (1996 Replacement Volume and 1997 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article - Environment
17 Section 2-609.1, 4-417, 5-911, 7-265, 9-413, and 16-501
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 1-101.

24 (N) (1) "ORGANIZATION" MEANS A LEGAL ENTITY OTHER THAN A
25 GOVERNMENT, ESTABLISHED OR ORGANIZED FOR ANY PURPOSE.

26 (2) "ORGANIZATION" INCLUDES A CORPORATION, COMPANY,
27 ASSOCIATION, FIRM, PARTNERSHIP, JOINT STOCK COMPANY, FOUNDATION,
28 INSTITUTION, TRUST, SOCIETY, UNION, OR ANY OTHER ASSOCIATION OF PERSONS.

1 (O) "SERIOUS BODILY INJURY" MEANS BODILY INJURY WHICH INVOLVES A
2 SUBSTANTIAL RISK OF DEATH, UNCONSCIOUSNESS, EXTREME PHYSICAL PAIN,
3 PROTRACTED AND OBVIOUS DISFIGUREMENT, OR PROTRACTED LOSS OR
4 IMPAIRMENT OF THE FUNCTION OF A BODILY MEMBER, ORGAN, OR MENTAL
5 FACULTY.

6 2-609.1.

7 (a) In this section "approval" means approval for prevention of significant
8 deterioration or approval of new sources in nonattainment areas.

9 (b) (1) (i) A person may not knowingly act or fail to act in violation of a
10 condition or requirement imposed on the person by a permit or approval issued under
11 this title.

12 (ii) A person may not knowingly fail to obtain a permit or approval
13 that the person knows or should have known is required under this title.

14 (iii) A person may not violate a duty imposed on the person by a
15 rule, regulation, order, or approved plan for compliance adopted or issued under this
16 title with knowledge that the person's conduct constitutes a violation of the duty.

17 (2) A person who violates a provision of this subsection is guilty of a
18 [misdemeanor] FELONY and on conviction is subject to:

19 (i) For a first offense, a fine not LESS THAN \$1,000 AND NOT
20 exceeding [\$25,000] \$30,000 or imprisonment not exceeding [1 year] 5 YEARS or both;
21 or

22 (ii) For a violation committed after a first conviction under this
23 section, a fine not exceeding [\$50,000] \$60,000 or imprisonment not exceeding [2] 10
24 years or both.

25 (3) Each day on which violations occur is a separate violation under this
26 subsection.

27 (4) This subsection does not apply to violations enumerated in subsection
28 (c) of this section.

29 (c) A person is guilty of a [misdemeanor] FELONY and on conviction is subject
30 to a fine not LESS THAN \$500 AND NOT exceeding \$10,000 for each day of violation or
31 imprisonment not exceeding [6 months] 2 YEARS or both if the person:

32 (1) Knowingly makes any false statement, representation, or
33 certification in any application, record, report, plan, or other document filed or
34 required to be maintained under this title or any rule, regulation, order, approved
35 plan for compliance, approval, or permit adopted or issued under this title; or

36 (2) Knowingly falsifies, tampers with, or renders inaccurate any
37 monitoring device or methods required to be maintained under this title or any rule,

1 regulation, order, approved plan for compliance, approval, or permit adopted or issued
2 under this title.

3 (D) A PERSON WHO COMMITS A CRIMINAL VIOLATION IDENTIFIED IN THIS
4 SECTION THAT IS THE DIRECT OR PROXIMATE CAUSE OF SERIOUS BODILY INJURY TO
5 OR DEATH OF ANY OTHER PERSON, INCLUDING A FEDERAL, STATE, OR LOCAL
6 EMPLOYEE PERFORMING OFFICIAL DUTIES AS A RESULT OF THE VIOLATION, ON
7 CONVICTION SHALL BE SUBJECT TO:

8 (1) IF THE PERSON IS NOT AN ORGANIZATION, A FINE NOT EXCEEDING
9 \$500,000 OR IMPRISONMENT NOT EXCEEDING 20 YEARS OR BOTH; AND

10 (2) IF THE PERSON IS AN ORGANIZATION, A FINE NOT EXCEEDING
11 \$2,000,000.

12 (E) A PERSON WHO ATTEMPTS TO COMMIT THE CONDUCT THAT CONSTITUTES
13 AN OFFENSE UNDER THIS SECTION SHALL BE SUBJECT TO THE SAME PENALTIES AS
14 THOSE PRESCRIBED FOR THE OFFENSE.

15 4-417.

16 (a) Any person who violates any provision of this subtitle, or any rule,
17 regulation, order, or permit issued pursuant thereto, shall be liable for a penalty not
18 exceeding \$25,000 for the violation, which may be recovered in a civil action, and the
19 person may be enjoined from continuing the violation, as provided by this subtitle.
20 Each day upon which the violation occurs constitutes a separate offense.

21 (b) Any person who KNOWINGLY violates any of the provisions of, or who fails
22 to perform any duty imposed by, this subtitle, or any regulation or order issued under
23 it, or the provisions of any permit of the Department made pursuant to this subtitle is
24 guilty of a [misdemeanor] FELONY, and upon conviction, is subject to a fine not LESS
25 THAN \$5,000 AND NOT exceeding \$50,000 PER DAY OF VIOLATION or by imprisonment
26 not exceeding [one year] 3 YEARS, or both, and, in addition, may be enjoined from
27 continuing the violation. If the conviction is for a violation committed after a first
28 conviction of the person under this subsection, punishment shall be by a fine of not
29 more than [\$50,000] \$100,000 per day of violation or by imprisonment not exceeding
30 [two] 6 years or both, and in addition, the person may be enjoined from continuing
31 the violation. Each day upon which a violation occurs constitutes a separate offense.

32 (c) (1) Any person who knowingly makes any false statement,
33 representation, or certification in any application, record, report, plan, or other
34 document filed or required to be maintained under this title, or by any permit, rule,
35 regulation or order issued under this title, or who falsifies, tampers with, or
36 knowingly renders inaccurate any monitoring device or method required to be
37 maintained under this title or by any permit, rule, regulation, or order issued under
38 this title, upon conviction, is subject to a fine not exceeding \$10,000 PER DAY OF
39 VIOLATION, or by imprisonment not exceeding [six months]2 YEARS or both.

40 (2) A PERSON WHO COMMITS A CRIMINAL VIOLATION IDENTIFIED IN
41 THIS SECTION THAT IS THE DIRECT OR PROXIMATE CAUSE OF SERIOUS BODILY

1 INJURY TO OR DEATH OF ANY OTHER PERSON, INCLUDING A FEDERAL, STATE, OR
2 LOCAL EMPLOYEE PERFORMING OFFICIAL DUTIES AS A RESULT OF THE VIOLATION,
3 ON CONVICTION SHALL BE SUBJECT TO:

4 (I) IF THE PERSON IS NOT AN ORGANIZATION, A FINE NOT
5 EXCEEDING \$500,000 OR IMPRISONMENT NOT EXCEEDING 20 YEARS OR BOTH; AND

6 (II) IF THE PERSON IS AN ORGANIZATION, A FINE NOT EXCEEDING
7 \$2,000,000.

8 (D) A PERSON WHO ATTEMPTS TO COMMIT THE CONDUCT THAT CONSTITUTES
9 AN OFFENSE UNDER THIS SECTION SHALL BE SUBJECT TO THE SAME PENALTIES AS
10 THOSE PRESCRIBED FOR THE OFFENSE.

11 [(d)] (E) In addition to any other remedies available at law or in equity, a civil
12 penalty may be assessed for violation of any provisions of this subtitle, or rules,
13 regulations, orders or permits issued pursuant thereto. The penalty may be assessed
14 by the Secretary of the Environment, or a hearing officer designated in writing by the
15 Secretary, after an opportunity for a hearing which may be waived in writing by the
16 person accused of a violation. The civil penalty assessed shall be up to \$10,000 for
17 each day of violation, not exceeding a total sum of \$100,000; consideration shall be
18 given to the willfulness of the violation; to the damage or injury to the waters of the
19 State or the impairment of its uses; to the cost of clean-up; to the nature and degree
20 of injury to or interference with general welfare, health, and property; to the
21 suitability of the waste source to its geographic location, including priority of location;
22 to the available technology and economic reasonableness of controlling, reducing, or
23 eliminating the waste; and other relevant factors. It is payable to the State and
24 collectible in any manner provided at law for the collection of debts. If any person
25 liable to pay the penalty neglects or refuses to pay it after demand, the amount,
26 together with interest and any costs that may accrue, shall be a lien in favor of the
27 State upon the property, both real and personal, of the person and shall be recorded in
28 the clerk of court's office for the political subdivision in which the property is located.
29 Except for penalties collected for violations of § 4-413 of this subtitle, moneys shall be
30 placed in the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund
31 under § 4-411(f) of this subtitle.

32 (F) FOR PURPOSES OF THIS SECTION, A SINGLE OPERATION UPSET THAT
33 LEADS TO SIMULTANEOUS VIOLATIONS OF MORE THAN ONE POLLUTANT
34 PARAMETER SHALL BE TREATED AS A SINGLE VIOLATION.

35 5-911.

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

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

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

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

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

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

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

17 (i) For a first offense, a fine not LESS THAN \$5,000 AND NOT
18 exceeding [\$10,000] \$50,000 PER DAY OF VIOLATION OR IMPRISONMENT NOT
19 EXCEEDING 3 YEARS OR BOTH; or

20 (ii) For a second or subsequent offense, a fine not exceeding
21 [\$25,000] \$100,000 PER DAY OF VIOLATION OR IMPRISONMENT NOT EXCEEDING 6
22 YEARS OR BOTH.

23 (2) The court may order the person to restore the area unlawfully
24 disturbed.

25 (F) A PERSON WHO COMMITS A CRIMINAL VIOLATION IDENTIFIED IN THIS
26 SECTION THAT IS THE DIRECT OR PROXIMATE CAUSE OF SERIOUS BODILY INJURY TO
27 OR DEATH OF ANY OTHER PERSON, INCLUDING A FEDERAL, STATE, OR LOCAL
28 EMPLOYEE PERFORMING OFFICIAL DUTIES AS A RESULT OF THE VIOLATION, ON
29 CONVICTION SHALL BE SUBJECT TO:

30 (1) IF THE PERSON IS NOT AN ORGANIZATION, A FINE NOT EXCEEDING
31 \$500,000 OR IMPRISONMENT NOT EXCEEDING 20 YEARS OR BOTH; AND

32 (2) IF THE PERSON IS AN ORGANIZATION, A FINE NOT EXCEEDING
33 \$2,000,000.

34 (G) A PERSON WHO ATTEMPTS TO COMMIT THE CONDUCT THAT CONSTITUTES
35 AN OFFENSE UNDER THIS SECTION SHALL BE SUBJECT TO THE SAME PENALTIES AS
36 THOSE PRESCRIBED FOR THE OFFENSE.

1 7-265.

2 (a) A person who commits any of the following offenses is guilty of a felony and
3 on conviction is subject to a fine not exceeding \$100,000 or imprisonment not
4 exceeding 5 years, or both:

5 (1) Storing, treating, dumping, discharging, abandoning, or otherwise
6 disposing of a controlled hazardous substance in any place other than a controlled
7 hazardous substance facility for which a current facility permit is in effect;

8 (2) Transporting for treatment, storage, or disposal a controlled
9 hazardous substance to any place other than a controlled hazardous substance facility
10 for which a current facility permit is in effect;

11 (3) Falsifying any information required by the Department under this
12 subtitle or any rule, regulation, order, hauler certificate, vehicle certificate, or facility
13 permit issued under this subtitle; or

14 (4) Authorizing, directing, or permitting any offense listed in this
15 section.

16 (b) A person who is convicted of violating the following sections of this subtitle
17 or any regulation adopted under the following sections of this subtitle is guilty of a
18 misdemeanor and on conviction is subject to a fine not exceeding \$50,000 or
19 imprisonment for not more than 3 years, or both:

20 (1) § 7-209 of this subtitle;

21 (2) § 7-249 of this subtitle; or

22 (3) § 7-252 of this subtitle.

23 (c) Each day on which a violation occurs constitutes a separate offense under
24 this section.

25 (d) (1) Any person who knowingly transports, treats, stores, exports, or
26 otherwise disposes of a controlled hazardous substance in a manner that would
27 constitute a violation under subsection (a) of this section and who knows at that time
28 the violation places another person in imminent danger of death or serious bodily
29 injury is guilty of a felony and on conviction is subject to a fine not exceeding \$250,000
30 or imprisonment not exceeding 15 years or both.

31 (2) For the purposes of this subsection, in determining whether a
32 person's state of mind is knowing and whether a person knew that the violation or
33 conduct placed another person in imminent danger of death or serious bodily injury,
34 the criteria provided under § 3008(f) of the Resource Conservation and Recovery Act
35 (42 U.S.C. § 6928(f)) shall apply.

36 (E) A PERSON WHO COMMITS A CRIMINAL VIOLATION IDENTIFIED IN THIS
37 SECTION THAT IS THE DIRECT OR PROXIMATE CAUSE OF SERIOUS BODILY INJURY TO

1 OR DEATH OF ANY OTHER PERSON, INCLUDING A FEDERAL, STATE, OR LOCAL
2 EMPLOYEE PERFORMING OFFICIAL DUTIES AS A RESULT OF THE VIOLATION, ON
3 CONVICTION SHALL BE SUBJECT TO:

4 (1) IF THE PERSON IS NOT AN ORGANIZATION, A FINE NOT EXCEEDING
5 \$500,000 OR IMPRISONMENT NOT EXCEEDING 20 YEARS OR BOTH; AND

6 (2) IF THE PERSON IS AN ORGANIZATION, A FINE NOT EXCEEDING
7 \$2,000,000.

8 (F) A PERSON WHO ATTEMPTS TO COMMIT THE CONDUCT THAT CONSTITUTES
9 AN OFFENSE UNDER THIS SECTION SHALL BE SUBJECT TO THE SAME PENALTIES AS
10 THOSE PRESCRIBED FOR THE OFFENSE.

11 9-413.

12 (a) A person who willfully violates § 9-412(a)(3) or (4) of this subtitle is subject
13 to a civil penalty of up to [\$5,000] \$25,000 for each day on which the violation exists.

14 (b) (1) A person who violates § 9-412(a)(1) or (2) of this subtitle is guilty of a
15 [misdemeanor] FELONY and on conviction is subject to a fine not exceeding [\$5,000]
16 \$25,000 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

17 (2) (I) A PERSON WHO TAMPERS WITH A PUBLIC WATER SYSTEM
18 SHALL BE SUBJECT TO A FINE NOT LESS THAN \$5,000 AND NOT EXCEEDING \$50,000
19 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.

20 (II) A PERSON WHO ATTEMPTS TO TAMPER, OR MAKES A THREAT TO
21 TAMPER, WITH A PUBLIC DRINKING WATER SYSTEM SHALL BE SUBJECT TO A FINE
22 NOT EXCEEDING \$25,000 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

23 (c) In an action brought in the appropriate court to enforce the order, a person
24 who willfully violates or fails or refuses to comply with any order issued by the
25 Secretary under § 9-405 of this subtitle may be fined not more than [\$5,000] \$25,000
26 for each day on which the violation occurs or failure to comply continues.

27 (D) A PERSON WHO COMMITS A CRIMINAL VIOLATION IDENTIFIED IN THIS
28 SECTION THAT IS THE DIRECT OR PROXIMATE CAUSE OF SERIOUS BODILY INJURY TO
29 OR DEATH OF ANY OTHER PERSON, INCLUDING A FEDERAL, STATE, OR LOCAL
30 EMPLOYEE PERFORMING OFFICIAL DUTIES AS A RESULT OF THE VIOLATION, ON
31 CONVICTION SHALL BE SUBJECT TO:

32 (1) IF THE PERSON IS NOT AN ORGANIZATION, A FINE NOT EXCEEDING
33 \$500,000 OR IMPRISONMENT NOT EXCEEDING 20 YEARS OR BOTH; AND

34 (2) IF THE PERSON IS AN ORGANIZATION, A FINE NOT EXCEEDING
35 \$2,000,000.

1 (E) A PERSON WHO ATTEMPTS TO COMMIT THE CONDUCT THAT CONSTITUTES
2 AN OFFENSE UNDER THIS SECTION SHALL BE SUBJECT TO THE SAME PENALTIES AS
3 THOSE PRESCRIBED FOR THE OFFENSE.

4 16-501.

5 (a) Any person who KNOWINGLY violates any provision of this title is guilty of
6 a [misdemeanor] FELONY AND IS SUBJECT TO A FINE OF NOT LESS THAN \$5,000 AND
7 NOT EXCEEDING \$50,000 PER DAY OF VIOLATION OR IMPRISONMENT NOT EXCEEDING
8 3 YEARS OR BOTH. [Unless another penalty is specifically provided elsewhere in this
9 title, the person, upon conviction, is subject to a fine not exceeding \$500, with costs
10 imposed in the discretion of the court.]

11 (b) Any person found guilty of a second or subsequent violation of any
12 provision of this title, unless another penalty is specifically provided elsewhere in this
13 title, is subject to a fine not exceeding [\$1,000] \$100,000 PER DAY OF VIOLATION, or
14 imprisonment not exceeding [1 year] 6 YEARS, or both with costs imposed in the
15 discretion of the court. For the purpose of this subsection, a second or subsequent
16 violation is a violation which has occurred within 2 years of any prior violation of this
17 title.

18 (C) A PERSON WHO COMMITS A CRIMINAL VIOLATION IDENTIFIED IN THIS
19 SECTION THAT IS THE DIRECT OR PROXIMATE CAUSE OF SERIOUS BODILY INJURY TO
20 OR DEATH OF ANY OTHER PERSON, INCLUDING A FEDERAL, STATE, OR LOCAL
21 EMPLOYEE PERFORMING OFFICIAL DUTIES AS A RESULT OF THE VIOLATION, ON
22 CONVICTION SHALL BE SUBJECT TO:

23 (1) IF THE PERSON IS NOT AN ORGANIZATION, A FINE NOT EXCEEDING
24 \$500,000 OR IMPRISONMENT NOT EXCEEDING 20 YEARS OR BOTH; AND

25 (2) IF THE PERSON IS AN ORGANIZATION, A FINE NOT EXCEEDING
26 \$2,000,000.

27 (D) A PERSON WHO ATTEMPTS TO COMMIT THE CONDUCT THAT CONSTITUTES
28 AN OFFENSE UNDER THIS SECTION SHALL BE SUBJECT TO THE SAME PENALTIES AS
29 THOSE PRESCRIBED FOR THE OFFENSE.

30 [(c)] (E) In addition to any administrative penalty provided in this title,
31 violation of any provision of any permit or license issued under this title or of any
32 regulation adopted by any unit within the Department under the provisions of this
33 title is a misdemeanor and is punishable as provided in subsections (a) and (b) of this
34 section.

35 [(d)] (F) Any person who knowingly violates any provision of this title is liable
36 to the State for restoration of the affected wetland to its condition prior to the
37 violation, if possible. The court shall specify a reasonable time for completion of the
38 restoration.

39 [(e)] (G) (1) The provisions of this title are enforceable against any person
40 charged with dredging or filling private wetlands without a permit, notwithstanding

1 a defense that pertinent wetlands maps and regulations had not been properly filed
2 among the land records, if the court finds that the person charged had actual notice of
3 the applicable regulatory requirements before the person dredged or filled the private
4 wetlands.

5 (2) This subsection shall apply only to dredging or filling activities
6 occurring after July 1, 1981.

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